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1700	1	The extensive effort undertaken on behalf of the water contractor project proponents to generate these lengthy documents must be acknowledged. However, the responsible State and Federal permitting agencies cannot ignore, and must address in some way, the thousands of comments that note that decisions regarding BDCP must meet several tests as permits are considered. First, the project must be fully consistent with the requirements for a NCCP, particularly in achieving restoration of communities of species. Second, the project must address and be consistent with the requirements of other federal and state policies, contracts, and court decisions, many of which were identified by federal and state agencies in comments on the BDCP Administrative Draft. Third, the project must consider and be consistent with the Delta Reform Act of 2009, including the Two Co-Equal Goals, but also other policies and objectives, including reduced reliance on the Delta for water. Water conveyance facilities and Delta habitat restoration are inseparably linked to actions and operations throughout the Delta watershed and the service areas for the State Water Project and Central Valley Project but the BDCP project does not effectively engage and address these linkages.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Although a viable alternative, please note that the BDCP (EIR/EIS Alternative 4) is no longer 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. Unlike the BDCP, Alternative 4A would not serve as a HCP/NCCP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, Master Responses 4 for information on the development of the alternatives, and Master Response 5 for additional information on the BDCP. 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 the proposed project's compliance with the Delta Reform Act please see Master Response 31. For more information regarding purpose and need of the proposed project please see Master Response 3.
1700	2	The 2009 Delta Reform Act and subsequent federal legislation established the Two Co-Equal Goals of ecosystem restoration and water supply reliability as state and federal policy for the Delta, based on the findings of the Delta Vision Blue Ribbon Task Force. The Two Co-Equal Goals are inextricably linked in addressing the conflicts and challenges in the Delta. The BDCP applicants and proponents have appropriately acknowledged the Two Co-Equal Goals, however, the Draft Bay-Delta Conservation Plan does not delineate or implement the principles and mechanisms of linked, integrated actions between ecosystem restoration and water supply reliability in the alternatives evaluation, governance, implementation, or adaptive management. As a result, there is no assurance or confidence that either goal will be achieved.	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. 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.

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1700	3	Alternatives Evaluation and Decision-making The alternatives analysis in BDCP fails to consider critical related actions and their impact on project decision-making. Water storage above and below the Delta, Delta levee improvements, and regional water management and efficiency are three examples of related actions that affect both water supply reliability and ecosystem restoration and achievement of BDCP goals. Delta Vision Foundation appreciates the appropriate limitations and constraints of the scope of the environmental review process in that it cannot consider all potential actions in the Delta watershed and water delivery system. However, the range of potential actions in each of these three areas influence the comparative impacts and benefits of alternative facility sizes and operating rules. For example, additional water storage would provide flexibility in Delta and tributary water management for ecosystem flows and water deliveries. In addition, the Delta Independent Science Board noted the following regarding Delta levees in its May 2014 review of the Draft BDCP and Draft EIR/EIS: "…although levees receive considerable attention in both documents (as befits their importance to what goes on in the Delta), the coverage 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." [Footnote 1: Review of the Draft BDCP EIR/EIS and Draft BDCP, Delta Independent Science Board, May 2014, p. 7.] At a minimum, the BDCP should conduct sidebar analyses of conveyance alternatives with varying assumptions about additional water storage, strategic levee investments in through-Delta conveyance, and regional water management and water use efficiency in SWP and CVP service areas to identify which conveyance approaches offer the greatest likelihood of meeting ecosystem restoration and water supply reliability in future conditions.	See response to comment 1436-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. 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, Appendix A Chapter 11 Fish and Aquatic Resources, Appendix A Chapter 12 Terrestrial Biological Resources, and Appendix 3B Environmental Commitments, AMMs, and CMs of the RDEIR/SDEIS. 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, in the Final EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS. For more information regarding water demand management please see Master Response 6. The California Department of Water Resources' Levee Repairs and Floodplain Management Office is responsible for administering levee programs through evaluation and direct rehabilitation of structural deficiencies in California's levee system. Overall levee repairs and improvement programs administered by DWR will continue with available funding. For additional information on the relationship between the proposed project and Flood protections in the Delta, please see Appendix 6A of the Final EIR/EIS. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.
1700	4	The analysis of BDCP alternatives is conducted using simple binary comparisons, often based on professional judgment. For example, the evaluation of Alternative D (3,000 cfs [cubic feet per second] tunnel, reduced tidal habitat) concludes that this alternative is inconsistent with restoration goals without considering the scientific uncertainty of benefits associated with tidal habitat. Likewise, the evaluation of Alternative F (Through-Delta Conveyance) concludes that the alternative is not consistent with plan goals because it would not protect against seismic and flood risk, without considering that net benefits are more than $2 billion greater than the proposed action and the cost is more than $8 billion less than the proposed action, money that could easily be invested in further levee improvements along the conveyance corridor. None of the alternatives consider the political practicability of conveyance alternatives. These issues and examples are provided here not to suggest a particular alternative, but rather to highlight that the alternatives analysis is oversimplified and one dimensional. Without effectively considering costs and uncertainties, project investors (water contractors, the State and Federal governments, and ultimately ratepayers and taxpayers) cannot make fully informed decisions about the best option. Regardless of whether this revised analysis occurs within the legal requirements of habitat conservation planning and environmental review or in parallel with it, the analysis must be completed to ensure robust	Please see Master Response 4 regarding alternatives development. 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. Please also see Master Responses 5 and 9 and regarding costs/funding, and cumulative impact analyses, respectively.

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		decision-making and sound investment of public and ratepayer funds.	
1700	5	Governance The 2009 Delta Reform Act was passed to provide a more organized governance structure for addressing the complexities in the Delta and overlapping jurisdictions through coordinated science and governance. The Act specifically addressed the role and relationship of BDCP to future Delta governance by requiring that BDCP be incorporated into the Delta Plan if it receives approval as a Natural Communities Conservation Plan by the Department of Fish and Wildlife and as a Habitat Conservation Plan under the federal Endangers Species Act. The following two sections of the Delta Reform Act address governance of the BDCP once it is incorporated into the Delta Plan. 85204. The council shall establish and oversee a committee of agencies responsible for implementing the Delta Plan. Each agency shall coordinate its actions pursuant to the Delta Plan with the council and the other relevant agencies. 85320 (g) The council may make recommendations to BDCP implementing agencies regarding the implementation of the BDCP. BDCP implementing agencies shall consult with the council on these recommendations. These recommendations shall not change the terms and conditions of the permits issued by state and federal regulatory agencies. The proposed governance structure for implementing BDCP appears to be designed consistent with the "arms-length" role of the Delta Stewardship Council described in Section 85320 (g) without considering the more fundamental coordination requirements for implementing the Delta Plan in Section 85204. That is, the governance and implementation structure for BDCP is not sufficiently integrated and aligned with the legislative and policy framework for Delta science and decision-making. For example, if the BDCP is incorporated into the Delta Plan, proposed covered actions would have to be consistent with BDCP as required by the Delta Reform Act. Section 6.4.4 of the BDCP provides only general discussion of potential future actions and consistency with BDCP and speculative description of the role of the Implementing Office. This section should be expanded and clarified to explicitly describe the consistency determination process for the Delta Plan and other consistency evaluations that may be required for future projects such that reviewers and decision-makers can fully understand the future relationship of BDCP to potential projects and regulatory changes.	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. Please see Master Response 31 for a discussion of how the 2013 public draft BDCP complies with the Delta Reform Act. Please also see Master Response 5 for a discussion of the adequacy of the 2013 public draft BDCP governance structure and process for the purposes of the state and federal endangered species authorizations.
1700	6	Implementation and Rough Proportionality Chapter 6, Plan Implementation, does not provide the necessary evidence or assurance that conservation measures will be implemented in rough proportionality to the impacts of the covered actions. The BDCP is based largely on the premise that habitat restoration for aquatic species can offset impacts of water diversions by increasing healthy populations of fish species. While there is great uncertainty in that premise, the BDCP further separates that critical linkage to the point that there can be no assurance of rough proportionality other than the optimistic words in Chapter 6. The EIR/EIS for the BDCP conducts a project-specific review of water conveyance facilities and a programmatic review of other conservation measures. Therefore, subsequent project-specific environmental reviews are necessary for dozens, if not hundreds, of restoration projects and actions, each of which could take from three to five years to	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also Master Response 2 regarding project and program level analysis.

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		complete. Each of the dozens of projects likely has unique locational conditions, complex habitat design requirements, and individual permitting requirements. The implementation strategy does not outline any mechanisms for coordinating, standardizing, or streamlining design, permitting, and construction activities to assure prompt implementation	
1700	7	The BDCP proposes a new program implementation office to coordinate implementation of habitat restoration. The implementing office has no historical institutional capacity for implementing projects, no contracting capability, and appears understaffed to manage hundreds of environmental reviews, land acquisition/easement issues, design of complex habitat restoration, permitting, landowner relations, and construction. In contrast, the conveyance facilities implementation will be managed by organization(s) that have experience designing and constructing what are reasonably routine facilities, albeit larger than typical.	The commenter is concerned with a lack of institutional capacity of the proposed BDCP implementation office. See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1700	8	Funding sources for covered actions have essentially been separated from funding sources for other conservation measures. That is, the project proponents intend to commit funds for completing Delta conveyance facilities within BDCP. Funding for other conservation measures is described as an uncertain combination of state bond funds and federal funding	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1700	9	The timing of results and benefits further exacerbates the proportionality disconnect. The water supply benefits of the covered actions accrue immediately on completion of construction and initiation of operations. The benefits of habitat restoration only begin to accrue on completion of construction; full benefits develop over time following construction	The RDEIR/SDEIS released in 2015 introduced a new preferred alternative, 4A, which does not include a HCP or conservation measures. The alternative implementation strategy allows for other state and federal programs to address the long term conservation efforts for species recovery in programs separate from the proposed project. Alternative 4A would implement substantially less habitat restoration than Alternative 4. Please refer to Chapter 3, Description of Alternatives in the Final EIR/EIS for more detail.
1700	10	While it may be desirable for the water management agencies and contractors to assure control and progress on Conservation Measure 1, the BDCP cannot and will not be successful without closer linkage between ecosystem restoration and water supply reliability at all levels, including environmental compliance, design and permitting streamlining, effective implementing institutions, funding sources, and achieving benefits.	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1700	11	Adaptive Management A robust adaptive management program is critical for managing BDCP implementation and achieving program goals. The BDCP does not yet define a substantive, effective adaptive management program to ensure success. BDCP relies too heavily on adaptive management as the solution or panacea for all program uncertainties, apparently driven by the urgency to reach a decision. Instead, BDCP should articulate each of the areas of uncertainty and assess where adaptive management is an appropriate tool to address the uncertainty, and develop alternate means to address uncertainties where adaptive management is not the correct approach before reaching conclusions about permit adequacy and providing assurances regarding water supply reliability. The Independent Science Board notes: "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."2	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also Master Response 33 for more information on adaptive management. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.

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		2 Review of the Draft BDCP EIR/EIS and Draft BDCP, Delta Independent Science Board, May 2014, p. 3.	
1700	12	The proposed funding for adaptive management is woefully inadequate to complete the necessary research, monitoring, synthesis, independent review, and action planning. BDCP should develop a secure, realistic, independent funding plan for monitoring and adaptive management.	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also Master Response 33 for more information on adaptive management.
1700	13	The institutional structures and funding for program adaptation and decision-making are inadequate. The most common failure of adaptive management programs is the failure to change the program when the science indicates change is needed. Institutional inertia, permittee or stakeholder opposition, decision costs, and complexity contribute to the inability to adapt. BDCP does nothing to address these challenges. The convoluted collaborative discussion process to change the program is cumbersome and inappropriate in a regulatory context. Regulatory decisions are appropriately placed in the hands of regulatory bodies, with review and comment by the regulated entities and the public. The Independent Science Board noted this challenge in its review: "...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. 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." (3) The decision structure for permit adaptation should be revised to reflect the appropriate governance authorities and necessary decision-making clarity. In addition, funding sources and commitments must be established for analysis, environmental review, and other actions necessary to implement program changes. 3 Review of the Draft BDCP EIR/EIS and Draft BDCP, Delta Independent Science Board, May 2014, p. 8.	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also Master Response 33 for more information on adaptive management. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.
1700	14	Linkages and Commitments At all levels of planning and analysis, the Draft BDCP and Draft EIR/EIS fail to establish the necessary linkages and commitments to ensure successful implementation and achievement of the program goals. The fundamental linkage between water management and ecosystem restoration is not sufficiently established—ineffective implementation or inadequate results from habitat restoration must be linked to water operations. That is, linkages must be in place to ensure accountability of all regulated entities for implementation and results for the entire permit. Linkage problems occur in the following areas, among others: • Funding for water management actions (Conservation Measure 1) is separate and more reliable than funding for other conservation measures. • Institutional structures for implementing Conservation Measure 1 are more focused, experienced, and reliable than the proposed structures for implementing restoration actions. • Implementation and success of habitat restoration is not linked to water supply diversion	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also Master Response 33 for more information on adaptive management. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. Please see Master Response 5 regarding the 2013 Public Draft's compliance with the ESA and NCCP Act as an HCP and NCCP. The uncertainties in the link between water management and ecosystem restoration are addressed in the BDCP by the adaptive management and monitoring program described in Chapter 3, Section 3.6. Accountability by the permittees and the state and federal wildlife agencies is described in Chapter 7, Implementation Structure. For more information regarding the Collaborative Science and Adaptive Management Program please see Chapter 3 of the Final EIR/EIS.

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		amounts and timing. • Adaptive management structures and funding are biased against adaptation and change in permit requirements or implementation actions, particularly related to water supply reliability assurances. • BDCP alternatives are not evaluated with full consideration of linkages to potential future conditions, including additional water storage, strategic levee investments or potential failures, and regional water management and efficiency. Without effective legal requirements and conditions to enforce linkages between water supply reliability and ecosystem restoration, BDCP implementation will only continue the ineffective management strategies of the past 40 years and undermine State and Federal policy to achieve the Two Co-Equal Goals. 4 Review of the Draft BDCP EIR/EIS and Draft BDCP, Delta Independent Science Board, May 2014, p. 3.	
1700	15	Public Transparency and Accountability The BDCP documents and planning process undermine the fundamental principles of public transparency and informed decision-making. The sheer volume of documents for public review is inconsistent with State and Federal environmental review guidelines, frustrating the public's ability to understand the action and implication of government decisions and essentially prohibiting any decision-maker from making an informed decision regarding environmental consequences. There will undoubtedly be hundreds of comments on the adequacy of the alternatives evaluated. However, separate from the adequacy of the alternatives themselves, the dispersion of the alternatives analysis throughout thousands of pages, the over-simplified conclusions about tradeoffs (noted above), and the incomplete consideration of uncertainty each frustrate the ability of any decision-maker to determine if the preferred action is indeed the optimized approach for meeting the project purposes.	For information pertaining to how the BDCP/California WaterFix has been developed in an open and transparent manner, please refer to Master Response 41. For information pertaining to the range of alternatives evaluated, please refer Chapter 3 (section 3.2) and Appendix 3A of the Final EIR/EIS and the same sections in Appendix A of the RDEIR/SDEIS as well as Master Response 4. For information pertaining to the public outreach conducted for the BDCP/California WaterFix, please refer to Master Response 40. For information pertaining to the size and complexity of the documents, please refer to Master Response 38.
1700	16	The public and agency review process leading to the draft documents has been entirely inadequate to address and resolve critical issues for the Delta and BDCP. Fundamental issues, such as where and how habitat restoration will be effective to achieve BDCP goals, how additional flows will be provided for fish habitat improvement, how storage and regional water efficiency contribute to BDCP goals, how seismic resiliency in the Delta should be addressed, and how and where land and water quality impacts will be mitigated, are poorly articulated and only partially addressed. Hundreds of timely, substantive comments from stakeholders, State and Federal agencies, and independent review panels remain unaddressed and deferred to the final documents. Public meetings and work groups were simply listening sessions with little thought to constructive discussion of critical issues. Thorough consideration and responsiveness to the substantive comments on the flaws in planning, analysis, and compliance is urgently needed. Unfortunately, it is difficult to imagine how the necessary changes to address the flaws would not further delay decisions and action.	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. For information pertaining to outreach and public involvement during the planning process, please refer to Master Response 40. Issues related to geology and seismicity are addressed in Chapter 9 of the Final EIR/EIS. Potential impacts to water quality and a list of mitigation measures proposed are provided in Chapter 8 of the Final EIR/EIS. Please also see Master Response 14 regarding water quality. For information pertaining to how comments have been considered and addressed, please refer to Master Response 42.
1700	17	The Draft BDCP and Draft EIR/EIS continue to present a proposal that establishes primacy for water management facilities and operations to address water supply reliability without effective requirements, institutional structures, and funding sources to ensure ecosystem restoration and recovery. Further, the State and Federal Governments have failed to	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also

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		advance a reliable, linked plan to ensure that statewide water management actions, including storage, strategic levee investments, and regional water management and efficiency, are implemented concurrently. Without such a plan and commitments, California's water management system will not provide the management flexibility to reduce conflicts in the Delta, provide flows and water quality at critical times for fish, and address the effects of climate change.	Master Response 33 for more information on adaptive management. Please see Master Response 8 regarding the scope of what is proposed for BDCP/CWF. 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. The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the proposed project implementation may provide future opportunities for innovative input as well. 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/. Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, in the Final EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, in the Final EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, in the 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. Please see Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage. 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. Proposition 1 funds and other state and public dollars will be directed exclusively for public benefits unassociated with any regulatory compliance responsibilities. 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. Additionally, the Natural Resources Agency has launched the EcoRestore program to aggressively implement restoration actions in the Delta. Additionally, the Natural Resources Agency has launched the EcoRestore program to aggressively implement restoration actions in the Delta.

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			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. 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 as well as other water supplies such a recycling (as described in Section 1.C.3 of Appendix 1C, Demand Management Measures in the Final EIR/EIS).
1700	18	The Delta Vision Foundation continues to support action to address Delta water conveyance and ecosystem restoration in a comprehensive manner that is financially, technically, and politically feasible. The integrated actions described in the Delta Vision Strategic Plan—water storage, strategic levee investments, ecosystem restoration and management, dual conveyance, and regional water management and efficiency—remain the only reliable means to achieve the Two Co-Equal Goals. Implementing conveyance improvements and substantial habitat restoration as part of BDCP is critically important and should move forward promptly. However, BDCP cannot and should not proceed without legal requirements and commitments to assure implementation of the other elements of a workable solution. As currently proposed, the BDCP is not fully evaluated and does not provide sufficient internal or external linkage and assurance for effective implementation of both ecosystem and water supply reliability actions.	See response to comment 1700-1. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1700	19	The Delta Vision Foundation stands ready to assist the State Administration, Federal agencies, water contractors, and other stakeholders in developing the necessary analysis, linkages, and commitments to assure a workable, durable solution. We look forward to working with you on these issues as BDCP advances.	The Lead Agencies appreciate the interest of the Delta Vision Foundation in the proposed project and their continued involvement in the planning process.
1700	20	Att 1: Att 1 Letter to Secretary Laird	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 comments referencing the attachment of the Final EIR/EIS.
1700	21	Att 1: Att 2 "Workable Solution Outlined in the Delta Vision Strategic Plan"	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 comments referencing the attachment of the Final EIR/EIS.
1701	1	After reviewing the documents available for the BDCP I discovered funding must be shown to be sufficient for all planned activities, and all financial contributors and planned allocation of funds must be identified. To this date no formal funding proposals for the entire project have been made available to the public, nor is there an accurate projected cost for the entire project. In fact, as of this writing, the legislature continues to work on proposals for a state water bond without successfully identifying a specific dollar amount or identified areas for the money that "might" be raised will be spent.	Please see Master Response 5 regarding BDCP funding. California Proposition 1, the Water Bond (Assembly Bill 1471), was on the November 4, 2014 ballot in California as a legislatively-referred bond act and was approved. Proposition 1 will authorize $7.12 billion in general obligation bonds for state water supply infrastructure projects, such as public water system improvements, surface and groundwater storage, drinking water protection, water recycling and advanced water treatment technology, water supply management and conveyance, wastewater treatment, drought relief, emergency water supplies, and ecosystem and watershed protection and restoration. 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. 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

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			input. The EIR/EIS analyzes all alternatives, including Alternative 4A.
1701	2	Delta restoration is a very vague term; I propose that it is unlikely the voters will support such a bond. In fact, many legislators have noted that any bond should be "tunnel neutral", further confounding the issue of what monies would be available for the BDCP as proposed. Given this lack of real vision or planning for the funding of the BDCP it is entirely unacceptable that this plan should be adopted; any permits to do so should be withheld.	Please see Master Response 5 regarding BDCP funding. California Proposition 1, the Water Bond (Assembly Bill 1471), was on the November 4, 2014 ballot in California as a legislatively-referred bond act and was approved. Proposition 1 will authorize $7.12 billion in general obligation bonds for state water supply infrastructure projects, such as public water system improvements, surface and groundwater storage, drinking water protection, water recycling and advanced water treatment technology, water supply management and conveyance, wastewater treatment, drought relief, emergency water supplies, and ecosystem and watershed protection and restoration. 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.
1701	3	I also find the plan entirely unbalanced in its water delivery proposal, requiring the overlooking or changing existing water rights in order to unfairly benefit users in the western portion of the Central Valley, and leaving much of the northern part of the state with frequent "dead pools" in place of our recreational lakes and basic day-to-day water supplies.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. The CALSIM II model delivers the same amounts of water to senior water rights holders in the Delta watershed under the Existing Conditions, No Action Alternative, and the action alternatives, only limited by climate change, sea level rise, and population growth that would occur with or without the project implementation. The No Action Alternative and all alternatives include assumptions for future climate change and sea level rise; however, no changes in regulatory requirements are assumed in the future. Therefore, in drier years, the CALSIM II model outputs result in dead pool conditions in Folsom Lake which could affect American River water rights holders. The "dead pool" conditions presented in the CALSIM II monthly model in the EIR/EIS occur 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.
1701	4	The documents provided for this plan are entirely unwieldy, over 40,000 pages, making it nearly impossible for a well-educated person to review and address, say nothing about the average voter. Revisions and changes are being submitted to this date, making it absolutely impossible for anyone but a paid attorney to keep up with. I am requesting that the BDCP document be deemed unacceptable for adoption.	Please see Master Response 38. It explains that the length and complexity of the Draft EIR/EIS reflect an unprecedented effort to analyze a proposed project and 18 alternatives under both state and federal laws for special status species protection. However, please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP. The Lead Agencies recognize that the documents are sizable. In drafting the BDCP and the EIR/EIS, they focused on presenting information in plain language and a clear format with emphasis on information that is useful to the public, agencies, and decision makers. In addition, as explained in Master Response 38, the lead agencies attempted to balance readability with the need for accurate and thorough technical analysis.

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1701	5	In addition to the comments submitted earlier I would like to add, following further reading and research, that there is little to no discussion in the document regarding feasible, less expensive alternatives to solving the state's water problem, including the improvement of existing dams and levees as well as the construction of additional water storage facilities and the expanded use of existing aquifers. The inadequate monitoring of underground water storage and use is a great flaw in the state's water management program. I am requesting that the existing BDCP document be deemed unacceptable and that the state pursue other, less expensive plans for water management.	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 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. 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 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. 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. 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. 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 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. 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 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, including reliability of exported supplies, and the recovery and conservation of threatened and endangered species that depend on the Delta. 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. 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.
1702	1	Pacific Realty Associates, LP 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	Please see responses to comment letter 1597.

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		letter, Pacific Realty Associates, LP adopts each comment and objection in the July 28, 201 4 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.	
1703	1	This letter provides comments in regards to the Bay Delta Conservation Plan DEIR/DEIS. Unfortunately due to the voluminous nature of this DEIR/DEIS I was unable to review the plan in its entirety; frankly, a public document of this length is prohibitive of public review and engagement, and seems counter to the intent of NEPA/CEQA (the California Bay-Delta Authority (CALFED) DEIR/DEIS, which encompassed the Delta was nearly 10 times shorter). The comments provided draw upon our collective professional, personal and cultural background.	Please see Master Response 38. 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.
1703	2	The Delta falls within the Miwko' Waali' (Plains Miwok ancestral homelands). This region has undergone tremendous change in geologic time, and in the process has provided a means for maintaining a resilient and sustainable ecosystems and livelihoods for countless generations who mindfully considered their obligations to generations unborn. In the spirit of these obligations we also maintain a need to take responsibility for our actions to ensure future generations receive a world left in as good, if not better condition than we leave it. In review of the Bay Delta Conservation Plan (hereafter BDCP), it is difficult to obtain a sense that this world would be left in a better condition for future generations. The BDCP is clearly a plan comprised of maintaining the status quo of old ideas to ensure operations for a water delivery system that is inefficient and unsustainable. Clearly, at this point in time the Delta is not resilient; the flora and fauna of the region are suffering, the landscape is threatened by poor land-use decisions, and the water that is crucial to it all is being commodified by interests that lack the foresight to see beyond financial gains for themselves. In short, the Delta is not resilient, and no alternatives offered within this plan will correct this. Thus, there is no choice but to support the No Project Alternative.	The commenter does not offer evidence on how the project would result in significant impacts. The proposed project was developed to meet the standards of the federal and state Endangered Species Acts. As such, the proposed project is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Although a viable alternative, please note that the BDCP (EIR/EIS Alternative 4) is no longer 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 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. Unlike the BDCP, Alternative 4A would not serve as a HCP/NCCP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, Master Responses 4 for information on the development of the alternatives, and Master Response 5 for additional information on the BDCP.
1703	3	As indigenous people, we hold water as sacred. It is a life giving force which all creation is connected to. For millennia we have asserted our ancestral obligation to ensure the balance and stewardship of water is maintained. Since colonization we have systematically been denied our ancestral rights; rights which by the nature of transitory resources (i.e., water, air, fish and wildlife) were never surrendered by treaty or other means. Therefore, we as indigenous people form this position in response to the threat of mis-use and mis-management of our resources vis-à-vis the BDCP, its predacessors and offer a plan to achieve implementation of actions to make our systems sustainable and resilient to social and environmental change.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information and please refer to the final EIR for additional information on Cultural Resources, Chapter 18, and the Socio-Economic analysis in Chapter 16.
1703	4	Among major flaws in this plan is the disconnect in recognizing the interrelatedness of the	This comment is an observation about the nature of the Delta and the lack of a holistic approach of the BDCP

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		Delta within a landscape context that extends from source to sink. While there is discussion of hydrologic inputs from regions beyond the Delta, it does not holistically consider the landscape feedbacks from the crest of the mountains to the sea. The Delta is part of a system that is not linear, but is circular; simplistically, water, juvenile salmon, and nutrients flow through the Delta, but are ultimately cycled back to the source. Thus, the Delta is just part of the problem or solution, but real benefits will be met when treated as a whole. The BDCP considers storage primarily in the sense of dam operations, but fails to recognize the landscape features that naturally provide storage including meadows and the basins and sinks that exist throughout the Central Valley from the Colusa Basin to Tulare Lake.	and seems to suggest that other approaches should be considered. The commenter is directed to the project objectives and purpose and need statement in Chapter 2, the approach to environmental analyses in Chapter 4 and the alternative screening process summarized in Chapter 3 and detailed in Appendix 3A of this Final EIR/EIS for an explanation of the proposed project and alternatives considered in this Final EIR/EIS. See also response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also Master Response 3, 25, and 28 for more information on purpose and need, upstream reservoir effects, and operational criteria, respectively. Please review Master Response 3 for the Purpose and Need of the proposed project and Master Response 37 regarding water storage.
1703	5	Where in the hell does it consider the impacts of restoration? Where would restoration occur, what would it look like. Why is there no historic map of the Delta for reference? The BDCP fails to clearly articulate what actions would be undertaken to restore the Delta or at a minimum facilitate natural processes, which would make it more resilient.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1703	6	Given the BDCP has failed to include regional Tribal experts as stakeholders in the development of this plan the entire plan is an environmental justice issue.	Chapter 32, Public Involvement, Consultation, and Coordination of the Final EIR/EIS provides a summary of the public involvement and outreach activities conducted for the EIR/EIS, contains information regarding the federal and state agencies that are participating in the CEQA and NEPA processes leading to the development of the Draft EIR/EIS for the BDCP, and a summary of some of the public involvement, consultation, and coordination activities conducted as part of the larger BDCP program independent of any EIR/EIS process. The chapter describes the six tribal consultation meetings that DWR held in 2014 to seek input from tribes in the northern region of the state, the Delta region, the South Central region, Santa Clara Valley, and southern parts of the state. Chapter 18, Cultural Resources of the Final EIR/EIS, includes descriptions of Native American consultation and mitigation measures for the project. In addition to the mitigation measures proposed in the Final EIS/EIR, federal agencies that have a significant role in implementing the BDCP are required to comply with Section 106 of the National Historic Preservation Act (NHPA) (16 United States Code [USC] 470f). Section 106 and the Section 106 regulations require that the agencies identify effects on historic properties and consult with the public (including relevant minority groups) and Native American tribes during the management process. Section 106 thus adds another mechanism for identifying resources, and developing mitigation that would reduce or avoid adverse effects. See also Master Response 20 for information on cultural resources assessment, Master Response 21 for tribal outreach, and Master Response 40 for information on public outreach.
1703	7	Section 1.2 needs to acknowledge the impacts to cultural heritage and habitats. "Financial stability" is not achieved on an agricultural economy that contributes less than 2% of the state's economy. Unsustainable population growth, water-use and land-use must be reconsidered in this state.	In the Executive Summary and Chapter 1 of the Final EIR/EIS is a very brief introduction to the project and is not intended to provide a detailed context of cultural resources. Chapter 18, Cultural Resources of the Final EIR/EIS presents an in-depth context and analysis on impacts to cultural resources.
1703	8	Section 1.4 pg. 1-6 "historical context" does not begin with the 1850's white settlement and havoc. Historical context begins by understanding the entirety of human history within this landscape inclusive of geologic time.	"Historical" is the standard industry term used in California for the time period beginning at Euro-American exploration and settlement in the area under discussion.
1703	9	Pg. 1-7 Fish and Wildlife Service and National Oceanic and Atmospheric Administration have issued Biological Opinions for culturally important species that they have Trust	See response to comment 1703-6.The issue raised by the commenter does not raise any issues with the environmental analysis provided in the EIR/EIS. See also Master Response 20 for information on cultural

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		responsibilities to Tribes for, yet have not consulted with Tribe to ensure their cultural obligations are upheld.	resources assessment, Master Response 21 for tribal outreach, and Master Response 40 for information on public outreach.
1703	10	Pg. 1-10 Does the development of the tunnels really provide a reliable water source? It seems that real investments in research and development for water resources would provide long-term benefits to the state and achieve better results for sustained water and environmental concerns.	The concept of providing increased predictability is part of the Project Objectives and Purpose and Need for the action alternatives for the project, as indicated in Chapter 35, Glossary, of the Draft EIR/EIS, under the definition of "water supply reliability." This term is defined as "The occurrence of water supplies of sufficient quality and certainty to enhance or sustain a diverse portfolio of economic activity and ecosystem health and maintain quality of life." Please see Master Response 3 for more information on the purpose and need. The project is just one element of the state's long-range strategy to meet anticipated future water needs of Californians. As described in Section 1.1 of Chapter 1, Introduction, of the EIR/EIS, the project was developed to improve water supply reliability by the lead agencies. The action alternatives could only deliver the amount of water diverted under the existing SWP and CVP water rights and in accordance with the existing and future related regulatory requirements, as described in Chapter 5, Water Supply. No changes would occur to other water rights holders (see Section 5.3.1 of Chapter 5 of the Final EIR/EIS). The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the Proposed Project implementation may provide future opportunities for innovative input as well. 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/. 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 1B, Water Storage of the Final 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. Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage.
1703	11	Pg. 1-14-15 lists the BDCP proponents. It is apparent that corporate and political interests are well represented. Where is the balance to this? Where is there true interest in healthy and resilient ecosystems?	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. 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 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

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			provide technical input and guidance in support of planning efforts to complete the proposed project. CDFW would consider whether to approve the project under CESA and issue permits under Section 2081 of the California Fish and Game Code. USFWS and NMFS will make a decision regarding the issuance of Incidental Take Permits for the incidental take of federally listed species under ESA Section 7.
1703	12	Pg. 1-16 etc. list of covered species contains many culturally significant species. The list are noticeably absent of important species including, but not limited to gray whale, humpback whale, bald eagle, peregrine falcon and other marine mammals and fishes. Traditional knowledge within this region recognizes the connection of these species to the region and impacts to these species need to be considered in this plan. It is a Trust responsibility to Tribes of this region to ensure impacts to these species are addressed, as impacts to them are likely to occur.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. Please see Chapter 11, Fish and Aquatic Resources and Chapter 12, Terrestrial Biological Resources of the Final EIR/EIS for more information on listed species present in the plan area. See Master Responses 20 and 21 for more information on cultural resources assessment and tribal issues, respectively.
1703	13	Figure 1.4. How can the project area not include the entire catchment of the Sacramento and San Joaquin Rivers?	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See also Master Response 3, 25, 28, and 30 for more information on purpose and need, upstream reservoir effects, operational criteria, and modeling respectively.
1703	14	Pg. 2-2 How will this be achieved when it is still the same amount of water being used from the same sources? This does not add up. There needs to be reform with respect to urban and agricultural use. Past efforts have failed for a variety of reasons; largely have been unsuccessful due to a lack of being able to think beyond the status quo.	Reform related to urban and agricultural use is not a part of the project. No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised. See Master Response 5 for additional information regarding the BDCP and Master Response _18 Agricultural Impacts.
1703	15	Pg. 2-4 The BDCP should take initiative to lead to recovery of all species whose homeranges fall within the Delta. The proposed restoration and enhancement activities are minimal efforts towards recovery. The plan should strive for a resiliency and long-term viability of populations. Restoring less than 10 percent of the Delta's landscape will not recover many of the covered species if any.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. Please see Chapter 11, Fish and Aquatic Resources and Chapter 12, Terrestrial Biological Resources of the Final EIR/EIS for more information on listed species present in the plan area.
1703	16	Why is the plan only to encompass a 50-year period? The plan should be developed for multiple generations. It is feasible that within my own lifetime this plan will have expired. Will the species have recovered? Will the Delta face the same threats we anticipate and know of today?	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP, and thus no longer includes a 50 year permit term. Please see Master Responses 4 and 5 for additional detail on the BDCP and the alternatives involving an HCP component. California WaterFix will follow the Section 7 Process for federal Endangered Species Act compliance, which does not have a "permit term". Instead the authorization and management of actions under the permit relate to the triggers for re-initiation of consultation with permitting agencies. The BDCP chose a term of 50 years in consultation with fish and wildlife agencies for an incidental take permit for covered species.
1703	17	Pg. 3-4 "Under these principles, the EIR needs to describe and evaluate only those alternatives necessary to permit a reasonable choice and "to foster meaningful public participation and informed decision making" (State CEQA Guidelines Section 15126.6[f])." This is ironic, because the BDCP does not provide an array of alternatives that are reasonable. It seems there are other options for procurement and conveyance of water. Further, the restoration does not even include any discussion of setback levees throughout the Delta, which would also provide more in-stream habitat, improve water quality, and retention. Lastly, the length of this document and lack of inclusion of Tribal people in its development have been far from meaningful, and thus limit truly informed decision making.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. 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 Lead Agencies carefully all potential alternatives that were proposed during the scoping process and during time of preparation of the Draft EIR/EIS.

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			For more information regarding tribal issues please see Master Response 21. See also Master Response 38 regarding length of the EIS/EIR.
1703	18	Pg. 3-6 The Steering Committee includes not a single Tribal representative. At least there are some environmental groups represented here.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised. See Master Response 40 for information on public outreach.
1703	19	Pg. 5-1 The environmental setting is too narrowly focused on the Delta. The direct, indirect and cumulative effects associated with this plan are much farther-reaching than is analyzed. This is where every plan thusfar has gone wrong. To understand the Delta the environmental setting begins at the top of the contributing watersheds and extends through the ocean.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP. Please see Master Responses 4 and 5 for additional detail on the BDCP and the alternatives involving an HCP component. See also Master Response 8 for more information on the project as a whole, and Master Response 9 for information on cumulative impact analysis. See also Master Response 3, 9, 25, 28, and 30 for more information on purpose and need, cumulative analysis, upstream reservoir effects, operational criteria, and modeling respectively. The EIR/EIS evaluated changes in the environment within geographies that would be affected by implementation of the action alternatives. Therefore, the study area included the upstream SWP and CVP reservoirs and the rivers downstream of those reservoirs; the Delta; and the service areas that would receive water through the proposed conveyance facilities. Under the range of alternatives considered in the Draft BDCP EIR/EIS, only water under existing water rights issued by State Water Resources Control Board to DWR and Reclamation could be delivered to SWP and CVP water contractors. The project would not impact senior water users or groundwater users outside of the Delta. It is recognized that conditions would change over the study period due to other issues, such as climate change and population growth. However, those issues would have occurred with or without the project and are not analyzed in detail in the CEQA/NEPA analysis.
1703	20	Pg. 5-2 Define historical precipitation patterns. The paleo record demonstrates extensive droughts, and traditional knowledge does too. Using recorded climate data without considering the paleo record is short-sighted.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. The Draft EIR/EIS evaluates long-term operation of the SWP and CVP over an 82-year long hydrologic period with extended wet periods and dry/critical dry periods. The evaluation is a comparative analysis to determine the incremental differences between conditions under the Alternatives 1 through 9 and conditions under the Existing Conditions and the No Action Alternative. It is recognized that under the range of alternatives, full contract amounts are not delivered in the majority of times to the SWP and CVP water contractors, as presented in Figures C-13-1 through C-13-13 in Appendix 5A, Section C, CALSIM II and DSM2 Model Results, of the Final EIR/EIS. However, the project would reduce the uncertainty associated with diverting water in the south Delta when the presence of fish is not well predicted or uniform. See also Master Response 30 for more information on modeling.
1703	21	Pg. 5-4 California's water demand is not sustainable. What are the ramifications of water over use… saline soils, subsidence, etc. California needs to be looking to alternative means such as establishing policies for new (if not every) housing development to install cisterns and grey water systems. Research and development should be funded to improve water technologies such as desalination, recycling, and fog harvesting.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised. See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the Proposed Project implementation may provide future opportunities for innovative input

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			as well. 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/. Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1in the Final EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage in the Final EIR/EIS describes the potential for additional water storage and Appendix 1C, Demand Management Measures in the 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. Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage.
1703	22	Table 5-1 How does this relate to the balance of water for fish? If the consumptive use is a percent of the water available, then there shouldn't be an issue for species survival. How does the lack of Tulare lake and wetlands lost due to the Swamp Lands Act factor in to our water budget?	As noted in the footnote on this table, the term "consumptive use" for agricultural, industrial, municipal, and wetlands generally includes evapotranspiration, evaporation, and water consumed by animals or humans. Water for instream flows would be included in the term "applied water." The values in Table 5-1 are related to existing land uses.
1703	23	Figures 5-17-19 It seems that things come out ahead to ensure more water in the Delta with the No Action alternative. How is it that exports will decrease from existing conditions with the No Action alternative?	Conditions under the No Action Alternative as compared to Existing Conditions are different due to climate change, sea level rise, and population growth north of the Delta (primarily in the American River watershed). As described in Chapter 5, Water Supply in the Final EIR/EIS, under the No Action Alternative, climate change is projected to reduce the amount of snowfall and increase rainfall. In addition, SWP and CVP water must be released from the upstream reservoirs to reduce the effects of sea level rise. In addition, projected growth would occur upstream of the Delta with or without the project. All of these factors would reduce the amount of water available for SWP and CVP water contract users. See also Master Response 26 for information on area of origin.
1703	24	Pg. 6-7 it is acknowledged that sea level has risen ~120 meters in 20 kiloannus, with ~ 1.8 mm/year during the 20th century. If those rates of increase hold, then it would be anticipated that sea level will increase by approximately 8.28 cm during the life of the plan period, but sea level rise has been greater than that in recent years, and there is much uncertainty in sea level model predictions; the greatest extent would yield a 7m increase in sea level, which would have shorelines near Yuba City. If the BDCP is serious about securing water and improving environmental conditions it would make more sense to plan for the worse case scenario. What good would it do to have intakes located within the current extent of tidal flux, when it is obviously going to move further upstream? Furthermore, impacts to fisheries, some of the focus fisheries, are still within areas that would likely have the greatest impact on them. This is clearly a flaw in the thinking process for the development of the BDCP.	As described in the Draft EIR/EIS, model assumptions for the No Action Alternative and the action alternatives include an assumed sea level rise of 45 cm by 2060. In addition, as described in Section 3C.4 of Appendix 3C in the RDEIR/SDEIS, the pumping plants would be designed to provide protection from 200-year flood level with sea level rise plus wave run up and additional 3.5 feet of freeboard. Criteria for identification of intake locations are presented in Section 3F.6 in Appendix 3.F of the Final EIR/EIS. However, it is recognized that the intakes would be located in areas with Delta Smelt and other fish. Therefore, operations of the intakes would be curtailed during some periods of the year, as discussed in Chapter 3, Description of Alternatives in the Final EIR/EIS. See also Master Response 30 for more information on modeling.
1703	25	Pg. 6-23 discusses the regulatory setting, as it is also discussed in other sections of the BDCP. Throughout the document there is an apparent neglect for Tribal law, which is critical for Federal and to a lesser extent State entities to uphold. PL 93-638 Tribal Self Determination policies were established by Congress to ensure that the Sovereign interests of Tribes and Tribal organizations are upheld. As permitting, funding and authorizing	See response to comment 1703-6. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See Master

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		entities Federal agencies much act in the interest of Tribes and Tribal organizations. Thus, coordination with Tribes and Tribal organizations beyond the minimalist attempt that has been provided needs to occur. To date, DWR has neglected to hold consultations at mutually agreeable times with key Tribal groups.	Response 20 and 21 for more information on cultural resources assessment and tribal issues, respectively.
1703	26	Pg 6-37-41 It is unclear how X2 would be managed through climate change and sea level rise. How could it be ensured that this mixing zone could be maintained. Further, if more restoration was done, would X2 have to be managed at such a fixed location. Clearly from the maps provided about historic salt water intrusion, the fish have obviously been able to survive with the mixing zone at various locations provided there is habitat and more robust populations. Pg. 6-42 Basically, there are no guarantees that this plan will achieve its intended purpose.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. The CALSIM II and DSM2 models used for the EIR/EIS assumed that X2 location and criteria would not change by 2060 under the No Action Alternative and the action alternatives. Water would be released from the SWP and CVP reservoirs to meet the X2 criteria; and this would reduce available water from SWP and CVP water deliveries. Please see Master Response 14 and 30 for more information on water quality and modeling, respectively.
1703	27	Pg. 6-46 Why are exports and river flows increasing? How would flood stage capacity be less under the No Action alternative? Would salt water enter the existing export facilities under the No Action Alternative?	As shown in Figures 5-17 through 5-19 of the Draft EIR/EIS, Delta exports would be less under the No Action Alternative as compared to the Existing Conditions. The text on pages 6-46 and 6-47 of the Draft EIR/EIS refers to increased water demand and deliveries in the Delta watershed (primarily in the American River watershed) that would occur with or without the proposed project. The text also refers to increased water demand south of the Delta in the SWP service area, however, water deliveries are not able to meet this demand except in wet years under the No Action Alternative. The river flows increase in the winter under the No Action Alternative as compared to the Existing Conditions because it is assumed that climate change would increase rainfall (and associated winter river flows) and decrease snowfall (which would decrease spring river flows during the snowmelt period). Therefore, there would be less snowmelt flows to refill reservoirs in the summer months. Salinity would be higher in the south Delta in summer and fall months; which would result in more flows released from the SWP and CVP reservoirs to reduce the salinity in accordance with existing water quality requirements. This also would provide more flood storage space in the reservoirs. Please see Master Response 14 and 30 for more information on water quality and modeling, respectively.
1703	28	Technical Appendices Pg. 218 of 5A-A-5-B-B state the max diversion will be 3000 cubic feet per second at each intake. How was 65,000 acres determined for restoration? How would it be done? What would the impacts thereof be on water quality and quantity? How will it lead to sustained populations and recovery for fish, wildlife and plants?	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. See Master Response 3 for purpose and need of the project.
1703	29	Technical Appendices Table B-31 U.S. Fish and Wildlife Service Biological Opinion did not account for Trust responsibilities. It is focused on delta smelt, estuarine habitat in the fall (historically fall would have had lower flows and salinity would move eastward). The problem is that there is not enough instream floodplain habitat for covered fishes. National Marine Fisheries Service Biological Opinion is focused on spring-run Chinook and steelhead. Wouldn't thermal stress relief better be achieved through cooling agricultural return waters and having more riparian restoration along the rivers? Models did not account for these sorts	Please see response to comment 1703-28.See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. 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

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		of efforts.	outside the Plan Area but on topics relevant to the proposed project; unpublished quantitative data from within the Plan Area and from outside of the Plan Area; qualitative data or personal communication with topical experts; and expert opinion if no other sources were available. 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 of the Final EIR/EIS. 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."
1703	30	Technical Appendices 5A-C Since the model accounts for Trinity Lake, the effects analysis should be extended to the Klamath Trinity system too.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. The proposed project would not affect upstream water rights. It aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. The project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. The CALSIM II modeling performed for conveyance facility operations takes into account projected future demand for water supply in areas upstream of the Delta (as part of the future No Action baseline) prior to calculating Proposed Project diversion estimates to ensure that no area-of-origin protections or upstream water rights are affected by project conveyance facilities. Please see Appendix 5A of the Final EIR/FEIS for additional modeling details. Please see Master Response 26 regarding water resources in northern California. See also
1703	31	Table C-7-1-1 has nice data on Delta outflows; the No Action Alternative does better than the existing conditions for outflows.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment.
1703	32	5A-D figure 1 seems to assume a lack of species resiliency and fluidity. Why did the sea-level rise model not project beyond 2060? Figure 11 and 12 both show more significant rise. Table 1 shows more limited model projections within state, but there are models that indicate up to 7 m rise. Where is a map showing the extent of tidal flux and sea water via climate change and sea level rise?	Modeling extended to 2060 because the BDCP time period for incidental take permits were proposed for 50 years. Appendix 5A explains the sea-level rise assumptions which are considered adequate for the purposes of the EIR/EIS analyses and reflect the best available science at the time the modeling analysis was developed. These assumptions were used of all of the alternatives for comparative purposes. See also response to comments 1703-26 and 1703-27 for information on climate change and salinity. See response to comment 1703-2 for information on the preferred alternative. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1703	33	5A-D2 Restoration should focus on areas not already natural. How and why were the restoration areas selected? Who will hold title to these lands after restoration? Title should be deeded to Tribe and Tribal organizations as appropriate to traditional territory or agreements.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1703	34	7.7.1 Why is there such a narrow scope of groundwater areas?	Effects on groundwater due to implementation of the action alternatives would be related to changes in groundwater use in areas that also rely upon SWP and CVP water supplies conveyed through the Delta for water supply. Other effects on groundwater would occur in the Delta due to groundwater dewatering near the construction sites or changes in seepage rates near canals. Please see Chapter 7 in the Final EIR/EIS for

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			more information.
1703	35	Pg. 7-10 Salinity of groundwater increases due to overdraft and irrigated agriculture evapotranpiration. It has been known from Mesopotamian times that irrigated agriculture is difficult to sustain in arid regions. The state needs to think beyond current land use and water management to support ag.	As described in Chapter 7, Groundwater of the Final EIR/EIS, salinity increases in some areas where groundwater is affected by natural salinity, and/or application of higher salinity surface water that flows into the groundwater.
1703	36	How might the tunnels truncate or contaminate groundwater in the eastern and central Delta? Pg. 7-57 shows some of this.	As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Draft EIR/EIS and the RDEIR/SDEIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route. 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. However, these impacts remain significant and unavoidable and adverse to agricultural resources. As indicated in the Impact GW-3 analysis in Chapter 7 of the Final EIR/EIS, impacts to groundwater quality from construction and operations of the conveyance facilities would be less than significant/not adverse.
1703	37	Pg. 7-19 Tulare Lake poses a unique feature to naturally provide water in the San Joaquin Valley for ag and other users. Would the lake be dry if not for diversions upstream? If the basin has subsided, what would the potential holding capacity be now? If the Kern subbasin has lost 325,000 acre-feet capacity/year between 1970 and 1998, then they have not been managing their groundwater sustainably, and should not be rewarded with water from the Delta to subsidize their poor management.	The EIR/EIS only analyzed changes in the Tulare Lake groundwater basin related to changes that would occur due to implementation of the action alternatives; and in comparison of groundwater conditions under the Existing Conditions and the No Action Alternative with ongoing management and policies and implementation of foreseeable and certain programs.
1703	38	Pg. 7-22 It states that San Francisco Bay covers 4,600 acres of coastal plain. Is this a misprint?	The text should refer to 4,600 square miles.
1703	39	Pg. 7-43 How would the No Action Alternative in itself lead to increased subsidence due to continued water withdrawals? Groundwater management plans should be in place to ensure this does not occur.	Recent adoption of the Sustainable Groundwater Management Act will implement groundwater monitoring programs and require implementation of groundwater sustainability plans throughout California by 2022, and full implementation of the plans by 2042. The requirements for the groundwater sustainability plans are currently under development by DWR. As those plans are developed by local and regional agencies, separate environmental studies also will be completed. It is possible that the future water demands and uses could change after adoption of the groundwater sustainability plans; however, it would be speculative to include those assumptions for alternatives in the EIR/EIS. Although implementation of the groundwater sustainability plans are considered in the cumulative impact analysis.
1703	40	Table 7-7 if a table can be done for SWP/CVP deliveries with each alternative, there should also be one for groundwater changes under each alternative. It is also unclear what groundwater changes would occur due to restoration efforts.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. Due to the complexities of groundwater conditions over the geographic study area in the EIR/EIS, changes in groundwater conditions under the action alternatives as compared to the Existing Conditions and the No Action Alternative are presented in graphical format in Figures 7-6 through 7-37. Impacts GW-6 and GW-7 describe programmatic effects on groundwater related to implementation of habitat restoration and non-conveyance conservation measures. Specific effects will be analyzed in site-specific evaluations of habitat restoration programs prior to their implementation.
1703	41	Figure 7-7 depicts that impacts to groundwater may affect a traditional cultural property.	As described in Chapter 7, Groundwater, in the Draft EIR/EIS and the RDEIR/SDEIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance

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			route related to 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. However, these impacts remain significant and unavoidable. Please refer to Chapter 18, Section 18.1.5, for a discussion of Tribal Cultural Properties in the Final EIR/EIS. Please also refer to Master Response 21 for a discussion of the proposed project and tribal cultural properties.
1703	42	Chapter 8 suggests that water quality would still be poor in the Delta. Why isn't there more effort to address point source and non-point source pollution in this plan? More riparian plantings would help improve water quality.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. BDCP's CM19 addresses nonpoint source water pollution by providing funding to support improved stormwater treatment within the Plan Area, and CM14 addresses low dissolved oxygen concentrations in the Stockton area by supporting continued seasonal operations of an oxygen diffuser. Certain water quality constituents had significant impacts that were unavoidable at certain locations. However, the new proposed project, Alternative 4A, contains only one significant and unavoidable impact, which is for mercury. This is related to the relatively small amount of tidal restoration included as part of Alternative 4A.
1703	43	Pg. 8-46 Could sediment from the export facilities be used to restore Delta islands if mixed with coarse organic material?	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. CM4, Tidal wetland restoration, has been modified to reflect the possible use of a variety of technologies in tidal restoration, one of which is the use of fill placement to counteract the effects of sea level rise and to bring tidal areas up to more ecologically functional depths. However, the potential for fill to restore Delta islands is very limited. The oxidation of peat from these islands has lowered their interior elevations so much that enormous amounts of fill would be needed – on the order of 10 to 20 feet thick. Such extensive fill placement is generally not cost-effective compared to alternative restoration options. See also Master Response 12 for more information on reusable tunnel material.
1703	44	Appendix D5 figure 4.4 Why would the tidal prism be less in future years in the east Delta?	The changes between the "future bars" in this figure (Appendix 5A, Section D5, pdf page 67 of 365) represent changes due to increasing amounts of restoration acreage in the future (e.g., ELT, ELT with emphasis in Suisun Marsh, and LLT as compared to Baseline/Existing Conditions).
1703	45	Pg. 11-14 Clearly the issue of fish entrainment will not be absent with the proposed pipelines. What is the point then if fish are still being threatened by export operations? If exports must continue, then a better plan would be to locate intakes outside of the range of the most critically threatened species (perhaps focus on upstream tributaries).	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. The positive-barrier fish screens for the proposed north Delta intakes would be designed to established protection standards for salmonids and delta smelt, and would comply with CDFW, NMFS, and USFWS fish screening criteria. Appendix 3F of the RDEIR/SDEIS provides details on the development of intakes and fish screening technology, as well as the Conceptual Engineering Reports (CERs). It is proposed that monitoring and research would be conducted to inform the fish screen design, construction, and operation in order to maximize their effectiveness. Dual operations provides for flexibility that will better protect the fish based on real time data. See also Master Response 45 for more information on permitting.

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1703	46	Pg. 12-8 69,275 acres protected and 83,839 acres of natural community restored, but the loss would be 74,413-92,301 due to habitat conversions. So what this is saying is there is basically no net gain in wildlands either upland or wetland. 12-ES-2 states that most of the protected acreage would be cultivated ~51,000 acres. As stated previously, protecting natural functional areas is important in conservation, but we also need to restore natural processes to make these systems resilient. It does not seem the BDCP is prepared to achieve that. A key goal should be to ensure that all channels are restored with emergent vegetation versus the 20 miles proposed out of the hundreds of miles of waterways that exist in the Delta.	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. The commenter states that there is "no net gain in wildlands either upland or wetland." As stated on line 8 of page 12-8 of the Draft EIR/EIS the BDCP does propose 83,839 acres of natural community restoration and the range for the various alternatives is 74,413 acres (Alternative 9) to 92,301 acres (Alternative 2B) . The BDCP, which is represented by Alternative 4, has a total of 77,258 acres of permanent and temporary impacts (see Table 12-ES-1 on page 12-7 of the Draft EIR/EIS). These permanent and temporary losses include the conversion of agricultural lands into natural habitat (e.g., tidal marsh, riparian) and most areas temporarily impacted would be restored to pre-project conditions. Those alternatives with impacts that exceed the proposed protection and restoration targets have additional mitigation proposed in Chapter 12 of the Draft EIR/EIS. The conversion of cultivated land to wetland and upland would certainly represent a net gain in wildlands compared to current conditions in the Plan Area. The Plan does not propose to introduce emergent vegetation in all of the channels of the Plan Area. Most of the channels and adjacent levees are designed to provide for water conveyance and flood protection and these functions would be diminished by placing emergent vegetation in all channels. The proposed 20 miles of channel margin enhancement would provide for improved habitat conditions for important juvenile salmon migration corridors and would be a significant improvement over existing conditions.
1703	47	Pg. 12-11 impacts to vernal pools west of Clifton Court Forebay would impact Traditional Cultural Properties and culturally significant species.	For additional information about Native American outreach efforts, including identification and analysis of impacts on Traditional Cultural Properties and cultural significance of biological resources, please see Master Response 21.
1703	48	Table 12-2, Why is the bald eagle not covered, but golden eagle is? There is traditional association of bald eagles within traditional accounts throughout the Delta. Burrowing owls are also not included, yet they are known from areas near Clifton Court. Marine mammals are not included, yet they are also an important component of the Delta and Trust responsibilities. Tule elk are also of importance and are not covered. There are a variety of species not covered, but should be. See below for a cursory list of culturally significant species:	See response to comment 1703-2. The preferred alternative, Alternative 4A, no longer includes an HCP/NCPP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information. The bald eagle does not nest in the Plan Area. It is occasionally observed foraging in the Plan Area during the winter, but there are no historical bald eagle roosts or winter foraging habitats in the Plan Area, with the possible exception of a portion of the Cosumnes River Preserve that would not be affected by covered activities. Golden eagle and burrowing owl are included in the EIR/EIS and burrowing owl is also a covered species in the BDCP. See Chapter 12, Terrestrial Biological Resources in the Final EIR/EIS for more details on the biological setting. Though a few marine mammals are found in low numbers (California sea-lions) or are found on rare occasions (humpback whales), the study area does not represent typical habitat for these species. California sea-lions are found in the Sacramento River in the Plan Area/study area in low numbers. California sea-lions were not included as a special-status species because they do not meet the criteria for special-status species defined in Section 12.1.3 of the Draft EIR/EIS. Humpback whales are an extremely rare occurrence in the Sacramento River and the river does not represent suitable habitat for the species. The analysis in Chapter 12 of the Draft EIR/EIS only considered those species defined as special status and that are known to occur in the Plan Area. Tule elk were not covered under the BDCP so they were not included in Table 12-2, which only lists covered species. Tule elk were also not listed in Table 12-3, non-covered species; because for the analysis they did not meet the criteria for being a special-status species (see Section 12.1.3 of the Draft EIR/EIS). CDFW

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			manages tule elk as a game species, including on Grizzly Island, which is in the Plan Area.
1703	49	ATT1: List of Culturally Significant Species Identified by the California Indian Water Commission	The comment presents a list in an attachment to the comment letter that 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 comments referencing the attachment of the Final EIR/EIS. See master Response 21 for more information on identification of biological resources of significant cultural significance.
1703	50	Chapter 18 The noted Tribes responding do not necessarily include traditional owners within the Delta. While no sacred lands files recognized sacred sites within the Delta, there are many sacred sites within the Delta that need to be addressed. Similarly, there are man Traditional Cultural Properties that exist throughout the area, and some sites do fall within the alignments of the proposed pipelines. Living cultural resources need to be included for impacts consideration too; some of this would be addressed through broadening the list of covered species. Analysis needs to include reservoirs linked to the SWP and CVP, which have had adversely affected sacred sites, traditional cultural properties, etc. which previously were not subject to consultation, or consultation processes did not involve the appropriate Tribal leaders with specific knowledge of these sites.	For additional information about Native American outreach efforts, including identification and analysis of impacts on archaeological sites, Traditional Cultural Properties, and cultural significance of biological resources, please see Master Response 21.
1703	51	Pg. 18-52 Any conservation easements or title should be granted through consultation to appropriate regional Tribe(s) or designated Tribal organizations (e.g., California Indian Water Commission).	Updated tribal outreach information was included in the RDEIR/SDEIS. Refer to Section 18.1.1.4, which provides information on outreach efforts to Native Americans. For additional information about Native American outreach efforts, including identification and analysis of impacts on archaeological sites, Traditional Cultural Properties, and cultural significance of biological resources, please see Master Response 21.
1703	52	We, as Miwok people, are still battling the Department of Water Resources on the Peripheral Canal work, and that this process violated the Section 106 process, and continues to do so to this day. The destruction of sacred sites and burial places for the infrastructure that does not serve the entire state is appalling and illegal. The entire Delta is a part of the Miwok creation stories for thousands of people who continue to exist despite all ongoing attempts at eradication physically, culturally, and historically. This sacred landscape is not only important to modern day people, but to our past and future. It needs to be listed in the national register as a sacred site.	For additional information about Native American outreach efforts, including identification and analysis of impacts on archaeological sites and Traditional Cultural Properties, please see Master Response 21.
1703	53	Under California State Fish and Game Code, Division 13, Chapter 691, Section 1, Chapter 1," Jurisdiction over the protection and development of natural resources, especially the fish resource, is of great importance to both the State of California and California Indian tribes. To California Indian tribes, control over their minerals, lands, water, wildlife, and other resources is crucial to their economic self-sufficiency and the preservation of their heritage. On the other hand, the State of California is concerned about protecting and developing its resources; protecting, restoring, and developing its commercial and recreational salmon fisheries; ensuring public access to its waterways; and protecting the environment within its borders.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 Draft EIR/EIS. For additional information about Native American outreach efforts, including identification and analysis of impacts on archaeological sites, Traditional Cultural Properties, and cultural significance of biological resources, please see Master Response 21.
1703	54	(c) More than any other issue confronting the State of California and California Indian tribes, the regulation of natural resources, especially fish, transcends political boundaries. (d) In many cases, the State of California and California Indian tribes have differed in their respective views of the nature and extent of state versus tribal jurisdiction in areas where Indians have historically fished. Despite these frequent and often bitter disputes, both the	For additional information about Native American outreach efforts, including identification and analysis of impacts on archaeological sites, Traditional Cultural Properties, and cultural significance of biological resources, please see Master Response 21.

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		state and the tribes seek, as their mutual goal, the protection and preservation of the fish resource. This division is an attempt to provide a legal mechanism, other than protracted and expensive litigation over unresolved legal issues, for achieving that mutual goal. The Bay Delta Conservation Plan has not complied with, nor even seemed to pay attention to such existing laws providing for the protection of our natural resources and economies reliant on those resources, and certainly does not account for the cultural dependency of these places.	
1703	55	In closing I'd like to reiterate that I support the No Action Alternative; I'd prefer to see a true effort to restore the Delta and make it a resilient ecosystem.	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. The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts, and as such, the proposed project is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.
1704	1	CM 15 would target legally protected gamefish for destruction at specific locations. Its flawed purpose is to attempt to reduce mortality rates at so called hot spots. The main target would be striped bass. The striped bass is a legally introduced species that, over the course of a century, has found its niche in the Delta ecosystem. It is a valuable game fish the supports year round a wide range of jobs and businesses from marinas, bait shops, mom and pop stores, gas stations and, yes, even the state park system. It has co-existed with Endangered Species Act species for over 130 years and has seen a drastic downturn in pollution that equally correlates to the downfall of ESA species. All species have plummeted as a result of the Central Valley Project and State Water Project. The effects of the striped bass on ESA species are unknown. Here are some facts from Department of Fish and Wildlife studies and documents contained on their own ftp sites that indicate striped bass are not a threat to ESA species.	The uncertainty associated with CM15 is recognized and mentioned in CM15. Effort has been made to address this uncertainty as part of CM15 since the Public Draft was issued by outlining in more detail the effectiveness monitoring that will be implemented and is intended to help better understand the relationship of predation on covered fish species and to what effect any localized reduction of predatory fishes may benefit covered fish. Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measure 15, although it does include localized reduction of predatory fishes at the proposed north Delta intakes and at Clifton Court Forebay. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A.
1704	2	CFG --1926 -- Scofield and Bryant "The striped bass, originally native to the Atlantic Seaboard is now a common food and game fish of California. The basis of a great fishery and so highly prized by anglers that numerous bass clubs find existence in cities and bass enthusiasts line the banks of sloughs. Unquestionably, next to trout, the striped bass is the most popular game fish of Northern California." "In 1879 the striped bass were introduced by S.R. Throckmorton of the California Fish Commission, collection was by Livingston Stone of the U.S Fish Commission, from New Jersey." "The food of adult striped bass in rivers is principally carp, hardheads and split tails" "U.S Bureau of Fisheries reported in 1894 that 7 of 10 stripers stomachs contained carp. In the Napa River crabs, minnows, clams, duck entrails, sardines and other stripers were their main diet"	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.

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		In 1926 fears of the extinction of striped bass by over harvesting were present.	
1704	3	1993 Report to Fish and Game Commission about Delta Smelt (Moyle) Below are the listed conclusions to decline in smelt 1. Habitat Modifications 2. Decline in copepods 3. Exotic species 4. Low spawning stock 5. Outflows to low 6. Waskasagi 7. Toxic Substances 8. Disease "Although competition and predation cannot be ruled out, the available evidence suggests they are not a threat. In fact, several potential competitors or predators also show signs of population erosion approximately coinciding or preceding the decline of the smelt." "Studies in the 1960's indicate smelt were only occasionally consumed by striped bass."	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1704	4	CAL FED 2008 Report to Fish and Game Commission about Delta Smelt The report concludes with recommended actions to be taken. 1. Reduce entrainment at the SWP and CVP 2. Reduce entrainment at delta diversions 3. Reduce entrainment at power plants at Antioch and Pittsburg 4. Modify operations at SWP and CVP 5. Reduce pollution 6. Make reliable estimates of smelt losses at SWP and CVP The report mentions predation by stripers in diversion flows only but lists predation by silversides and loss of food sources by invasive clams as contributing factors. Loss of habitat and requirement of turbid waters indicates that the invasive weed growth, creating a less turbid delta, could be a factor as well.	The action alternatives were designed to address the stressors under the purview of the CVP and SWP, including several listed in your comment.
1704	5	Excerpts from Modeling Effects of Striped Bass on Winter Run Chinooks "Depletion of striped bass population contributes smaller effect (on population of winter run Chinooks) than conservation measures."	An RDEIR/SDEIS was developed and circulated in 2015, which included 3 new non-HCP Alternatives including the new preferred alternative, 4A. The evaluation of the effects of Alternative 4A are included in the RDEIR/SDEIS. Alternative 4A includes localized reduction of predatory fishes and refuge at the proposed North Delta Diversion and in Clifton Court Forebay.

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		The possibility of winter run Chinooks reaching a sustainable level of 20,000 fish in 50 years would only increase by 4% if a figure of 700,000 adult striped bass were eradicated. "Striped bass eradication would not be enough."	
1704	6	CAL FED 2007 Report regarding stomach contents of striped bass March through October samplings. The report does not say how many fish were sampled only how many stomach contents were sampled and prey. 2001 - 131 striper stomachs contained 55 fish, of which 1 Chinook, 3 stripers, 3 silversides, 1 LMB, 0 smelt 2003 - 114 striper stomachs contained 49 fish, of which 0 Chinook, 1 stripers, 4 silversides, 0 LMB, 0 smelt The expensive CAL Fed studies concluded that although predation existed by striped bass it was not a factor on the population decrease of listed species.	Other studies, e.g., Lindley and Mohr (2003: Fishery Bulletin 101(2):321-331) have suggested population-level effects. An RDEIR/SDEIS was developed and circulated in 2015, which included 3 new Alternatives including the new preferred alternative, 4A. The evaluation of the effects of Alternative 4A are included in the RDEIR/SDEIS. Alternative 4A includes localized reduction of predatory fishes and refuge at the proposed North Delta Diversion and in Clifton Court Forebay.
1704	7	Proposing a measure that would target legal gamefish for destruction by electroshocking, kill tournaments, capture without the proper studies is insane and would do nothing to increase population of winter run salmonids and would interfere with legal angling pursuits. An action of such would constitute an illegal take and violate current state regulations. It was clear in the recent striped bass lawsuit against CFG that the Fish and Wildlife Commission is not in favor of destruction of striped bass without scientific proof that the reduction of striped bass will guaranty the removal of salmon and delta smelt from the ESA listing.	EC/CM15 would reduce populations of predatory fishes at specific locations and eliminate or modify holding habitat for predators at selected locations of high predation risk (i.e., predation hotspots). This conservation measure seeks to benefit covered salmonids by reducing mortality rates of juvenile migratory life stages that are particularly vulnerable to predatory fishes. For more information regarding EC/CM 15 please see Appendix 3B of the FEIR/EIS. For more information regarding impacts to striped bass please see Master Response 17 and Chapter 11 of the FEIR/EIS.
1705	1	It is my understanding that Alternate 4 would be a dual conveyance system that would draw an additional 9000 cubic feet per second from the Sacramento River and also allow exports from the current south delta pumps. The Delta is currently in a state of possible destruction and has been in a downhill spiral since the implementation of the CVP. Increase exports have caused the steady decline of fish species and, based on studies by the CAL FED project, are the number one stressor on listed species.	The SWP and CVP operations under the action alternatives would only deliver water under existing water rights issued by the State Water Resources Control Board to DWR and Reclamation for use by the SWP and CVP. As shown in Figures C-11-1 through C-11-6 of Appendix 5A, Section C, CALSIM II and DSM2 Model Results, of the EIR/EIS, the north Delta intake tunnels would not be fully utilized except for several months if wet years. 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 (see Tables 5-5 through 5-9).
1705	2	Currently the south delta pump operations are killing millions of fish each year. Last year there were over 11 million fish "salvaged" at the pumps. It is estimated that at least 4 times that amount are not salvaged and killed by the pumps. This is largely due to the existing fish screens are outdated and 50 year old technology. Current screens only run at 45% efficiency. No implementation of any new conveyance project should proceed without the removal and reconstruction of the existing screens. The current plan does not include any conservation measure to address the fish screens	DWR and Reclamation are required to improve fish collection efficiency at the existing south Delta salvage facilities, as part of facility improvements required by the National Marine Fisheries Service 2009 biological opinion on the SWP/CVP. For example, in 2014 Reclamation replaced the secondary louver system with a traveling screen system. These screens provide protection by guiding fish into the holding tanks while catching debris on pegs and transporting debris to a collection system at the work surface. The technology required at the proposed north Delta intakes and the existing south Delta export facilities differ fundamentally. The north Delta intakes would be located on the side of the river channel and so would be designed to comply with CDFW, NMFS, and USFWS fish screening criteria (BDCP Appendix 5B Section 3.B.3.3). The south Delta export facilities are located on dead-end channels and requires active collection and salvage of fishes. Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the FEIR/EIS, Appendix 3A. This alternative was eliminated from

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			further evaluation because initial results of recent studies, including information included in the recent NMFS biological opinions, supported a phased approach that would emphasize improvements to operations of fish handling facilities and reduced predator potential within Clifton Court Forebay prior to further analysis of installation of fish screens. Nevertheless, DWR and Reclamation will continue investigating strategies to increase fish salvage efficiency, reduce pre-screen losses, and improve screening efficiencies, consistent with the 2009 biological opinion of the SWP/CVP.
1705	3	I spoke with the fisheries people at the public meeting in Fairfield and their comment was that a more efficient screen was not possible. I do not believe this is the case. Channels could be redirected to create continuous flow to avoid entrapment against the screen. It is obvious this measure is not included due to cost and not possibility. No new conveyance system should proceed without the current problems within the Delta and fish populations increased.	DWR is required to improve salvage efficiency as part of compliance with the NMFS (2009) CWP/CVP biological opinion; changes in fish screen design are not proposed as part of any of the alternatives assessed in the Final EIR/EIS (see further discussion of Initial Screening Conveyance Alternative C4 in Appendix 3A of the DEIR/EIS). As described in the RDEIR/SDEIS, the switch from exports only at the south Delta export facilities to dual conveyance (e.g., under Alternative 4A, the preferred alternative), would be expected to reduce the potential for entrainment loss (see Impact AQUA-3 for delta smelt, for example).
1706	1	The delta is in a state of disrepair. Fish populations are steadily decreasing. The Central Valley Project Improvement Act law enacted has not been complied with. Water Resource Board continues to violate the provisions by failing to increase fish populations, violate water temperate standards, violate salinity standards but continue to increase the exports to water contractors. No BDCP should proceed without flow requirements and penalties if violations occur.	Each of the alternatives, including Alternative 4A (the preferred alternative) include flow criteria. Should ESA and CESA permits be issued to authorize these criteria, they will be binding. Please see Chapter 3 of the EIR/EIS for a description of the proposed project, operations and flow criteria. Please see Master Response 31 for a discussion of the SWRCB flow criteria. The SWRCB's flow criteria recommendations and how they were used to inform the planning process are discussed in detail in the 2013 Draft EIR/EIS Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure I, and in Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act.
1706	2	No new conveyance system should be proposed without the outflow requirements to keep the Delta heathy be determined by scientific method. The current plan has no maximum limit the established.	The action alternatives could only deliver the amount of water diverted under the existing SWP and CVP water rights and the existing and future related regulatory requirements based upon river water levels and flow, water available in the system, the presence of threatened and endangered fish species, and water quality standards. The Final EIR/EIS analysis indicates that annual water diversions from the Delta would be within 10 percent of the historic, 20-year average.
1706	3	This last year over 800,000 acre feet of water was exported, even though it was considered a dry year. Before the year 2000 exports exceed 600,000 af only once. Increased water exports have to stop, there is only so much water.	As shown in Figure 5-1 of the Final EIR/EIS, SWP and CVP exports are consistently over 1 million acre-feet/year. During extreme droughts, Delta exports must continue to provide water to senior water rights holders (who received water before the SWP and CVP were constructed) and wildlife refuges. As shown in Table C-13-1 in Appendix 5A, Section C, this minimum amount of exports would be over 1 million acre-feet. During recent droughts, water deliveries to these users were reduced further than minimum requirements.
1706	4	Current water rights need to be revised. Current water rights exceed 4 times the annual rainfall in California! This is stupid!	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1706	5	This system will cost billions of dollars yet funding is not secured. The conservation measures have not been funded and we be paid by taxpayers. Why should we pay to fix the damage caused by others who benefit? Conservation measures should be funded and completed first before any conveyance goes forward.	Please see Master Response 5 regarding the adequacy of the proposed project funding strategy for the purposes of regulatory approvals from the state and federal wildlife agencies. Please also note that 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. Alternative 4A will be paid for entirely by the state and federal water contractors through their ratepayers, not the general public.
1706	6	This system will provide a reliable source of water to mainly a few very powerful water districts. Some of these districts lie within the salt and selenium laced Tulare basin. The farm land within this basin, roughly 190,000 acres has naturally occurring salts and selenium with no natural out drainage. It is predicted that in 40 years this land will be unproductive yet	State constitutional restrictions require the reasonable and beneficial use of water and state law requires that water supplied from the Delta be put to beneficial uses. The lead agencies do not have the authority to designate what water deliveries are used for. Please see Master Response 34 regarding the potential uses of

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		billions of dollars and the possible destruction of the Delta is being invested to keep these poisoned land going. Wouldn't it be wiser to take this land out of production to save money, water and the Delta?	water delivered via BDCP proposed conveyance facilities.
1706	7	The BDCP is a dual conveyance project. The destruction of fish at the south delta pumps will continue yet no new fish screens are proposed. No project should go forward without the current screens being replaced by modern screens. Over 40 million fish were killed at the pumps that last year. This needs to stop!	DWR and Reclamation are required to improve fish collection efficiency at the existing south Delta salvage facilities, as part of facility improvements required by the National Marine Fisheries Service 2009 biological opinion on the SWP/CVP. For example, in 2014 Reclamation replaced the secondary louver system with a traveling screen system. These screens provide protection by guiding fish into the holding tanks while catching debris on pegs and transporting debris to a collection system at the work surface. The technology required at the proposed north Delta intakes and the existing south Delta export facilities differ fundamentally. The north Delta intakes would be located on the side of the river channel and so would be designed to comply with CDFW, NMFS, and USFWS fish screening criteria (BDCP Appendix 5B Section 3.B.3.3). The south Delta export facilities are located on dead-end channels and requires active collection and salvage of fishes. Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the 2013 Public Draft BDCP EIR/EIS, Appendix 3A. This alternative was eliminated from further evaluation because initial results of recent studies, including information included in the recent NMFS biological opinions, supported a phased approach that would emphasize improvements to operations of fish handling facilities and reduced predator potential within Clifton Court Forebay prior to further analysis of installation of fish screens. Nevertheless, DWR and Reclamation will continue investigating strategies to increase fish salvage efficiency, reduce pre-screen losses, and improve screening efficiencies, consistent with the 2009 biological opinion of the SWP/CVP.
1706	8	This project does not create any new water or replenish ground water supplies. Corporate farmers continues to plant permanent crops despite it being against the original CVP agreements. Over 415,000 acres of permanent crops have been planted with a 68,000 acre increase between 2008 and 2012. Additional almond and pistachio orchards have been planted recently to take advantage of high export prices, despite current dry conditions. These practices of planting for profit then bullying to get the water needed needs to stop!	The BDCP also proposes to secure California water supplies and improve the Delta ecosystem by implementing a 9,000 cfs water diversion point in the north Delta, where its operations will provide for improved flows. Constructing new water diversion points in the north Delta with state-of-the-art fish screens and providing a means to transport water supplies under the Delta, rather than through sensitive natural channels, would provide flexibility in managing the SWP and CVP, and would help maintain reliable water deliveries for two-thirds of California's population while balancing the needs of the Delta ecosystem. State constitutional restrictions require the reasonable and beneficial use of water and state law requires that water supplied from the Delta be put to beneficial uses. The lead agencies do not have the authority to designate what water deliveries are used for. Please see Master Response 34 regarding the potential uses of water delivered via BDCP proposed conveyance facilities.
1707	1	As the largest home building company headquartered in California, KB Home is a stakeholder in the process by which the Bay Delta Conservation Plan is promulgated. While we have not been involved on a daily basis, we understand that the process has been collaborative and that the participants are well aware of the need for infrastructure improvements that will insure an adequate supply of water. Parenthetically, we are doing our part by building homes that make significant water conservation achievable by our homebuyers. We find Alternative #4 to the Bay Delta Conservation Plan to be a critical component of the future environmental and economic needs of the people of California.	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/S.
1708	1	Recent comments by Governor Brown, however, capture and underscore the essence of the BDCP; and that is to once and for all secure the ability to safely and reliably move State Water Project water through the Sacramento-San Joaquin Delta. During his recent budget	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The project remains a potentially viable alternative and is being carried forward in the RDEIR/SDEIS because it represents the original HCP/NCCP alternative approach, and because it provides an important

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		briefing, Governor Brown stated that a successful BDCP..... "is an economic necessity that I've laid out, not because I want a legacy but because it appears absolutely imperative for the economic well-being of the people of California into the future." "Since the time of my father (Gov. Pat Brown), people have said, 'How do we deal with that (moving water thro'ugh the Delta)?' There was an idea of a peripheral canal, there now is the notion of tunnels. One way or another, we have to deal with handling what could be a catastrophic destruction in the delta." "The water that is needed for Santa Clara, half the water for the Silicon Valley flows through the delta, 80 percent of the water for Livermore, for the farms in the Central Valley, for the people of Southern California. That water is at risk as it flows through the delta, protected only by hundred-year-old earthen lfJvees."	reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed (see Section 3 of the RDEIR/SDEIS). 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 Draft EIR/EIS may be utilized by other programs for implementation of the long-term conservation efforts.
1708	2	Valley Center Municipal Water District, along with other water agencies in the San Di.ego Region and statewide, has supported the• 8-year long planning process and applauds the diligent and comprehensive work that has been completed to dte. Based upon our review of the BDCP planning documents , the Draft EIR/EIS, other information we have reviewed from a number of sources and received from a . number of diverse, knowledgeable and qualified speakers , it is VCMWD's opinion that: Alternative 4 (CM-1) represents the basis for a well-founded and environmentally superior solution to these challenges and the achievement of the legislatively mandated co-equal goals of water supply reliability and eco-system restoration. Underpinning this conclusion are the following factors: • Options with conveyance of less capacity than proposed Option 4, even when coupled with new storage and local supply development, fall well short of meeting water supply reliability needs and does not provide the economic benefit to water agencies that would justify such a substantial investment of ratepayer dollars. • Option 4 is the only option analyzed that fully meets the legislatively established co-equal goals of water supply reliability and ecosystem restoration.	Please refer to the response related to Comment No. 1 of this letter (Comment Letter No. 1708).
1708	3	Valley Center Municipal Water District has made this endorsement of Option 4 (CM-1) fully understanding that there is much to define, analyze and understand about the subsequent implementation of this project. alternative, or any of the others that might ultimately be selected by the BDCP for permitting. It is also our view that the in-depth analysis by the San Diego County Water Authority on the BDCP raised many legitimate questions and concerns about project cost, the engineering and construction feasibility, project financing, project participation, cost allocation among the state and federal contractors, and then cost allocation with the Metropolitan Water District among its member agencies. Given the issues that the SDCWA has had with the MWD rate structure and considering the very large portion of the project that the San Diego Region will potentially pay over its fair share. we would urge the BDCP to give very close consideration of the points raised by the SDCWA about the project financing plan and- cost allocation issues .	Socioeconomic effects of the various alternatives are described and assessed in Chapter 16, Socioeconomics, of the Draft 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. For details on funding and costs, see BDCP Chapter 8, cost-benefit analysis on the BDCP website, and Master Response 5. For governance issues, the commenter is referred to Master Response 5 (Governance Structure and Implementation). With respect to engineering and construction feasibility, the project was significantly revised in response to stakeholder involvement and engineering optimization efforts. In 2015, further refinements were made and the resultant documentation provides an evaluation of a modified BDCP (Alternative 4), along with the now preferred alternative (Alternative 4A also known as the California WaterFix Project). All documentation can be found online at: http://baydeltaconservationplan.com/Home.aspx.

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		In the final analysis, VCMWD must trust that the BDCP, the Department of Water • Resources (DWR) and the state and federal contractors will resolve these issues in a responsible, reasonable and equitable manner, just as a whole host of similar issues were resolved prior to the construction of the existing State Water and Central Valley Projects	
1709	1	The Delta is a beautiful area. Please do not build either twin tunnels or a canal across the Delta. The Delta is made up of great farmland. I bought sheep there and picked up corn there when I was in Future Farmers of America.	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.
1709	2	The water in the Delta will get dirtier because of the fresh Sacramento river water being removed from it.	The water quality assessment addresses changes in Sacramento River water fractions in the Delta. No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1709	3	If some of the farmland is taken out of production and made into a marsh area, the mosquito problem will be bad.	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. Please refer to Chapter 25, Public Health, Impacts PH-1 and PH-5. These impact analyses conclude that impacts from vector-borne diseases as a result of the project would be less than significant under the preferred alternative, 4A.
1709	4	The water Stockton and the other cities that use Delta water for drinking etc. will be getting much dirtier when it is pumped out. More salt water will come into the Delta if the tunnels or canal are built.	The water quality assessment discloses effects to water quality beneficial uses. No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1709	5	We need to build more dams in California starting with the Auburn dam, and continuing down the Sierra so our farmers in the middle and southern parts of the San Joaquin Valley will have enough water. The people in the LA area can build dams in the mountains around them, or install desalination plants. The dams would help with flood control. It would be better to spend part of the $25 billion building the dams.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Master Response 37 regarding why an alternative focused on creating additional storage, either in the Delta or elsewhere, was not included in the proposed project.
1709	6	ATT1: July 8, 2014 Stockton Record Article	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 or the Final EIR/EIS.
1710	1	SFBANTA (San Francisco Bay Area Nordic Tug Association) is an organization of 26 cruising boat owners who live throughout the San Francisco Bay and Delta area. Our boats are trawlers, pleasure boats ranging in length from 26 feet to 42 feet and weighing 7,000 to 30,000 pounds. We often cruise on the Delta, enjoying its wildlife, silence, beauty and anchorages (including The Meadows). Like many boats on the Delta, we are not small fishing boats. Individually, we have many concerns about the BDCP, including cost, loss of good agricultural land, unsecured funding, and environmental and economic impacts. As an organization, and before deciding to respond as a group to the EIRIEIS, we held	Please see Master Responses 2 for information about project level versus program level analysis in the EIR/EIS and Master Response 5 for information about BDCP, CM2 specificity, and CM3-10 specificity. Clarification on operational rules and constraints are in Master Responses 28 (Operational Criteria) and 44 (Decision Tree). Since 2006, the project has been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings. All of the documents, studies, administrative drafts, and meeting materials have been posted online since 2010 in an unprecedented commitment to public access and government transparency (see also Master Response 41 [Transparency]).

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		several discussions and informative meetings attended by about 50 people and resulting in a unanimous decision to oppose the BDCP, especially its focus on twin tunnels diverting Sacramento River water from the Delta as a solution to water availability statewide. In our review, we found the EIR to be redundant and overwhelming. The intent appears to confuse and not seriously address the many real and important impacts of the proposed BDCP.	Refer to Master 38 regarding the length of the environmental documentation. The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The overall recreation experience for boaters in the vicinity of intake construction areas would be reduced during construction activities, because of the elevated noise levels as well as visual setting disruptions. These temporary construction-related effects would last for up to 5 years in the vicinity of intake and barge unloading facilities. Chapter 15 of the Final EIR/EIS and of Appendix A (Chapter 15) of the RDEIR/SDEIS describe potential impacts to on-water recreation. Mitigation would reduce impacts on marine navigation by developing and implementing site-specific construction traffic management plans; installing visual barriers between construction work areas and sensitive receptors; applying aesthetic design treatments to all structures; and employing noise-reducing construction practices. Mitigation would also be available to reduce construction-related underwater noise and pile driving effects, and to initiate a complaint/response program. For farming issues, refer to the Chapter 14 of the Final EIR/EIS and RDEIR/SDEIS (Sections 3, 4, and 5 and Appendix A Chapter 14, Agricultural Resources), Impact AG-1 and Impact AG-2 and their associated mitigation with respect to important farmland in the Delta. The Lead Agencies also acknowledge the discussion of community character in Chapter 16 of the Final EIR/EIS and RDEIR/SDEIS Appendix A (Socioeconomics), which identifies the unique features of the Delta (including marinas) and describes the potential effects on Delta communities. For cost issues, see BDCP Chapter 8 and cost-benefit analysis information at: http://baydeltaconservationplan.com/Home.aspx. A Draft BDCP Statewide Economic Impact Report has also been published, which indicates that the project would result in a substantial economic net benefit to the State. Additionally, refer to Master Response 5 (Costs of Implementation, BDCP Funding).
1710	2	The EIRIEIS is biased towards the tunnels. It fails to seriously consider other less expensive and less destructive alternatives, such as storage, conservation, levee reinforcement and desalination	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. 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 alternatives development and water demand management please see Master Responses 4 and 6, respectively.
1710	3	The EIRIEIS is biased towards the tunnels. It fails to identify guaranteed funding for habitat restoration once the damage to waterways has been done.	Based on the requirements of the state and federal endangered species acts, funding does not need to be guaranteed. The schedule for habitat restoration is provided in the 2013 public draft BDCP in Chapter 6. This schedule is designed to ensure that restoration occurs before or at the same time as impacts, including any impacts to waterways. Please also note that BDCP is no longer the preferred alternative. In response to comments received during the 2013-2014 public comment period, State and Federal agencies decided to add three additional alternatives that potentially achieved meeting the project objectives without preparing a habitat conservation plan (HCP) or natural community conservation plan (NCCP). A modified proposed project (Alternative 4A/California WaterFix) 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. The Final EIR/EIS analyzes all alternatives, including Alternative 4A.
1710	4	The EIRIEIS is biased towards the tunnels. It fails to explain why the dual tunnels option is favored when it will irrevocably harm the Delta and its economy and wifdlife, but produce	The EIR/EIS includes a range of alternatives that would respond to the Project Objectives and Purpose and Need (see Chapter 2 of the Final EIR/EIS), including Alternative 4A, the new preferred alternative. See also Master Response 3 for information about the Purpose and Need and Master Response 4 for additional

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		NO additional water.	information regarding the alternatives analyzed in the EIR/EIS.
1710	5	Chapter 15 states that "an operable barrier would be placed at the head of Old River at the confluence with the San Joaquin River (15.3.3.9 page 15-253)." It continues: 'There are no recreation sites within the impact area for the operable barrier at the head of Old River and San Joaquin River" (Draft EIR/EIS November 2013 page 15-260)." The operable barrier is also mentioned in passing on page 15-265 without discussing its significant impact or acknowledging that the entire Delta is a recreation site. What is an "operable barrier" (p.15-269)? Can it handle the many large boats that travel along Old River? What alternative routes, if any, will be available? What impact will these barriers have on the velocity of current... on fish? What is the design and utility of the boat lock mentioned on page 15-269? What will be the impact if, as has been promoted (and implementation already attempted), a dam is also placed on False River?	Clarifying text has been added to the Final EIR/EIS Chapter 15 to further describe the operable barrier, the boat lock usage, its impacts, and mitigation.
1710	6	Barge Unloading Facilities: Construction of five barge unloading facilities "may require partial channel closures" for about five years and "present a temporary barrier to boats and related recreation." (p.15-268) • "The South Mokelumne River barge facility would be on the southern end of Staten Island (p.15-268)." Many of us have transited that river, and found it to have many shallow spots. At best, this, as stated, constricts boat traffic; it also increases the risk of boats going aground.	Waterways will still be navigable during construction and operation of the proposed project. The proposed project would result in temporary impacts to boaters and on-water recreationists. However, the project includes plans to reduce those impacts as much as possible with implementation of environmental commitments to prepare and implement a water navigation plan and provide notification of construction and maintenance activities in waterways (see Final EIR/EIS Appendix 3B, Environmental Commitments). Additionally, Mitigation Measure TRANS-1a would reduce impacts on marine navigation by development and implementation of site-specific construction traffic management plans, including specific measures related to management of barges and stipulations to notify the commercial and leisure boating communities of proposed barge operations in the waterways. Barge routes and landing sites will be selected by the construction contractor and will be expected to comply with the following criteria: • Maximize continuous waterway access between departure port and shaft site • Maintain minimum waterway width greater than 100 feet (assuming maximum barge width of 50 feet) • Use of existing barge landings where possible • Minimum water depth of 6 feet
1710	7	• The San Joaquin River barge facility "would be on the west side of Bouldin Island, on a wide bend in the river (p.15-268). If on the San Joaquin River, another shoaling area, this may force more boats into the shipping channel to avoid running aground, creating potential safety hazards. Most of the west side of Bouldin Island is bounded by the Mokelumne River and several substantial marinas and resorts. Again, the area is not all deep water and the congestion might cause boats to run aground or suddenly change course to avoid running aground.	See Response to Comment 1710-6. For operable gate sites, construction would be phased, allowing for at least half of the waterway to remain open at any one time. In this way, use of the waterway for recreational navigation would be allowed to continue during construction.
1710	8	The Middle River barge facility would be "on the north side of Bacon lsland...500 feet west of Connection Slough" (p.15-268). That is an area of narrow sloughs with a swing bridge to the east. If the dam ls installed at Old River and San Joaquin River, this area will see increased boat traffic, especially if a dam is also put up at False River. Large boats will need the bridge to be opened. As noted, peak boat traffic volume may be high.	See Response to Comments 1710-6 and 1710-7.
1710	9	• Similar high volume concerns exist for the Old River and Italian Slough barge	See Response to Comments 1710-6 and 1710-7.

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		facilities, although larger boats tend not to travel that far south	
1710	10	The EIR/EIS diminishes the impact of construction noise and lighting: "The noise of construction and piles of muck will make many popular anchorages and destinations inhospitable" (as if nothing could be done to prevent it).	The proposed project may impact recreational opportunities including impacts on hunting, fishing, swimming, and boating. Mitigation is proposed to reduce these impacts; however some impacts may remain significant due to the long-term nature of the temporary construction related impacts. Please see Final EIR/EIS Chapter 15, Recreation, and RDEIR/SDEIS Section 4.3.11 for more detail on the impacts of the proposed project on recreational opportunities and the proposed mitigation. The Final EIR/EIS Executive Summary and Appendix 3B provide a summary of all of the impacts, mitigation measures and significance conclusions. To compensate for the loss of access as a result of constructing the river intakes, the proponents will work with the California Department of Parks and Recreation to help insure the elements of the proposed project would not conflict with the elements proposed in DPR's Recreation Proposal for the Sacramento-San Joaquin Delta and Suisun Marsh (California Department of Parks and Recreation 2011d) that would enhance bicycle and foot access to the Delta. This would include the helping to fund or construct elements of the American Discovery Trail and the potential conversion of the abandoned Southern Pacific Railroad rail line that formerly connected Sacramento to Walnut Grove.
1710	11	• "In water construction would be further limited primarily to June 1 through October 31 each year (p.15-260)" -- and this is the summer season!	Details on impacts to specific locations and marinas can be found in the introductory paragraph under each alternative in Chapter 15, Recreation, Final EIR/EIS. Mitigation Measure TRANS-1a would reduce impacts on marine navigation by development and implementation of site-specific construction traffic management plans, including specific measures related to management of barges and stipulations to notify the commercial and leisure boating communities of proposed barge operations in the waterways. Impacts on transportation, such as highways, can be found in Chapter 19, Transportation. For most alternatives, it is anticipated that most construction traffic would occur on Highway 160 on the eastern bank of the Sacramento River.
1710	12	• Construction would take place Monday through Friday for 24 hours a day -- but many boaters use their boats during the week and not just on weekend	See Response to Comment 1710-11.
1710	13	• The E!R/EIS mentions "bright lights that would negatively affect nighttime views from the work area...would affect any overnight camping at the recreation sites" (p.15-260). But what about the effect on boats at anchor in the Delta's many anchorages?	Impacts, such as impacts to camping and nighttime use of marinas, for each location are discussed under Impact REC-2. Further clarification regarding nighttime effects to boating has been added under the "Campground" header of that impact as well.
1710	14	• Noise and lights from 24-hour activity over 5-plus years will drive away the cruising boats that support Delta businesses. Most of us know and enjoy the Delta for its recreation and wildlife. We appreciate its serenity and quiet. We enjoy the birds. Quietness is a real Delta asset, one that the E!R fails to appreciate. What's the point of anchoring out if you can't swim or fish due to water quality, lights are on all night and it's noisy? "Noise" is not an "unavoidable" impact -it is quite avoidable if other alternatives are considered. By failing to equally address all options, the BDCP fails in its mandate to address the co-equal goals of water reliability and improving the Delta ecosystem.	The new preferred alternative, Alternative 4A, has been optimized to reduce impacts as much as possible across all resources. It affects substantially less land than the previous preferred alternative. Mitigation Measure NOI-1a: "Employ Noise-Reducing Construction Practices during Construction" and Mitigation Measure NOI-1b: "Prior to Construction, Initiate a Complaint/Response Tracking Program" will be implemented to reduce noise impacts to recreation-related sensitive receptors. These measures are discussed in relation to specific recreation-related impacts in Impacts REC-2, 5, 9, and 10. Additionally, Mitigation Measures AES-1a through AES-1g and AES-4b and AES-4c would also be implemented to reduce impacts related to aesthetics of the proposed project.
1710	15	The EIR/EIS grossly understates the impact eight to ten years of construction will have on recreation and the Delta's economy. Many of these businesses cannot afford years of	Boat passage will remain open throughout all areas of the Delta during construction of the proposed water conveyance facilities. Although speed limits would be enacted in certain areas near construction zones,

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		disruption. When they go out of business - and they will -- not only will the economy of the Delta be impacted, but we will have no access to marine-oriented commercial services. The EIR/EIS seems to conclude that boat passage and navigation would be impeded for five years - and that there is no way around it It diminishes the impact.	these would be localized and specific to construction areas and would not be applicable to all waterways in the Delta. Mitigation measures related to reducing noise and aesthetic impacts are listed in Final EIR/EIS Chapter 15, Recreation. It would be speculative to assume that all marinas will go out of business due to construction-related impacts.
1710	16	Muck has been renamed "Reusable Tunnel Material" - but what studies have been done to assure that it is truly reusable and not toxic, to fish or to humans. Will water quality be impacted during the long construction period? Will this result in undesirable conditions for swimmers or water skiers? The giant muck ponds will be forever in the Delta, and will be too close to communities and recreational areas	Material excavated from proposed tunnels, referred to as reusable tunnel material is discussed in the Draft EIR/EIS on page 3-96 in the discussion of tunnel construction. See also Master Response12. Further discussion of handling, testing and monitoring of tunnel material is presented in Final EIR/EIS Appendix 3B, Environmental Commitments; please refer to the discussion of Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM) and Dredged Material. This environmental commitment requires RTM to be dried and tested before reuse of any material.
1710	17	• "Boating opportunities would still be feasible, but it is possible that marina users would be disturbed by noise and visual disruptions (p.15-258)". This is regarding Wimpy's Marina but a relevant observation for other marinas, yacht clubs and anchorages as well	Since the Public Draft EIR/EIS, new alternatives have been created, including the current proposed project, Alternative 4A. These are described in the Recirculated Draft EIR/Supplemental Draft EIS. Revisions in this document include a revised project footprint and construction timeline, which reduced impacts from 8 years to 2.5 years in the vicinity of Wimpy's Marina.
1710	18	• The E!IR/EIS mentions specific recreation sites - but the entire Delta is a recreation site, connected by waterways that are narrow, often shallow in spots - and destined, under this plan, to be blocked, temporarily or permanently. Better solutions should be studied	See Response to Comments 1710-3, 1710-6 and 1710-7.
1711	1	To whoever came up with the twin tunnels plan: No! Southern California needs water = desalination ... the pacific is due west! Also build more storage so that mud slides after the fires don't waste more water. Also conserve sprinklers watering in high heat evaporate. Tunnel with drip irrigation.	More than two-thirds of the residents of the state and more than two million acres of highly productive farm land receive water exported from the Delta watershed. The proposed project aims to provide a more reliable water supply, in a way more protective of fish. However, the project proponents have no authority to designate what water is used for. One of the State Water Resources Control Board's (State Water Board's) charges is to ensure that the State's water is put to the best possible use and that this use is in the best interest of the California public. This charge is reflected in part by the designation of beneficial uses established through the State Water Board's planning process. These beneficial uses are identified in each Water Quality Control Plan (Basin Plan) issued by the State Water Board. The proposed project Lead Agencies have no power to impose penalties on individual water users. DWR and Reclamation have contracts with various entities, some of which sell water to water retailers, who have individual policies and programs to motivate ratepayers to conserve water. Different districts have the right to take different approaches depending on their individual circumstances. 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. 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. 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. 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

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			Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination or 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. Also, refer to Master Response 6 and Appendix 1C for further information on demand management measures, including increasing agricultural water use efficiency and conservation.
1711	2	Mother Nature and mother earth designed the Delta and San Francisco Bay. The animals need the natural delta to survive and so does mankind. We have mosquitoes with west Nile and sleeping sickness and new dengue fever. They do not need more vast area of still water to breed.	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. Certain features of the proposed project and the action alternatives (e.g., cofferdams at the intake sites, sedimentation basins, solids lagoons, and the intermediate forebay inundation area) have the potential to provide mosquito breeding habitat. The depth, design, and operation of the sedimentation basins and solids lagoons would prevent the development of suitable mosquito habitat primarily due to their depth (23 feet and 15 feet, respectively), and because the water contained in these structures would be constantly circulated and the flow rates would be high enough to prevent water from stagnating. Lead agencies will consult with the appropriate mosquito vector control district(s) prior to construction of the intakes and before the sedimentation basins, solids lagoons and the intermediate forebay inundation area become operational to inform mosquito management and control practices in order to limit public health risks from mosquito-borne diseases. Further, once the sedimentation basins, solids lagoons and intermediate forebay inundation area become operational, lead agencies will again consult with the mosquito vector control districts to determine if mosquitoes are present in these conveyance components and if mosquitos control techniques should be implemented. To aid in vector management and control, construction contractors will be required to develop an integrated pest management plan (IMM Plan) and consult with appropriate Mosquito and Vector Control Districts (MVCDs) with respect to restoration and conservation activities. Consultation will include, but not be limited to: review of the IMM Plan and best management practices (BMPs) to be implemented at the restoration sites and review of proposed mosquito monitoring efforts at restoration sites and assistance with monitoring efforts where feasible. The Central Valley Joint Venture's Technical guide to Best Management Practices for Mosquito Control in Managed Wetlands (Kwasny et al. 2004) and other guidelines will be used to help design appropriate restoration and conservation features to the extent feasible consistent with the biological goals and objectives of the proposed project. The IMM Plan will address wetland design considerations, water management practices, vegetation management, biological controls, and wetland maintenance. Detail on these BMPs is included in Chapter 25 and Appendix 3B of the Draft EIR/EIS. In particular, see the commitment entitled "Prepare and Implement Mosquito Management Plans." In Chapter 25 of the Draft EIR/EIS, the impact analysis for Impact PH-1 ("Increase in Vector-Borne Diseases as a Result of Construction and Operation of the Intakes, Solids Lagoons, and/or Sedimentation Basins Associated with the Water Conveyance Facilities") has been revised to include discussion of the expansion of Clifton Court Forebay.
1711	3	Peat dirt sinks, so the pipes will break. The stupid pumps are already killing all our fish ... Enough is enough!!	The tunnels would be constructed at a depth that would be below all organic/peat soils, in mineral soils/sediments that are saturated by groundwater. Such conditions are not subject to "sinking" (i.e., subsidence). Regarding the part of the comment pertaining to fish, estimates suggest that variable percentages of different listed fishes were lost to entrainment at the south Delta export facilities (e.g., Kimmerer et al. 2008), but that these percentages are considerably less than 100%.
1711	4	I have already written to Gov. Brown three times and have not received a reply.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1712	1	On behalf of the City of Westminster, I am proud to submit this letter of support for the Bay Delta Conservation Plan and Alternative 4 contemplated in its associated environmental documents.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.

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		We believe the project outlined in Alternative 4 - twin tunnels at 9,000 cfs (cubic feet per second) - is required at a statewide level to secure California's water and economic futures. This Alternative provides for the maximum balance of secure water supplies, environmental restoration, economic gain and cost-efficiency.	
1712	2	While we understand the discussion for larger or smaller cubic feet per second [cfs] alternatives, as well as different conveyance methods and configurations, Alternative 4 meets a standard that this project works to ensure all Californians, and especially the City of Westminster, can access a secure source of water for decades to come.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1712	3	Importantly, we believe that this Plan should be funded through equitable user fees, with costs fairly distributed amongst the beneficiaries of its development. And its ultimate governance must reflect southern California's - and more specifically, Orange County's - leadership and innovation with regards to water resource management.	The proposed funding strategy for BDCP is presented in Chapter 8. Please see Master Response 5 for a summary of the proposed funding strategy and the proportion of funding allocated to the participating state and federal water contractors. 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.
1712	4	From north to south, to urban and agricultural communities, the State of California is in this together and the City of Westminster is proud to do its part to support both long- and short-term strategies to ensure a safe, secure and reliable water supply for our future generations. On behalf of the City of Westminster, we look forward to working with the state to realize the success of the Plan.	This comment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1713	1	We (the Delta Coalition) all agree that the BDCP is not the answer for restoring the Delta and would in fact cause profound and unprecedented harm to both the Delta ecosystem and the economy of our region.	This comment is a general opinion on the adequacy of the BDCP and does not raise any issues regarding the analysis in the EIR/EIS. Although a viable alternative, please note that the BDCP (EIR/EIS Alternative 4) is no longer 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. Unlike the BDCP, Alternative 4A would not serve as a HCP/NCCP under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). See RDEIR/SDEIS, Section 4, New Alternatives: Alternatives 4A, 2D, and 5A, and Master Responses 4 (Alternatives) and 5 (BDCP) for additional information.
1713	2	[ATT 1: City of Stockton comment letter dated 7/29/2014. Submitted as BDCP1655.]	The comment describes a letter as an attachment to the comment letter. Please refer to the table of commenters to locate the letter of interest. 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.

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1713	3	[ATT 2: City of Tracy comment letter dated 7/21/2014. Submitted as BDCP1510.]	The comment describes a letter as an attachment to the comment letter. 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.
1713	4	[ATT 3: Restore the Delta et al. comment letter dated 5/28/2014. Submitted as BDCP701.]	The comment describes a letter as an attachment to the comment letter. 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.
1713	5	[ATT4: Restore the Delta comment letter dated 7/17/2014. Submitted as BDCP1504.]	The comment describes a letter as an attachment to the comment letter. 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.
1713	6	[ATT 5: Environmental Water Caucus comment letter dated 6/11/2014. Submitted as BDCP778.]	The comment describes a letter as an attachment to the comment letter. 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.
1713	7	[ATT 6: San Joaquin Council of Governments comment letter on IA dated 7/25/2014. Submitted as BDCP1595.]	The comment describes a letter as an attachment to the comment letter. 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.
1713	8	[ATT 7: San Joaquin Council of Governments comment letter on Draft BDCP dated 7/25/2014. Submitted as BDCP1596.]	The comment describes a letter as an attachment to the comment letter. 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.
1713	9	[ATT 8: San Joaquin Council of Governments comment letter on EIR/EIS dated 7/25/2014. Submitted as BDCP1594.]	The comment describes a letter as an attachment to the comment letter. 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.
1715	1	In summary, area in which proposed BDCP project and associated Draft EIR/EIS is critically deficient is: ~ assessment of threat to endangered and threatened anadromous Delta runs of Steelhead and Chinook Salmon due to destabilization of historic migratory route by intake tunnels so situated on main channel of Sacramento River, with sufficiently strong and unseasonal side current as to divert runs from safe migration.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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.
1715	2	In summary, area in which proposed BDCP project and associated Draft EIR/EIS is critically deficient is: ~ proposed design's placement of intake tunnels appears to be unable to satisfy safeguards against salinity intrusion for fifty year life of project, however Draft EIR/EIS does not provide	Multiple analyses were performed in the proposed project to test the robustness of the alternatives to a range of potential future conditions. Water supply, aquatic and terrestrial resources were all analyzed with projected future conditions. The proposed project will likely remain in place and functional far into the future when salinity intrusion may require less frequent use of the south Delta pumps. Far from being stranded assets, the tunnels will be part of the state's strategy in adapting to climate change. More

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		scientific evidence to verify or not	information on ways in which the BDCP/California WaterFix proposes to improve resiliency and adaptability of the Delta to climate change can be found in Chapter 29, Climate Change, EIR/EIS and Appendix A RDEIR/SDEIS and Appendix 3E, Potential Seismic and Climate Change Risks to SWP/CVP Water Supplies, EIR/EIS and RDEIR/SDEIS (in appendix A). For additional information regarding GHG and Climate change, please see Master Response 19.
1715	3	In summary, area in which proposed BDCP project and associated Draft EIR/EIS is critically deficient is: ~ intake tunnel location is subject in high flow events to heavy sediment loads that facility will entrain from a natural trajectory through Estuary system, with up to 8 % loss of soil and nutrient resource replacement to wetlands and marshes, and causing unavoidable increase in facility maintenance for peak water diversions, and maintain impact of Sierra storm runoff sediment yield must be scientifically addressed in Draft EIR/EIS to be in compliance with Clean Water Act criteria for project.	As described in Chapter/Section 1, Introduction, of the EIR/S and the RDEIR/SDEIS, DWR and Reclamation would coordinate and comply with the U.S. Army Corps of Engineer's issuance of permits under the Clean Water Act (CWA) and Rivers and Harbors Act for the construction of the necessary diversion and conveyance facilities. Additionally, Mitigation Measure SW-4: "Implement measures to reduce runoff and sedimentation" would be implemented.
1715	4	Delta Independent Science Board, in review of Draft BDCP EIR/EIS and Draft BDCP notes that changes in sedimentation in Delta and salinity intrusion into Delta are several important effects neglected in DEIR/DEIS. Report also has concern that risks are not modeled or fully evaluated which is my concern in comment that ~ there appears to be an unwarranted and unmodeled risk in project design's deep and large bore tunneling through organic peat soil with high groundwater that could easily destabilize entire Delta Island complex	Please see responses to the Delta Independent Science Board comments on the 2013 Draft EIR/EIS and 2013 Draft BDCP which are included in responses to Comment Letter 1448 submitted by the Delta Stewardship Council. Comment Letter 1448 includes the comments submitted on May 15, 2014 by the Delta Independent Science Board. Please see responses to the Delta Independent Science Board comments on the 2015 RDEIR/SDEIS which are included in responses to Comment Letter 2546 submitted by the Delta Stewardship Council. Comment Letter 2546 includes the comments submitted on September 30, 2015 by the Delta Independent Science Board. The No Action Alternative and all action alternatives include assumptions related to climate change and sea level rise which will change salinity intrusion in the western and central Delta. Those changes can be determined through the comparison of salinity conditions under the No Action Alternative as compared to Existing Conditions as presented in Chapter 8, Appendix 8G, Appendix 8H, and Appendix 5A, Section C of the EIR/EIS. With respect to protection of levee conditions during tunneling operations, during the design phase, DWR would conduct site-specific analysis to determine the extent of the potential conflicts related to conveyance facility construction, including locations of water supply and drainage facilities. DWR would consult with local reclamation districts and land owners to ensure that construction activities would not conflict with existing wells and other facilities. It is possible, that some impacts may result in effects depending upon specific information that would be collected during design and construction phase. Provisions included in the Proposed Project and all other action alternatives (see Appendices 3B and 3C of the EIR/EIS) and mitigation measures identified in the EIR/EIS are included to reduce the impacts to less than significant as compared to Existing Conditions. These provisions include activities such as siting project footprints to encourage continued agricultural production and land uses; monitoring changes in groundwater levels during construction; monitoring seepage effects; relocating or replacing infrastructure in support of continued agricultural and other land use activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other stakeholders in developing optional approaches. Please refer to Appendices 3B and 3C of the Final EIR/EIS.
1715	5	In # 8 of Delta Independent Science Board Review they say " A central purpose of an EIR/EIS is to clearly describe the alternative options--" so with this directive I would like to offer two rather divergent alternatives.	For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. The commenter provides descriptions of other alternatives to be studied. Appendix 3A of the EIR/EIS provides a detailed account of how the water conveyance alternatives and operational criteria for evaluation

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		~ As Sacramento River navigation control point (NCP) flows are maintained at 5,000 cubic feet per second from April through October, and 4,000 cubic feet per second from November through March of all normal CVP delivery years, and as during years when deficiencies are imposed on CVP water deliveries, flows will be maintained at 4,000 cfs during all months of the year (assumed on a March-February basis, as deficiencies could be imposed), and as State Water Resources staff recently advised that this channel was not referenced in project analysis as it is now too silted in to use….I would propose that this regulatory approved flow diversion of Sacramento River at the Sacramento Weir be captured in an isolated, elevated canal (15' x 25') that would, by gravity flow, travel down along the shipping channel to Rio Vista and then by aqueduct, cross the Delta to point of CVP delivery. This water source appears to be in place, pre-approved, and with appropriate engineering design for diversion, without multitude of impacts to Estuary's anadromous fisheries that BDCP proposed intake tunnels threaten. Can provide you with more detailed engineering design of such a facility as it has been in operation in France for hundreds of years as part of country's enlightened and environmentally sound Loire and Seine River canal network. King Francis I chose Leonardo De Vinci to design canal lock mechanism for grade transition (1530) and same design in locks is being automated in France today. Thousand year aqueduct design is Roman. ~ Second alternative would be based on Westlands' proposal (1990's) to site reservoirs within Delta Islands, and would be purely for in-Delta-use-agriculture, with sole purpose of establishing intake facilities sufficiently elevated in Delta to avoid salinity intrusion in life of 50 year project. Reservoirs could be small, self-contained facilities, designed with sufficient vegetative buffer to independently survive earthquake action, (as submarine technology provides flexibility). Connected by modest piping or open step pool channels with use of gravity flow it could be said to be modeled on Scotland's Lake District gravity flow reservoir chain. (Hetch-Hetchy's tunneling from Sierra differs from BDCP low level Delta design as avoids water quality or sediment problems.)	in the EIR/EIS were selected. For more information regarding alternatives to the proposed project please see Master Response 4.
1715	6	I do agree with analysis of Delta farmer that BDCP project will not align with goals of Delta Reform Act and there is no analysis to determine amount of water available for export that will still sustain healthy Delta. Believe watchdog, or bell weather monitor of effects of ongoing Sacramento River flows on Estuary resources should be Suisun Marsh regulators and Conservation District network of volunteers and that Delta outflows at Chipps Island continue to be guaranteed at historic levels as designated in 10,404,731.3 cfs annual average?	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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.
1716	1	Your name will forever be known in California history as the receiver of public comment on the biggest fiasco in California water. The goal and vision for the HCP/NCCP was at the beginning right and honorable but the execution the last few years has been horrible, at	Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. Since 2006, the project has been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent

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		least to this stage. But it is not over until the deal is done, and where process goes after July 29, 2014 will be critical to all of us and our future generations. I suspect, depending on the outcome, a movie will eventually be made of these times. Contrary to the agency advice to provide comments that are concise and focus on the analysis, I will digress substantially. More than enough technically-capable parties will provide the comments you seek and need. I just want to gripe. Further, the process of HCP/NCCP and EIS/EIR preparation has strayed so far from the realm of scientific accountability that the preparers need to hear the public sentiments. To keep compliant and silent on such a mistake would be unethical for me as it will be for the agency scientists to not say what has to be said. There is no room for politics in this science-review process.	scientists, and more than 600 public meetings, working group meetings and stakeholder briefings.
1716	2	What the draft HCP/NCCP offers is a cruel hoax -- a spending program destined to resource restoration failure. A "spending program" is pitched like this: "If you let us get by this time we will throw money at the problem like you have never seen before." But in fact it is impossible to identify a spending program that has worked anywhere near like promised; every one has turned out to be a cruel hoax. Salmon hatcheries were some of the earliest hoaxes. With hatcheries came extreme concentration of fish, accompanying disease, unhealthy and unwise selection of genetic material, damaging juvenile release practices, and straying, degraded fitness to survive rivers and ocean conditions, and a fishery that could be harvested at rates guaranteed to knock the life out of any naturally reproducing stock of salmon. Other early hoaxes involved major dams and diversions. After they had completed the Trinity River Project in the 1960s, of course there was a hatchery, only 10 percent of the natural flow was left to continue downriver. This was not even close to right. Years later the hoax was acknowledged and some reparations made. Also in the 1960s, the Red Bluff Diversion Dam was built for water diversion into the Tehama Colusa Canal for agricultural purposes. The project blocked the Sacramento River and flooded eight miles of anadromous fish habitat, and helped further subsidize farmers. To get away with it, they threw more money at the fish problem they created, building the Tehama Colusa Fish Facility in 1971. This grandiose salmon propagation facility was eventually abandoned when discovered that it harmed, rather than helped, the Sacramento River fishery.	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts, as such it is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. For more information regarding purpose and need please see Master Response 3.
1716	3	After some regulatory reviews in the I 970s, it was determined that the needs of aquatic resources in the estuary, specifically in the vicinity of Suisun Bay, could be met without water. We were told that all we needed was the Montezuma Slough Control Structure to manage the direction of flow in the slough and thus water quality. Again, unforeseen adverse impacts to fish migrations and other resources were experienced and for the last several years the salinity control gates of this expensive structure have been operated only about 45 days a year and not at all during 2011. Perhaps the oldest and biggest hoax was to prescribe "fish salvage" facilities at the south Delta export points. With no bypass flows, extensive and repeated screening is performed and then the few fish captured -- dead, dying or alive -- are lifted into a tank truck for a ride downstream. Operators jokingly told visitors that they were making fish chowder and all they needed to do was add potatoes. The more water the users demanded, the more money was invested in this failure-destined facility.	The comment does not raise any environmental issue related to the 2015 RDEIR/SEIS or the 2013 DEIR/EIS.
1716	4	The next spending program should not be what the process now offers. Real ecological restoration has to mean beneficial ecological uses and functions accrue. Accepting a dollars fix when the problem is insufficient water is a ruse that needs to be	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. Please see Master Response 5 regarding the adequacy of the cost estimates and their conservative assumptions.

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		rejected. Environmentalists don't fear a real fix -- they fear that we will end up water-short and with a spending program that fails to achieve anything but waste money.	
1717	1	California's Central Valley Flood Control Association's specific interest is assuring that the construction, implementation, and operation activities associated with the conveyance and habitat restoration projects contained in the Plan's 22 Conservation Measures (CMs) will not in any way impede, diminish, or impair the flood flow capacity or functionality of the State and Delta's levee systems. These flood facilities are integrated and dependent on each other to operate as a system to protect people and property year-round, but particularly during flood events, and their public safety function must not be compromised.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. For additional detail on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5. For information on how construction and operations of the BDCP/CWF will be consistent with applicable flood protection standards, please see Appendix 6A, FEIR/EIS.
1717	2	Relevance of Flood Management to BDCP Project In numerous public meetings and written communications the California Central Valley Flood Control Association has advised the BDCP management and consultants that Conservation Measure 1 and most of the restoration projects in Conservation Measure 2-22 are in fact projects that propose significant encroachments on the facilities and performance of the Central Valley's flood control system, including its largest and most important flood protection feature the Yolo Bypass. While each of these projects contained in the BDCP Conservation Measures are being proposed for the purpose of SWP/CVP water conveyance, because many of the individual projects will modification the location, configuration, and purpose of the Central Valley's flood control system; thus are in essence flood control projects that increase public safety risks by generating a negative flood impacts on the system. Specific Conservation Measures proposing to modify the configuration, location, and purpose of existing flood management facilities include: 1) CM1 Water Conveyance Facilities - propose to build on, penetrate, and move project levees; 2) CM2 Floodplain Habitat - proposes to modify the Fremont Weir to divert water into the Yolo Bypass (the major work horse of the Central Valley flood control system) more frequently and for longer durations than designed for flood control in order to create fish habitat as mitigation for jeopardy to covered fish species caused by pumping at the South Delta CVP/SWP export facilities; 3) CMs 4-11 - each propose to remove, breach, move, plant vegetation, etc. additional State and local flood control structures throughout the Plan Area.	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. The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements. Please see Appendix 6A, Section 6A.6.2.1.1, FEIR/EIS, regarding potential DWR encroachment permits, and Section 6A.6.2.1.3 which discusses DWR consistency the SPFC. Also, refer to Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations.
1717	3	California Central Valley Flood Control Association Expectations Due to the multitude of impacts expounded on in the following comments, the California Central Valley Flood Control Association requests that prior to final approval of the HCP/NCCP and certification of the EIR/EIS a permit condition be added to the Plan and Implementing Agreement requiring DWR to execute a formal binding agreement with the Central Valley Flood Protection Board (CVFPB) to: 1) Establish general principles and guidelines for any proposed alterations of flood control facilities in the Plan Area, particularly those affecting the State Plan of Flood Control's (SPFC)	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 the IA, as well as a discussion of the current status of the IA, please see Master Response 5. For information on how construction and operations of the BDCP/CWF will be consistent with applicable flood protection standards, please see Appendix 6A, FEIR/EIS.

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		location, configuration, purpose, and functionality; 2) Design and operate BDCP conveyance and habitat projects and activities to be consistent and complementary to the modifications of the State Plan of Flood Control and other flood protection facilities currently being planned in the Central Valley Flood Protection Plan (CVFPP) process, including Regional Coordination Committee Plans; 3) Avoid impacts that reduce the level of flood protection achieved in recent years from the construction of flood protection projects in the Plan Area and adjacent communities that were financed with local, State and Federal funding (i.e., Prop. 1E and 84, WRRDA appropriations) as well as projects planned for implementation in the near future pursuant to the CVFPP or U.S. Army Corps of Engineers' ongoing feasibility studies in the Plan Area.	
1717	4	Supplemental Comments and Informational Attachments While the comments in this letter contain the bulk of the North Delta Water Agency comments, we have created a Reference Library to include additional documentation supplementing or supporting comments contained herein. The documents in the Reference Library are the prior comments submitted by The California Central Valley Flood Control Association during the BDCP process. They must be considered by DWR, and the federal action agencies must be included in the administrative record for the Plan and EIR/EIS and responded to pursuant to NEPA (40 CFR [Section] 1503.4) and CEQA (14 CCR [Section] 15088). Comments on BDCP by Other Entities The Association hereby joins the comments submitted in this proceeding by the following entities: - Central Valley Flood Protection Board - North Delta Water Agency - Local Agencies of the North Delta (LAND) - Counties of Sacramento, Yolo, and San Joaquin - Contra Costa Water District	See Response to Comments to Central Valley Flood Protection Board, the North Delta Water Agency, the Local Agencies of the North Delta, the counties of Sacramento, Yolo and San Joaquin, and the Contra Costa Water District.
1717	5	Expectation Of Response All of the recommendations contained in these California Central Valley Flood Control Association comments for modifications to the Public Draft BDCP Plan, Effects Analysis modeling, and EIR/EIS are intended to serve as ALTERNATIVES AND/OR MITIGATION MEASURES to reduce significant environmental impacts and should therefore be treated as such for purposes of responding to these comments pursuant to NEPA (40 CFR [Section] 1503.4) and CEQA (14 CCR [Section] 15088). Accordingly, the Association expects responses to all comments and recommendations contained herein, including any Attachments, to indicate the outcome of the recommendations. Potential outcomes include:	The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Also, see Section 6A.6.4 for a discussion on impacts of restoration-related environmental commitments and conservation measures, including a substantial reduction in the amount of tidal habitat restoration under the new proposed project, Alternative 4A.

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		1. Modifications to the alternatives, including the proposed action; 2. Development and evaluation of new alternatives not previously given serious consideration; 3. Adoption of mitigation to avoid or minimize significant environmental effects; 4. Supplementing, improving, or modifying the analyses; 5. Making factual corrections; 6. Explaining why the comment does not warrant further response, including citing the specific sources, authorities, or reasons supporting the lead agency's position. SUMMARY OF CALIFRONIA CENTRAL VALLEY FLOOD CONTROL ASSOCIATION COMMENTS ON BDCP The Association's primary concern with respect to the BDCP planning and environmental review documents is that as a whole the actions contained therein represent the most significant alteration of the State Plan of Flood Control (SPFC) ever proposed, yet the Plan and EIR/EIS simply fail to acknowledge this alteration. Ten of the 22 conservation measures proposed in the Plan directly and in many cases significantly impact flood control facilities, however the impacts actually described in the Plan and EIR/EIS are spread out throughout the 40,000 page tome in a way that minimizes public disclosure, analysis, and mitigation of the BDCP's overall impacts on the flood control system, making the EIS/EIR legally deficient. These impacts manifest themselves in multiple ways, as discussed in this comment letter, and if not properly analyzed, disclosed, and mitigated; then the BDCP's proposed actions could cumulatively undermine the reliability of the State Plan of Flood Control, which the State is legally obligated to maintain.	
1717	6	With the BDCP proposing large areas of ecosystem restoration as a long-term goal in the Plan Area, this may also result in a future deficiency of suitable land for mitigation of flood control projects to benefit the Delta region and economy. Any limitation on the ability to offset local levee improvement environmental impacts over the long term because BDCP has already usurped available lands due to extensive acreage conversion will prevent the Delta from "evolving as a place" and ultimately increase flood risk exposure to people and property in the Plan Area. In addition, establishing aquatic habitats often creates negative impacts to third parties including seepage damage to crops, erosion of levees protecting lives and property, entice listed species to areas resulting in new localized Endangered Species Act burdens, and, affect access to local water supply by altering surface and groundwater elevations (both lowering and raising).	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. For information on how construction and operations of the BDCP/CWF will be consistent with applicable flood protection standards, please see Appendix 6A, FEIR/EIS. Effects to groundwater levels and water

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			supply are discussed in Chapter 7 and Chapter 5, FEIR/EIS, respectively.
1717	7	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Damage to levee integrity and stability from material haulage and other construction activities that go way beyond the design and intended use of these rural facilities, seepage and erosion scour, intensive pile driving, and increased subsidence and sink holes from CM1 dewatering;	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. Please see Appendix 6A, Sections 6A.6.3.2 and 6A.6.3.4, FEIR/EIS, for information on potential impacts to levee stability and pile driving activities, respectively.
1717	8	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Deflection and obstruction of flood flows in selected Delta channels due to cofferdam construction, levee reconfigurations, sediment loading, and other construction activities that may redirect flows and alter flood risks throughout the ten-year construction timeframe;	As described under Impact SW-7 in Chapter 6, Surface Water, in the Draft EIR/EIS, BDCP/California Water Fix Partially Recirculated Draft EIR/Supplemental Draft EIS, and the FEIR/EIS, the USACE, CVFPB, and DWR would require that any construction that would disturb existing levees to be designed in a manner that would not adversely affect existing flood protection. As described in Section 3.6 of Chapter 3, FEIR/EIS, Components of Alternatives, facilities to be constructed along the levees would be designed to provide flood neutrality and to provide continued flood management at the same level of flood protection as the existing levees; or if applicable, to a higher standard for flood management engineering and permitting requirements if the standards are greater than the existing levee design during construction and operations. Additionally, DWR would consult with local reclamation districts to ensure that construction activities would not conflict with reclamation district flood protection measures. Construction within the waterways would be required to not increase erosion or sedimentation in accordance with Stormwater Pollution Prevention Permit and requirements of the USACE, Central Valley Regional Water Quality Control Board, and Central Valley Flood Protection Board, as described in Chapter 6, Surface Water, FEIR/EIS.
1717	9	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Impairment of ditches, pumps and other interior drainage facilities vital to the maintenance of low-lying Delta lands through the discharge from CM1 dewatering activities, disconnecting interconnected drainage systems, and seepage waters exceeding existing local capacity;	Impacts to drainage facilities related to the discharge of dewatering water from the conveyance facilities construction are discussed in Chapter 7, Groundwater, Chapter 14, Agricultural Resources, and Chapter 20, Public Services, in the Final EIR/EIS.
1717	10	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Obstruction of levee maintenance, flood fighting and emergency response activities through the clogging of Delta levee roadways and channels with construction traffic and equipment, and through the monopolization of barges and repair materials;	Mitigation Measure TRANS-1a and TRANS-1c would address the issue of potentially delayed emergency response time or interference with emergency services due to traffic as a result of implementing the project. Additionally, please note that 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. For information on how construction and operations of the BDCP/CWF will be consistent with applicable flood protection standards, please see Appendix 6A, FEIR/EIS.
1717	11	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Interference with long-standing levee maintenance and repair programs in the Delta through usurpation of habitat mitigation opportunities on which these programs depend	Please see Appendix 6A, Sections 6A.2 and 6A.3.2, FEIR/EIS, for a discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF. The new proposed project, Alternative 4A, significantly reduces the amount of planned habitat restoration (i.e., CM-2-CM 21), compared to the originally preferred BDCP HCP alternative, Alternative 4. 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)

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			Section 2081(b). Section 6A.6 includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	12	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Disruption of the levee-dependent agricultural economy of the Delta as a collateral consequence of the effects described herein	Please see Appendix 6A, Section 6A.6.4, FEIR/EIS, for a discussion on impacts from restoration-related environmental commitments and conservation measures, including the removal of Conservation Measure 2-21 (Yolo Bypass Enhancements) and substantial reductions in the amount of planned habitat restoration under the new proposed project, Alternative 4A. 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. Refer to Chapter 14 (Agricultural Resources), FEIR/EIS, for a discussion on impacts to Ag lands from the No Action Alternative, proposed project, and action alternatives. Chapter 16 (Socioeconomics), FEIR/EIS, discusses existing socioeconomic conditions in the Delta region and the effect of the proposed project, action alternatives, and No Action Alternative on socioeconomic conditions.
1717	13	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Cumulative effects on the flood control system, particularly SPFC facilities and operations	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, which discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations.
1717	14	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Feasibility Conflict Include: CVFPP flood protection project funding and implementation	The new proposed project, Alternative 4A, significantly reduces the amount of planned habitat restoration, compared to the originally preferred BDCP HCP alternative, Alternative 4. 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). Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Also, see Sections 6A.2 and 6A.3.2 for discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF.
1717	15	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Feasibility Conflict Include: USACE's no vegetation on project levees policy	The new proposed project, Alternative 4A, no longer includes large-scale habitat restoration, including Conservation Measure (2-21). 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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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,

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			CVFPB, and DWR flood standards and regulations. Using natural vegetation in accordance with USACE standards will be encouraged to maintain ecological functions at applicable sites.
1717	16	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Feasibility Conflict Include: Permitting difficulty for widespread dredging in BDCP	As described in Chapter 1, Introduction, and Appendix 3B, Environmental Commitments, FEIR/EIS, several permits for dredging would be required from USFWS, NMFS, USACE, SWRCB, and other State and local agencies.
1717	17	Following are issues of concern related to Conservation Measures 1-22 activities that require significantly more analysis, disclosure, and mitigation than what is provided in the current Draft BDCP Plan and EIR/EIS: Feasibility Conflict Include: Diminishment in flood protection level achieved with prior Prop. 13, 1E, and 84 investments Federal Emergency Management Act building requirements and National Flood Insurance Program flood insurance eligibility Increased public infrastructure liability to state and possibly export water districts (Paterno liability)	Please see Appendix 6A in the FEIR/EIS for information on how the BDCP/CWF will be implemented in way that is consistent with applicable flood protection standards and regulations and is committed to no net increase in flood risk.
1717	18	Issues Are More Complex Than Water Supply Reliability Modifications to a bypass or to a levee system can have impacts in other areas of the system outside of the Plan Area, and modifications of the surface water or soil can affect the ability of the system to deflect, carry, divert, and otherwise deal with flood flows. This issue is critical to members of the California Central Valley Flood Control Association because they are responsible - along with the State - for the operation and maintenance of the flood control system as a whole. Under inverse condemnation laws, the state of California is liable for damages to people or property, particularly where it has altered or modified public works. Pursuant to the Paterno "acceptance doctrine," any public entity with "power to control or direct the aspect of the public improvement that is alleged to have caused the injury" to plaintiffs will be held liable. No matter who builds or funds the project, "[w]hen a public entity accepts responsibility for an improvement, it becomes that entity's public improvement."1 Indeed, the state of California did not even build the levees that were litigated in Paterno; rather, it assumed control of these levees from the federal government.2 For the reasons covered herein, the Central Valley Flood Control Association request the BDCP Plan and EIR/EIS be revised to address the multiple flood control challenges posed by the current draft, assure compliance with ESA/CESA and CEQA/NEPA laws, and be recirculated for public review and comment. 1 Paterno at 1030. 2 Paterno at 1029-1034	Please see Appendix 6A in the FEIR/EIS for information on how the BDCP/CWF will be implemented in way that is consistent with applicable flood protection standards and regulations and is committed to no net increase in flood risk.
1717	19	RISKS FROM ALTERATIONS TO FLOOD CONTROL PURPOSE, FUNCTION - EFFECTIVENESS	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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,

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		MINIMIZED AND OVERLOOKED A message too often lost in the Delta planning process is the fundamental significance of flood protection and control. The levees are not simply one part of the greater complex of problems focused around the Delta—or merely an inconvenient system with adverse impacts that must be addressed in an EIR/EIS. This comprehensive interconnected system of levees is absolutely critical to public health and safety, including the protection of the region's transportation, agriculture, business, homes, and even water conveyance.44 Levees provide this protection at all times, during two daily high tides and seasonal high-flow events. Flood Protection Is Paramount As mentioned previously, the Central Valley Flood Protection Board requires permits for any project that may affect how the State Plan of Flood Control functions, including any encroachments that: 1) Are within State-federal flood control project levees and within a Board easement; 2) May have an effect on the flood control functions of project levees; 3) Are within a Board-designated floodway; 4) Are within regulated Central Valley streams listed in the Board's Title 23 regulations.45 44 DWR A Framework for Department of Water Resources Integrated Flood Management Investments in the Delta and Suisun Marsh (September 24, 2013) 45 Title 23 Section 112 "table 8.1 - Regulated Streams and Nonpermissible Work Periods	CVFPB, and DWR flood standards and regulations. Also, see Section 6A.6.2.1.1 for information regarding potential DWR encroachment permits for construction activities under the proposed project. For more information regarding floods and levees please see Master Response 18.
1717	20	Ten of the BDCP's 22 Conservation Measures contain projects that would become encroachments on SPFC facilities. As a result, permits from the USACE, Board, and approval from local reclamation districts must be acquired. As an example of an encroachment, the BDCP's proposed Sacramento River water diversion intakes (CM1) and operable diversion gate on the Fremont Weir would inundate the Yolo Bypass more frequently (CM2) than designed for flood flows. This constitutes a substantial alteration of the location, configuration, and purpose of the SPFC flood protection system and will certainly require purchase of easements from the underlying landowners to accommodate the new purpose of the easement The California Central Valley Flood Control Association therefore asserts that the levees in the Plan Area must be recognized for what they are: the highest public priority for all who live in the Delta or depend on it for their livelihood. As a part of this recognition, the BDCP Plan and EIR/EIS must embrace - as a fundamental permit condition - the requirement that the existing level of flood protection be maintained to protect people, property, infrastructure, habitat, and conveyance. In other words, uphold the three co-equal goals contained in California's Delta Reform Act.46 most public agencies within the Delta are constantly upgrading their level of flood protection, it is also essential that BDCP does not create a new barrier to future ability to increase local level of flood protection.	Please see Appendix 6A, Section 6A.6.4, FEIR/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 2-21 (Yolo Bypass Enhancements) under the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Also, see Section 6A.6.2.1.1 regarding potential DWR encroachment permits. For more information regarding floods and levees please see Master Response 18.
1717	21	Even in a 1949 Progress Report to Congress on the development of the Central Valley Project, the U.S. Interior and U.S. Bureau of Reclamation acknowledged the importance of	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 discusses project consistency with USACE, CVFPB, and

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		giving "full consideration to the needs for flood control and the necessity for coordinated operation of reservoirs, canals, and channel improvements to that end." Based on our review of the Draft Plan and EIR/EIS, the California Central Valley Flood Control Association contends that the BDCP fails to maintain this federal commitment through any coordination in the governance structure and the absence of any evaluation of impacts to the Sacramento River Flood Control Project and other Delta flood control facilities	DWR flood standards and regulations. Also, see Section 6A.7.2 for a discussion on the USACE Section 408 permitting process and potential future hydraulic analyses.
1717	22	Fails To Analyze Increased Flood Risks From Substantial Alteration the Location, Configuration, and Purpose of State Plan of Flood Control The combined actions in the BDCP's Conservation Measures propose the largest modification of the Sacramento River Flood Control Project/State Plan of Flood Control facilities that have ever been made since they were transferred to the State. Yet the EIR/EIS inexplicably failed to analyze or mitigate the impacts from the construction and operation on: 1) Individual flood control facilities; 2) Flood control infrastructure as it operates as a system; 3) Obstructions reducing flow capacity during 10-year construction such as 10 in-water cofferdams; 4) The 1957 design flow capacity; 5) Ability to inspect, maintain, improve, operate, or floodfight on State Plan of Flood Control flood control facilities during 10-year construction; 6) Flood infrastructure maintenance during construction impacts; 7) Evacuation plan in construction areas during a flood event; 8) Reclamation District (RD) budgets, which will suffer from lost assessment revenues during the 10-year construction (and possibly beyond that period); 9) RD maintenance costs, as RDs deal with increased seepage, erosion, levee maintenance, or drainage pumping costs; 10) Future non-BDCP mitigation, given the permanent loss of substantial amount of habitat available for RDs to mitigate future levee improvements and the lack of identified, alternative options; 11) New PL 84-99 eligibility problems and FEMA flood insurance rates and building restrictions; and 12)Multiple additional flood impacts the BDCP failed to recognize, analyze or mitigate. The Sacramento River Flood Control Project consists of a vast and intricate system of levees, bypasses, weirs and other works originally designed for flood control, reclamation and improvement of navigation -not for water conveyance. The encroachment upon these public works facilities proposed in nearly half of the CMs is for the purpose of continuing Endangered Species Act/California Endanagered Species Act authority (Bioagencies	The new proposed project, Alternative 4A, substantially reduces the amount of The new proposed project, Alternative 4A, substantially reduces the amount of habitat restoration compared to the previous preferred alternative, Alternative 4. 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). Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Section 6A.6.3.3 discusses potential changes in water surface elevation, and Section 6A.6.2.1 discusses potential impacts to flood flow conveyance and capacity. Also, see Section 6A.7.2 for a discussion on the USACE Section 408 permitting process and potential future hydraulic analyses. Refer to Section 6A.6.2.1.1 regarding potential DWR encroachment permits. Please see Master Response 2 regarding project vs program level of detail in EIR/EIS documents.

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		Opinions/Fish Restoration Program Agreement) to export water from the Delta, including creation of aquatic habitat in order to mitigate for "jeopardy" findings relative to the operation of the existing and future CVP/SWP facilities. This represents a substantial change in the purpose of these facilities and works. Implementation actions in 10 of the CMs that may impact (adversely or beneficially) existing flood protection facilities and Sacramento River Flood Control Project 1957 design flow capacities, none of which are adequately covered in the draft EIR/EIS	
1717	23	Conservation Measure 1 - New Conveyance Facilities As proposed, CM1 would require project proponents to: Construct three intakes on Sac River eastside levee within 4 mile stretch (possibly moving these levees too?); Erect at least nine in-water cofferdams in Sac River and several Delta channels for construction of three intakes and six barge loading facilities. Ultimately, the construction plans might call for even more cofferdam locations, including at Sacramento Weir or locations where operable gates are being installed; Construct cutoff walls to prevent seepage; Increase sediment loading and removal at intake locations; Place riprap on levees where intakes located; Construct 6 barge landings on levees (need to determine which are Project/SRFCP); Construct new North Bay Aqueduct intake on west side of Sac River; Modify approximately six miles of levees, on either a temporary or permanent basis; and Install power lines over existing levees.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1717	24	CM2 Fremont Weir Modification & Yolo Bypass Inundation As proposed, CM2 would require project proponents to: Lower Fremont Weir from 33.5 feet to 17 feet, and construct an operable gate for water diversion into Yolo Bypass; Erect a cofferdam in Sac River (leaving uncertain the length and the number of feet that would be encroached into the riverbed); Inundate the Yolo Bypass more frequently and for a longer duration; Modify Lisbon Weir; Realign Lower Putah Creek and create floodplain habitat; Use supplemental flows through Knights Landing Ridge Cut by redesigning Colusa Basin	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.

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		Drain Outfall Gates to accommodate more flows; Build support facilities throughout the Yolo Bypass (including operations buildings, parking lots, access roads and bridges); Remove existing and constructing new levees, berms, and water control structures; Reduce Tule Canal and Toe Drain capacities; Improve positive drainage of the entire length of Fremont Weir (potentially); Improve levees adjacent to Fremont Weir Wildlife Area to maintain existing level of flood protection and beneficially reuse excavated earth; Increase the wetted area and residence times, flow ramping, and recession of water moving through Yolo Bypass (thus altering the hydrodynamic characteristics of the Bypass); Modify Sacramento Weir to reduce leakage; Install new gates at all or portion of Sacramento Weir and impose modifications to the stilling basin (This might include construction of fish passage facilities at Sacramento Weir which would involve excavating a channel to move water from the Sacramento River to Sacramento Weir, and from Sacramento Weir to the Toe Drain); Require vegetation maintenance; Entail sediment removal from Fremont Weir (approx. 1 million cy within 1 mile of weir expected every 5 years); Require sediment removal inside the new channel (an additional 1 million cy every other year); and Propose sediment disposal on lands in vicinity of Fremont Weir, unless the sediment is used as source material for levee improvements.	
1717	25	CMs 4-11 Habitat Creation in 6 Restoration Opporunity Areas throughout Plan Area (Plan Sec. 4.2.3 and Table 4-4) As proposed, CMs 4-11 would require project proponents to: Breaching, modifying, or removing existing levees and construction of new levees; Grading, excavating, and placement of fill material (much of this work occurs near levees); Modifying, demolishing, and removing existing infrastructure (including buildings, roads, fences, electric transmission and gas lines, irrigation/drainage canals located near levees); and Removing existing vegetation and planting or seeding of vegetation (potentially affecting the PL 84-99 compliance of local districts).	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. In response to comments received during the 2013-2014 public comment period, State and Federal agencies included additional alternatives in the 2015 RDEIR/SDEIS as the preferred project. (Alternative 4A/California WaterFix) is being considered. 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.

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			Please see Appendix 6A in the FEIR/EIS for information on how the BDCP/CWF will be implemented in way that is consistent with applicable flood protection standards and is committed to flood neutrality in the Delta.
1717	26	CM4 - Tidal Habitat Creation (65,000 acres) As proposed, CM4 would require project proponents to: Breach or eliminate existing levees in order to increase the amount of tidal environments throughout Delta; Grade and dump fill in some locations; Excavate channels to encourage development of dendritic networks within restored marsh plain; Modify ditches, cuts, and levees for the stated purpose of encouraging more natural tidal circulation and better flood conveyance; Remove or relocate infrastructure, including breaching levees for the stated purpose of to restore tidal connectivity; Demolish existing levees or embankments or create new structures to allow restoration that (proponents hope) protects adjacent land; Re-contour the surface of levees (prior to breaching them) for the stated purpose of maximizing the extent of surface elevation suitable for establishment of tidal marsh vegetation, placement of fill on subsided lands; Import dredged or fill material (again, prior to breaching)and place it in subsided areas for the stated purpose of establishment of tidal marsh vegetation; Potentially construct dikes to maintain existing land uses when tidal habitat is restored adjacent to farmed lands or lands managed as freshwater seasonal wetlands; Cultivate stands of tules through flood irrigation (again, prior to breaching) for sufficiently long periods to raise subsided ground surface to support marsh plain, and then breach levees when target elevations are achieved; Breach or remove dikes along Montezuma Slough and other Suisun Marsh sloughs and channels for the stated purpose of reintroducing tidal connectivity to slough watersheds; Deepen or widen existing tidal channels, if necessary to increase tidal flow; Possibly grade restoration sites (based on local hydrodynamic conditions, topography, and sediment transport) to accelerate development of tidal channels within restored marsh plains. Following introduction of tidal exchange, tidal marsh vegetation will be planted and proponents hope - naturally establish in marsh plains; Construct dikes in Suisun Marsh with low gradient slopes to support vegetation; and Design new marsh channels and levee breaches with the stated purpose of maintaining flow velocities in order to minimize conditions favorable to establishment of aquatic plants and	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A in the FEIR/EIS for information on how the BDCP/CWF will be implemented in way that is consistent with applicable flood protection standards and regulations and is committed to no net increase in flood risk.

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		predatory fish.	
1717	27	These activities would occur throughout Plan Area, but the plan states that the most promising opportunities for large-scale floodplain restoration reportedly occur in the south Delta. Seasonally inundated floodplain modifications must be designed, implemented, and maintained to allow passage of flood flows at the required flood system design flow and to comply with other flood management standards and permitting processes. Ideally, this process will be coordinated with U.S. Army Corp of Engineers, DWR, Central Valley Flood Protection Board, and other flood management agencies to assess the desirability and feasibility of channel modifications. As proposed, CM5 would require project proponents to: Restore floodplains that have been lost as a result of flood management and channelization activities; Set back or remove existing levees; Remove riprap or other bank protection to allow for channel meander between the setback levees and to allow for channel migration between the setback levees through natural erosion and sedimentation; Conduct grading to restore drainage patterns to increase inundation frequency and duration, and establishment of riparian habitat; Install substantial levee setbacks (on the order of hundreds or thousands of feet) to allow for lateral channel migration and natural fluvial disturbance; Set levees back along selected river corridors, and remove or breach levees that plan proponents say would be rendered nonfunctional; Create and expand new floodway bypasses to increase floodplain habitat and redirect flood flows along distributary channel networks into the estuary; Modify channel geometry in unconfined channel reaches or along channels where levees are set back with the stated purpose of creating backwater fish habitat; Selectively grade restored floodplain surfaces to provide for drainage of overbank flood waters with the stated purpose of minimizing fish stranding; Lower the elevation of restored floodplain surfaces or modify river channel morphology with the stated purpose of increasing inundation frequency and duration, and of establishing elevations suitable for the establishment of riparian vegetation by either active planting or natural establishment; Continue to farm in the floodplain, using crop types that benefit fish species; Where farming is no longer feasible or compatible with floodplain habitat goals, discontinue farming within setback levees and allow establishment of riparian vegetation on the floodplain.	Note that the proposed project (Alternative 4A) no longer includes the BDCP, and therefore no longer includes floodplain restoration in the south Delta. 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. Please see Appendix 6A in the FEIR/EIS for information on how the BDCP/CWF will be implemented in way that is consistent with applicable flood protection standards and regulations and is committed to no net increase in flood risk.

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1717	28	CM6 - Channel Margin Enhancement CM6 would alter 20 miles of channel margin along fish migration corridors, with the stated purpose of improving channel geometry and restoring riparian, marsh, and mudflat habitats on the river side of levees. According to plan proponents, channel margin enhancement associated with federal project levees will not be implemented on the levee, but rather on benches to the water-ward side of such levees and flood conveyance will be maintained as designedCM6 would alter 20 miles of channel margin along fish migration corridors, with the stated purpose of improving channel geometry and restoring riparian, marsh, and mudflat habitats on the river side of levees. According to plan proponents, channel margin enhancement associated with federal project levees will not be implemented on the levee, but rather on benches to the water-ward side of such levees and flood conveyance will be maintained as designed. As proposed, CM6 would require project proponents to: Construct a shallow gradient from lower-elevation, submerged, shallow benches along existing river channels to higher elevation riparian habitat; Modify or set back levees to create low benches with variable surface elevations with the stated purpose of creating hydrodynamic complexity to support emergent vegetation; Modify the waterward side of levees or set back levees landward to create low floodplain benches; Install large woody debris (tree trunks, logs, and stumps) into constructed benches with the stated purpose of providing physical complexity; Plant vegetation on constructed benches and potentially on mudflat habitat, which the plan proponents say will depending on elevation and location.	The comment accurately states the main components of CM6. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP (and therefore no longer includes CM6 as proposed in the BDCP). Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft BDCP Draft EIR/EIS. Alternative 4 (AKA BDCP) remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 BDCP Draft EIR/EIS (including CM6) may be utilized by other programs for implementation of the long term conservation efforts. For more information regarding Environmental Commitments, including EC6 formerly CM6, please see Appendix 3B of the FEIR/EIS.
1717	29	CM7 - Riparian Restoration (5,000 acres) CM-7 is intended to operate in association with the tidal, floodplain, and channel margin habitat measures (CM4-6) to provide mid- and late-successional state vegetation structure	Note that the proposed project (Alternative 4A) no longer includes the BDCP, and therefore no longer includes this conservation measure with 5,000 acres of riparian restoration. 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.
1717	30	As proposed, CM7 would require project proponents to: Restore approximately 3,000 acres of riparian restoration along restored (altered) floodplains with a diversity of native plants and sizes, including elderberry, with the stated	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. Numerous comments were

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		intent of creating a well-developed understory of dense shrubs as well as high-canopy overstory; and Site mature riparian in areas that are rarely flooded such as above the 50-year floodplain	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.
1717	31	CM8-Grasslands Restoration (2,000 acres Zones 1, 8 and/or 11) As proposed, CM8 would require project proponents to restore grasslands in association with the tidal, floodplain, and channel margin habitat measures (CM4-6 and CM10)	This accurately describes what BDCP proposed for grasslands restoration. Please see Chapter 3, Description of Alternatives, FEIR/FEIS, for information about restoration proposed for 4A.No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1717	32	CM9-Seasonal Wetlands and Vernal Pool Restoration (72/67 acres, respectively) CM-9 proposes to restore seasonal wetlands and vernal pools in association with the tidal, floodplain, and channel margin habitat measures (CM4-6 and CM10). Additionally, "1.0 wetted acre" of vernal pools will be restored for each wetted acre to offset loss of wetland features As proposed, CM9 would require project proponents to: -Excavate or re-contour historical vernal pools and swales to natural bathymetry. -Plant "appropriate" vegetation.	This is a description of what is in the BDCP. Please see Chapter 3, Description of Alternatives, FEIR/FEIS, for information about restoration proposed for 4A.
1717	33	CM10 Non-Tidal Marsh Restoration (1,200 acres Zones 2, 4 and/or 5) Non-tidal marshes consist of emergent, tule-dominated vegetation and open water with variable bank slopes. As proposed, CM10 would require project proponents to: Secure sufficient annual water to sustain habitat function; Design checks, levees, and other upland sites with sloping banks; Establish connectivity with existing irrigation and drainage systems (ag ditches and canals) and with habitats occupied by the giant garter snake; Plant native marsh vegetation; Grade or create depressions to hold water; Irrigate the restoration site, enough to maintain water depths; and Grade the site in order to establish an elevation gradient that project proponents state will	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. Please see Chapter 3, Description of Alternatives, FEIR/FEIS, for information about restoration proposed for 4A.

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		support both open water and perennial aquatic habitat intermixed with shallower marsh habitat.	
1717	34	CM11 Natural Communities Enhancement & Management As proposed, CM11 would require project proponents to: Manage vegetation in order to reduce fuel loads for fire; Conduct levee maintenance (Section 4.2.3.9.6); levee maintenance will implement measures with the stated purpose of avoiding and minimizing the adverse effect on natural communities and covered species. The project proponents state that levees in the reserve system will be maintained to balance wildlife and habitat needs with the need to maintain structural integrity of levees; Specify, in reserve unit management plans, levee maintenance procedures (how trees and shrubs will grow on faces of levees, encouragement of dense vegetation, rodent control, etc); Remove fences; Improve culverts and other road crossings; Construct and remove roads; and Conduct stream and channel bank enhancement Most of the aforementioned project actions will occur on or adjacent to Sacramento River Flood Control Project/State Plan of Flood Control project levee and bypass facilities for which the State (Central Valley Flood Protection Board) has responsibility and liability for maintaining pursuant to the Memorandum of Understanding with the federal government (U.S. Army Corp of Engineers) which transferred the Sacramento River Flood Control Project flood protection system to the state in 1953.47. 47 953 Memorandum of Understanding (U.S. Army Corp of Engineers and The Reclamation Board, 1953) and Supplements. Available at ftp://ftp.water.ca.gov/mailout/CVFPB%20Outgoing/Orientation%20Materials/Item%203C%20-%20LM%20Assurance%20Agreements/Example%201%20-%20srfcp_mou_1953%20--%20jsp%20copy.pdf.	DWR and BOR will coordinate closely with the US Army Corps of Engineers on any such actions. Please see Chapter 3, Description of Alternatives, FEIR/FEIS, for information about restoration proposed for 4A. Please see Section 6A.6.2.1.3 in Appendix 6A, FEIR/EIS for information on project consistency with the State Plan of Flood Control.
1717	35	The BDCP as proposed, depending on the Alternative, would impact multiple State Plan of Flood Control facilities, including the following features identified by the Central Valley Flood Protection Board: - Georgiana Slough (Sacramento County); - Sacramento River (From Kenwick Dam to west end of Sherman Island); - Mokelumne River (Sacramento County, San Joaquin County to Camanche Reservoir); - San Joaquin River (Friant Dam to West End of Sherman Island);	Please see Master Response 8 (Treatment of Other State Programs/Studies) and Appendix 6A (BDCP/California WaterFix Coordination with Flood Management Requirements) regarding project consistency with the State Plan of Flood Control and the Central Valley Flood Protection Board As discussed in the FEIR/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

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		▯ Sacramento Deep Water Channel (Solano and Yolo); ▯ Sacramento Bypass (Yolo County); ▯ Old River (San Joaquin to Paradise Cut); ▯ Three Mile Slough (Sacramento County); ▯ Sevenmile Slough (Sacramento County); ▯ Threemile Slough (Sacramento County); ▯ Elk Slough (Yolo County); ▯ Duck Slough (Yolo County); ▯ Miner Slough (Solano County); ▯ Sutter Slough (Counties of Solano, Sacramento, Yolo); ▯ Steamboat Slough (Counties of Solano, Sacramento, Yolo); ▯ Cache Slough (Solano County); ▯ Cache Creek (Yolo County, Yolo Bypass to ½ mile west of Inter-state 5); ▯ Putah Creek (Counties of Yolo, Solano to Monticello Dam); ▯ Putah Creek, South Fork (Solano County); ▯ Sycamore Slough (Colusa County); ▯ Haas Slough (Solano County); ▯ Hastings Cut (Solano County); ▯ Lindsey Slough (Solano County); and ▯ Shag Slough (Counties of Solano, Yolo) RECOMMENDATION: BDCP must develop a and implement a legally enforceable hydraulic mitigation plan to assure hydraulic conditions, such as channel and bypass roughness coefficients, channel width and vegetation maintenance, sufficient to safely pass SPFC flood flows at or below design water surface elevations. RECOMMENDATION: Based on these substantial and glaring flood protection impact, analysis, and mitigation omissions, we request the BDCP Plan and EIR/EIS be revised to analyze, disclose, and mitigate these flood management impacts and re-circulate to the public for review and comment.48 48 PRC Section 21092.1 and Guidelines Section 15088.5 require an EIR to be re-circulated whenever significant new information has been added to the EIR after the draft has been available for review, but prior to certification of the final EIR. Correction of these omissions and providing the required analysis, disclosure, and mitigation would constitute significant	proposed project proponents must secure approval from USACE through the Section 408 permitting process. Construction of the proposed California WaterFix water conveyance facilities would be sequenced over approximately 10 years. Construction of individual components (e.g. intakes, tunnels) would range from one to six years. Temporary construction-related impacts include noise, visual, and transportation, among others. The construction-related impacts are disclosed in individual resource area chapters in the FEIR/EIS. As part of the planning and environmental assessment process, the project proponents will incorporate environmental commitments and best management practices (BMPs) into the action alternatives to avoid or minimize potential adverse effects (a NEPA term) and potential significant impacts (a CEQA term). The project proponents will implement these environmental commitments as part of the project construction activities. In other words, these commitments will be satisfied even if not separately imposed by the permitting agencies. If permitting agencies impose additional measures or modifications, those will also be adhered to as part of the permit(s). The project proponents will coordinate planning, engineering, design and construction, operation, and maintenance phases of the alternative with the appropriate agencies. For more information regarding Environmental Commitments please see Appendix 3B of the FEIR/EIS.

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		new information.	
1717	36	Conservation Measure 2 Changes Purpose and Control of Fremont Weir and Yolo Bypass CM2 proposes to modify the Yolo Bypass, a working flood control facility and one of the State Plan of Flood Control's four relief flood bypasses. It would modify the Bypass by: 1) lowering a portion of the Fremont Weir from 33 feet to 17.5 feet and 2) installing an operable gate. This gate would be managed by BDCP governance entities and via the BDCP's Annual Delta Water Operations Plan. After the gate is in place, CM2 proposes more frequent inundation (every 1-3 years) of the Yolo Bypass by diverting between 3,000-6,000 cubic feet per second for 30-75 days (total of 650,000 af of water) for one or more periods between November and mid-May. As a result, between 11,000 and 27,000 acres would be flooded with shallow water. Vegetation maintenance [footnote 49: CM2 proposes to clear vegetation in strips to open areas for water flow and avoid islands, including the pruning of trees with over 4 inches of trunk diameter up 6feet from the ground.] and sediment maintenance [footnote 50: CM2 also would remove about 1 million cubic yards of sediment within 1 mile of the weir about every 5 years, and to remove an additional 1 million cubic yards every other year inside the new channel.] will also be conducted at the site. As part of the proposal, sediment may be disposed on properties in the immediate vicinity of Fremont Weir, may be used as source material for levee or restoration projects, or will be otherwise "beneficially" used, according to plan proponents. [footnote 51: Plan Chap 4, Section 4.2.2.] The proposed vegetation growth in the Yolo Bypass could accelerate and reduce the flood flow capacity, similar to what has happened in the neighboring Sutter Bypass from the permitted encroachment of a federal wildlife refuge. The riparian forest that has evolved over time is diminishing its flood protection effectiveness, according to recent modeling and report commissioned by the Central Valley Flood Protection Board. [footnote 52: CH2M Hill for California Department of Water Resources, Sutter Bypass RMA2 Model Report at 5-16 (June 2012) ("Results indicate that increased growth of vegetation in the Sutter Bypass and Yolo Bypass....would raise water levels by up to 0.83 foot for the 1957 design flow conditions.")]	Please see Appendix 6A, Section 6A.6.4, FEIR/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 the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Refer to Section 6A.6.2.1 for information on potential changes to flood water conveyance and capacity under the proposed project.
1717	37	Modification of the Yolo Bypass, which accommodates 80 percent of the Sacramento River's flows during a flood event, represents a major alteration of the location and configuration of this key flood facility. Additionally, the fact that inundation of the bypass be determined and controlled by DWR, U.S. Bureau of Reclamation, and CVP/SWP water contractors in order to comply with Endangered Species Act Biological Opinions for continued operation of the State and Federal water conveyance projects also represents a significant change in purpose and use of this State Plan of Flood Control facility. RECOMMENDATION -- BDCP must develop and implement a legally enforceable hydraulic mitigation plan to assure hydraulic conditions, such as channel and bypass roughness coefficients, channel width and vegetation maintenance, sufficient to safely pass State Plan of Flood Control flood flows at or below design water surface elevations.	Please see Appendix 6A, Section 6A.6.4, FEIR/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 2-21 (Yolo Bypass Enhancements) under the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Refer to Section 6A.7.2 for a discussion on the USACE Section 408 permitting process and potential future hydraulic analyses.
1717	38	RECOMMENDATION -- Identify the extent and costs to acquire, administer, and maintain additional easements for anticipated flooding for purposes other than flood management within the Yolo Bypass and Cache Slough region.	The new proposed project, Alternative 4A, reduces the amount of planned habitat restoration, including the removal of and Conservation Measure 2 (Yolo Bypass Enhancements), compared to the previously preferred alternative, Alternative 4. 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

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			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. The analysis under the BDCP/CWF Environmental Impact Report/Statement has been prepared under the standards of CEQA and NEPA. If additional easements are needed (if an alternative that includes Conservation Measure 2 is ultimately selected), they will be identified further along in the process as we go from a programmatic level of analysis to a project level of analysis – please see Master Response 2 for additional details.
1717	39	RECOMMENDATION -- To ensure that flood management remains a priority for the Yolo Bypass, the BDCP Plan Governance Chapter 7 must be amended to include the U.S. Army Corps of Engineers among the BDCP governance entities controlling the operation of the new CM2 Fremont Weir diversion gate, including the Real-Time Operations Team and Authorized Entity Group. Further, the BDCP Plan Governance Chapter 7 must be amended to include the Central Valley Flood Protection Board on the Authorized Entities Group.	The governance structure proposed in the 2013 public draft BDCP is designed to support the responsibilities of the permittees under the state and federal endangered species permits. DWR and Reclamation acknowledge that additional authorizations and permits will be necessary to build and operate the proposed water conveyance facility. Once those additional authorizations are obtained, it may be appropriate to incorporate additional agencies such as the U.S. Army Corps of Engineers into the decision-making process for project implementation.
1717	40	RECOMMENDATION --An endowment fund must be established to fund the vegetation maintenance and sedimentation removal, and any other mitigation necessary a roughness coefficient that meets U.S. Army Corps of Engineers, Federal Emergency Management Agency, and Central Valley Flood Protection Board standards at the Fremont Weir or Yolo Bypass. Additionally, the BDCP Annual Work Plan and Budget, Sec. 6.3.1 must be amended to include sufficient annual funding to perform all necessary removal and management of sediment and vegetation in the Yolo Bypass to meet or exceed current conditions required for management of flood flows.	As of the 2013 Public Draft, specific details of Conservation Measure 2, the Yolo Bypass Fisheries Enhancement, had not been developed. Details such as those described in the comment would need to be worked out during plan implementation to ensure greater likelihood of meeting the biological goals and objectives associated with CM2. Note that the proposed action (Alternative 4A) no longer includes CM2. Please see Appendix 6A in the FEIR/EIS for information on how the BDCP/CWF will be implemented in way that is consistent with applicable flood protection standards and regulations and is committed to no net increase in flood risk.
1717	41	RECOMMENDATION -- The Project Description of Conservation Measure 2 in the Plan must be amended to clarify that DWR and U.S. Bureau of Reclamation will petition the State Water Resources Control Board to change points of diversion, places of use, and purposes of use of water for the SWP/CVP projects. Specifically, the proposed CVP/SWP diversion of up to 6,000 cubic feet per second through an operable gate to be installed and managed in accordance with the BDCP's Annual Delta Water Operations Plan will require these permits.	It is recognized that permits would be required for increased frequency and extent of inundation of the Yolo Bypass, as described in Chapter 1, Introduction, of the FEIR/EIS. Permits would be required from USFWS, NMFS, USACE, SWRCB, and other State and local agencies. Habitat restoration actions in Yolo Bypass are only considered in a programmatic manner in the EIR/EIS (please see Master Response 5). Specific analyses of permits from State and federal agencies, issuance of State Water Resources Control Board-issued water rights, would need to be considered in subsequent engineering and environmental documentation.
1717	42	RECOMMENDATION -- The Project Description of Conservation Measure 2 must specifically disclose the acreage areas in the Yolo Bypass that will require BDCP to purchase additional easements from landowners in order to inundate their property more frequently and for longer periods for a non-flood purpose.	The FEIR/EIS analyzes all alternatives Please see response to comment 1717-30 regarding the BDCP alternatives.
1717	43	Risk of Inverse Condemnation Liability For State Plan of Flood Control Potentially Shared By BDCP Proponents Numerous projects and actions in the BDCP, particularly CMs 1, 2, and 4 propose to not only alter the "location and configuration" of the State Plan of Flood Control system, but also appear to assume responsibility for the management of operations of the Yolo Bypass through the installation of an operable gate that will be managed under the BDCP's governance structure. [footnote 53: Described in Chapter 7 of the Plan.] As such, the U.S.	Please see response to comment 1717-45 regarding the new proposed project, Alternative 4A, which no longer includes large scale restoration.

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		Bureau of Reclamation, DWR, the BDCP Proponents, and possibly the other CVP/SWP water contractors may be exposing themselves to Paterno inverse condemnation liability. BDCP proponents (and their ratepayers) may share in this liability if -- anytime during the 50-year permit -- a litigant can show a direct correlation between the failure of an State Plan of Flood Control facility controlled by the Proponents and the resulting damage to people and property.	
1717	44	ATT1: Table showing how the rules applied by the appellate court in Paterno v. State of California could apply to proposed Conservation Measures.	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 or the Final EIR/EIS.
1717	45	[ATT1:] This comment is intended to show how the rules applied by the appellate court in Paterno could possibly apply to BDCP actions: Proposed BDCP Conservation Measure: Physical Alterations -- BDCP Conservation Measures propose to make the most significant changes to the location and configuration of the State Plan of Flood Control system since the flood control facilities were built. They would essentially build, operate, and maintain flood control facilities for a non-flood purpose -- Endangered Species Act mitigation requirement for water supply reliability. Relevant and Applicable Paterno Rule: "Damages are disproportionate where "the system, as designed, constructed, operated and maintained, exposed [the plaintiff] to an unreasonable risk of harm." [footnote 54: Paterno v. State of California, (2003) 113 Cal. App. 4th 998 at 1016] … "The [reasonableness] inquiry should include specific consideration whether the location and configuration of the system, and its purpose to divert the natural flow, were themselves 'reasonable.'" [footnote 55: Id. at 1017.]	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. A modified proposed project (Alternative 4A/California WaterFix) is being considered as the preferred project. 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. Also, please see Section 6A.6.2.1.3 in Appendix 6A of the FEIR/EIS for information on how the project will be consistent with the State Plan of Flood Control.
1717	46	[ATT1:] This comment is intended to show how the rules applied by the appellate court in Paterno could possibly apply to BDCP actions: Proposed BDCP Conservation Measure: Governance Structure -- Pursuant to Plan Chapter 7, the BDCP governance structure (Authorized Entities Group -DWR, U.S. Bureau of Reclamation, and state/federal water contractors covered under the BDCP) will have responsibility for compliance with provisions of the BDCP and regulatory authorizations and wording in BDCP implementation section clearly confirms this transfer of control over CM2's new operable gate and more frequent inundation of the Yolo Bypass will occur: "State of California, through DWR, as the entity that will construct, own, and operate any new diversion and conveyance facilities described in the Plan." Relevant and Applicable Paterno Rule: "A public entity is a proper defendant in an action for inverse condemnation if the entity substantially participated in the planning, approval, construction, or operation of a public project or improvement that proximately caused injury to private property." [footnote 56: Id. at 1029]	Please refer to the Final EIR/EIS Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements in Chapter 6, Surface Water, related to flood protection in the Delta. Ecosystem restoration in the Yolo Bypass, such as the actions identified in this comment, were identified proposed as a part of Conservation Measure 2 (CM 2) for the BDCP. However, the RDEIR/SDEIS and FEIR/EIS identifies Alternative 4A as the preferred project alternative and Alternative 4A does not include habitat restoration measures and related Conservation Measures (such as CM 2), except to the extent required to mitigate significant environmental effects under CEQA and to meet the regulatory standards of ESA Section 7 and CESA Section 2081(b). Please see Appendix 6A for additional information regarding project consistency with flood protection requirements.
1717	47	[ATT1:] This comment is intended to show how the rules applied by the appellate court in Paterno could possibly apply to BDCP actions: Proposed BDCP Conservation Measure: BDCP Implementation Structure -- The Authorized	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. Numerous comments were

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		Entity Group will provide oversight and direction throughout the 50-year implementation of BDCP: consideration of proposed adaptive management actions; review and approval of Annual Work Plan and Budget and the Annual Delta Water Operations Plan, which includes operational diversion facilities on the Fremont Weir and project levees on the Sacramento River near Hood. Relevant and Applicable Paterno Rule: "So long as the plaintiffs can show substantial participation, it is immaterial 'which sovereign holds title or has the responsibility for operation of the project.'[CITATIONS]".... "Approval and acceptance by the public agency may be implied by official acts of dominion or control of the property and by continued use of the improvement by that agency for many years." [footnote 57: Id.]	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.
1717	48	Where they assume control over State Plan of Flood Control facilities, governance, and implementation, BDCP Proponents must consider the potential impact of Paterno inverse condemnation liability, particularly as part of a comprehensive Cost-Benefit and Socioeconomic Analysis. Recall that, in Paterno, plaintiffs may recover damages where "the system, as designed, constructed, operated and maintained, exposed [the plaintiff] to an unreasonable risk of harm." [footnote 58: Paterno v. State of California, (2003) 113 Cal. App. 4th 998.] Key factors for the Paterno court in assessing the "reasonableness" of the risk inherent to the state's levee project included the large size of the project, the lack of direct benefit to the plaintiffs from the project or control by the plaintiffs, the feasibility of lower-risk alternatives, and the fact that the state benefitted as a whole from the decision not to fund the levee improvements that would have prevented the breach. [footnote 59: Id. at 1017; Locklin, 7 Cal 4th at 368-369.] Applying this "reasonableness" rule to the construction and implementation of projects contained in Conservation Measures 1-22, CVP/SWP Projects generally, or export water contractors more specifically, thus requires examination of the following factors: --Size and Benefit: The BDCP proposes substantial modification of the configuration and location of State Plan of Flood Control system features (CM1, 2, &4) and alters the purpose of the Yolo Bypass to benefit covered species and continued operation of SWP/CVP facilities (CM2). --Planning and Operation Control: The BDCP governance entities will assume responsibility for funding, planning and construction of modifications to SPFC and be responsible for their operation and management over the 50-year permit. --Feasible Alternatives: Feasible alternatives to investments in levee improvements to reduce risk of failure from catastrophic floods and earthquakes such as those discussed in the Central Valley Flood Protection Plan and Delta Protection Commission Economic Sustainability Program would avoid or reduce adverse impacts to the state's flood control system. --Benefit to the state as a whole: Export Service Areas are intended to benefit by BDCP, while flood risks for people and property in the Plan Area may be increased, but those risks (i.e., 9 cofferdams, levee breaching, SPFC system modifications) have not adequately	Please note that the preferred alternative is now Alternative 4A (California WaterFix) which would require changes to Project levees at proposed diversion intakes on the Sacramento River. This alternative no longer includes Yolo Bypass improvements which is now considered as part of the No Action Alternative for this alternative. No substantial issues with existing levees are expected during construction and operation of the project. Please also refer to Appendix 6A in this Final EIR/EIS which addresses levee and flood protection issues. DWR will construct and operate the proposed conveyance facilities. The construction and operational effects of the action alternatives are fully disclosed in this Final EIR/EIS. Levee improvement components other than those proposed at proposed diversion intakes are not a component of the preferred alternative because levee improvements are proposed under other programs. Please also refer to Master Response 4, which addresses the adequacy of EIR/EIS alternatives. Additional Corps permits will be required for the proposed project, but all of the analyses required for CEQA and NEPA are included in this Final EIR/EIS.

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		analyzed, disclosed, or mitigated, because such analysis has been deferred until proponents are actively seeking U.S. Army Corps of Engineers and Central Valley Flood Protection Board permits. --Foreseeability: To demonstrate foreseeability, "it is enough to show that the entity was aware of the risk posed by its public improvement and deliberately chose a course of action -- or inaction -- in the face of that known risk." [footnote 60: Arreola v. County of Monterey, (2002) 99 Cal. App. 4th 722 at 744 (cited in Paterno)] Here, BDCP Proponents have been made aware of the potential flood risk, in previous and comments submitted herein, and by the Central Valley Flood Protection Board and other comment letters and testimony -- so ignorance may not be a justifiable defense in court.	
1717	49	RECOMMENDATION -- A comprehensive new Cost-Benefit and Socioeconomic Analysis must be prepared that specifically analyzes the potential future liability damages that could be shared between BDCP proponents and the Central Valley Flood Protection Board or borne by the BDCP proponents alone as a result of participating in the planning and construction of a substantial alteration of the configuration and operation of a major State Plan of Flood Control facility. Public Resources Code Section 21092.1 and Guidelines Section 15088.5 require an EIR to be re-circulated whenever significant new information has been added to the EIR after the draft has been available for review, but prior to certification of the final EIR. This new analysis will likely result in the addition of significant new information, which would require recirculation of the EIR/EIS.	The EIR/EIS was recirculated in 2015 as an RDEIR/SDEIS with three additional project alternatives, including the new proposed project (Alternative 4A). Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. DWR has revised the socioeconomic analysis in the EIR/EIS for the preferred alternative. Also, see Section 6A.6 in Appendix 6A for information on project consistency with the State Plan of Flood Control.
1717	50	Conservation Measure 1 CONSTRUCTION ACTIVITIES POSE SUBSTANTIAL CUMULATIVE RISKS FOR LOSS OF LIFE AND PROPERTY CM1's Multiple Cofferdams Restrict Flood Flows And Increase Flood Risk According to the following wording from the Plan, several encroachments into the Sacramento River and tributary Delta channels associated with the 9-10 year construction of CM1 will occur. The following actions would have serious effects on flood control: --Construction of cofferdams would impede river flows, cause hydraulic effects, and increase water surface elevations upstream. [footnote 61: EIR/EIS Surface Water Chap 6, page 6-102, lines 37-39.] --Water surface elevations upstream of the cofferdams could increase under flood flow conditions by approximately 0.5 foot relative to EC and No Action Alternative. [footnote 62: 0.5 feet may not seem significant, but according to a 1992 Army Corps study, it represents the difference between a 50-year flood and 100-year flood at the Sacramento River at Snodgrass Slough.] This may require installation of setback levees or other measures to prevent unacceptable increases in river water surface elevations under flood-flow conditions, reverse flow areas, high velocity areas causing scour and erosion, and reflection of flood waves toward other levees. [footnote 63: EIR/EIS, Surface Water Chap 6, page 6-58.] --Three cofferdams are proposed to be installed at each intake location, ranging from 740-2,440 feet in length, and would extend into the Sacramento River up to 120-feet, including a 25-foot buffer zone around each cofferdam. The river is about 700 feet wide near these	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. As discussed in the FEIR/EIS, Appendix 3F Paragraph 3F.8, DWR performed preliminary hydraulic modeling to evaluate potential impacts of proposed intake structures for CM1 along the Sacramento River on river hydraulics. The modeling results indicated on-bank intakes, as proposed under the BDCP/CWF, would have minimal impacts on river hydraulics. As part of future engineering, additional hydraulic modeling will be performed to accommodate design refinements and to comply with U.S.C. Title 33 – Navigation and Navigable Waters Section 408 and other permitting requirements. Section 6A.7.2 in Appendix 6A, FEIR/EIS, discusses potential future hydraulic analyses for the USACE Section 408 permitting process. Section 6A.6.3.3 includes information on potential changes in surface water elevation as a result construction activities, including cofferdam installation, and Section 6A.6.3.2 discusses potential impacts to levee stability, including increased construction traffic loading on levees. Also, see Section 6A.6.2.1.3 for a 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.

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		intakes, leaving just 380-580 feet open to boat passage. [footnote 64: EIR/EIS, Recreation Chap, page 15-262, lines 1-7.] Upon removal of cofferdams, between 2.7-4.0 acres (12.1 acres total) of the riverbed in front of intakes will be dredged (total dredge volumes not yet determined). [footnote 65: EIR/EIS, Chap 4, page 4-7] Import 2,800 cubic yards riprap and place around cofferdams. [footnote 66: EIR/EIS, Appendix 3C] At least six cofferdams at river barge unloading facilities/docks for the delivery of construction materials (e.g., tunnel segments, batched concrete, major equipment) will be constructed located at: 1) State Route 160 west of Walnut Grove; 2) Tyler Island; 3) Bacon Island; 4) Woodward Island; 5) Victoria Island; and 6) Venice Island. [footnote 67: EIR/EIS, Chap 4, page 4-11.] The EIR/EIS completely fails to provide any disclosure, analysis, or mitigation of the public safety dangers created by the increased flood risks from higher surface water elevations caused by nine or10 cofferdams being concurrently constructed and in the Sacramento River and channels during the 9-10 year construction of CM1: --Construction of cofferdams would impede river flows, cause hydraulic effects, and increase water surface elevations upstream. [footnote 68: EIR/EIS Surface Water Chap 6, page 6-102, lines 37-39] --Water surface elevations upstream of the cofferdams could increase under flood flow conditions by approximately 0.5 foot relative to EC and NAA, which may require installation of setback levees or other measures to prevent unacceptable increases in river water surface elevations under flood-flow conditions, reverse flow areas, high velocity areas causing scour and erosion, and reflection of flood waves towards other levees. [footnote 69: EIR/EIS, Surface Water Chap 6, page 6-58.] --Coffer dams would be forced to tie into existing levees, creating additional risk to the levee due to potential construction impacts from various weight loading issues.	
1717	51	Instead of directly analyzing and disclosing the flood risk impacts from having nine cofferdams in the Sacramento River and tributaries for 4-6 years, the EIR/EIS defers these key analyses and disclosures by saying these matters will be addressed when the BDCP seeks approval of permits from the U.S. Army Corps of Engineers and Central Valley Flood Protection Board. This omission is glaring and unacceptable under CEQA or NEPA standards. The amount of reduced flood flow capacity is significant. The three new intakes alone will occupy a total of 7.5 acres of the Sacramento River between river miles 37 and 41, leaving only about 380-580 feet open for flood flows in this four-mile stretch during the 4-6 year construction period.	As discussed in the FEIR/EIS, Appendix 3F Paragraph 3F.8, DWR performed preliminary hydraulic modeling to evaluate potential impacts of proposed intake structures for CM1 along the Sacramento River on river hydraulics. The modeling results indicated on-bank intakes, as proposed under the BDCP/CWF, would have minimal impacts on river hydraulics. As part of future engineering, additional hydraulic modeling will be performed to accommodate design refinements and to comply with U.S.C. Title 33 – Navigation and Navigable Waters Section 408 and other permitting requirements. Please see Appendix 6A, Section 6A.7.2, FEIR/EIS on the USACE Section 408 permitting process and potential future hydraulic analyses. For more information regarding floods and levees please see Master Response 18.
1717	52	Any intent to defer the hydraulic modeling and analysis until seeking permits from the U.S. Army Corps of Engineers and Central Valley Flood Protection Board prevents disclosure to the public of the increased flood risks that such construction elements pose or the physical land impacts that are required to mitigate so is flood-neutral. The EIR/EIS assumes there will be no reduction in flood capacity because both of the permitting agencies will require the project to be flood-neutral and will therefore require mitigations such as setting back the levees on the other side of the river. The setback of levees is no small undertaking, but once again the EIR/EIS fails to identify the Westside levee as a State Plan of Flood Control Project Levee or analyze how this change in	Please see Sections 6A.6.2.1.3 and 6A.7.2 in Appendix 6A, FEIR/EIS, for information on project consistency with the State Plan of Flood Control and the Section 408 permitting process, respectively. Setback levees are discussed in Section 6A.6.4.1.

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		location and configuration affects the SPFC as a functioning system. In some cases, setback levees can themselves alter the flood flows, creating additional impacts that must be mitigated by project proponents. [footnote 70: See, e.g., DWR, Sutter Bypass RMA2 Model Report (Construction of setback levees not recommended because "Model results indicate that although peak water levels in the Feather River are reduced significantly by the setback levee, water levels in the Sutter Bypass increased as a result of the revised levee configuration.")]	
1717	53	In addition to requiring the moving of a county road and removal of homes and businesses, setting back levees on as mitigation for Conservation Measure 1 cofferdams could include seepage berms, relief wells, and cutoff (slurry) walls. The seepage berms involve the placement of new dirt on the land side (require more condemned land) of the levee to minimize the influence of water seeping from the River underneath the existing levee, which can undermine the levee stability. The relief wells also remove water from beneath the levee foundation during elevated river stages. Cutoff (slurry) walls are low-permeability walls constructed within the levee embankment to reduce the seepage of water under the levee. These actions are obviously expensive and have their own set of environmental impacts that will also have to be mitigated -- thus, in effect, CM1 cofferdams will require mitigation for the mitigation measure. Yet, none of these additional environmental impacts are disclosed in the EIR/EIS, nor is the financial costs of this likely cofferdam mitigation since there are not many other mitigation options to offset the 4-6 year flood flow impact.	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. Additional details regarding Conservation Measure 1 will be included as further design is performed. In addition, see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. The proposed project will be designed and implemented to ensure flood neutrality and no net increase in flood potential or risk in the Delta.
1717	54	Glossing over the setback of the Westside levees represents a significant omission of environmental impacts, because such an action would require the condemnation of significant number of acres, houses and businesses. Clarksburg, which sits directly across from one of the intake locations, will face the largest impact. Permanent crops and county roads will also be affected, causing even greater disruptions to agriculture and transportation than those disclosed in Chapters 14 and 19 of the EIR/EIS. Deferral of impact analysis is not allowed under CEQA or NEPA, and prevents CM1 from meeting the standards of Project Level analysis. Both the increased flood risks created by in-water cofferdams in 9-10 different locations and the potential of moving (setting back) of Sacramento River Flood Control Project levees across from CM1 facilities also requires a cumulative flood risk assessment now so the public can offer mitigations to reduce impacts such as: build only one intake at a time which will also reduce the number of barges built at one time. RECOMMENDATION -- The EIR/EIS must analyze and disclose the impacts of nine cofferdams blocking flood flows in the Sacramento River and tributaries for 4-6 years, including analysis of mitigations to offset the cofferdam impacts on the natural resource and human impacts covered in Chapters 5-30. PRC Section 21092.1 and Guidelines Section 15088.5 require an EIR to be re-circulated whenever significant new information has been added to the EIR after the draft has been available for review, but prior to certification of the final EIR. Correction of these omissions and providing the required analysis, disclosure, and mitigation would constitute significant new information.	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. The only portion of Alternative 4A that would include levee setbacks is Environmental Commitment 6, which consists of the enhancement of channel margin habitat and would be implemented in the same way as described in Conservation Measure 6 in the Draft BDCP but over less linear distance. For the purposes of Alternative 4A, this action would entail enhancement of approximately 4.6 levee miles, as shown in Chapter 3 of the FEIR/EIS. This would mitigate for the loss of salmonid habitat associated with construction and operations of the north Delta intake facilities. Each resource section analyzes the impacts from conservation measures and environmental commitments. Cofferdams are analyzed as part of the project in applicable resource sections.
1717	55	RECOMMENDATION -- In Plan Chapter 8, revise the BDCP budget amounts to reflect the costs associated with the Conservation Measure 1 cofferdam mitigations such as setback levees on the West side of the Sacramento River and the costs of the necessary "mitigation"	See response to comment 1717-47 regarding the draft BDCP.

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		for those setback levee mitigations.	
1717	56	Conservation Measure 1 Prevents And Disrupts Levee Inspections, Maintenance, And Improvements For A Decade Local Reclamation Districts (RDs) are responsible for daily inspection of levee conditions for issues such as cracks, slippage, encroachments, seepage, burrowing animals, etc. In addition, DWR conducts levee inspections twice a year and the U.S. Army Corps of Engineers conducts more extensive Periodic Inspections every 5 years. The local RD is responsible for performing annual maintenance activities on and around the levees in order to meet USACE and Federal Emergency Management Agency levee standards. These inspections and maintenance activities will be hindered by any blockage or access issues caused by construction activities. Over the 10 years of Project construction, local RDs, DWR, and USACE will be unable to conduct levee inspections, conduct levee maintenance or construct repairs or improvements due to competition or blockage by BDCP construction activities. During an emergency, they may not be able to provide floodfighting where they have been denied access to the area or to areas where they store or stage equipment. In some cases, DWR/BDCP may even need to assume all levee maintenance and floodfighting responsibilities for several reaches of levees. Indeed, where land is consumed by the CM1 construction and facilities and there are not enough remaining landowners to maintain RD functions of levee maintenance and island drainage, DWR and the BDCP may need to operate, maintain, inspect, and floodfight entire districts' levees and other works.	Please see Section 6A.6 in Appendix 6A for a discussion on levees modified by construction of the California WaterFix (CWF/Alternative 4A), including responsibilities of the project proponents. 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.
1717	57	As one specific example of the BDCP's impact on local agencies' ability to inspect, maintain, improve, or floodfight State Plan of Flood Control levees, consider the significant increase in 24/7 truck traffic on levee roads and roads near levees, as identified in EIR/EIS Chapter 19 Transportation. This increased wear and tear on the Project levees was not acknowledged or analyzed, but neither was the fact that it will be near impossible to conduct any inspection, operations, maintenance, or floodfight activity on the 33 levee roads identified with significant increases in traffic volumes. When the maintenance, inspection, and improvement of the entire length of levees on the islands where Conservation Measure 1 facilities will be built becomes impossible, these levees have a greater chance of failure in the 10-year construction period than they would under existing conditions. This increased levee failure risk was not analyzed in the EIR/EIS. Any interference with levee inspections or maintenance exposes SWP and CVP to liability if, as a result, the levee loses its current levee rating by U.S. Army Corps of Engineers or Federal Emergency Management Agency. Where the levee loses status, the BDCP and/or the state gains new liability associated with the change in status and any resulting impacts to the landowners protected by that levee. Local landowners, the State, or local governments should not bear any financial responsibility for floodfighting and recovery costs not covered by Federal government if CM1 construction causes portions of the Project levees in the Plan Area to lose their PL 84-99 eligibility for 10 years. RECOMMENDATION -- BDCP consultants must immediately begin engaging local Reclamation Districts, the Central Valley Flood Protection Board, DWR's levee inspection branch, and USACE to negotiate a memorandum of agreement (MOA) between these entities as to how levee inspections and annual levee maintenance to be performed during the 10-year construction of CM 1 amid the BDCP's planned staging of construction	Please see Section 6A.6 in Appendix 6A for a discussion on levees modified by construction of the California WaterFix (CWF/Alternative 4A), including responsibilities of the project proponents. 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. Section 6A.6.3.2 includes information on potential impacts to levee integrity from increased construction traffic. Also, see Section 6A.6.2.1.3 for a 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.

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		equipment, construction traffic, and/or road re-routing. RECOMMENDATION --The EIR/EIS must be revised to analyze, disclose, and mitigate the CM1 construction impacts that impede access of levees to RD's, DWR levee inspectors, or USACE for inspection, maintenance, and improvements.	
1717	58	RECOMMENDATION -- The Plan and EIR/EIS must explicitly state that BDCP will assume all financial responsibility for floodfighting and recovery costs associated with State Plan of Flood Control Project levee failures and landside flooding damages for areas that lose PL 84-99 eligibility due to inability to inspect, maintain, or repair levees during 10-year CM1 construction. Public Resources Code Section 21092.1 and Guidelines Section 15088.5 require an EIR to be re-circulated whenever significant new information has been added to the EIR after the draft has been available for review, but prior to certification of the final EIR. Assumption of these new costs likely would constitute significant new information, and thus the EIR/EIS should be recirculated.	Please see Appendix 6A, FEIR/EIS, regarding flood protection, as well as response to comment 1717-57
1717	59	Conservation Measure 1 Disrupts Drainage And Dewatering Discharges Increase Flood Risks Alternative 4 would involve extensive excavation, grading, stockpiling, soil compaction, and dewatering, resulting in temporary and long-term alteration and disruption of drainage patterns, paths, and facilities. In turn, this would cause changes in drainage flow rates, directions, and velocities. Additionally, the construction of cofferdams would impede river flows, alter hydraulic effects, and increase water surface elevations upstream that could create scour and erosion impacts to State Plan of Flood Control facilities that would require mitigation such as placement of rip-rap or appropriate dispersion methods. Increased water volumes from 24/7 dewatering discharged into either the drainage infrastructure or rivers and waterways with increased elevations will be an adverse impact.	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, which discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Sections 6A.6.3 and 6A.6.4 discuss potential project impacts to flood protection and levees, including drainage and surface water elevation issues. Section 6A.7.2 discusses the USACE Section 408 permitting process and potential future hydraulic analyses.
1717	60	The Water Surface Chapter fails to acknowledge that in the Delta reclamation district canals and ditches often function as both water supply and drainage conveyance facilities. Canals and ditches are typically kept at low water levels during the drainage season, and are pumped out by the reclamation districts to remove drainage and stormwater. During the crop irrigation season, water is diverted from tributaries into water supply ditches and irrigation drainage water is captured in the canals and ditches and reused in subsequent irrigation. Therefore, any disconnection or blocking of canals/ditches or other infrastructure used for drainage will also have an impact on the delivery of irrigation water to crops, and thus will need to be disclosed, analyzed, and mitigated in the Agricultural Resources Chapter. We also are concerned about the amount of erosion and scour that can occur depending on the velocities and volumes of water being discharged into earthen irrigation and drainage canals from dewatering activities. In addition, the water quality from dewatering discharges may not be suitable for agricultural irrigation, yet this potential adverse impact was not discussed or mitigated in either the Water Supply or Agricultural Resources Chapters of the EIR/EIS.	As described under Impact SW-4 in Chapter 6, Surface Water, and Impact WQ-31 in Chapter 8, Water Quality, in the FEIR/EIS, groundwater removed during construction would be treated as necessary at the dewatering locations. The water may contain elevated levels of sediment, organic carbon, and other constituents. As described in Chapter 8 and Appendix 3B, Environmental Commitments, FEIR/EIS, during design permits would be obtained from the State Water Resources Control Board to that would include Best Management Practices (BMPs) for the discharge of dewatering flows to surface water bodies in accordance with 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). This General Construction NPDES Permit requires the preparation and implementation of Stormwater Pollution Prevention Plans that identify pollution prevention BMPs that would be used to avoid and minimize construction-related contaminant discharges. These permits would be completed during design and prior to construction, and would include a monitoring plan, numerical limits for turbidity, pH, and other specific constituents identified during the design phase for the surface water bodies and groundwater. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, FEIR/EIS). The impacts to agricultural production due to temporary construction activities could result in disruption of irrigation or drainage infrastructure, and could jeopardize agricultural production. Implementation of Mitigation Measures SW-4, 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 (including pipelines, power lines, and drainage systems) in support of continued agricultural activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other

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			stakeholders in developing optional agricultural stewardship approaches; and/or preserving agricultural land through off-site easements or other agricultural land conservation interests. Please see Master Response 18 regarding agricultural mitigation.
1717	61	The drainage systems that currently exist on Delta islands, including those where Conservation Measure 1 conveyance facilities will be built, are critical features that are needed to keep the land behind the levees reclaimed for agricultural production. The importance of a functioning drainage system to agricultural activities is pointed out in the EIR/EIS Groundwater Chapter: "Maintaining groundwater levels below crop rooting zones is critical for successful agriculture, especially for islands that lie below sea level, and many farmers rely on an intricate network of drainage ditches and pumps to maintain groundwater levels of about 3 to 6 feet below ground surface. The accumulated agricultural drainage is pumped through or over the levees and discharged into adjoining streams and canal (U.S. Geological Survey 2000a). Without this drainage system, the islands would become flooded." [Emphasis added.] As stated in the EIR/EIS Groundwater Chapter 7, the existing drainage facilities in the Plan Area are "intricate networks" of canals, ditches, pipes, and pumps which means they have been carefully designed to function as a system and located to work with gravity and the natural land contours and drainage patterns that exist on the Delta islands. Therefore, any disconnection potentially renders the whole system inoperable. Because Chapter 7 further confirms that successful agriculture is dependent on the operation of this drainage system and clearly states the islands will become flooded without the drainage systems functioning properly, the seepage, runoff, and dewatering discharges during CM1 construction are significant and adverse impacts to the ongoing flood maintenance responsibilities or Reclamation Districts and to agricultural productivity of lands.	As described in Chapter 14, Agricultural Resources, FEIR/EIS under Mitigation Measure AG-1a (Promote Agricultural Productivity of Important Farmland), would reduce adverse effects and/or significant impacts related to conversion of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones to non-agricultural uses. This mitigation would include mitigation on site, which covers temporarily impacted and permanently impacted diversions, and could include providing alternate water supply for temporarily impacted diversions, or relocating and/or replacing wells, pipelines, drainage systems and other infrastructure needed for ongoing agricultural uses, which would be adversely affected by project construction or operation. Also, see Chapter 6, Surface Water, FEIR/EIS for a discussion on potential impacts to existing drainage.
1717	62	Lack Of Supporting Evidence We could find no analysis, appendices, or technical reports in the EIR/EIS chapters we reviewed that discussed, evaluated, or considered: 1) Existing maps of the island drainage systems, where and for how long disconnections of these systems will occur, and how these actions will affect the functionality of the rest of the drainage system to prevent localized flooding of entire island's population, structures, and farmland; [footnote 71: As stated previously, drainage maps are readily available at DWR] 2) Specific repair/reconstruction options to avoid/fix the disconnected drainage systems; 3) Identification of lands and land uses that will be adversely affected by localized flooding; 5) Disclosing the nature and extent of any of these impacts. In accordance with CEQA/NEPA, the conclusions in the EIR/EIS must be supported by substantial evidence -- actual facts. They can be reasonable assumptions or expert opinions -- but they must still be predicated and backed up by facts. Speculation does not constitute substantial evidence, nor does unsubstantiated narrative or expert opinion. [footnote 72: See, e.g., Preserve Wild Santee, 210 Cal.App.4th at pp. 275-276 ("Substantial evidence for CEQA purposes … includes 'facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.' [Citation.] It does not include argument, speculation, unsubstantiated opinion or narrative, clearly erroneous or inaccurate evidence, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment.")] Unfortunately, every EIR/EIS chapter we reviewed relied	The Council on Environmental Quality's NEPA Regulations, 40 CFR 1502.2(a) states: "Environmental impact statements shall be analytic rather than encyclopedic." Additionally, the State CEQA Guidelines, § 15146, note: "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 Lead Agencies have analyzed flood impacts in general, refer to Chapter 6 (Impacts SW-4, SW-5, SW-6 [and Mitigation SW-4]); and Chapter 7, FEIR/EIS (Impacts-GW-Changes to Delta Agricultural Drainage for the No Action Alternative, GW-4, GW-5, GW-6 [and Mitigation GW-5]). For more information regarding floods and levees please see Appendix 6A. Although the proposed project is not intended to provide enhanced flood protection, it 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). Further, the proposed project does not envision a change in the state's flood protection policies or programs. If a subsequent 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.

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		on conjecture and speculation rather than empirical evidence or scientific and technical analyses in determining conclusions on adverse impacts and development of mitigation measures.	
1717	63	Neither the Plan Project Description of CM1 nor the EIR/EIS Surface Water Chapter contain adequate descriptions of the existing baseline conditions that were used to determine the current drainage patterns on the islands where CM1 facilities will be constructed, existing hydraulic characteristics of the waterways, surface runoff characteristics or where direct and indirect impacts will in fact occur. Without an adequate baselines, the local reclamation district responsible for island drainage cannot assess the validity and accuracy of impact conclusions made in the EIR/EIS, let alone the efficacy of the proposed mitigations. Therefore, the purported impacts in the EIR/EIS appear to be mere conjecture, lacking in factual evidence to support CEQA/NEPA conclusions or mitigations. They likely underestimate the true nature and severity of the seepage and surface flooding impacts that CM1 construction will create. An example of where more details are needed regarding the analysis conducted to reach Impact conclusions and develop Mitigation Measures is Chapter 6 Surface Waters. Indicating the removal of groundwater during CM1 dewatering activities, occurring for several years, will be discharged to local drainage infrastructure or directly to the rivers and sloughs, resulting in a localized increase in flows and water surface elevations in receiving channels. Passing reference is made, but few details are provided, regarding dispersion facilities being used to reduce the potential for channel erosion due to discharge of dewatering flows. One or more of the Impacts in this chapter also indicate the BDCP will design the dewatering system to avoid significant surface water quality and flow impacts, to meet U.S. Army Corps of Engineers hydraulic neutrality requirements, and to maintain access for maintenance and flood-fighting purposes, but is vague, lacking in any specific details. Knowing the dewatering discharge amounts and velocities is critical for the reclamation districts to determine if the design or dispersal facilities being proposed by BDCP will be effective in reducing the level of adverse impacts. We are extremely concerned by the repeated assumptions throughout all EIR/EIS chapters we reviewed that all the mitigation measures will be fully implemented and that the measures will in fact work to avoid or substantially reduce the significance of the adverse impacts, without any evidentiary support in the record to substantiate their veracity. The EIR/EIS additionally fails to account for and analyze adverse environmental impacts that will occur if the flood management or irrigation supply mitigation measures are not implemented or not working in terms of reducing the adverse effects of CM1 construction.	As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Draft BDCP EIR/EIS, BDCP/California Water Fix Partially Recirculated Draft EIR/Supplemental Draft EIS, and FEIR/EIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route. DWR would consult with local reclamation districts to ensure that construction activities would not conflict with reclamation district flood protection measures. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the FEIR/EIS). 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.
1717	64	Another example in Chapter 6 Surface Water is the description of Alt 4 excavation, grading, stockpiling, soil compaction, and dewatering activities that would result in temporary and long- term changes to drainage patterns, drainage paths, and facilities that would in turn cause changes in drainage flow rates, directions, and velocities. The impacts to reduced flood flow capacity that will occur are therefore assumed, but there is no technical analysis provided with supporting evidence on the details on the specific location, timing, volumes, velocities, or extent of these effects on local flood management facilities or expected localized surface flooding expected to occur. This level of information is necessary to meet Project Level Analysis standards and to provide reclamation districts and landowners the	As described in Sections 6.1.5, 6.2.2, and 6.3.1.3 of Chapter 6, Surface Water, in the Final EIR/EIS, facilities constructed under the action alternatives will be located within the reaches of the Sacramento River addressed in the State Plan of Flood Control, and will need to comply with the requirements of the Central Valley Flood Protection Board. Under these requirements the facilities must be designed to provide flood neutrality during construction and operations as compared to conditions under the No Action Alternative (which does include conditions under climate change and sea level rise that are not caused by the project facilities). During the design phase, additional topographic and bathymetric surveying would be completed and final design plans would be reviewed by State and federal flood management agencies, as discussed in Chapter 3. Because these assumptions are part of the project description and will be required by State and

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		details to determine the severity of the impacts and suggest appropriate mitigations to reduce the level of significance.	Federal law and regulatory requirements, and because changes in maximum surface water elevations along the Sacramento River were within historical observations without flood conditions (see Appendix 5A, Section C, Modeling Results, Sections 26 through 32, of the FEIR/EIS), the impact analysis determined that the impacts discussed in this comment would not occur.
1717	65	Existing Drainage Capacity In summary, the EIR/EIS fundamentally fails to provide a Project Level Analysis of CM1 because it is missing the following elements necessary to assess the validity and accuracy of impact conclusions and proposed mitigation measures: --Examine existing conditions in terms of interconnected drainage systems and whether CM1 construction will disconnect or disrupt the existing drainage facilities' ability to function/drain effectively; --Identify specific discharge locations, how many locations, the capacity of the discharge location or what its capacity availability is based on local usage/needs (winter drainage or summer irrigation); --Quantify the daily discharge rates and volumes from CM1 dewatering; --Identify how long dewatering and subsequent discharges will occur at each location; and --Identify and analyze the additional drainage maintenance works and costs BDCP will need to assume in order to keep the drainage facilities functioning and able to accommodate the increased dewatering discharges.	During the design phase, DWR would conduct site-specific analysis to determine the extent of the potential conflicts related to conveyance facility construction, including locations of water supply and drainage facilities. As described in the Final EIR/EIS, during construction, slurry walls would be constructed around the construction site at the intakes, tunnel shafts, and forebays to reduce the effect of dewatering wells. Dewatering wells also would be installed at construction sites associated with levees without the use of slurry walls. No dewatering would be required along the tunnel alignment because the drilling would occur with a positive hydraulic head that can construct the tunnel in conditions with saturated soils. The effects on groundwater at locations with slurry wall installations would not result in significant effects as compared to Existing Conditions and would minimize the amount of water to be removed by the dewatering wells. With the utilization of the slurry walls, dewatering would primarily occur during the initial construction activities at each site and would not continue throughout the construction period which was described in the previous Draft EIR/EIS and RDEIR/SDEIS. The proposed project would not significantly impact local water supplies. While groundwater levels could be temporarily lowered in localized areas during the dewatering phases of construction, groundwater would return to pre-pumping levels over the course of several months following the dewatering phase. Mitigation has been proposed to maintain water supplies in areas affected by construction dewatering. Additionally, the project proponents would relocate and/or replace wells, pipelines, power lines, drainage systems, and other infrastructure that are needed for ongoing agricultural uses and would be adversely affected by project construction or operation. For additional information regarding proposed agricultural mitigation, please see Master Response 18. Construction of the proposed project's facilities will occur in a manner specifically designed to avoid adverse effects on groundwater. As described in Appendix 3C, Table 3C-7, of the FEIR/EIS, ponds to store reusable tunnel materials and spoils material would designed with the invert at least 5 feet above seasonally high groundwater and impervious liners along the invert and interior slopes of the ponds to avoid contamination. The tunneling operation would use biodegradable polymers that would be combined with the excavated soil to allow conveyance of the soil slurry, or reusable tunnel material. The polymers would decompose over time. In some locations within the State, groundwater is regulated through judicial review related to adjudication proceedings in the court system. Many counties and regional agencies, or groups of agencies, have adopted groundwater management plans and/or ordinances. Governor Brown recently signed into law three bills that address groundwater management in California. These bills direct local agencies to develop groundwater management plans and allows the state to monitor and intervene if local agencies fail to do so.
1717	66	Major Omissions In areas of construction and or storage, the EIR/EIS fails to provide a description, maps, analysis, or mitigation solution to re-plumbing the extensive on-island drainage and irrigation systems that include pumps, pipes, canals, ditches, retention ponds, etc. that both protect the lands/property from surface flooding, but also provide access to water supply. Each Reclamation District has maps of the drainage systems and each will need to be consulted with regarding the best way to re-design in order to work with the island elevations and BDCP must pay for these new systems, their additional energy costs for	During the design phase, detailed surveys of drainage facilities and utilities that could be affected by construction and operation of facilities under the action alternatives, as described under Impact AG-2 and Mitigation Measure AG-1. The results of the surveys will be used to minimize disruption of drainage and irrigation systems; and if necessary, develop mitigation measures to reduce the impacts. See Master Response 18 for more information regarding mitigation for impacts to agricultural resources.

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		pumping, and annual maintenance. BDCP will need to consult with the individual remaining farmers who are not eminent domained to find out where and how their irrigation facilities need to be re-built at full cost by BDCP.	
1717	67	The EIR/EIS fails to define "temporary" or "long-term" or what "changes" means in terms of specific locations of "changes", type of "change" (disconnect, overwhelm, reroute, destroy/eliminate, redirected impacts??), who will be impacted by these "changes," site-specific remedies/fixes, or who will pay the cost to fix damage/destruction/disconnection to existing facilities that constitute an inter-connected and coordinated drainage system. The EIR/EIS should be more specific about defining "temporary" and "long-term" in this regard. The EIR/EIS also fails to identify a mitigation measure that will assure proper drainage is occurring during the "temporary" and "long-term" periods and should provide a Mitigation Measure such as BDCP paying to re-route/replace existing drainage system with a new system of pipes, canals, ditches, drainage pumps (including any increased pumping costs to the residents/RDs), et al that will keep the island properly drained to prevent localized flooding and allow productive agricultural activities to continues.	The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP including the Yolo Bypass Enhancements are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements. Please see Chapter 4, Section 4.2.5, FEIR/EIS, for information on temporary vs. permanent impacts. This chapter also includes information on the near-term and long-term time periods used in the EIR/EIS analysis. Also, see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Section 6A.6.2.1.2 discusses DWR responsibilities regarding levee maintenance activities for levees modified by the proposed project. See Sections 6A.6.3.3 and 6A.6.4.4 for measures to be taken to address potential issues with drainage and runoff as a result of implementation of the proposed project. For more information on potential drainage and seepage impacts to agricultural lands and associated mitigation measures, please see Chapter 14, Agricultural Resources, Final EIR/EIS. In areas where operation of water conveyance facilities or habitat restoration is determined to result in seepage impacts on adjacent parcels, potentially feasible additional mitigation measures will be developed in consultation with affected landowners. These measures may include installation or improvement of subsurface agricultural drainage or an equivalent drainage measure, as well as pumping to provide for suitable field conditions (groundwater levels near pre-project levels). Such measures shall ensure that the drainage characteristics of affected areas would be maintained to the level existing prior to project construction.
1717	68	The EIR/EIS fails to identify a mitigation measure to reduce to a level of insignificance of the reduced flood capacity in the Sacramento River to handle additional dewatering discharge volumes, changes in water flow direction and velocities, and increased water surface elevations upstream of the North Delta intakes resulting from the placement of cofferdams in the river that may also create additional erosion and scour of State Plan of Flood Control facilities.	As discussed in the FEIR/EIS, Appendix 3F Paragraph 3F.8, DWR performed preliminary hydraulic modeling to evaluate potential impacts of proposed intake structures for CM1 along the Sacramento River on river hydraulics. The modeling results indicated on-bank intakes, as proposed under the BDCP/CWF, would have minimal impacts on river hydraulics. As part of future engineering, additional hydraulic modeling will be performed to accommodate design refinements and to comply with U.S.C. Title 33 – Navigation and Navigable Waters Section 408 and other permitting requirements. Section 6A.7.2 in Appendix 6A, Final EIR/EIS, discusses the USACE Section 408 permitting process and potential future hydraulic analyses. Also, see Section 6A.6.2.1 regarding potential impacts to flood water conveyance.
1717	69	RECOMMENDATION -- Consistent with NEPA [Section]1502.14, BDCP Consultants must conduct a more rigorous and robust Project Level Analysis of CM1 seepage, drainage, and general surface flooding impacts in a comparative form that sharply defines the issues. The specific items related to drainage issues that need more in depth evaluation and technical analysis provided in the EIR/EIS include: 1) localized flooding of homes/businesses and farmland that is exacerbated by the increase in runoff associated with the discharge of water from dewatering activities into local drainages (Impact SW-6); 2) capacity of rivers and other waterways to handle the increased flows and water surface elevations created by CM1 dewatering discharges; 3) increased costs to local landowners and reclamation districts to re-design and re-construct a functioning drainage system; 4) increased pumping costs to local landowners and reclamation districts to install bigger pumps to drain the additional water from CM1 dewatering activities.	Please see Master Response 2 regarding project vs program level of detail in EIR/EIS documents. Also, see Appendix 6A, Sections 6A.6.3.3 and 6A.6.2.1, FEIR/EIS, for information on drainage effects and measures to reduce impacts, potential changes in water surface elevations, and effects to flood flow conveyance and capacity. For more information on potential drainage and seepage impacts to agricultural lands and associated mitigation measures, please see Chapter 14, Agricultural Resources, FEIR/EIS. In areas where operation of water conveyance facilities or habitat restoration is determined to result in seepage impacts on adjacent parcels, potentially feasible additional mitigation measures will be developed in consultation with affected landowners. These measures may include installation or improvement of subsurface agricultural drainage or an equivalent drainage measure, as well as pumping to provide for suitable field conditions (groundwater levels near pre-project levels). Such measures shall ensure that the drainage characteristics of affected areas

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			would be maintained to the level existing prior to project construction.
1717	70	RECOMMENDATION -- BDCP consultants also must prepare a new Impact specific to disclosing and mitigating the impacts on the disruption, disconnection, and overall functionality of the existing drainage systems located adjacent or nearby any CM1 construction activities. Provide the technical analysis that evaluates the effects on drainage system performance, stream courses, and runoff to increased seepage and surface flooding in the Plan Area. RECOMMENDATION -- BDCP consultants also must prepare a new disclosure and mitigation section that better addresses the drainage and dewatering discharge capacity problems affecting flood management that are created by CM1 construction.	For information on potential impacts to drainage and runoff, please see Appendix 6A, Section 6A.6.3.3, FEIR/EIS. For information on potential seepage impacts to adjacent agricultural lands, please see Chapter 14 (Agricultural Resources), FEIR/EIS. Also, see Section 6A.7.2, which discusses the USACE Section 408 permitting process and potential future hydraulic analyses. Section 6A.6.2.1 includes information on potential impacts to flood flow conveyance and capacity under the proposed project. Refer to Master Response 2, for reasons why the description of CM1 includes a sufficient amount of detail for project-level analysis.
1717	71	RECOMMENDATION -- SW-4 must be revised to only disclose impacts from stormwater runoff on paved areas and increased sedimentation, and develop specific mitigations that actually offset runoff and sediment.	As indicated in the discussion under Impact SW-4 in Chapter 6, Surface Water, of the FEIR/EIS, potential impacts related to runoff from paved areas are included in SW-4. This impact specifically addresses changes in runoff that would lead to increased flood potential. As described in Chapter 8 and Appendix 3B, Environmental Commitments, FEIR/EIS during design permits would be obtained from the State Water Resources Control Board to that would include Best Management Practices (BMPs) for management of runoff to surface water bodies including numerical limits for turbidity or sediment identified during the design phase.
1717	72	RECOMMENDATION -- A new Mitigation Measure must be added to the Surface Water Chapter prohibiting dewatering discharges into existing drainage and irrigation facilities and require them to instead be directly discharged into the Sacramento River so that farming and reclamation of the islands can be sustained through the 10-year construction of CM1.	As described under Impact SW-4 in Chapter 6, Surface Water, and Impact AG-1 in Chapter 14, Agricultural Resources, in the FEIR/EIS, groundwater removed during construction would be managed in a manner to minimize impacts to agricultural operations. Mitigation Measures AG-1, GW-1, and GW-5 will reduce the adverse effects to agricultural operations. During the design phase, locations and capacities of the range of agricultural drainages and surface water bodies will be determined and potential discharge locations will be analyzed to develop an operations plan for the dewatering activities as described in Chapter 7, Groundwater. See Master Response 18 for more information regarding mitigation for impacts to agricultural resources.
1717	73	RECOMMENDATION -- Analyze, disclose, and mitigate the impacts from dewatering discharges degrading the water quality and rendering it unsuitable for farming in the EIR/EIS Chapters on Water Supply and Agricultural Resources.	As described under Impact SW-4 in Chapter 6, Surface Water, and Impact WQ-31 in Chapter 8, Water Quality, in the Final EIR/EIS, groundwater removed during construction would be treated as necessary at the dewatering locations. The water may contain elevated levels of sediment, organic carbon, and other constituents. As described in Chapter 8 and Appendix 3B, Environmental Commitments, during design, permits would be obtained from the State Water Resources Control Board that would include Best Management Practices (BMPs) for the discharge of dewatering flows to surface water bodies in accordance with 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). This General Construction NPDES Permit requires the preparation and implementation of Stormwater Pollution Prevention Plans that identify pollution prevention BMPs that would be used to avoid and minimize construction-related contaminant discharges. These permits would be completed during design and prior to construction, and would include a monitoring plan, numerical limits for turbidity, pH, and other specific constituents identified during the design phase for surface water and groundwater.
1717	74	RECOMMENDATION -- Add a new Mitigation Measure requiring BDCP to pay the full cost of re-designing and constructing a new interconnected drainage and irrigation systems to keep affected Delta islands reclaimed for farming and local water supply available to irrigate crops. Each Reclamation District has maps of the drainage systems, and each will need to be consulted with regarding the best way to re-design in order to work with the island elevations and BDCP must pay for these new systems, their additional energy costs for	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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		pumping, and annual maintenance. BDCP will need to consult with the individual remaining farmers who have land not condemned for construction of CM1 to find out where and how their irrigation facilities need to be re-built at full cost by BDCP.	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. Also, see response to comment 1717-72 regarding impacts to agriculture.
1717	75	RECOMMENDATION -- Identify in the EIR/EIS Surface Water Chapter a specific mitigation measure for BDCP to pay the costs to re-route/replace existing drainage system with a new system of pipes, canals, ditches, drainage pumps and the increased pumping costs to the residents/RDs for more pumping required to remove dewatering discharges.	As described in Mitigation Measure AG-1 in Chapter 14, Agricultural Resources, in the FEIR/EIS, adversely affected wells, pipelines, power lines, drainage systems, and other infrastructure that are needed for ongoing agricultural uses and would be adversely affected by project construction or operation would be relocated or replaced. See Master Response 18 for more information regarding mitigation for impacts to agricultural resources.
1717	76	RECOMMENDATION -- Correct a mitigation omission in the EIR/EIS Surface Water Chapter by identifying a specific mitigation measure to remediate increased flood risks in the Sacramento River created by sediment loading and water discharges from CM1 dewatering activities. The mitigation measure needs to address the changes in water flow direction, velocities, volumes, and increased water surface elevations occurring as a result of multiple cofferdams in the Sacramento River for several years. Mitigation should specify that before more stress/increases in peak flows can be added to the Sacramento River or tributaries, BDCP will need to pay for actions to improve the current flood capacity in some channels and reaches prior to CM1 construction. RECOMMENDATION -- To address pavement stormwater runoff impacts, mitigation needs to be offered to pay for and install onsite drainage systems (e.g., new cross drainage facilities/detention facilities) and prepare a drainage study for each individual CM1 construction location.	As described under Impact SW-7 in Chapter 6, Surface Water, in the FEIR/EIS, the USACE, CVFPB, and DWR would require that any construction that would disturb existing levees to be designed in a manner that would not adversely affect existing flood protection. As described in Section 3.6.1.1 of Chapter 3, Description of Alternatives, facilities to be constructed along the levees would be designed to provide flood neutrality and to provide continued flood management at the same level of flood protection as the existing levees; or if applicable, to a higher standard for flood management engineering and permitting requirements if the standards are greater than the existing levee design during construction and operations. Additionally, DWR would consult with local reclamation districts to ensure that construction activities would not conflict with reclamation district flood protection measures. Under SW-6 in the FEIR/EIS, it is stated that the project would be designed to meet USACE requirements for hydraulic neutrality. However, increased runoff could occur from facilities sites during construction or operations and could result in significant impacts if the runoff volume exceeds the capacities of local drainages. These impacts are considered significant. Mitigation Measure SW-4 would reduce this potential impact. As described in Master Response 45, Chapter 1, Introduction, and Appendix 3B, Environmental Commitments, the State and federal permitting agencies would require the facilities to be designed in a manner to meet their requirements. The details of methods to comply with the permit requirements will be developed during the design phase and be submitted to the State and federal agencies for review and either approval or issuance of permits. The facilities will be required to meet those permit requirements, including methods to reduce runoff and protect water quality. For example, in Section 3.B.1.5 of Appendix 3B of the FEIR/EIS, compliance with the Clean Water Act through development and approval of a Stormwater Pollution Prevention Plan would be completed during the design phase. Impacts related to water quality are addressed in Chapter 8 of the FEIR/EIS.
1717	77	Conservation Measure 1 Dewatering Increases Extent and Severity of Delta Subsidence Primarily limited to interior portions of the Central Delta, land subsidence has slowed in recent years in the Delta, which has allowed landowners and reclamation districts to keep pace with it and manage it over time. [footnote 73: The Association can provide LiDar maps that plot the slowing subsidence if necessary.] However, the EIR/EIS Chapters on Geology and Soils describes a severe reversal of this process, with CM1 potentially increasing Delta subsidence and sinkholes as a result of the widespread and intensive dewatering that will occur during the 6-10 year construction period for the three intakes, tunnels, shafts, sedimentation basins, pipelines, pumping stations, and other Project facilities.	Section 10.1.2.3, Rates of Subsidence and Current Conditions, in Chapter 10 of the FEIR/EIS recognizes that the rate of subsidence has decreased in recent years in parts of the Delta. During construction of the proposed tunnels, potential subsidence would be greatest both where groundwater levels could decline as a result of dewatering operations and soil characteristics are conducive to subsidence. The primary expected areas of groundwater decline are the vicinity of the intakes and intake pumping plants, the intermediate forebay, and the expanded Byron Tract Forebay. (Please refer to the Response to Comment for Letter 1717-83.) Along the tunnel alignments, dewatering would be conducted only at the tunnel shafts and not for the actual tunnels. Localized subsidence could occur as a result of localized dewatering at tunnel shafts, sedimentation basins, pipelines, and pumping stations. As described in Impact GEO-2, a California-certified engineering geologist would recommend measures in a geotechnical report to address settlement by dewatering, such as seepage cutoff walls and barriers, shoring, grouting of the bottom of the excavation, and monitoring of nearby structures, and existing utilities,. Seepage cut-off walls, such as sheet pile walls and slurry cut-off walls would isolate (i.e., shorten the radius of influence) the areas to be dewatered and minimize the extent of potential subsidence. Additional geotechnical exploration

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			and analyses will be performed as part of next engineering phase. Pre-construction surveys will be conducted to assess the existing conditions of the levees and sensitive structures in the construction site vicinity. During construction, sensitive structures and the levees will be monitored for settlement. If settlements above the tolerable limits are observed, dewatering will be stopped until appropriate measures are taken to address the problems.
1717	78	Extensive and Intensive Around-the-Clock Dewatering Because of high groundwater levels dewatering will take place 7 days a week, 24 hours per day, and continue until excavation is completed and sites are protected from groundwater levels at all intake and pumping plant sites and where intake pipelines cross waterways and major irrigation canals east of Sacramento River. Conveyance pipeline between Intake 3 and intermediate forebay crosses five canals or ditches. [footnote 74: EIR/EIS, Recreation Chap, page 15-253, lines 26-36] Dewatering wells would generally be placed every 50-75 feet apart along the construction perimeter of conveyance facilities, 75-300 feet deep, each pumping 30-100 gpm, 24 hours per day, 7 days a week. Tunnel shaft dewatering is 300 feet deep and 75 feet for open trench construction. Dewatering along the alignment ranges from approx. 240 to 10,500 gpm. [footnote 75: EIR/EIS, Groundwater, page 7-46.] Dewatering activities in the vicinity of North Delta intake pump stations and Byron Tract Forebay would lower groundwater levels by up to 10 feet and 20 feet, respectively. [footnote 76: EIR/EIS, Agriculture Resources Chap, page 14-120] The horizontal distance from boundary of excavation locations where forecasted groundwater levels are 5-feet or more below the static groundwater level is defined as the "radius of influence" which is forecasted to extend approx. 2,600-feet. [footnote 77: EIR/EIS, Groundwater, page 7-46] With dewatering pumps placed every 50 to 75 feet around the entire perimeter of all the Conservation Measure 1 facilities under construction, with each pumping between 240 to 10,500 gallons per minute, the EIR/EIS estimates the groundwater will be lowered 10-20 feet for a 2,600-foot radius from each pump. However, we could find no studies or references to any evidence to support how the lowered groundwater depth or the radius of influence were determined, so they appear to be nothing more than professional guesstimates without any factual surveys or technical analysis to verify these claims.	The CVHM-D model is used to compare groundwater conditions in the Delta under the action alternatives with conditions under the Existing Conditions and the No Action Alternative models. Well logs near the construction sites or throughout the SWP and CVP service are not publically available, and detailed geologic data is not available in a universal level of detail for the study area. Therefore, the analysis was completed at a regional level for the comparison of alternatives, especially related to the construction of pipelines/tunnels or canals. The EIR/EIS analysis recognized the limitations of a regional evaluation, and identified that groundwater impacts due to conveyance construction probably would not be able to be fully mitigated, and would remain significant and unavoidable under CEQA and adverse under NEPA for Alternatives 1 through 8 as compared to the Existing Conditions and the No Action Alternative. In addition, the FEIR/EIS included requirements for further specific groundwater analyses during design of the project to develop site-specific mitigation measures for each construction location, as described in Mitigation Measure GW-1 in Chapter 7, Groundwater, of the FEIR/EIS. However, the FEIR/EIS stated that even with mitigation measures, the groundwater impacts could remain significant and unavoidable and adverse.
1717	79	As the Soils and Geology Chapters indicate a high amount of dewatering has the potential to destabilize the soils, resulting in sink holes and subsidence in a large area in the North Delta where the intakes and forebay with connecting pipelines will be built as well as the length of the 34-mile-long tunnels. Again, we could find no technical appendices, references to studies, or any other evidence to support these claims, so the severity of the impacts could in fact be much greater than that described in the EIR/EIS. Conservation Measure 1 Created Land Subsidence and Sink Holes --Impact GEO-2: Settlement of conveyance excavations could occur as a result of dewatering (70% occurs at all intake locations and pumping plants). Similar dewatering may be necessary where intake and forebay pipelines cross waterways and major irrigation canals east of the Sacramento River and north of the proposed intermediate forebay. [footnote 78:	As discussed in the response to comment 1717-83, the soils in the vicinity of the intakes and intermediate forebay are mineral soils and therefore would not be subject to significant subsidence as a result of dewatering. Along the tunnel alignment, dewatering would be conducted only at the tunnel shafts and not the actual tunnels. Regarding the part of the comment pertaining to the technical studies, reports, evaluations, and analyses that are cited in the Geology and Seismicity and the Soils chapters, some of these, in particular, the Conceptual Engineering Reports, are available at http://baydeltaconservationplan.com/PlanningProcess/EnvironmentalReview/SupportingTechnicalStudies.aspx. The remaining documents that were used as a basis for preparing the EIR/EIS are available in hard copy

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		EIR/EIS Geology Chap, page 9-56, lines 30-31] --Dewatering can stimulate settlement in excavation and tunneling sites, could result in collapse at construction sites. [footnote 79: EIR/EIS Geology Chap, page 9-57, lines 1-3] Soils such as peat or muck, found along Alt 4 alignment, present a risk to infrastructure due to high compressibility and poor bearing capacity, making them subject to subsidence and differential settlement. Such effects could occur at the five intakes, all pumping plants, and sedimentation basins. Collapse of these facilities could cause an interruption in water supply. [footnote 80: EIR/EIS Soils Chap, page 10-95 and 10-96, lines 3-9] Forebay levees and interior could be subject to appreciable subsidence. Damage to other conveyance facilities, such as intakes, transition and control structures, and pumping plants, caused by settlement could be substantial, causing failure. [footnote 81: EIR/EIS Soils Chap, page 10-92, lines 15-28]	format at the Department of Water Resources' offices. The discussion in Chapters 9 and 10, FEIR/EIS regarding soil collapse in the vicinity of excavations pertains to the construction period. Because the excavations would be backfilled prior initiating operation of the conveyance facilities, there would not be damage to facilities and therefore no interruption in water supply. As described in Impact GEO-2, a California-certified engineering geologist would recommend measures in a geotechnical report to address settlement by dewatering, such as seepage cutoff walls and barriers, shoring, grouting of the bottom of the excavation, and monitoring of nearby structures, and existing utilities. Additionally, Mitigation Measure GW-1 provides for implementation of measures to offset domestic and agricultural water supply losses (and by association, crops) attributable to construction dewatering activities. Seepage cut-off walls, such as sheet pile walls and slurry cut-off walls would isolate the areas to be dewatered (shorten the radius of influence) and minimize the extent of potential subsidence. Additional geotechnical exploration and analyses will be performed as part of the next engineering phase. Pre-construction surveys will be conducted to assess the existing conditions of the levees and sensitive structures in the construction site vicinity. During construction, sensitive structures and the levees will be monitored for settlement. If settlements above the tolerable limits are observed, dewatering will be stopped until appropriate measures are taken to address the problems.
1717	80	Failing to provide any comparison of existing conditions to the effects of the extensive amount of 24/7 dewatering proposed under Conservation Measure 1, the EIR/EIS completely failed to disclose or analyze the disruption to existing Delta island drainage and irrigation systems that will occur if they subside significantly or collapse in a sink hole. Such damage to the existing interconnected drainage and irrigation systems will have additional adverse impacts on agricultural water supply and seepage to crops than currently identified in Chapter 14 Agricultural Resources and Chapter 5 Water Supply as well as more widespread localized flooding than reported in Chapter 6 Surface Water if drainage systems cannot perform as designed and built. These additional impacts need to be analyzed, disclosed, and mitigated. The Association would content that this additional analysis may constitute "new information" and therefore require recirculation for public review and comment. [footnote 82: PRC Section 21092.1 and Guidelines Section 15088.5]	The preferred alternative is now Alternative 4A (California WaterFix Project) and no longer includes an HCP. The FEIR/EIS examines dewatering, irrigation systems, and potential collapses under Impact GEO-2 (, i.e., "Loss of Property, Personal Injury, or Death from Settlement or Collapse Caused by Dewatering during Construction of Water Conveyance Features.)". The NEPA determination is not adverse effect and the CEQA finding is less-than- significant effect with the implementation of environmental commitments, mitigations, and permit conditions: "The hazard of settlement and subsequent collapse of excavations would be evaluated by assessing site-specific geotechnical and hydrological conditions at intake locations, as well as where intake and forebay pipelines cross waterways and major irrigation canals. A California-registered civil engineer or California-certified engineering geologist would recommend measures in a geotechnical report to address these hazards, such as seepage cutoff walls and barriers, shoring, grouting of the bottom of the excavation, and strengthening of nearby structures, existing utilities, or buried structures. As described in Section 9.3.1, Methods for Analysis, the measures would conform to applicable design and building codes, guidelines, and standards, as described under Alternative 4. DWR has made an environmental commitment to also conform to appropriate code and standard requirements to minimize potential risks (Appendix 3B, Environmental Commitments, in the FEIR/EIS). Generally, the applicable codes require that facilities be built in such a way that settlement is minimized. Mandatory worker safety codes and standards specify protective measures that must be taken at construction sites to minimize the risk of injury or death from structural or earth failure (e.g., utilizing personal protective equipment, practicing crane and scaffold safety measures). Conformance to these and other applicable design specifications and standards would ensure that construction of Alternative 4A would not create an increased likelihood of loss of property, personal injury or death of individuals from settlement or collapse caused by dewatering. Hence, this issue has been "analyzed, disclosed and mitigated."
1717	81	The reclamation districts and landowners require much more information of existing conditions and details regarding the locations, number and size of pumps, amount of water being removed, timing, etc. in order to compare how and where natural resources and human environment will be affected and to what extent. RECOMMENDATION -- The EIR/EIS Groundwater Chapter must provide a map indicating the perimeter areas dewatering pumps will be located, the approximate location and number of pumps, the power in gallons per minute of the pumps, showing the 2,600-foot radius of	The FEIR/EIS Mitigation Measure GW-1 in Chapter 7, Groundwater, includes requirements for further specific groundwater analyses during design of the project to develop site-specific mitigation measures for each construction location. Construction of the conveyance facilities would require dewatering operations. The dewatering wells would be generally 75–300 feet deep, placed every 50–75 feet apart along the construction perimeter as needed, and each would pump 30–100 gpm. Dewatering for the tunnel shaft constitutes the deeper dewatering (300 feet deep) while the shallow (75 feet deep) dewatering is reserved for open trench construction.

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		influence as well as the approximate changes in groundwater elevations expected in areas affected.	For forecasted groundwater level changes during construction, please see the Chapter 7 figures in the FEIR/EIS.
1717	82	RECOMMENDATION -- The BDCP must provide the technical studies, reports, evaluations, and analysis that was used or conducted to arrive at the conclusion in the EIR/EIS Geology and Soils Chapters that CM1 construction dewatering activities may stimulate settlement in construction excavation and tunneling sites. This supporting technical evidence should include a comparison against the current baseline conditions and provide more details on the scope, nature, locations, and intensity of the subsidence and land settlement effects expected based on the scientific and technical to be done, as well as identify how many acres are expected to experience subsidence from dewatering.	Regarding the part of the comment pertaining to the technical studies, reports, evaluations, and analyses that are cited in the Geology and Seismicity and the Soils chapters, some of these, in particular, the Conceptual Engineering Reports, are available at http:// http://baydeltaconservationplan.com/EnvironmentalReview/EnvironmentalReview/SupportingTechnicalStudies.aspx .The remaining documents that were used as a basis for preparing the FEIR/EIS are available electronically at the Department of Water Resources' offices in West Sacramento. Regarding the part of the comment pertaining to the scope, nature, locations, and intensity of the subsidence and land settlement effects, please refer to the Response to Comment for Letter 1717-83.
1717	83	RECOMMENDATION -- Both the Soils and Land Use Chapters must provide a map indicating how many acres and which specific dewatered areas are most vulnerable to subsiding/sinking, the number of residential and commercial buildings affected, and what crops will be reduced as a result.	The Chapter 7, FEIR/EIS, figures shows the primary locations where groundwater levels could decline as a result of dewatering operations. Such areas are the vicinity of the intakes and intake pumping plants, the intermediate forebay, and the expanded Byron Tract Forebay and Clifton Court Forebay. As described in Section 7.3.3.2 of Chapter 7, the "radius of influence" of the dewatering, which is the horizontal distance from the boundary of an excavation to the point where groundwater levels would be 5 feet or more below the static groundwater level as a result of dewatering, would be approximately 2,600 feet in the vicinity of the intakes, the intermediate forebay, and the expanded Byron Tract Forebay. (The forecasted 2,600-foot radius is viewed as a worst-case scenario, in that it assumes that no measures are implemented to control the extent or degree of groundwater decline.) The predicted groundwater decline areas, therefore, are also where soil subsidence could occur, both if measures are not implemented to control the extent of the radius of influence or degree of decline and soil characteristics are conducive to significant subsidence. As shown on Figure 7-7, the maximum decline in groundwater level from dewatering in these areas would be approximately 30 feet. The amount of soil subsidence would be much less than the amount of groundwater decline. As described in Section 10.1.2.3 Rates of Subsidence and Current Conditions in Chapter 10, FEIR/EIS, soils with very high organic matter content (i.e., peats and mucks) would be comparatively more prone to subsidence that mineral soils. As shown in Figure 10-2 in Chapter 10, the soils in the vicinity of the intake pumping plants, the intermediate forebay, and the expanded Byron Tract Forebay (where groundwater decline could be the greatest) do not have a high organic matter content beyond near surface materials. Consequently, significant subsidence is not expected to occur at these locations. As described in Impact GEO-2, a California-certified engineering geologist would recommend measures in a geotechnical report to address settlement by dewatering, such as seepage cutoff walls and barriers, shoring, grouting of the bottom of the excavation, and monitoring of nearby structures, and existing utilities. Seepage cut-off walls, such as sheet pile walls and slurry cut-off walls would isolate the areas to be dewatered (shorten the radius of influence) and minimize the extent of potential subsidence. Additional geotechnical exploration and analyses will be performed as part of next engineering phase. Pre-construction survey will be conducted to assess the existing conditions of the levees and sensitive structures in the construction site vicinity. During construction, sensitive structures and the levees will be monitored for settlement. If settlements above the tolerable limits are observed, dewatering will be stopped until appropriate measures are taken to address the problems. Additionally, Mitigation Measure GW-1 provides for implementation of measures to offset domestic and agricultural water supply losses (and by association, crops) attributable to construction dewatering activities.
1717	84	RECOMMENDATION -- New impacts must be developed and inserted into the EIR/EIS Chapters on Agricultural Resources, Land Use, and Surface Waters in order to disclose and mitigate the adverse impacts increased subsidence and land settlement caused by dewatering will have on crops, structures such as homes and fruit packing sheds, and the	The FEIR/EIS examines dewatering, irrigation systems and other structures, and potential collapses under Impact GEO-2 ("Loss of Property, Personal Injury, or Death from Settlement or Collapse Caused by Dewatering during Construction of Water Conveyance Features".). The NEPA determination is not adverse and the CEQA finding is less-than-significant effect with the implementation of environmental commitments,

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		functionality of the existing interconnected drainage and irrigations systems.	mitigations, and permit conditions: "The hazard of settlement and subsequent collapse of excavations would be evaluated by assessing site-specific geotechnical and hydrological conditions at intake locations, as well as where intake and forebay pipelines cross waterways and major irrigation canals. A California-registered civil engineer or California- certified engineering geologist would recommend measures in a geotechnical report to address these hazards, such as seepage cutoff walls and barriers, shoring, grouting of the bottom of the excavation, and strengthening of nearby structures, existing utilities, or buried structures. As described in Section 9.3.1, Methods for Analysis, the measures would conform to applicable design and building codes, guidelines, and standards, as described under Alternative 4. DWR has made an environmental commitment to also conform to appropriate code and standard requirements to minimize potential risks (Appendix 3B, Environmental Commitments, in the FEIR/EIS). Generally, the applicable codes require that facilities be built in such a way that settlement is minimized. Mandatory worker safety codes and standards specify protective measures that must be taken at construction sites to minimize the risk of injury or death from structural or earth failure (e.g., utilizing personal protective equipment, practicing crane and scaffold safety measures). Conformance to these and other applicable design specifications and standards would ensure that construction of Alternative 4A would not create an increased likelihood of loss of property, personal injury or death of individuals from settlement or collapse caused by dewatering. Hence, this issue has been analyzed, disclosed and mitigated. This is not new information and does not require new analysis that would trigger recirculation of the environmental documentation. Potential impacts to existing drainages are also discussed in Section 6.3.3, Chapter 6 of the FEIR/EIS.
1717	85	RECOMMENDATION -- The Surface Water Chapter must be amended to incorporate studies, reports, or technical analyses evaluating land subsidence/sinking effects associated with dewatering on levee stability, particularly the potential for liquefaction, and drainage systems. If this analysis indicates "significant" adverse impacts to levees and drainage such as collapse or sinking, then the localized seepage and surface flooding of local infrastructure and crops should be disclosed and mitigated. The chapter should also include a map depicting the levees and drainage facilities (ditches/pipes/canals/pumping stations) that are expected to experience subsidence or liquefaction due to dewatering activities.	Dewatering and its potential effect on levees and drainage facilities caused by subsidence is described in Impact GEO-2 of the FEIR/EIS. GEO-2 also describes the types of site analysis, facility-specific design strategies, and construction measures that would be undertaken to reduce the hazard of ground failure to an acceptable level during pile driving. During the design phase, DWR would conduct site-specific analysis to determine the extent of the potential conflicts related to conveyance facility construction, including locations of water supply and drainage facilities, and conditions of levees adjacent to construction activities. DWR would consult with local reclamation districts and land owners to ensure that construction activities would not conflict with existing wells and other facilities. It is possible, that some impacts may result in effects depending upon specific information that would be collected during design and construction phase. Mitigation measures have been identified in the FEIR/EIS to reduce the impacts to less than significant as compared to Existing Conditions. Mitigation Measures AG-1, GW-1, GW-5, and WQ-11 will reduce the severity of significant impacts in agricultural areas by implementing activities such as siting project footprints to encourage continued agricultural production and land uses; monitoring changes in groundwater levels during construction; monitoring seepage effects; relocating or replacing infrastructure in support of continued agricultural and other land use activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other stakeholders in developing optional approaches. Please refer to Appendices 3B and 3C of the Final EIR/EIS.
1717	86	RECOMMENDATION -- The Land Use Chapter should be amended to include the studies and technical evaluations on the stability of existing residential building and commercial structures, including historical homes and agricultural infrastructure such as packing sheds. The analysis should provide details regarding the number of homes, commercial, and agricultural buildings that are vulnerable to sinking in dewatered areas of in CM1 construction. The analysis should also specifically evaluate potential effects on existing churches, schools, public safety buildings such as fire stations vulnerable to sinking/collapsing in dewatered areas. If this evidence supports a conclusion of "significant" impacts to existing structures then a new Impact and Mitigation Measures should be added	Please refer to Impact GEO-2 in Chapter 9, Geology and Seismicity, FEIR/EIS regarding impacts to property resulting from dewatering. For the preferred alternative, 4A, Impact GEO-2 is less than significant.

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		to the Land Use Chapter, including the economic and human impacts. Further, the Chapter should incorporate a map depicting locations of buildings in area expected to experience sinkholes or subsidence from pile driving in dewatered areas.	
1717	87	Conservation Measure 1 Extensive and Concurrent Pile Driving Affects Levee Stability Concerns over levee stability and their performance during a seismic event are some of the primary reasons BDCP Proponents state for building the new facilities in CM1. According to them, this concern is so important that reducing seismic risk of SWP/CVP conveyance facilities is stated as one of the Purpose and Needs of the Project. Yet, astonishingly, the EIR/EIS failed to provide any analysis of how intensive and sustained ground-shaking from 700 pile-driver strikes driving in more than 1,000 total piles for construction of the three new North Delta intakes [footnote 83: Representing a total of 700,000 total pile drive strikes just for the 3 intakes] will affect the stability of the nearby levees, including those adjacent to the intake location site, across the river, or even in the nearby vicinity. These levees were not built to withstand this amount of intense localized vibration for such a long duration as contemplated in the CM1 construction description. This continual pile driving could cause stress fractures and possibly levee failures adjacent to construction locations and neighboring islands. People, property and wildlife would suffer potentially millions of dollars in damages, including the money needed to repair, replace, and rebuild the levees. Ground-Shaking Effects --The cofferdams are supported by steel sheet piles and/or king piles (heavy H-section piles), which will likely be installed by both impact and vibratory pile drivers. [footnote 84: EIR/EIS, Chap 9 Geology and Seismicity, page 9-62, lines 38-41] --Daily noise and vibration from more than 1,000 piles for the intake locations with 8-12 piles installed per day at each intake site; each pile will require approximately 700 strikes each. [footnote 85: EIR/EIS, Appendix 3C, page 3C-5 [Which also estimates about 25,000 pile driving strikes per day]] --Between 450-800 sheet piles driven from within river by a barge mounted crane for intakes, 551 piles installed for sedimentation basin, 493 piles installed for pump house locations. [footnote 86: EIR/EIS, Appendix 3C] --Pile drivers can create vibrations that radiate along the surface and downward into the earth. These surface waves can be felt as ground-borne vibrations that are destructive enough to damage structures. [footnote 87: EIR/EIS, Noise Chap, page 23-4, lines 10-20] --Daily noise and vibration from more than 1,000 piles for the intake locations with 8-12 piles installed per day at each intake site, each pile requiring 700 strikes each. [footnote 88: EIR/EIS, Appendix 3C, page 3C-5. [Again, an estimated 25,000 pile driving strikes per day]] --Between 450-800 sheet piles driven from within river by a barge mounted crane for intakes, 551 piles installed for sedimentation basin, 493 piles installed for pump house locations. [footnote 89: EIR/EIS, Appendix 3C] --Barge loading docks will be about 50 by 300 feet and supported by about 32 two-foot	Please Appendix 6A, Section 6A.6.3.4, FEIR/EIS, for potential impacts of pile driving on levee integrity. Also, see Section 6A.6.2.1.3 for a 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. Based on the engineering completed, it is anticipated that pile types and installation methods for the CM1 intake facilities would be similar to the ones used for the Freeport intake project (located about three miles upstream of proposed intake 2 of CM1) and Red Bluff fish passage improvement project, Contra Costa Water District's Alternative Intake project, and pile installations completed by DWR for barrier and flow monitoring projects at various locations throughout the Delta. Construction of the above mentioned projects involved pile installations near existing levees. Through engineering design and compliance with permitted construction practices, pile installation activities for these projects did not compromise the existing levees' performance or stability. The proposed on-bank intakes along the Sacramento River for BDCP/CWF CM1 would require alterations to portions of the existing levees within the facility footprints. Because the existing levees within the project limits along the Sacramento River are federal project levees, construction of the proposed intakes would require permission from US Army Corps of Engineers (USACE) and compliance with U.S.C. Title 33 – Navigation and Navigable Waters Section 408. Section 408 requires that proposed alterations must not be injurious to the public interest or affect the USACE project's ability to meet its authorized purpose. Therefore, as part of future engineering and Section 408 permitting efforts, DWR will work with USACE and Central Valley Flood Protection Board to ensure the levee Sections within the intake footprints will meet or exceed the flood protection requirements of federal project levees during and after construction.

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		diameter piles. [footnote 90: EIR/EIS, Chap 4, page 4-11] --Soil liquefaction also a function of ground motion intensity and shaking duration. Longer ground shaking may cause liquefaction as the soil is subject to more repeated cycles of loading. [footnote 91: EIR/EIS Geology and Seismicity Chap, page 9-22, lines 17-19] Despite the aforementioned potential effects from pile driving appearing throughout the BDCP Plan and EIR/EIS, we could find no technical analyses, data, or scientific research evaluating how excessive pile driving such as described in Conservation Measure 1 will affect the integrity and stability of the surrounding and nearby levees. Most, if not all, of the levees in the CM1 diversion intake construction area are State Plan of Flood Control Project levees. Failure to conduct a rigorous analysis in accordance with NEPA [Section] 1502.13(a) of the potential risk of levee failure and effects on the overall performance of the SPFC in a high water flood event is a glaring and serious omission that needs to be corrected in the EIR/EIS and recirculated for public review and comment.	
1717	88	RECOMMENDATION -- Conduct a robust analysis of the potential effects of ground-shaking, and disclose the technical findings to the public with an opportunity to comment. Pursuant to the findings in the analysis, a new impact should be added to the EIR/EIS Surface Water Chapter disclosing the adverse impact on local levee stability and State Plan of Flood Control performance, with particular attention to the timing/duration and level of vibration and stress created by up to 12 pile driving hits occurring simultaneously and repeatedly at locations that are within a four-mile stretch of the Eastside Sacramento River levee. This impact analysis should also include an evaluation of the potential cumulative effects of the pile driving to increase and exacerbate the potential for subsidence and sink holes created from CM1 dewatering activities. If the technical analysis does show that pile driving could increase the likelihood of land subsidence in dewatered areas, then the Impact added to the Surface Water Chapter should also disclose the radius of influence from pile driving that lands are expected to subside. A map should also be provided in the Appendices indicating the zones of increased subsidence and areas where levees are expected to experience stress and vibration that may increase their likelihood of failure.	Impact GEO-5 in the FEIR/EIS describes the anticipated effects of pile driving and measures that would be implemented to avoid or minimize such effects. During the design phase, detailed geotechnical surveys will be completed to determine the actual pile driving requirements for each construction location, as discussed in Appendix 3B, Environmental Commitments, FEIR/EIS Also, see response to comment 1717-87 regarding project consistency with flood protection standards.
1717	89	Because one of the BDCP Project Objectives as stated in Chapter 2 of the Plan is to minimize the potential for major earthquakes that result in levee breaches allowing inundation of salinity to affect water export facilities, then a robust analysis of whether the intensity of sustained pile driving concurrently at a dozen nearby locations equals the magnitude of an earthquake in terms of effects on levee stability and increases potential for failure should be conducted.	Based on the engineering completed, it is anticipated that pile types and installation methods for the CM1 intake facilities would be similar to the ones used for the Freeport intake project (located about three miles upstream of proposed intake 2 of CM1) and Red Bluff fish passage improvement project, Contra Costa Water District's Alternative Intake project, and pile installations completed by DWR for barrier and flow monitoring projects at various locations throughout the Delta. Construction of the above mentioned projects involved pile installations near existing levees. Through engineering design and compliance with permitted construction practices, pile installation activities for these projects did not compromise the existing levees' performance or stability. The proposed on-bank intakes along the Sacramento River for BDCP/CWF CM1 would require alterations to portions of the existing levees within the facility footprints. Because the existing levees within the project limits along the Sacramento River are federal project levees, construction of the proposed intakes would require permission from US Army Corps of Engineers (USACE) and compliance with U.S.C. Title 33 – Navigation and Navigable Waters Section 408. Section 408 requires that proposed alterations must not be injurious to the public interest or affect the USACE project's ability to meet its authorized purpose. Therefore, as part of future engineering and Section 408 permitting efforts, DWR will work with USACE and Central Valley Flood Protection Board to ensure the levee Sections within the intake footprints will meet or exceed the flood protection requirements of federal project levees during and after construction.

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			For more information on levee stability and seismic risk please see Master Response 20.
1717	90	RECOMMENDATION -- A map must be included in the EIR/EIS Surface Water Chapter depicting the locations of all pile driving for CM1 facilities (including but not limited to intakes, forebays, pipelines, tunnels, shafts, sedimentation basins, barge loading facilities, etc.) and the radius of influence for any related subsidence. RECOMMENDATION -- In the Cumulative Effects section of the EIR/EIS Water Surface Chapter, disclose the combined effects of pile driving and dewatering on reducing levee stability and increasing land subsidence/sink holes in the CM1 construction area. Also indicate whether the cumulative effects result in an "unavoidable significant adverse impact." RECOMMENDATION -- A mitigation measure must be adopted to phase the construction of the new diversion intakes one at a time, instead of building concurrently as proposed in Draft Plan, in order to reduce the risk of levee failure caused by intensive and sustained pile driving and increased subsidence from dewatering.	Impact GEO-5, FEIR/EIS describes the anticipated effects of pile driving and measures that would be implemented to avoid or minimize such effects. During the design phase, detailed geotechnical surveys will be completed to determine the actual pile driving requirements for each construction location, as discussed in Appendix 3B, Environmental Commitments. Also, see response to comment 1717-87 regarding project consistency with flood protection standards.
1717	91	Conservation Measure 1 Heavy Construction Vehicles and Increased Traffic Volumes Significantly Erode Integrity of Local Levees and State Plan of Flood Control The lack of knowledge of the Plan Area of the consultants drafting the EIR/EIS is particularly evident in the Transportation Chapter. First, in the most fundamental disclosure, the chapter fails to acknowledge that most of the roads and highways in the Delta are in fact pavement on top of a levee (both project and non-project levees). Consequently, the transportation study (Appendix 19-A) only analyzed two things: road surface conditions and traffic patterns/volume (level of service) and therefore failed to analyze, disclose impacts, or provide mitigation for the daily wear and tear on levees that the thousands of construction trucks will cause. As noted by the Central Valley Flood Protection Board's and Delta Stewardship Council's comments on the BDCP, this simple, qualitative traffic analysis provided by the BDCP EIR/EIS will not adequately assess the potential for damage to levees that underlie roads. The Board correctly explains the potential for impacts to the levees themselves, including the possibility of "deformation and crest depression due to non-uniform settlement and damage to levee slopes due to use of levee hinge points for vehicle turn-outs." The amount of construction truck activity over 10 years discussed in Chapter 19 Transportation exceeds the weight and traffic volume that current levees upon which much of the construction trucks will travel over and will degrade them to a point of reducing their stability which could result in a levee failure from CM1 construction activities.	Please see Section 6A.6.3.2 in Appendix 6A, FEIR/EIS, for potential impacts to levee integrity as a result of increased construction traffic.
1717	92	Heavy Construction Trucks on Parade 24/7 During the construction of CM1, local leveed areas and their residents would bear the impacts from: --Trucks running 24-hours per day, 7-days a week, making eight trips per day, [footnote 92: EIR/EIS, Transportation Chap 19, page 19-35] would transport an approximate daily 7,000 cubic yards of muck from tunnel to drying/chemical treatment areas. [footnote 93: EIR/EIS,	Please see Section 6A.6.3.2 in Appendix 6A, FEIR/EIS, for potential impacts to levee integrity as a result of increased construction traffic. Also, see Chapter 19 (Transportation), FEIR/EIS for potential impacts to levee road surfaces, including mitigation measures to reduce these impacts.

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		Appendix 3C, page 3C-5] --Currently, potential construction site access routes do not have adequate engineered pavement sections to withstand construction traffic, particularly heavy vehicles. [footnote 94: EIR/EIS, Transportation Chap 19, page 19-13] These impacts can occur in any situation where substantial and sustained use of levee roads are utilized to haul construction materials or equipment.	
1717	93	The local Reclamation District (RD) is responsible for the regular inspection of levee conditions (cracks, slippage, encroachments, seepage, burrowing animals, etc.) and for performing annual maintenance activities on and around the levees in order to meet U.S. Army Corps of Engineers and Federal Emergency Management Agency levee standards. Their efforts will be hindered by any blockage or access issues caused by construction activities and extensive truck traffic. Indeed, the construction activities and extensive truck traffic may lead to a need for more frequent inspections, the cost and manpower requirements of which have not been disclosed, analyzed, or mitigated in the EIS/EIR. The same may apply to the DWR conducted levee inspections twice a year and the USACE conducted more extensive Periodic Inspections every 5 years. From a public safety standpoint, it is critical for Delta Habitat Conservation and Conveyance Program consultants to immediately consult with local Reclamation Districts, the Central Valley Flood Protection Board, DWR's levee inspection branch, and the U.S. Army Corps of Engineers to discuss drafting a specific mitigation measure to deal with the effects that staging of construction equipment, construction traffic, and/or road re-routing will have on levee inspections and annual levee maintenance to be performed during the 10-year construction period. Any interference with levee inspections or maintenance exposes SWP and CVP to potential inverse condemnation liability for future failures of State Plan of Flood Control levees in the Plan Area, particularly near any Conservation Measure 1 construction. Construction impacts that impede access of levees to RD's, DWR levee inspectors, or USACE for inspection and maintenance needs to identified and mitigated and compensation to landowners for any flood damage to their property and crops. Levees underneath local roads were not engineered or built to withstand the excessive weight or traffic volumes indicated in the Plan's construction description of identified in the EIR/EIS "BDCP Construction Traffic Impact Analysis" (Appendix 19-A). According to district engineers who have been responsible for levee maintenance and improvements on these roadways, all of the levees to be used during Conservation Measure 1 construction will need to be stabilized and fortified every spring during all 10 construction years and will need to meet the same level of public safety condition the levee was in prior to implementation of construction at no cost to the local levee maintaining agency, landowners, or county governments once CM1 is completed. When the California Central Valley Flood Control Association brought this glaring omission to the attention of EIR/EIS consultants, their reply was they had no time to conduct an analysis of the stress and stability impacts construction traffic would have on Project and non-Project levees due to a deadline to release the Public Draft EIR/EIS for public review and comment. The California Central Valley Flood Control Association asserts that this serious oversight and failure to analyze, disclose, and mitigate such a significant public	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. Please see Section 6A.6 in Appendix 6A for a discussion on levees modified by construction of the California WaterFix (CWF/Alternative 4A), including responsibilities of the project proponents. 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. Section 6A.6.3.2 includes information on potential impacts to levee stability from increases in construction traffic. Also, see Section 6A.6.2.1.3 for a 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.

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		safety impact will require recirculation of the EIR/EIS once this analysis is conducted.	
1717	94	In accordance with CEQA (14 CCR 15086(d)), the California Central Valley Flood Control Association on behalf of member agencies in the Plan Area officially advises the BDCP lead agency that based on the Project and Construction Descriptions provided in the Plan, construction traffic associated with CM1 is expected to have a significant environmental effect on the stability and integrity of Project and non-Project levees underneath many of the roadways identified in the Transportation Chapter and Appendices of the EIR/EIS. Unfortunately, due to the CM1 Project Description not providing sufficient details in terms of the duration and intensity of expected construction vehicles during the 9-10 year construction period, the Reclamation Districts cannot currently provide detailed performance objectives for mitigation measures addressing these effects or reference documents concerning specific mitigation. However, we would direct DWR to the Central Valley Flood Protection Board regulations, Title 23, for some general guidelines on levee maintenance and restoration to a certain condition that must be followed. These conditions can be expected for any of the construction activities anticipated in the BDCP if such work involves heavy loads and sustained use of levee roads. In order for Reclamation Districts to provide the lead agency with more specific mitigation measures they will need more specific construction and project details such as (but not limited to): 1. A list of which roadways in the Plan Area identified for use during CM1 construction have Project or non-Project levees underneath the road surface; 2. The number of construction vehicles/equipment expected to drive on roadways in the Plan Area with levees underneath; 3. The approximate weight of vehicles expected to frequently drive on roadways in the Plan Area with levees underneath; 4. The approximate start and end date for heavy construction traffic usage; 5. Whether construction traffic will be 24/7 or be limited to certain days and hours; 6. Provide results from studies and analyses conducted that have tested the weight and multiple load tolerance levels of existing levees underneath roadways to be heavily used in Conservation Measure 1 construction.	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input Please see Appendix 6A, Section 6A.6.3.2, FEIR/EIS, for information on potential impacts to levee stability from increases in construction traffic. Also, see Section 6A.6.2.1.3 for a 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.
1717	95	RECOMMENDATION -- Immediately conduct an evaluation of the potential degradation to levees (State Plan of Flood Control project levees and non-project) underneath paved roadways anticipated from CM1 construction traffic volumes and from the cumulative impacts from truck weights experienced 24/7 for 10 years. Once completed, these technical studies and analysis should result in a new Impact being added to the Transportation Chapter disclosing the level of impacts CM1 construction traffic will create on levees that underlie roads in the Plan Area, and provide Mitigation Measures to reduce the impacts. A map should also be added to the chapter depicting which State Plan of Flood Control Project and non-project levees will be impacted by increased traffic volumes identified in Appendix 19-A.	Please see Section 6A.6.3.2 in Appendix 6A, FEIR/EIS, for potential impacts to levee integrity as a result of increased construction traffic. Also, see Section 6A.6.2.1.3 for a 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. Chapter 19 of the FEIR/EIS provides the mitigation measures and Mitigation, Monitoring and Reporting Plan for additional details regarding each mitigation included in the FEIR/EIS, the parties responsible for implementing the action, where and when the action would take place and any reporting required.

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		RECOMMENDATION -- Consult immediately with each of the Reclamation District engineers maintaining levees under roads that will be used during CM1 construction (and with the Central Valley Flood Protection Board and the U.S. Army Corps of Engineers if they are SPFC Project levees) to determine the current structural ability of the levees to accommodate the BDCP construction traffic indicated in this chapter. If, during these consultations with the local Reclamation District, the Central Valley Flood Protection Board, or the USACE it is determined that the existing levee's current geotechnical design CANNOT withstand the amount of truck traffic expected during BDCP construction, then any and all costs associated with increasing the structural integrity of the levee to accommodate BDCP construction traffic must be fully paid for by BDCP at no cost to the local levee maintaining agency (RD), landowners, or county governments. RECOMMENDATION -- Add a specific Mitigation Measure to the EIR/EIS Transportation Chapter that requires annual levee repairs to be conducted each spring, and more often if necessary, depending on the traffic weight and volume. This Mitigation Measure should also require BDCP to execute MOUs with affected RDs regarding the specifications for levee design standards that will be maintained during the 10-year construction period.	
1717	96	RECOMMENDATION -- Alter the BDCP's Annual Operations Budget to include funding for repairs of Delta levees (Project and non-Project) damaged by CM1 construction traffic.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.3.2, FEIR/EIS, for information on potential effects to levee integrity from increases in construction traffic and DWR commitments to minimize and avoid these impacts.
1717	97	Conservation Measure 1 Sediment Loading Reduces Channel's Flood Flow Capacity Multiple activities described in the Conservation Measures and construction description are expected to increase sediment loading and place fill (dirt) in waterways in the Plan Area. Increased sediment amounts in most described areas would result in reduced flood capacity and higher risks of flooding from overtopping. Because the EIR/EIS has not conducted an evaluation of sediment impacts or analyzed the historical or baseline conditions for affects that sediment as on flood control facilities, it fails to recognize that the amount of in-water dredging the BDCP expects to conduct in order to prevent overloading of sediment is unrealistic and infeasible from a regulatory permitting	Please see Appendix 6A, Section 6A.6.3.1, FEIR/EIS, for information on sediment loading under the proposed project and environmental commitments to minimize potential impacts. Also, see Section 6A.6.2.1 for potential impacts to flood flow conveyance and capacity. Section 6A.6.2.1.3 discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 includes information on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Refer to Section 6A.7.2 for a discussion on potential future hydraulic analyses consistent with the Section 408 permitting processes. See Section 6A.6.4 for a discussion on impacts from restoration-related environmental commitments and conservation measures. The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP including the Yolo Bypass Enhancements are not

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		standpoint. Therefore, the reduction in sediment impacts that the EIR/EIS claims is overly optimistic. More severe impacts to flood flow capacity are likely to occur as a result of the multiple activities expected to increase sediment levels. Between the Plan and the EIR/EIS, the BDCP is expected to increase sediment loading in the Sacramento River and tributaries at all nine of the cofferdams during construction, the three intakes during operations (CM1), the Fremont Weir at the new operable gate, in the Yolo Bypass from more frequent inundation (CM2), and from several tidal habitat restoration projects. The following projects acknowledge potential sediment effects: CM1 -- New Conveyance Facilities --Placement of at least nine in-water cofferdams in Sac River and several Delta channels for construction of three intakes and six barge loading facilities [footnote 95: There could be more cofferdam locations, including Sacramento Weir or locations where operable gates are being installed] will result in increased sediment loading and removal at intake locations. CM2 -- Fremont Weir Modification & Yolo Bypass Inundation --Sediment removal from Fremont Weir (approximately 1 million cy within 1 mile of weir expected every 5 years); and --Sediment removal inside the new channel (additional 1 million cy every other year); --Sediment disposal on lands in vicinity of Fremont Weir or used as source material for levee improvements. CM 4-11 -- Habitat Creation in 6 Restoration Opportunity Areas throughout Plan Area [footnote 96: Plan Sec. 4.2.3 and Table 4-4] --Grading, excavating, and placement of fill material (occurs near levees). CM4 -- Tidal Habitat Creation (65,000 acres) --Grading and fill in some locations; and --Based on local hydrodynamic conditions, topography, and sediment transport restoration sites may be graded to accelerate development of tidal channels within restored marsh plains. Following introduction of tidal exchange, tidal marsh vegetation will be planted and naturally established in marsh plains CM5 -- Seasonally Inundated Floodplain (10,000 acres additional to Yolo Bypass CM2) --Remove existing riprap or other bank protection to allow for channel migration between the setback levees through natural erosion and sedimentation. CM6 -- Channel Margin Enhancement --Enhance 20 miles of channel margin along fish migration corridors by improving channel geometry and restoring riparian, marsh, and mudflat habitats on the river side of levees;	carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements.

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		--Construct a shallow gradient from lower-elevation, submerged, shallow benches along existing river channels to higher elevation riparian habitat; and --Modifying or setting back levees to create low benches with variable surface elevations to create hydrodynamic complexity to support emergent vegetation; modify waterward side of levees or set back levees landward to create low floodplain benches. Additional references to sedimentation in the EIR/EIS: --Excavate from river bed (cofferdam area) an approximate depth of 30-35 ft of soil, for an excavated volume of 22,600 cubic yards. EIR/EIS, Appendix 3C; --Dredging on river bank and in river channel at each cofferdam. EIR/EIS, Appendix 3C	
1717	98	Chapter 6 Surface Waters, Mitigation Measure SW-4 indicates BDCP will design measures [footnote 97: Note that these measures are undefined.] to prevent a net increase in sedimentation discharge or accumulation in water bodies in order to avoid substantially affecting river hydraulics during peak conditions and changes in the courses of waterbodies. Will prepare a detailed sediment transport study and a sediment management plan for all water-based facilities, which will include periodic and long-term sediment removal actions. While SW-4 in EIR/EIS Chapter 6 on Surface Waters does mention sediment impacts, they merely identify potential sediment deposits from paved runoff during peak conditions, which is but a minor contribution of sediment compared to the conservation measure. Plus, SW-4 fails to provide a specific mitigation for reducing sediment build-up from surface run-off. Therefore, the chapter fails to address the numerous sources of sediment loading that various activities in multiple CMs creates during construction and operations.	The FEIR/EIS analyzes all alternatives The potential sources of sediment during construction will be at the intakes, forebays, tunnel shafts, and barge landing sites. Following construction, the primary source of sediment from the conveyance facilities will be from paved areas at the intake sites. The Stormwater Pollution Prevention Plans will be developed during the design phase for all construction locations and for all above-ground locations following construction. These plans will be designed to minimize or avoid increased discharge of sediment into the receiving waters as described in detail in Appendix 3B, Environmental Commitments, FEIR/EIS.
1717	99	RECOMMENDATION -- Conduct an analysis of the multiple activities increasing sediment in areas of the Plan Area with specific emphasis on the impacts to flood control facilities, Operations and Maintenance costs and activities, and reductions in flood flow capacities in individual reaches and the State Plan of Flood Control system overall. Insert a new Impact into the Surface Water Chapter disclosing the adverse impacts to flood protection created by sediment loading, including the risks of increased flood exposure and mitigations to reduce those risks. The new impact analysis should specifically evaluate the flood risks created by sediment loading from: --CM1 construction activities, including the 9-10 cofferdams and dewatering discharges into drainage facilities and the Sacramento River and tributaries; --CM1 operations of three new intakes on the Sacramento River; --CM2 inundation affects at the Fremont Weir; --CM2 inundation effects on flood flow capacity in the Yolo Bypass; and --Reduced flood flows from in-water fill and benches mentioned in CMs 4-11	As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the FEIR/EIS DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route. DWR would consult with local reclamation districts to ensure that construction activities would not conflict with reclamation district flood protection measures. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the Draft EIR/EIS). 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. The potential sources of sediment during construction of the conveyance facilities will be at the intake, forebay, tunnel shaft, and barge landing sites. Following construction, the primary source of sediment from the conveyance facilities will be from paved areas at the intake sites. The Stormwater Pollution Prevention Plans will be developed during the design phase for all construction locations and for all above-ground locations following construction. These plans will be designed to minimize or avoid increased discharge of sediment into the receiving waters as described in detail in Appendix 3B, Environmental Commitments.

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			Conservation Measures 2 through 11 are considered in a programmatic manner in the EIR/EIS. Implementation of these conservation measures would not occur until site-specific engineering and environmental analyses were completed to address flood and sediment issues. Also, see Appendix 6A, FEIR/EIS for information on how the project will be implemented in a way that is consistent with the State Plan of Flood Control. Sediment loading is discussed in Section 6A.6.3.1, Appendix 6A, and potential effects to surface water from cofferdam installation are described in Section 6A.6.3.3.
1717	100	RECOMMENDATION -- Request the BDCP Annual Operations and Budget Plan include funding for sediment removal or mitigations to reduce flood impacts such as raising levee freeboard to offset loss in channel and flood flow capacity.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Section 6A.6.2.1.2 discusses DWR responsibilities regarding levee maintenance activities for levees modified by the proposed project. In addition, it is expected there will be only minor increases (i.e. 0.10 ft) in water surface elevation due to construction activities.
1717	101	Prevents or Conflicts with Emergency Response And Flood Recovery Efforts Blocked and Rerouted Roads and Navigable Waters Inhibit and Prevent Floodfighting and Emergency Levee Repairs Being prepared for a catastrophic event -- high water flooding or earthquake failures -- requires having an effective strategy for preventing failures first with ongoing improvements and maintenance, protocols for responding with emergency flood fighting activities, and a plan for clean-up and recovery after the event. Emergency Preparedness Based on the State's flood history, the BDCP is guaranteed to experience at least one major flood event during the nine-year construction period for conveyance facilities. In addition to modification of the State's flood management system, BDCP proposes extensive alteration of the existing Delta road configuration by moving, re-routing, and blocking road segments, including state highways, for at least nine years, but failed to analyze impediments to a safe	Please see Section 6A.6 in Appendix 6A for a discussion on levees modified by construction of the California WaterFix (CWF/Alternative 4A), including responsibilities of the project proponents. 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. For potential impacts on emergency traffic routes and emergency response services, please see Chapter 19 (Transportation) and Chapter 20 (Public Services and Utilities) in the FEIR/EIS, respectively.

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		and timely evacuation during an emergency, such as invading floodwaters. The inability to quickly floodfight and repair a damaged levee will result in loss of life and property in the area protected by that levee, and could have the domino effect of causing neighboring levee failures if CM1 construction activities/equipment bar access to the levee break or to key floodfighting personnel and supplies. During the 10-year construction period, BDCP needs to make sure that activities and equipment in waterways and on roads do not in any way block or interfere with the ability of the local Reclamation District, DWR levee inspection branch or emergency response branch, county Office of Emergency Services, California Emergency Management Agency, or U.S. Army Corps of Engineers to conducts levee inspections and maintenance or to floodfight in the event of levee damage or failure. RECOMMENDATION -- Identify and mitigate construction impacts that impede fast access to levees when floodfighting is needed. Construction impacts that impede access of the levees to RD's, DWR levee inspectors, or USACE for inspection and maintenance also need to identified and mitigated.	
1717	102	RECOMMENDATION - The BDCP should identify and solidify through Memorandum of Understandings with local emergency services a clear chain of command: who pays for what, coordination of response and funding, and cooperative effort to pursue federal reimbursements for recovery. To prevent flooding, consideration of the new conveyance and habitat restoration projects proposed in the BDCP should ensure any impacts to flood conveyance or levee integrity are fully mitigated. Additionally, levees should be pro-actively upgraded (armored, raised, widened) whenever possible to make them resistant to flood and earthquake events.	Please refer to Appendix 6A provides information regarding flood and levees. The California Department of Water Resources' Levee Repairs and Floodplain Management Office is responsible for administering levee programs through evaluation and direct rehabilitation of structural deficiencies in California's levee system. Overall levee repairs and improvement programs administered by DWR will continue with available funding. In addition, the project will be implemented in a way that results in no net increase in flood risk to the Delta. Please see Appendix 6A in the FEIR/EIS for more information on project consistency with applicable flood protection requirements.
1717	103	Fails to Provide Flood Evacuation Plan For BDCP Workers Or Delta Communities Risk from levee failures can be reduced, but it cannot be eliminated, so being prepared for a flood emergency is the best defense -- the "ounce of prevention" theory. Based on historical flood records, a high water flood event occurs every decade, which means the BDCP is guaranteed to have at least one major storm causing flooding during construction of CM1. In addition, there are numerous significant adverse impacts to the Delta and SPFC levee systems from dewatering subsidence, sediment loading and cofferdams restricting flood flows, seepage from disrupted drainage, erosion from habitat levee breaching, degradation of levee stability by excessive truck traffic and pile driving, inability to inspect or floodfight levees, and many other activities that reduce the overall flood risk protection in the greater area of Conservation Measure 1 construction. However, the EIR/EIS Public Services and Utilities Chapter fails to acknowledge, analyze, or mitigate the potential for unintentional levee breaches and widespread floodwaters to inundate BDCP construction areas and adjacent communities. RECOMMENDATION -- Insert a robust analysis and corresponding Impact Statement into the EIR/EIS Public Services and Utilities Chapter requiring DWR to (as mitigation for the disruption to floodfighting and emergency services) enter into a binding agreement with local emergency services agencies (including reclamation districts) to mutually develop a flood emergency response plan that includes a floodfighting, worksite and community	The California Department of Water Resources has already established a Delta Flood Emergency Preparedness, Response, and Recovery Program with the intent of having a coordinated and effective multi-agency response during a large-scale Delta flood emergency where DWR works in concert with the other local, State, and federal flood emergency agencies within the Delta. For additional detail please visit their website: http://www.water.ca.gov/floodmgmt/hafoo/fob/dfeprrp/ Also, see Section 6A.6 in Appendix 6A, Final EIR/EIS, for potential impacts of sediment loading, cofferdam installation, changes in flood flow conveyance and capacity, pile driving, erosion and levee stability, and increases in construction traffic. Refer to Section 6A.6.2.1.3 for a 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. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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

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		evacuation, and recovery plan.	operations of the CWF.
1717	104	FAILS TO ANALYZE MODIFICATION OF State Plan of Flood Control PURPOSE AND FUNCTION BY Conservation Measure 2 CM2 Alters Design and Management for Operation of SPFC Facility for Non-Flood Purpose CM2 has several different individual projects that propose modifying different areas of the Yolo Bypass (Plan Chapter 4, Section 4.2.2 and EIR/EIS Aesthetics Chap, Impact AES-6) including: fish management facilities (e.g., screens, ladders, ramps, barriers); realignment of waterways; additional hydrologic monitoring stations; fish rearing pilot project at Knaggs Ranch; support facilities (operations buildings, parking lots, access facilities such as roads and bridges) for access for maintenance and monitoring; modification, removal and construction of berms, levees, and water control structures. The primary and most significant change is removing a portion of the existing flood weir (a cement bench allowing high water to passively overflow into the Yolo Bypass when the Sacramento River reaches a certain elevation stage) and replacing with an operable gate to be managed by BDCP governance entities as part of the Annual Delta Water Operations Plan (Sec. 6.3.2). As proposed, CM 2 would also alter the Sacramento and Fremont Weirs, breach multiple levees, convert 11,000 to 27,000 acres of the Bypass to semi-permanent "Floodplain Rearing Habitat," modify Lisbon Weir, and otherwise completely alter the current flow of water through the Basin. Significantly, the BDCP EIR/EIS: --Fails to identify the baseline flood capacity of the Bypass; --Fails to identify the impact of surface water elevation changes upon the Bypass; and --Fails to identify the potential for either positive or negative flood flow changes caused by the project. A new operable gate will be installed and operated to allow more frequently and longer duration diversions up to 6,000 cubic feet per second into the Yolo Bypass between November and mid-May even during non-flood events which results in a total of approximately 650,000 acre feet of water being removed from the Sacramento River over the six month period: --Frequent inundation (every 1-3 years) of Yolo Bypass by diverting between 3,000-6,000 cubic feet per second for 30-75 days for one or more periods between Nov-May, covering between 11,000-27,000 acres with shallow water. Vegetation maintenance with clearing done in stripes to open areas for water flow and avoid islands, including pruning trees with over 4 inches of trunk diameter up 6-feet from the ground. Sediment maintenance expected to remove about 1 million cubic yards within 1-mile of the weir about every 5 years, with an additional 1 million cubic yards every other year removed inside the new channel. Sediment may be disposed on properties in immediate vicinity of Fremont Weir or be used as source material for levee or restoration projects, or otherwise beneficially used. Chap 4, Section 4.2.2.	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, which discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Also, see Section 6A.6.4 for impacts from restoration -related environmental commitments and conservation measures, including the removal of Conservation Measure 2 from the new proposed project, Alternative 4A. The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP including the Yolo Bypass Enhancements are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements.

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		--The average modeled annual inflow at Freeport reduced by about 650,000 acre-feet, primarily as a result of the increased Fremont Weir Spills (CM2). Plan Chap 5 Effects Analysis, Section 5.3-3.	
1717	105	During the scoping sessions, very little detail was given in regards to the notching or gating of the Fremont Weir in order to provide flows and inundation of the Yolo Bypass during non-flood years despite the fact that this change to the Yolo Bypass operation would essentially render farming infeasible due to the uncertainty, or inability, to adequately work the soil in time to plant crops. From a flood management perspective, this change in land use could significantly change the vegetation regime in the Yolo Bypass; reducing the flood carrying capacity if a riparian forest is allowed to grow in the Bypass as has previously occurred in the Sutter and Tisdale Bypasses. Currently, as a byproduct of farming operations, the lands within farming areas and hunting clubs are maintained by the farmers and hunters to keep vegetation managed to avoid diminishing flood flow capacity and roughness.	Please see Appendix 6A, Section 6A.6.4, FEIR/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 because they are required by the existing BiOps. 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.
1717	106	Lack of vegetation maintenance for as little as one year could effectively create thick stands of trees and shrubs that would act to increase the coefficient of friction within the Yolo Bypass and change the flood carrying capacity. The BDCP EIR/EIS must describe in detail how this capacity will be maintained, or improved if flood capacity improvement is part of the Central Valley Flood Protection Plan. Of particular concern to reclamation districts and flood managers is how vegetation along or in a floodway influences hydraulics and reduces water velocity. An increase in water surface elevations could make the critical difference between outflanking or overtopping, altering erosion potential and decreasing the available freeboard and the passage of waters safely between the levees of the Bypass. These conditions can quickly erode the backside of levees and imperil life and property. Under these circumstances, the flood control function should not be balanced against, or compromised in order to enable or promote any other potential purposes within the Bypass including conservation or habitat development for purposes of mitigating species impacts associated with SWP or CVP water conveyance. These conditions would therefore require habitat restoration projects in the Bypass to include levee improvements as mitigation, particularly given that the Yolo Bypass levees protect substantial lands on either side, including the City of West Sacramento and thousands of acres of productive farmland and natural and developed habitat.	Please see Appendix 6A, Section 6A.6.4, FEIR/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 the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Refer to Section 6A.6.2.1 for information on potential changes to flood water conveyance and capacity under the proposed project. See Section 6A.7.2 on potential future hydraulic analyses in accordance with the Section 408 permitting process.
1717	107	As one key omission, EIR/EIS hydraulic analyses fails to include Lower Cache Creek sedimentation entering the Yolo Bypass, and fails to evaluate alternatives to avoid decreasing design flows in the study area which includes the Yolo Bypass. The baseline flood capacity must be properly analyzed and further discussed in order to ensure that meaningful analysis of the public safety impacts can and will occur. All modifications to the Bypass must be completely understood and mitigated to eliminate any detrimental flood management impacts to the Sacramento River Flood Control Project and ensure that the Bypass performance is not degraded. Without this information, the conclusion in SW-2 that there are no current impacts to the Bypass cannot be substantiated or justified. While the BDCP EIR/EIS does provide for adjustment of the criteria at Yolo Basin, there is not enough certainty in the proposal to adjust criteria as issues or problems arise	Modification of the Fremont Weir and Yolo Bypass operations are only considered in a programmatic manner in the EIR/EIS (please see Master Response 2). Implementation of these measures would not occur until site-specific engineering and environmental analyses were completed to address flood and sediment issues. Also, see response to comment 1717-108 below regarding project consistency with flood protection standards.

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		throughout the State Plan of Flood Control system as a whole.	
1717	108	RECOMMENDATION - The "Floodplain Habitat Restoration Conservation Measures" proposals that recommend increasing frequency and duration of inundation in existing bypass floodplains and creating new bypasses should include Mitigation Measures for BDCP to fully fund the fortification and increasing size of adjacent levees to bypasses to accommodate new water flows.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.4, FEIR/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 because they are required by the existing BiOps. Please see Section 6A.6.2.1.3 for a 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. Also, see Section 6A.6.2.1.2 for information on DWR responsibilities regarding levees modified by the proposed project.
1717	109	RECOMMENDATION - The EIR/EIS should provide analysis and mitigation regarding the current underperformance of the lower Bypass where narrows into a funnel at the bottom and has previously seen water levels go two feet above design stage in that area during flood events. The EIR/EIS should provide analysis and conclusion regarding how much the proposed water operations in Alt 4 increase flood risk above and beyond what is predicted impact from sea level rise/climate change.	Please see Appendix 6A, Sections 6A.6.3 and 6A.6.4, FEIR/EIS, for potential impacts of construction and operations of the water conveyance facilities and restoration-related environmental commitments and conservation measures. It should be noted that the new proposed project ,Alternative 4A, substantially reduces the amount of planned habitat restoration and removes Conservation Measure 2-21 (Yolo Bypass Enhancements) compared to the prior preferred alternative (i.e. Alternative 4). Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because they are required by the existing BiOps. 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.
1717	110	New Water Diversion Poses Potential Injury to Other Legal Water Users Water Codes [Section] 1707 requires all water users to petition the State Water Resources Control Board for a change of use for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation in, or on, the water, specifying the time, location, and scope of the requested change. In response, the SWRCB may approve the petition subject to terms and conditions once the Board has determined that the proposed action:	Conservation Measures 2 through 10 are considered in a programmatic manner in the EIR/EIS. Implementation of these conservation measures would not occur until site-specific engineering and environmental analyses were completed to address flood and sediment issues. Also, see response to comment 1717-108 regarding project consistency with flood protection standards.

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		1. Will not increase the amount of water the person is entitled to use; 2. Will not unreasonably affect any legal user of water; and 3. Otherwise meets water code requirements. The restoration of floodplain, tidal wetlands, and other habitat restoration action proposed in BDCP (CM2-10) will require extensive amounts of water, particularly implementation of CM2 to inundate the Yolo Bypass more frequently and for longer duration. However, the Plan fails to identify the volume of water to be utilized by these new habitat areas or whose water rights will be used to provide that diversion. In addition, the EIR/EIS Water Supply Chapter fails to disclose the impacts to the water supplies of the entities such as SWP/CVP that would presumably be supplying the water from storage.	
1717	111	According to the Plan Effects Analysis, Conservation Measure 2 will result in the diversion of approximately 650,000 acre feet of Sacramento River water into the Yolo Bypass between November and mid-May through an operable gate with a total capacity of 6,000 cubic feet per second in order to benefit fish. Due to the new diversion point on the Sacramento River and the considerable aggregate amount of water to be diverted from the river, the CM2 Project Description must be amended to clarify the operable gate to be installed and managed in accordance with the BDCP's Annual Delta Water Operations Plan, Sec. 6.3.2, will require DWR and U.S. Bureau of Reclamation to petition the State Water Resources Control Board to change points of diversion, places of use, and purposes of use of water for the SWP/CVP projects. Other habitat restoration projects in CMs3-22 may also require a petition for change of use be filed. The Petition for Long-Term Change in Place of Use and Change in Purpose of Use process will allow the State Water Resources Control Board to determine whether such changes should be conditioned to protect the environment or other legal users of water in order to avoid interference with prior water rights, such as those memorialized in North Delta Water Agency's 1981 Contract with DWR. The SWRCB's process will also weigh public trust issues, such as how navigable waters would be changed and impacted by this new diversion to be evaluated. Because CM2 is only analyzed at Programmatic level, the Plan permits and Implementing Agreement should include clear conditions: 1) the intent to pursue a full Project-level EIR/EIS evaluation of CM2 with explicit prohibition to tiering off the BDCP EIR/EIS with a Negative Declaration; and 2) DWR and U.S. Bureau of Reclamation will file change of use permits with the State Water Resources Control Board for the Fremont Weir modifications proposed in Conservation Measure 2 so the Board can evaluate the cumulative impacts of the 6,000 cubic feet per second Fremont Weir diversion, new North Delta intakes 9,000 cfs diversions, with the continued south Delta intake diversions to assure the proposed changes will not result in injury to other legal water users in the system. RECOMMENDATION: The cumulative effects in the Conservation Measures and EIR/EIS Water Supply Chapters should identify how much water (and whose water) will be used for construction, operation, and ongoing management of habitat restoration projects and actions in CMs2-11.	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. Note that Alternative 4A does not propose any actions in the Yolo Bypass and thus none of the provisions of CM2 would be implemented. Also, see response to comment 1717-108 regarding project consistency with flood protection requirements.
1717	112	FAILS TO ANALYZE OR MITIGATE CUMULATIVE EFFECTS THREATENING PUBLIC SAFTEY	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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,

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		The BDCP EIR/EIS should include a strong commitment to mitigating any and all individual and cumulative impacts the Plan's multitude of individual actions and projects may have on reducing the level of flood protection, particularly any adverse impacts to the SPFS facilities. In general, higher water levels along a floodway will require higher levees, and changes in the Delta hydrodynamics will require increased armoring of levees. No reduction in flood control capacity should occur in the Plan Area as a result of cumulative effects of implementing CMs 1-22 over the 50-year permits.	CVFPB, and DWR flood standards and regulations. Also, see Section 6A.6.2.1 on potential effects to flood flow conveyance and capacity. It should be noted that the new preferred project, Alternative 4A, does not include a 50-year permit term and reduces the amount of planned habitat restoration compared to the previously preferred alternative, Alternative 4. 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.
1717	113	Global Modification of System Must Maintain Flood Control Function BDCP actions need to respect and uphold the State of California's commitment to ensure that the flood protection works within the Sacramento San Joaquin Drainage District, including the State Plan of Flood Control, are not modified or encroached upon in any way that will impair their effectiveness or injure the public interest or safety. In considering whether or how to authorize these water supply-related habitat projects within the Sacramento River Flood Control Project, it is imperative that the BDCP adhere to the Central Valley Flood Protection Board obligations and avoid interference with the flood control function of the Bypass, as it exists now or as its capacity may be necessarily increased in the future. The Yolo Bypass is an integral part of that system, protecting the City of Sacramento as well as other cities and towns and extensive valuable agricultural lands.	Please see Appendix 6A, Section 6A.6.4, FEIR/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 2-21 (Yolo Bypass Enhancements) under the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Also, see Section 6A.6.2.1.1 regarding potential DWR encroachment permits.
1717	114	The projects and activities associated with implementing several BDCP Conservation Measures, including CM 2, 4, and 21 have the potential to create redirected impacts and increased costs for Operation and Management activities of reclamation districts with responsibility for maintaining Project levees in the Yolo Bypass region. The BDCP's proposed operation of the Sacramento River Flood Control Project in a way that inundates the Bypass with high flows threatens that regime, and could mean liability for the State of California. Under pre-Sacramento River Flood Control Project conditions, these flows would have otherwise been contained within the large and distinct overflow basins and along the river reaches north of Fremont Weir. Modifications to the State Plan of Flood Control -- including habitat encroachments in the Yolo Bypass proposed by BDCP that enable or increase damage to these Project levees or lands -- may well trigger State liability for inverse condemnation brought by affected landowners.	The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP including the Yolo Bypass Enhancements are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements. Also, see response to comment 1717-108 Please see Master Response 5 regarding costs of the project.
1717	115	Multiple Impacts in the Yolo Bypass Pose Cumulative Effects Alteration of the Fremont Weir and Yolo Bypass for operation as a non-flood facility in order to comply with Endangered Species Act Biological Opinions for continued operation of CVP and SWP water conveyance facilities pose a serious potential threat to the integrity of the Sacramento River Flood Control Project to operate as a system, which currently cannot spare even an incremental interference with its flood control function. As one example, the current Notice of Intent on the Yolo Bypass Salmonid Habitat Restoration and Fish Passage project (substantially same as Conservation Measure 2) proposed by DWR and Bureau of Reclamation indicate a possible issue with deep scouring at the foot of the fish ramps that could undercut the downstream end of the splash basin that could threaten the Fremont Weir's structural integrity. Additionally, the invert elevation of the proposed fish passage structure through the Fremont Weir would alter the existing hydraulics. At the same time, deeper invert elevations would decrease channel slope, thereby increasing the risk of	Please see Appendix 6A, Section 6A.6.4, FEIR/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 the new proposed project, Alternative 4A. 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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Also, see Section 6A.6.2.1 for potential project impacts to flood flow conveyance and capacity.

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		reverse flows and sedimentation accumulation that reduces flood flow capacity. In the lower Bypass, the original design capacity provides protection estimated at up to the 65 to 70 -year event, conveying as much as 500,000 cubic feet per second. Under current conditions, however, the Bypass has little to no margin for safety during high flow events. The U.S. Army Corps of Engineers has recognized that during the 1986 flood (considered to be a 70-year event in the lower Yolo Bypass), surface water elevations rose to within one foot of the top of the levees (RD 2098), even though the levees were designed with five feet of freeboard. [footnote 98: Yolo Bypass Working Group, A Framework for the Future: The Yolo Bypass Management Strategy (August 2001)] RD 2068 records indicate that at District Unit #1, levee mile 5.5, floodwaters encroached as much as 2.1 feet into the levee freeboard. In the un-leveed areas between District Unit #1 and north to the Putah Creek levees, substantial water moved from the Bypass onto lands for which no flood easements exist. [footnote 99: Records available at the RD 2068 office, 7178 Yolano Rd. Dixon, CA 95620.]	
1717	116	Several studies have identified a statistical trend toward increasing variance of annual floods within the Sacramento River system, perhaps related to global climate change. [footnote 100: See, e.g., National Research Council, Improving American River Flood Frequency Analyses, National Academy Press (1999); Climate Change Impacts and Adaptation in California (2005), Guido Franco, CEC Staff Paper.] trends continue, there will be an increased risk of floodwaters outflanking, overtopping or eroding the Bypass Project levees, and it may be crucially important in the coming years to enhance conveyance capacity in some reaches of the Bypass. This, in turn, may require modification of Conservation Measure 2 features.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.4, FEIR/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 because they are required by the existing BiOps.
1717	117	Several of the individual projects and actions primarily contained in Conservation Measure 2 and CM4 and the Biological Opinion's Reasonable and Prudent Alternatives propose to alter the location, configuration, and purpose of the Yolo Bypass as one of the most important safety elements of the Sacramento River Flood Control Project. These include: --Modification of Fremont Weir and/or Sacramento Weir and diversion of non- flood waters into the Yolo Bypass (CM2); --Breaching of levees on Prospect Island to create tidal wetland habitat (CM4); --Restoration of Floodplain Rearing Habitat covering 11,000 to 27,000 acres of the Yolo	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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		Bypass for at least 30 days every 1-3 years between the months of Nov and May (CM2); --Downstream channels graded to improve connectivity to the Tule Canal (CM2); --Removal of existing water control structures on Bypass property known as Yolo Ranch/Flyway Farms to increase tidal influence for tidal wetland habitat (CM4); --Levee modifications at Liberty Island/ Cache Slough and Lower Yolo Bypass (CM2/4); --Lower Putah Creek realignment (CM2); --Three options for modification of the Knights Landing Ridge Cut: 1) construction of a temporary weir at the outflow end of the existing channel; 2) realignment of the outflow point into the existing Cache Creek Settling Basin; and 3) blocking passage further downstream of the junction of KLRC and the Yolo Bypass (CM2); --Modifications to Lisbon Weir (CM2); and --Hydraulic modifications to reduce migratory delays and loss of salmon, steelhead, and sturgeon at Fremont Weir and other structures in the Yolo Bypass. (CM2) Several of the individual actions in Conservation Measure 2 aimed at modifying vegetation to create habitat and/or improve biological productivity for listed fish species, and propose changing flow regimes in the Yolo Bypass to achieve these habitat permit conditions. As the Central Valley Flood Protection Board has recognized with 2-dimensional modeling of the neighboring Sutter Bypass, vegetation can increase water surface elevations and inhibit flow velocities within flood bypasses. [footnote 101: CH2M Hill for California Department of Water Resources, Sutter Bypass RMA2 Model Report at 5-16 (June 2012) ("Results indicate that increased growth of vegetation in the Sutter Bypass and Yolo Bypass....would raise water levels by up to 0.83 foot for the 1957 design flow conditions.")]	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. Please see Appendix 6A, Section 6A.6.4, FEIR/EIS, for a discussion on impacts from restoration-related environmental commitments and conservation measures, including the removal of Conservation Measure 2 and significant reduction in the amount of tidal habitat restoration under the new preferred project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because it is required by the existing BiOps. Also, refer to Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations.
1717	118	Due to existing conditions in the Yolo Bypass, even nominal changes to the bypass that create higher water surface elevations could reduce available freeboard, potentially outflanking or overtopping Project levees. These conditions can quickly erode the backside of levees and imperil life and property. These potentially detrimental public safety impacts are unacceptable from a flood management perspective and must be completely mitigated to ensure that flood flow capacity is not reduced.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.4, FEIR/EIS, for a discussion on impacts of restoration-related environmental commitments and conservation measures, including a substantial reduction in the habitat

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			restoration footprint and the removal of Conservation Measure 2 (Yolo Bypass Enhancements) under the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Also, see Section 6A.6.2.1.1 regarding potential DWR encroachment permits.
1717	119	New plantings and aquatic habitat projects in the Bypass have the potential to increase hydraulic roughness during flood events, redirect hydraulic impacts, increase water surface elevations and flow velocities along the levees, and exacerbate erosion. Under these circumstances, the critically important flood control function of the Yolo Bypass should not compromised -- not even to promote use of the Bypass as aquatic habitat to fulfill the Endangered Species Act incidental take permit requirements and continue operation of SWP and CVP pumping facilities in the South Delta. The California Central Valley Flood Control Association and its members do not object to the Board as the responsible agency for the State Plan of Flood Control cooperating with other agencies or private parties to benefit listed species, but only if that cooperation will have no impact upon the Reclamation Districts and the current or potential flood control function in the Yolo Bypass. The Association expects that the terms and conditions in the HCP/NCCP permits and Implementing Agreement will include specific limitations and actions to remedy any reduction in flood protection caused by the implementation of Conservation Measure 2, CM4, or any other BDCP action.	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 the IA, as well as a discussion of the current status of the IA, please see Master Response 5. Also, see response to comment 1717-118 regarding project consistency with flood protection requirements.
1717	120	Local districts operate on tight budgets. They cannot and should not be responsible for increased capital, operation and maintenance costs, increased liabilities, or other obligations to offset the proposed habitat project impacts that could undermine the performance of the State Plan of Flood Control and Sacramento River Flood Control Project.	Please see Appendix 6A, Section 6A.6.4, FEIR/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 2-21 (Yolo Bypass Enhancements) under the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Section 6A.6.2.1.2 discusses DWR responsibilities regarding levee maintenance activities for levees modified by the proposed project.
1717	121	RECOMMENDATION -- As mitigation to avoid reducing the flood flow capacity and functionality of the Yolo Bypass as a critical Sacramento River Flood Control Project flood protection features, the HCP/NCCP should include terms and conditions for Conservation Measure 2 and CM4 prohibiting implementation of any Endangered Species Act habitat restoration measures on any Sacramento River Flood Control Project facilities unless the proposed action: 1. Is completely mitigated to eliminate any detrimental flood management function impacts to the SRFCP; 2. Proves, with substantial evidence (hydraulic modeling), that Sacramento River Flood	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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.

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		Control Project flood flow capacity is not reduced by any level from current conditions; 3. Central Valley Flood Protection Board's encroachment permit conditions require the unconditional removal, at the BDCP's sole cost and effort, if during any time in the 50-year permit CM2 or any other CM actions pose reduction in flood protection level or functionality. In other words, CVFPB needs to retain continuing authority to order changes in permitted habitat encroachment projects when necessary to accommodate current and future flood control needs in the Yolo Bypass. Moreover, these permits must explicitly state the flood control easements in the Yolo Bypass would be both senior in time and paramount to those other water supply related needs. Therefore, they would prohibit any activities that unreasonably interfere with the flood control function of the Bypass as currently allowed or as may be allowed under existing or future flood easements.	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. Please see Appendix 6A, Section 6A.6.4, FEIR/EIS, for impacts from restoration-related environmental commitments and conservation measures, including the removal of Conservation Measure 2 from the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because it is required by the existing BiOps. Also, see Section 6A.7.2 for a discussion on potential future hydraulic analyses as part of the Section 408 permitting process. Section 6A.6.2.1.3 summarizes DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 discusses project consistency with USACE, CVFPB, and DWR flood standards and regulations. Also, refer to Section 6A.6.2.1.1for information regarding potential DWR encroachment permits for construction activities under the proposed project.
1717	122	RECOMMENDATION -- Mitigate vegetation impacts by requiring development and approval by Central Valley Flood Protection Board a "Vegetation Management Plan for CM2 and CM4 Yolo Bypass Activities" and require the implementation and effectiveness of those mitigation measures, and any flood protection conflicts occurring with operation of Fremont Weir/Yolo Bypass as Sacramento River Flood Control Project facilities, be annually reported in following BDCP governance and implementation reports: --Annual Progress Report (Sec. 6.3.3) --Annual Water Operations Report (Sec. 6.3.4) --Five-Year Comprehensive Review (Sec. 6.3.5) --Adaptive Management and Monitoring Program (Sec. 3.6)	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.4, FEIR/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 the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Refer to Section 6A.6.2.1 for information on potential changes to flood water conveyance and capacity under the proposed project.
1717	123	Comprehensive Evaluation of Combined Conservation Measures (CMs)	Please see Master Response 9 regarding the cumulative impact analysis.

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		The EIR/EIS Cumulative Impacts Analysis does not provide any sort of comprehensive discussion or analysis of how impacts associated with each CM1-22 relate to each other. For instance, do more than one CM have the same adverse impacts and therefore when combined have an even greater detrimental effect on environmental resources? Every action, or in this case Covered Actions and Conservation Measures, causes a reaction. Yet, the EIR/EIS fails to analyze how the activities and effects in each CM1-22 react to each other, conflict with other, or complement each other. Instead, the EIR/EIS's Impact Statements simply list individual effects that are disconnected and poorly integrated. The following excerpt from the Delta Regional Ecosystem Restoration Implementation Plan (DRERIP) emphasizes this point: "Collectively, the synthesis team concluded that a number of the conservation measures have the potential for additional synergistic effects that can raise or lower the value of some individual conservation measures when implemented concurrently with other actions. The complexity of the various trade-offs between expected positive and negative effects make it difficult to predict the biological responses to concurrent multiple measures." The BDCP and therefore the EIR/EIS still suffers from this problem and needs to provide this synthesis to support why the collection of CMs in Alternative 4 are in fact the right mix and will not in fact result in making the Existing Conditions worse if they are implemented. Recommendation: Add a Chapter to the EIR/EIS that shows what action and reaction each of the CMs Impacts have to [do with] each other and cumulatively if and when all are implemented over the life of the Plan. A cumulative impacts analysis on the State Plan of Flood Control facilities and operations as a system must be evaluated in particular.	Please see FEIR/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 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, Chapter 11 Fish and Aquatic Resources, Chapter 12 Terrestrial Biological Resources, and Appendix 3B Environmental Commitments, AMMs, and CMs of the FEIR/EIS.
1717	124	Permit Conditions Must Prevent Subjugation of Flood Control Function Due to the substantial reliance on "programmatic" analysis of BDCP's habitat restoration effects, including projects that will significantly modify the configuration and purpose of State Plan of Flood Control facilities such as CM2, the Association does not have sufficient project description and details to suggest specific measures to protect the flood system facilities in the Plan Area. Therefore, the California Central Valley Flood Control Association recommends the BDCP Plan and Implementing Agreement provide general assurances via binding HCP/NCCP permit conditions that the BDCP will not impede, diminish, or impair the flood flow capacity or functionality of the Yolo Bypass or other flood facilities in the Plan Area. RECOMMENDATION -- The Implementing Agreement should specifically require the following terms and conditions for BDCP Conservation Measures that propose to alter or encroach upon SPFC facilities, and should also be included as conditions in permits issued by the U.S. Army Corps of Engineers and Central Valley Flood Protection Board on all BDCP project and actions: --Conservation measures must demonstrate a net positive flood control improvement; --Conservation measures must not impede, cause redirected impacts to, or foreclose upon flood conveyance improvements designed to -correct current deficiencies and meet PL 84-99 requirements,	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 the IA, as well as a discussion of the current status of the IA, please see Master Response 5. Also, see response to comment 1717-122 regarding project consistency with flood protection standards.

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		-meet CVFPP requirements, or -fill future flood system needs within the Plan Area; --Conservation measures must be prohibited from diminishing or subjugating in any way the existing flood control easements held and enforced by state and local flood control agencies; --Conservation measures must contain clearly defined and enforceable limits as to vegetation type, orientation, maximum acreages and hydraulic roughness; --Conservation measures must provide assurances that the BDCP has the continuing obligation, long-term funding, authority and ability to maintain the Project to USACE and CVFPB permitted standards, with the explicit acknowledgment that the Board retains clear duty and authority to require or undertake themselves and seek reimbursement for any remedial work necessary to maintain permit conditions and reliability of the flood control structure; --Conservation measures must require annual monitoring and reporting of encroachment permit maintenance through the Annual Progress Report; --Conservation measures must commit to conduct periodic analysis of the hydraulic performance of permitted encroachment to identify and mitigate any flood reduction impacts; --Conservation measures must submit to the CVFPB's continuing authority to modify permit conditions, compel project modifications or revoke the flood encroachment permit if the project fails to meet the required flood control performance, does not meet the net positive flood control assurances, does not or cannot operate to meet permit conditions, or impedes the ability of the Sacramento River Flood Control Project from fully and unconditionally utilizing the existing flood control easements; --Conservation measures must not result in new or increased regulatory actions, or cause adjacent private or public operations to incur costs or requirements without being compensated for them; --Conservation measures must fully fund for the life of the permit any additional operation and maintenance or levee improvement costs incurred by adjacent flood control agencies due to implementation of BDCP Conservation Measure or mitigation actions.	
1717	125	Minimize Cumulative Seepage, Erosion, and Overtopping Damage Many aspects of Conservation Measure 1 construction and habitat restoration efforts would cause an increase in water surface elevations. This could make a critical difference between outflanking or overtopping a levee, altering its erosion potential and decreasing a levee's available freeboard; it could also impair the safe passage of waters between the levees of the Yolo Bypass. These conditions can quickly erode the backside of levees and imperil life and property. Changes to channel hydrodynamics and flows as well as water elevations and volumes, as proposed in many of the habitat projects and as may occur during CM-1 construction could create additional costs to reclamation districts from erosion and seepage damage that may	Please see Appendix 6A, Sections 7.3 and 6A.6.4, FEIR/EIS, for information on impacts to flood protection as a result of water conveyance facility construction activities and restoration-related environmental commitments, respectively. Section 6A.6.3.3 discusses potential water elevation changes from project construction. It should also be noted that new proposed project, Alternative 4A, substantially reduces the amount of planned habitat restoration previously considered in the original proposed project (i.e. Alternative 4A). Also, see Section 6A.6.2.1.3 for a 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. Refer to Chapter 14 (Agricultural Resources), FEIR/EIS for a discussion on impacts to Ag lands from the No

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		require additional rocking, large land-side berms, or other levee improvements to mitigate the impacts. At the very least, seepage monitoring will need to be installed and addressed in locations surrounding new aquatic habitat areas, particularly since 158,000 acres of habitat is contemplated in BDCP. In addition, BDCP will need to provide funding in perpetuity to affected reclamation districts/landowners for their additional pumping costs to maintain the land for current and future agricultural production.	Action Alternative, proposed project, and action alternatives. Chapter 16 (Socioeconomics), FEIR/EIS, discusses existing socioeconomic conditions in the Delta region and the effect of the proposed project, action alternatives, and No Action Alternative on socioeconomic conditions. Appendix 6A also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	126	Despite the impression given by EIR/EIS Surface Water Chapter Impact SW-8, there are other significant impacts besides wind fetch imposed on the flood protection systems -- particularly the State Plan of Flood Control facilities -- that require disclosure, analysis, and mitigation. Yet, these other causes and impacts were deliberately omitted and analysis was not performed amid incorrect assertions that U.S. Army Corps of Engineers and Central Valley Flood Protection Board permitting of habitat conservation measures will address any impacts on levees. In addition, the cursory discussion of wind fetch damage and potential mitigation lacks any supporting evidence, because specific remedies are postponed until future studies can be completed prior to habitat development. This delay in impact disclosure and identification of specific mitigation raises serious concerns with flood control managers that the full extent and severity for potential damage to levees, wind or otherwise, has not been properly addressed due to lack of rigorous analysis as required under NEPA. Examples of other threats to State Plan of Flood Control and levee integrity and stability other than wind fetch from multiple BDCP habitat conservation measures that was not analyzed in SW-8 include: --More frequent and longer duration inundation of the Yolo Bypass through new diversion gate at Fremont Weir; --Breaching and moving of levees in the Yolo Bypass to create open-water aquatic habitat; --Encourage more tidal excursion in areas of the Yolo Bypass; --Create unnatural reverse and unidirectional flows near the Delta Cross Channel and Georgiana, Miner, Steamboat, and Sutter Sloughs; --Increased flow velocities in certain channels than occurs under existing conditions due to alteration of configuration of Delta levees and SPFC, powerful sucking of huge in-river diversions, and dewatering discharges exceeding local capacities. --Seepage due to disconnected drainage systems and dewatering discharges exceeding local drainage capacity.	Conservation Measures 2 through 11 are considered in a programmatic manner in the EIR/EIS. Implementation of these conservation measures would not occur until site-specific engineering and environmental analyses were completed to address flood and sediment issues. Please see Section 6A.6.2.1.3 in Appendix 6A of the FEIR/EIS for a 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. Section 6A.6.3.3 describes potential impacts to drainage and runoff, including changes in water surface elevations. Also, see Master Response 22 regarding the adequacy of mitigation measures in the EIR/EIS.

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1717	127	Impact SW-8 fails to take a comprehensive look or review of the multiple risks imposed on levees. The SW-8 analysis did not even bother to discuss well-known prior seepage and levee boil impacts from fairly recent inundation of Prospect Island and subsequent landowner lawsuits against the U.S. Bureau of Reclamation, [footnote 102: See, e.g., Islands, Inc. V. U.S. Bureau Of Reclam., Dept. Interior 64 F.Supp.2d 966 (1999)] or how Liberty Island levees quickly deteriorated and crumbled when they were not immediately fixed after a breach. Breaching Project levees to once again inundate Prospect Island is proposed as a habitat project in CM4, despite prior history of the neighboring Ryer Island experiencing increased surface flooding from seepage and boils, which reclamation district engineers attributed to the change in hydraulic pressure caused by flooded state of Prospect Island. This caused damage to crops and prevented planting on certain farm lands that could also be considered significant adverse impact in addition to wave fetch under CEQA and NEPA. Studies were done on the damage to neighboring islands caused by prior Prospect Island flooding, including information gathered from installation of seepage monitoring wells, both at the time and more recently by DWR, yet this information is not discussed or analyzed in the EIR/EIS. This lack of discussion or analysis is particularly astonishing given the availability and breadth of DWR data. For all of these reasons, it appears that the BDCP EIR/EIS has failed to disclose the significant localized seepage, scour erosion, and wave fetch damage in a meaningful way.	Impact SW-8 describes the potential impacts associated with habitat restoration. The EIR/EIS evaluates habitat restoration in a programmatic manner. Future engineering and environmental documents will be completed to identify site-specific locations for habitat restoration and associated mitigation measures. In those documents, the existing conditions for those locations will be defined in detail. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, which discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Also, see Section 6A.6.4 for impacts from restoration -related environmental commitments and conservation measures, including the removal of Conservation Measure 2 and large-scale tidal habitat restoration from the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because it is required by the existing BiOps. In addition, tidal habitat would be restored 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). Section 6A.7.2 discusses potential future hydraulic analyses as part of the Section 408 permitting process. For potential impacts on ground water levels and seepage on neighboring agricultural lands, please see Chapter 14, Agricultural Resources, and Chapter 7, Ground Water, FEIR/EIS, respectively.
1717	128	The EIR/EIS analysis should be more robust and detailed in its discussion of the potential for waves, overtopping, and erosion. It should indicate the projected size the waves that are expected to be generated by the various habitat types identified in the Plan might be, which could be done by studying other Delta areas where islands were flooded and not repaired. Further, it should provide studies on what kind of erosion and overtopping damage the different sized waves can cause to levees. Information on how much annual damage BDCP expects to pay for erosion and seepage damage should also be disclosed in the Plan Budget Chapter. Note that seepage was a cause of the damages in Paterno. [footnote 103: Paterno at 1011-2.]	Please see Section 6A.6.4 for impacts from restoration -related environmental commitments and conservation measures, including the removal of large-scale tidal habitat restoration from the new proposed project, Alternative 4A. Instead, tidal habitat would be restored 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). Also, see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, which discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Refer to Master Response 2 regarding project vs program level of detail in EIR/EIS documents. Appendix 6A also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	129	EIR/EIS environmental conclusions simply stating that future projects/actions/designs will comply with applicable law does not constitute avoidance of all impacts and does not suffice to replace mitigation. There is new and increased risk of flooding and damage to State Plan of Flood Control facilities posed by habitat measure construction and operations that must	Please see Appendix 6A, Section 6A.6.4, FEIR/EIS for a discussion on impacts of restoration-related environmental commitments and conservation measures, including significant reductions in the amount of planned habitat restoration under the new proposed project, Alternative 4A. Also, see Section 6A.7.2 for a discussion on potential future hydraulic analyses during the Section 408 permitting process. Refer to Section

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		be mitigated beyond design/permit requirements of U.S. Army Corps of Engineers, Central Valley Flood Protection Board, or DWR, particularly in light of the likely impacts based on the Prospect and Liberty Island examples above. The EIR/EIS also incorrectly assumes, without evidentiary support in the record, that all the mitigation measures will be fully implemented and that the measures will in fact work to avoid or substantially reduce the significance of the adverse impacts. In fact, this may not occur. In order to approve a project, the lead agencies must identify feasible mitigation measures or alternatives that would avoid or substantially lessen any significant adverse environmental effects of the project. [footnote 104: Cal. Pub. Res. Code [Section] 21002] The mitigation measures must also be specific and mandatory, such that they are fully enforceable. Mitigation Measure SW-8 is unenforceable because it fails to set any specific performance standards or criteria for surveying, relocating, repairing, replacing, compensating, or restoring the impacted resource impacted by the project activity. In addition, Mitigation Measure SW-8 improperly defers the formulation of specific mitigation until some future date, when vague and ambiguous "plans," "studies," or "reports" will be prepared, without imposing any performance standards as to what those plans must do or show. It is reckless to assume that the details of mitigation will be fleshed out at an unknown future date. The formulation of mitigation measures cannot be deferred until a later time based on completion of future studies or agreements being signed, although a lead agency is allowed to provide specific performance standards that specify the extent to which impacts will be mitigated. [footnote 105: It is true that, "Where a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval. . . , the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand."[Emphasis added]. (Guidelines, [Section] 15152, subd. (c); see, e.g., In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings (2008) 43 Cal.4th 1143, 1170 (In re Bay-Delta EIR). However, here, the development of the information is feasible, given the plethora of available data from past endeavors, as well as needed to identify significant effects -- specifically, the flood and public safety impacts of the proposed project, as well as the potential liability.] Mitigation Measure SW-8 fails to provide specifics on either the extent or standards. RECOMMENDATION -- Request the BDCP Consultants conduct a rigorous analysis of levee erosion damage posed by BDCP CMs 1-10 to specifically evaluate the comprehensive nature and number of habitat actions that could undermine the integrity and stability of State Plan of Flood Control and Delta levees. Analyses should specifically utilize information on erosion damage and existing weak levees discussed in Central Valley Flood Protection Plan and other U.S. Army Corps of Engineers, DWR, and Central Valley Flood Protection Board modeling and documents including but not limited to: --State-Led Basinwide Feasibility Studies --Levee Evaluation Program --Flood Control System Status Report	6A.6.2.1.3 for a 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. Mitigation Measure SW-8 provides examples of potential mitigation to offset wind fetch issues, including strengthening and possibly raising levees to avoid damage from waves or water entering the landside of the levee due to high waves. Other measures will be considered when design features and the specific location of habitat restoration areas are determined. Also, see Master Response 2 regarding program vs project level detail in the FEIR/EIS documents.

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		--State Plan of Flood Control Descriptive Document RECOMMENDATION -- SW-8 must be expanded to describe details on the specific design elements, operational requirements, or permit conditions that would be implemented by each permitting agency (USACE/CVFPB), such as raising existing levee heights to prevent wave fetch overtopping, installation of seepage monitoring wells, or building a landside berm to prevent seepage might be options and how each of the elements would avoid or mitigate the impacts identified in EIR/EIS.	
1717	130	RECOMMENDATION -- Mitigation Measures must be added to the EIR/EIS Surface Water Chapter to avoid or reduce impacts to Delta and State Plan of Flood Control levees from seepage, erosion, increased drainage pumping costs, or lost crops damaged by localized flooding. RECOMMENDATION -- DWR's maps of seepage areas on Delta islands where CM 1-10 projects with be built must be added to the EIR/EIS Surface Water Chapter. Maps of existing drainage systems, including pumping stations, and system capacities should also be added to the chapter appendices. These maps are easily available to DWR and should assist analysts in understanding the on-the-ground impacts of the habitat proposals and construction of CM-1. RECOMMENDATION -- Expand the Surface Water Chapter and impact analyses to include readily available modeling and other studies regarding flood capacity. [footnote 106: Other plans such as Central Valley Flood Protection Plan, studies from Sacramento County regarding how building structures could impede or re-direct flows and how the County's plans mitigate such impacts are mitigated, and any studies by FEMA regarding how building very large elevated dirt pads re-directs flood impacts (surface runoff) to other structures, are among those that should be included.] RECOMMENDATION -- Apply existing data and baselines from Central Valley Flood Protection Plan to compare and contrast all of the possible hydraulic and flood impacts like erosion and seepage, changes in river and surface water flow direction and velocities, and increased hydraulic pressure, or the duration of these actions to determine whether Impact SW-9 in fact properly captures and characterizes the full extent of damage that could be caused by building large elevated structures in flood hazard areas with known seepage and drainage issues. RECOMMENDATION -- Request that SW-8 be revised to account for and analyze impacts resulting from BDCP habitat restoration activities if the USACE and CVFPB permit mitigation measures are not implemented or are not working, in terms of reducing or avoiding adverse impacts created by BDCP conservation measures.	As described in Sections 6.1.5, 6.2.2, and 6.3.1.3 of Chapter 6, Surface Water, FEIR/EIS facilities constructed under the action alternatives would be located within the reaches of the Sacramento River addressed in the State Plan of Flood Control. Construction and operation of these facilities will need to be in compliance with the requirements of the Central Valley Flood Protection Board. Under these requirements the facilities must be designed to provide flood neutrality during construction and operations as compared to conditions under the No Action Alternative (which does include conditions under climate change and sea level rise that are not caused by the proposed water conveyance facilities). During the design phase, additional topographic and bathymetric surveying would be completed and final design plans would be reviewed by State and federal flood management agencies, as discussed in Chapter 3, FEIR/EIS. Because these assumptions are part of the project description and will be required by State and Federal law and regulatory requirements, and because changes in maximum surface water elevations along the Sacramento River were within historical observations without flood conditions (see Appendix 5A, Section C, Modeling Results, Sections 26 through 32, of the FEIR/EIS), the impact analysis determined that these types of impacts would not occur. Construction within the waterways would be required to not increase erosion or sedimentation in accordance with Stormwater Pollution Prevention Permit and requirements of the USACE, Central Valley Regional Water Quality Control Board, and Central Valley Flood Protection Board, as described in Chapter 6, Surface Water. As described in Mitigation Measure AG-1 in Chapter 14, Agricultural Resources, in the FEIR/EIS, adversely affected wells, pipelines, power lines, drainage systems, and other infrastructure that are needed for ongoing agricultural uses and would be affected by project construction or operation would be relocated or replaced. This would be completed in coordination with land owners and reclamation districts. Conservation Measures 2 through 11 for the BDCP Alternatives are considered in a programmatic manner in the FEIR/EIS. Implementation of these conservation measures would not occur until site-specific engineering and environmental analyses were completed to address flood and sediment issues.
1717	131	Usurps Availability of Local Habitat Values Needed to Mitigate Impacts of Long-Term Levee Improvements With the BDCP Conservation Measures recommending large areas of ecosystem restoration as near and long-term goals, this may result in a future deficiency of suitable land for mitigation of future projects to benefit Delta communities. This puts the Delta communities at real risk of being unable to pursue necessary projects such as levee improvements to keep up with sea level rise or stabilize for seismic risk, because of lack of available, suitable	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, but on a more limited scale than the conservation measures under Alternative 4. The FEIR/EIS includes a revised analysis of potential cumulative impacts from the proposed project and other planned and reasonably foreseeable projects that could occur in the future, such as flood control projects.

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		mitigation habitat, as it will prevent the Delta from evolving as a place. RECOMMENDATION -- Request the EIR/EIS mitigate the loss of available long-term habitat lands available to flood control agencies to mitigate impacts of future levee improvement projects by including these future levee improvement projects as Covered Actions presumed to occur over the 50-year permit. Alternatively, the BDCP as a mitigation measure could set aside some habitat developed as part of large-scale restoration projects for use by Reclamation Districts in the Plan Area, making this habitat available during the 50-year permit term to mitigate RD flood protection projects, particularly those cost-shared with the state in the Delta Levees Program. Due to the substantial reliance on "programmatic" analysis of BDCP's effects, including projects that will significantly modify the configuration and purpose of State Plan of Flood Control facilities such as CM2, the Association does not have sufficient project description and details to suggest specific measures to protect the flood system facilities in the Plan Area.	The California Department of Water Resources' Levee Repairs and Floodplain Management Office is responsible for administering levee programs through evaluation and direct rehabilitation of structural deficiencies in California's levee system. Overall levee repairs and improvement programs administered by DWR will continue with available funding. For additional information on the relationship between the proposed project and Flood protections in the Delta, please see FEIR/EIS Appendix 6A BDCP/California WaterFix Coordination with Flood Management Requirements. Also, see refer to Master Response 2 regarding project vs program-level of detail.
1717	132	Sediment Loading Throughout Plan Area Reduces Channel Capacity Multiple activities described in the Conservation Measures and construction description are expected to increase sediment loading and place fill (dirt) in waterways in the Plan Area. Increases in sediment amounts in most areas described result in reduced flood capacity and higher risks of flooding from overtopping. Because the EIR/EIS has not conducted an evaluation of sediment impacts or analyzed the historical or baseline conditions for effects that sediment has on flood control facilities, it fails to recognize that the amount of in-water dredging the BDCP expects to conduct in order to prevent overloading of sediment is unrealistic and infeasible from a regulatory permitting standpoint. Therefore, the reduction in sediment impacts that the EIR/EIS claims is overly optimistic and more severe impacts to flood flow capacity is likely to occur from the multiple activities expected to increase sediment levels.	Please see Appendix 6A, Section 6A.6.3.1, FEIR/EIS, for information on sediment loading under the proposed project and environmental commitments to minimize potential impacts. Refer to Section 6A.7.2 for a discussion on potential hydraulic analyses during the Section 408 permitting process. Also, see Section 6A.6.4 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.
1717	133	Between the Plan and EIR/EIS, BDCP is expected to increase sediment loading in the Sacramento River and tributaries at all 9 of the cofferdams during construction, the three intakes during operations (CM1), the Fremont Weir at the new operable gate, in the Yolo Bypass from more frequent inundation (CM2), and from several tidal habitat restoration projects: CM1 -- New Conveyance Facilities --At least 9 in-water cofferdams in Sac River and several Delta channels for construction of 3 intakes and 6 barge loading facilities -- could be more cofferdam locations including Sacramento Weir or locations where operable gates are being installed --Increased sediment loading and removal at intake locations CM2 -- Fremont Weir Modification & Yolo Bypass Inundation --Sediment removal from Fremont Weir (approx. 1 million cubic yards within 1 mile of weir expected every 5 years)	The FEIR/EIS includes an analysis of the potential changes in sediment load as a result of operations and restoration, applicable to each alternative. No changes in sediment management in the Yolo Bypass are proposed. Also, see Section 6A.6.4 in Appendix 6A of the FEIR/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.

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		--Sediment removal inside the new channel (additional 1 million cubic yards every other year) --Sediment disposal on lands in vicinity of Fremont Weir or used as source material for levee improvements	
1717	134	Between the Plan and EIR/EIS, BDCP is expected to increase sediment loading in the Sacramento River and tributaries at all 9 of the cofferdams during construction, the three intakes during operations (CM1), the Fremont Weir at the new operable gate, in the Yolo Bypass from more frequent inundation (CM2), and from several tidal habitat restoration projects: CM 4-11 -- Habitat Creation in 6 Restoration Opportunity Areas throughout Plan Area (Plan Sec. 4.2.3 and Table 4-4) --Grading, excavating, and placement of fill material (occurs near levees)	Please see Appendix 6A, Section 6A.6.4, FEIR/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 because they are required by the existing BiOps. Also, see Section 6A.6.3.1regarding impacts from sediment loading as a result of the proposed project.
1717	135	Between the Plan and EIR/EIS, BDCP is expected to increase sediment loading in the Sacramento River and tributaries at all 9 of the cofferdams during construction, the three intakes during operations (CM1), the Fremont Weir at the new operable gate, in the Yolo Bypass from more frequent inundation (CM2), and from several tidal habitat restoration projects: CM4 -- Tidal Habitat Creation (65,000 acres) --Grading and fill in some locations --Based on local hydrodynamic conditions, topography, and sediment transport restoration sites may be graded to accelerate development of tidal channels within restored marsh plains. Following introduction of tidal exchange, tidal marsh vegetation will be planted and naturally establish in marsh plains	Please see response to comment 1717-134 regarding sediment loading and habitat restoration.
1717	136	Between the Plan and EIR/EIS, BDCP is expected to increase sediment loading in the Sacramento River and tributaries at all 9 of the cofferdams during construction, the three intakes during operations (CM1), the Fremont Weir at the new operable gate, in the Yolo Bypass from more frequent inundation (CM2), and from several tidal habitat restoration projects: CM5 -- Seasonally Inundated Floodplain (10,000 acres additional to Yolo Bypass CM2) --Remove existing riprap or other bank protection to allow for channel migration between the setback levees through natural erosion and sedimentation	Please see Appendix 6A, Section 6A.6.3.1, FEIR/EIS, for information on sediment loading under the proposed project and environmental commitments to minimize potential impacts. Refer to Section 6A.7.2 for a discussion on potential future hydraulic analyses during the Section 408 permitting process. Also, see Section 6A.6.4 for a discussion on impacts from restoration-related environmental commitments and conservation measures, including the removal of habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP. Large-scale habitat restoration measures are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements.
1717	137	Between the Plan and EIR/EIS, BDCP is expected to increase sediment loading in the Sacramento River and tributaries at all 9 of the cofferdams during construction, the three intakes during operations (CM1), the Fremont Weir at the new operable gate, in the Yolo Bypass from more frequent inundation (CM2), and from several tidal habitat restoration projects: CM6 -- Channel Margin Enhancement --Enhance 20 miles of channel margin along fish migration corridors by improving channel	Please see Appendix 6A, Section 6A.6.3.1, FEIR/EIS, for information on sediment loading, and Section 6A.6.4.1 regarding channel margin enhancements by setting back levees. In addition, CM2 is no longer being considered under the new proposed project, Alternative 4A, and channel margin enhancement has been significantly reduced. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because they are required by the existing BiOps. Also, see Master Response 2 regarding program vs project level detail in the EIR/EIS documents.

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		geometry and restoring riparian, marsh, and mudflat habitats on the river side of levees --Construct a shallow gradient from lower-elevation, submerged, shallow benches along existing river channels to higher elevation riparian habitat --Modifying or setting back levees to create low benches with variable surface elevations to create hydrodynamic complexity to support emergent vegetation; modify waterward side of levees or set back levees landward to create low floodplain benches	
1717	138	Between the Plan and EIR/EIS, BDCP is expected to increase sediment loading in the Sacramento River and tributaries at all 9 of the cofferdams during construction, the three intakes during operations (CM1), the Fremont Weir at the new operable gate, in the Yolo Bypass from more frequent inundation (CM2), and from several tidal habitat restoration projects: Additional references to sedimentation in the EIR/EIS: --Excavate from river bed (cofferdam area) an approximate depth of 30-35 ft of soil, for an excavated volume of 22,600 cubic yards. EIR/EIS, Appendix 3C. --Dredging on river bank and in river channel at each cofferdam. EIR/EIS, Appendix 3C. --Chapter 6 Surface Waters, Mitigation Measure SW-4 indicates BDCP will design measures [measures are undefined] to prevent a net increase in sedimentation discharge or accumulation in water bodies in order to avoid substantially affecting river hydraulics during peak conditions and changes in the courses of waterbodies. Will prepare a detailed sediment transport study and a sediment management plan for all water-based facilities, which will include periodic and long-term sediment removal actions. While SW-4 in EIR/EIS Chapter 6 on Surface Waters does mention sediment impacts, they are only from paved runoff during peak conditions which is minor contribution of sediment compared to the conservation measure activities identified above. Plus, SW-4 fails to provide a specific mitigation for reducing sediment build-up from surface run-off. The chapter therefore fails to address the numerous sources of sediment loading that various activities in multiple CMs creates during construction and operations.	As discussed in Appendix 3B, Environmental Commitments, Stormwater Pollution Prevention Plans will be completed for all construction sites to minimize the discharge of sediment and other constituents into receiving waters. Because these plans are part of the project descriptions of Alternatives 1 through 9 and with the implementation of Mitigation Measure SW-4, the effects are considered to be less than significant and not adverse. The Stormwater Pollution Prevention Plans will be completed during the design phase and must be approved by the State Water Resources Control Board or the Central Valley Regional Water Quality Control Board prior to construction. As discussed in the FEIR/EIS, Appendix 3F Paragraph 3F.8, DWR performed preliminary hydraulic modeling to evaluate potential impacts of proposed intake structures for CM1 along the Sacramento River on river hydraulics. The modeling results indicated that change in sediment loading during construction of the proposed on-bank type intake was not significant and did not warrant any mitigation. Based on the engineering completed to date, the intake cofferdams would encroach about 60-feet into the river. As part of future engineering, additional hydraulic modeling will be performed to accommodate design refinements and to comply with U.S.C. Title 33 – Navigation and Navigable Waters Section 408 and other permitting requirements.
1717	139	RECOMMENDATION -- Request an analysis of the multiple activities increasing sediment in areas of the Plan Area with specific emphasis on the impacts to flood control facilities, O&M costs and activities, and reductions in flood flow capacities in individual reaches and the State Plan of Flood Control system overall. Insert a new Impact into the Surface Water Chapter disclosing the adverse impacts to flood protection created by sediment loading, including the risks of increased flood exposure and mitigations to reduce those risks. The new impact analysis should specifically evaluate the flood risks created by sediment loading from: --CM1 construction activities, including the 9-10 cofferdams and dewatering discharges into drainage facilities and the Sacramento River and tributaries --CM1 operations of three new intakes on the Sacramento River --CM2 inundation affects at the Fremont Weir	The potential sources of sediment during construction of the conveyance facilities will be at the intake, forebay, tunnel shaft, and barge landing sites. Following construction, the primary source of sediment from the conveyance facilities will be from paved areas at the intake sites. The Stormwater Pollution Prevention Plans will be developed during the design phase for all construction locations and for all above-ground locations following construction. These plans will be designed to minimize or avoid increased discharge of sediment into the receiving waters as described in detail in Appendix 3B, Environmental Commitments, FEIR/EIS. Conservation Measures 2 through 11 are considered in a programmatic manner in the EIR/EIS. Implementation of these conservation measures would not occur until site-specific engineering and environmental analyses were completed to address flood and sediment issues.

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		--CM2 inundation effects on flood flow capacity in the Yolo Bypass --Reduced flood flows from in-water fill and benches mentioned in CMs 4-11	
1717	140	RECOMMENDATION -- Request the BDCP Annual Operations and Budget Plan include funding for sediment removal or mitigations to reduce flood impacts such as raising levee freeboard to offset los in channel and flood flow capacity.	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Section 6A.6.2.1.2 discusses DWR responsibilities regarding levee maintenance activities for levees modified by the proposed project.
1717	141	RECOMMENDATION -- Request the EIR/EIS provide an analysis of flood risk impacts in the Plan Area if the BDCP cannot conduct the amount of dredging and sediment removal identified in the Plan and EIR/EIS. RECOMMENDATION -- Request the BDCP Annual Progress Report include a section disclosing status of annual dredging and sediment removal targets, with particular attention given to how much behind the schedule for sediment removal is for the year, quantifying the amount not removed.	To minimize effects of sedimentation and erosion in the Plan Area as a result of project activities, DWR will develop and implement erosion and sediment control plans, which are described in Appendix 3B. In addition, DWR will develop plans to dispose and reuse reusable tunnel material (RTM), spoils, and dredged material. Information on this environmental commitment can also be found in Appendix 3B, FEIR/EIS. 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 a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Section 6A.7.2 in Appendix 6A, FEIR/EIS, discusses potential future hydraulic analyses during the Section 408 permitting process.
1717	142	RECOMMENDATION -- Request a Mitigation Measure be added into one of the EIR/EIS Chapters and the Implementing Agreement, placing a condition on the HCP/NCCP permits that the Central Valley Flood Protection Board be allowed to utilize their enforcement authority to go in and remove sedimentation build-up, vegetation, and other flood flow impediments created by implementation of CM2 with requirement that BDCP is responsible for reimbursing the CVFPB for all costs incurred in maintaining Yolo Bypass coefficient.	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 the IA, as well as a discussion of the current status of the IA, please see Master Response 5. Please see response to comment 1717-131 regarding the new preferred alternative, 4A. Also, see Section 6A.6.2.1.3 in Appendix 6A of the FEIR/EIS for discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations.
1717	143	Willing Sellers Necessary to Achieve Cumulative Habitat Goals As public entities that commonly utilize the eminent domain process for the public works, Reclamation Districts certainly understand and support the importance of such a tool for the construction of public works such as water conveyance components of the State Water Project --a.k.a. CM1. Willing Seller - the foundation of trust for environmental land acquisition However, "willing sellers" is universally accepted as the policy to be followed in HCPs for acreage needed for habitat, therefore it would be a misuse of eminent domain powers to acquire land for habitat in such a hostile way. Any hint to do otherwise will be considered by many Delta residents as intent to implement the BDCP in a combative attack, rather than a cooperative and neighborly manner. Veering from this tradition will set an unfortunate precedent and is likely to have a chilling effect on success of achieving BDCP habitat goals and on whether future HCPs will be embraced by communities if they know that eminent domain has been used for purchase of habitat restoration acreage in a State public works	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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		project.	CEQA/NEPA process.
1717	144	Much of the terrestrial and wetland habitat in the Plan Area is protected by private landowners, waterfowl clubs, land trusts and local conservation efforts including HCPs. Many local state and federal wildlife refuges suffer from a lack of adequate funding and increasing responsibilities. The existing burdens of the SWP/CVP Delta water export projects to restore habitat due to jeopardy findings on their facilities (BiOps) cannot fairly be placed on the backs of the very people who have protected the habitat and manage sustainable agriculture Approval of the HCP/NCCPs without an explicit will seller policy will render State and Federal wildlife agencies complicit in the "taking" of private lands that have been managed for productive agriculture for generations. Finally, willing sellers is the foundation of trust for environmental land acquisitions, but is missing from BDCP. "Taking" private land in order to provide endangered species Incidental "Take" Permits to DWR and U.S. Bureau of Reclamation in order to benefit regions outside the Delta by the delivery of "up to full contract amounts" as stated in the BDCP Project Purpose sends the wrong message to Delta residents and significantly reduces any opportunity for cooperation from them on the implementation of the Project Goals and Objectives. The California State Legislature thought a "willing seller" policy was important to include as a requirement for the Delta Conservancy (PRC [Section] 32366) which is designated in the Delta Reform Act statutes as a primary State agency to implement ecosystem restoration in the Delta. The Legislative intent clear mandates "willing seller" for Delta habitat acquisition, therefore the BDCP Plan and Implementing Agreement should do the same. RECOMMENDATION - To avoid alienating Delta residents even further, the Implementing Agreement for the BDCP should have a provision inserted that specifically prioritizes the use of public lands first, then considers conservation easements to be maintained by private landowners next, and adopts a willing seller policy for fee title purchase of property for any habitat restoration or other action not constructing SWP facilities (unless landowner requests condemnation), thus explicitly prohibiting the use of eminent domain for all actions not contained in Conservation Measure 1.	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. Also, see response to comment 1717-143 regarding the new preferred alternative, 4A.
1717	145	Phasing Of Intake Construction Will Reduce Cumulative Flood Impacts The California Central Valley Flood Control Association agrees with BDCP Project Proponents that uncertainty is not a good reason to do nothing. However, in the case of the BDCP, the high degree of uncertainty for achieving any meaningful benefits for covered species as expressed by independent science reviews and Endangered Species Act permitting agencies, [footnote 107: Vogel Report, NAS Comments, ISB Comments, Latour, R., Ph.D., Technical Review of the Bay-Delta Conservation Plan (BDCP) and Related Environmental Impact Review (EIR) (May 16, 2014) ("Latour Report")] results in a fundamental failure of BDCP to comply with NEPA, CEQA, ESA, NCCPA and other applicable law. [footnote 108: Vogel Report, Latour Report, NAS Comments, ISB Comments] According the independent review of the Plan and Effects Analysis by fisheries biologist Dave Vogel, every aspect of the impacts of BDCP on salmonids is either "uncertain" or "highly uncertain." [footnote 109: Vogel report]	This comment presents an opinion about the analysis uncertainty disclosed in the BDCP and Draft EIR/EIS, implying that the disclosed analysis uncertainties somehow invalidate the project alternatives and analyses. The FEIR/EIS specifically discloses in its methodology and impact discussions when uncertainty exists and uses the best available data, modeling results and analyzes to estimate the potential for adverse/significant impacts to occur from implementing the action alternatives. This full disclosure approach is required by both CEQA and NEPA and helps to ensure that the analyses are balanced and objective. Since the time of the Draft EIR/EIS, the ESA compliance approach has been modified for the preferred CEQA/NEPA alternatives (Alternative 4A) and Alternatives 2D and 5A to focus on construction and operation of conveyance facilities. This new approach has reduced the level of uncertainty associated with implementing BDCP conservation measures 2-21. However, uncertainty about conveyance facility operations still exists and is fully disclosed in the FEIR/EIS for these alternatives. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.

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		What are the uncertainties associated with implementing the BDCP? According to the BDCP documents, uncertainty exists in nearly every aspect of the project: fishery benefits, availability of private land for habitat, to the success of proposed mitigation. Listing the uncertainties would take too long because the word "uncertain" appears 1,008 times in the Plan and a whopping 2,303 times in the EIR/EIS and appendices. Despite the independent criticism of these uncertainties, BDCP proponents continue to blindly pursue the same "damn the torpedoes, full steam ahead" attitude that they did when promoting the original Peripheral Canal in the 1980s. However, this time, BDCP Proponents are not including the same precautionary measures such as phased construction and important assurances to the Delta and environmental resources that they did in the original proposal -- or required to obtain voter approval. Instead, BDCP Proponents appear to be betting everything on one horse to win and ignoring the extreme amount of risk for species, water supply reliability, and flood risk if they have chosen a horse hobbled by severe environmental and fiscal uncertainty.	
1717	146	It is noteworthy that the original Peripheral Canal legislation (SB 200 and ACA 90) contained specific protections designed to reduce environmental uncertainty and to protect Delta communities, including: --DWR executing water supply and water quality settlement contracts with 8 in-Delta entities (including North Delta Water Agency [NDWA], whose comments are referenced in this letter); --Prohibition against DWR transporting water for the CVP until Congress enacted legislation, or the Secretary of the Interior entered into a permanent contract with the department that specified certain terms and conditions; --Phasing the construction of the project so that a new intake in Hood would be operated for two years, in order to establish adequate fish screen and operational criteria before the next phases could proceed. Governor Jerry Brown's Administration obviously agreed to this precautionary approach the first time around and should do no less now. Currently, Conservation Measure [CM] 1, as proposed, will require the three new north Delta intakes to undergo some operational fish screen testing prior to full pumping, but only after all three north Delta diversions have been built. If these never-before-used screens do not function as planned, in terms of fish protection, then this gamble will end up a losing proposition for at least one out of the following three: the Delta ecosystem, "Delta-as-Place," or CVP/SWP Delta water contractors (who will be stuck with long-term payments on a very expensive stranded asset).	A number of important improvements have been made to set the current proposal apart from the Peripheral Canal. For instance, tunnels are proposed to reduce surface impacts associated with canals. The capacity of the Proposed Project is more than 10,000 cfs smaller than the Peripheral Canal. The project as proposed allows for dual conveyance allowing through-Delta operations to continue in order to maintain in-Delta water quality. The Proposed Project would require operation of the proposed new in-Delta portions of the CVP and SWP pursuant to environmentally stringent rules under the Federal Endangered Species Act and California Endangered Species Act. Refer to Master Response 36 for more information on the differences between the proposed project and the Peripheral Canal. 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. Collaborative science and adaptive management will support the proposed action by helping to address scientific uncertainty where it exists, and as it relates to the benefits and impacts of the construction and operations of the new water conveyance facility and existing CVP and SWP facilities.
1717	147	It is important to point out a fact that is rarely discussed in BDCP -- size matters. Other than the CVP/SWP existing diversion intakes in the south Delta, the average size of the Delta's agricultural water diversion intakes is about 12 inches with a 10-15 cubic feet per second [cfs] capacity (mostly siphon, not pumps), while the urban intakes are less than 300 cubic feet per second [cfs]. By comparison, each of the BDCP individual intakes will be 3,000 cfs, with a combined fish screen length of a little over a mile to be placed on a four-mile stretch of the Sacramento River's east bank. The BDCP used the size of the Glenn-Colusa Irrigation District's (GCID) 3,000 cfs intake as the precedent for the size selected for Conservation Measure [CM] 1. However, GCID's facilities	Based on the studies through the Collaborative Science and Adaptive Management Plan, information about appropriate triggers, off-ramps, and other RTO management of north Delta diversion operations will be integrated into the operations of the proposed project. The RTOs will be used to support the successful migration of salmonids past the north Delta diversion and through the Delta, in combination with other operational components of the project. Studies conducted at the north Delta intakes both before and during operations will further improve operations, as it relates to fish screen effectiveness and reducing other potential impacts to listed species.

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		are not located in a tidal estuary, do not have to screen for smelt, and were not without their own problems [footnote 110: These problems ultimately resulted in a very expensive redesign of fish screens and forebay. See chronology in U.S.A. v. Glenn-Colusa Irrigation District CVS-91-1074-DFL-JFM (1991)]. Recommendation -- To mitigate environmental and human resource impacts, require conditions in the Plan and Implementing Agreement [IA] for the CM1 construction to be phased, so that one intake is built, and fish screen effectiveness and compliance with permits is tested, and the altered Delta hydraulic and surface water elevation changes can be analyzed and mitigated before building the other two intakes.	
1717	148	COORDINATION WITH FLOOD MANAGEMENT AGENCIES, PLANNING EFFORTS, AND DELTA PROTECTION LAWS Every year, floods cause an estimated $2 billion in property damage, according to the National Oceanic and Atmospheric Association and California's Central Valley has been identified in one of the nation's highest risk categories. However, since the Legislature passed legislation mandating development of a flood protection plan and voters approved more than $4 billion in bond money for flood infrastructure after Hurricane Katrina raised public awareness to the dangers of levee failures, state and local partnerships have diligently been working to improve the level of flood protection. To safeguard at-risk people, properties and communities, the State of California holds the responsibility for a system of levees, weirs, bypasses and other risk-management facilities. Collectively, these State-federal flood protection works --as well as their associated lands, programs, conditions, and mode of operations and maintenance -- make up the State Plan of Flood Control (SPFC). [footnote 111: Proposition 1E and Public Resources Code (PRC) Section 5096.805 (j). A complete description of these assets and resources has been compiled by DWR into the State Plan of Flood Control Descriptive Document, available at http://www.water.ca.gov/cvfmp/docs/DRAFT_SPFC_Descriptive_Doc_20100115.pdf] These levees and other facilities provide flood protection during major storms to over 2 million people in 14 counties, including the Delta, and defend an estimated $47 billion worth of urban and agricultural development and the conveyance of SWP/CVP water deliveries from destruction. The BDCP indicates several portions of the State Plan of Flood Control facilities will be removed, built on, vegetated, inundated, moved, or breached in order to construct new SWP water conveyance facilities and restore habitat to obtain state and federal incidental take permits for the 50-year coordinated operations of the SWP and CVP Projects. However, the BDCP has failed to provide any meaningful description of how the hundreds of actions in the Plan's 22 Conservation Measures will either complement or conflict with the hundreds of flood protection projects currently being planned in the Delta as part of the Central Valley Flood Protection Plan adopted in 2012. There are also ongoing cooperative flood protection projects in various phases between the U.S. Army Corps of Engineers, Central Valley Flood Protection Board, and local Reclamation Districts using funding appropriated by Congress for improvements to the SPFC and by voters in Proposition 1E. In fact, as part of the ongoing Central Valley Flood Protection Plan, regions have been developing local flood protection projects for their area and meeting once a month in coordination meetings with the other regions, DWR, and the Central Valley Flood Protection Board. Yet, the public and decision makers are not informed of this or told	Please see Appendix 6A, Section 6A.6.4, FEIR/EIS, for a discussion on impacts of restoration-related environmental commitments and conservation measures, including a substantial reduction in the amount of planned habitat restoration under the new proposed project, Alternative 4A. Also, see Section 6A.6.2.1.3 for a 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. Section 8.1 discusses current and future BDCP/CWF coordination efforts with other flood protection programs, projects, and plans.

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		how BDCP will ultimately integrate projects slated for the same or adjacent locations. Ironically, this appears to be an example of the left-hand, right-hand scenario because the two separate branches of DWR each lead the CVFPP and BDCP efforts, but have failed to integrate or coordinate the two processes and plans. The California Central Valley Flood Control Association warns BDCP and DWR as the lead agency that implementation of these two massive infrastructure projects can either be done in a complementary manner to achieve the two objectives (flood protection and export water supply) by combining forces and funding or continuing to resist serious and meaningful coordination which will result in a head-on collision leaving one or both of these infrastructure plans as fatal victims of this myopic planning.	
1717	149	The following are issues the California Central Valley Flood Control Association believes have us all headed on a path of mutual destruction instead of mutual benefits. Central Valley Flood Protection Plan (CVFPP) Conflicts As statutory mandates, directives, and intent adopted into law by the California State Legislature, the CVFPP has supremacy over the voluntary terms and conditions of incidental take permits issued under HCP and NCCPA. Therefore, the BDCP Plan and EIR/EIS must disclose how the projects contained therein will propose modifications and mitigations to assure compliance and compatibility with the CVFPP. The Federal government has reconstructed levee systems along the Sacramento and San Joaquin River systems. The individual levees within these systems act in coordination in order to provide flood benefits to all lands within the Central Valley of California. The State of California is currently working on the Central Valley Flood Protection Plan, which will evaluate the current system and recommend implementation of certain flood projects. The main concern of the California Central Valley Flood Control Association is that the BDCP must act in accordance and coordinate with the ongoing work of the State under the Central Valley Flood Protection Plan. In particular, the key component of the Sacramento system is the Yolo Bypass, which carries 80% of the water at the latitude of Sacramento during extreme floods. The current State Plan of Flood Control and the Central Valley Flood Protection Plan are currently evaluating the adequacy of the existing flood control system. In addition, the plans will be looking at increasing protection to urban areas at the 200-year flood frequency level. The results of these plans may cause the Yolo Bypass and other parts of the system to be modified in order to increase their flood carrying capacity. It is imperative that the EIR/EIS evaluate impacts to flood protection when developing habitat or additional floodways under its plan. The EIR/EIS must avoid reducing current flood capacity throughout the whole Central Valley flood control system. The BDCP's failure to analyze in the EIR/EIS how the substantial alteration of flood facilities proposed by CMs 1, 2, and 4-11will comply with legislatively-mandated objectives contained in CVFPP which the State has spent millions of dollars of bond money to develop. These are costly omissions if BDCP projects increase Sate's liability exposure or conflict with flood investments identified during CVFPP implementation. RECOMMENDATION -- EIR/EIS must evaluate and mitigate impacts to conflicts with flood protection projects being planned as part of legislatively mandated CVFPP, including	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. In addition, DWR will consult and coordinate with applicable flood management agencies to ensure flood protection and levee improvement programs are not interfered with during construction and operations of the proposed project. Also, see Section 6A.6.4 for a discussion on impacts of restoration-related environmental commitments and conservation measures, including a substantial reduction in the amount of tidal habitat restoration under the new proposed project, Alternative 4A.

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		achieving 200-year level of flood protection in urban and urbanizing areas during the BDCP permit term.	
1717	150	Conflicts With U.S. Army Corps of Engineers (USACE) Vegetation Policies The Army Corps has "minimum" standards for maintaining vegetation-free buffer zones on all State Plan of Flood Control facilities, including Project Levees. Many of the individual actions contained in the BDCP's habitat conservation measures propose planting "riparian" vegetation to benefit aquatic species. Conservation Measure 6 has explicit intent to plant at least 20 linear miles of channel margin by modifying channel geometry to accommodate new riparian, marsh, and mudflat habitats on the water side of levees to improve habitat conditions along salmon migration routes. CM5 Seasonally Inundated Floodplain Restoration and CM7 Riparian Natural Community Restoration are also related to increasing vegetation (described in Plan Section 3.4.5.3.3) Section 3.4.6's description of Conservation Measure 6 states that at least 15 miles of the enhancement will be sited along the channels of the following: Sacramento River, Steamboat Slough, and Sutter Slough. All of these waterways are protected by State Plan of Flood Control Project levees and therefore must comply with U.S. Army Corps of Engineers vegetation restrictions. However, neither the Plan nor the EIR/EIS analyzes the "feasibility" of these locations or the possibility that the CM6 goals and objective cannot be achieved due to conflicts with the Army Corps vegetation policies. If not carefully designed to avoid encroachment onto the flood control structures that are under the jurisdiction of the Central Valley Flood Protection Board, the USACE restrictions on vegetation may apply and the BDCP cannot assume that the Plan's vegetation objective can be accommodated during the 408 permitting process. Therefore, the EIR/EIS must account for this possibility in its analysis and by offering alternative conservation measures to replace this one. RECOMMENDATION -- Insert maps into the Plan to identify preferred location of the channel margin habitat that specifically show whether the levees proposed for vegetation plantings are SPFC Project levees or other facilities in the USACE RIP program. RECOMMENDATION -- The Plan and EIR/EIS must include alternative options for achieving CM6 objectives if the locations identified in Plan Section 3.4.6 are not able to plant the amount of vegetation assumed to be necessary to contribute to recovery of covered species. RECOMMENDATION -- To mitigate the impacts that increased vegetation can have on flood protection in the Plan Area, the Plan and Implementing Agreement should require as a condition of the permits a requirement the execution of binding agreements (Memorandum of Understanding) with the CVFPB to memorialize the commitment of BDCP to fund a securitized endowment to fund the application and ongoing maintenance requirements of a vegetation variance from the standard vegetation guidelines for CM6 and all other habitat restoration actions proposed on SPFC facilities. The MOU will confirm the commitment of the BDCP Proponents or DWR to manage the vegetation in perpetuity in accordance with the variance requirements to maintain reliability of the flood control facility: 1) maintain the safety, functionality, and structural integrity of the flood facility; 2) ensure accessibility for surveillance, monitoring, inspection, maintenance, and flood-fighting is retained; 3) conduct	Please see Appendix 6A, Section 6A.6.4, FEIR/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 the new proposed project, Alternative 4A. 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. Also, see Section 6A.6.2.1.3 for a 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. Refer to Section 6A.6.2.1 for information on potential changes to flood water conveyance and capacity under the proposed project, and Section 6A.6.4.1 for information on setback levees under the proposed project. Please see Master Response 2 regarding project vs program level of detail in EIR/EIS documents. Also, see Section 6A.7.2 on potential future hydraulic analyses during the Section 408 permitting process. Appendix 6A also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.

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		periodic clearing of some types of vegetation; and 4) agree that the variance does not substitute for poor maintenance practices. RECOMMENDATION -- To mitigate the impacts that increased vegetation can have on SPFC facilities and in the Plan Area generally, the BDCP Annual Work Plan & Budget should include funding for the ongoing maintenance of all the vegetation planted to meet the Conservation Strategy's habitat restoration goals and the Annual Progress Report should provide annual updates on vegetation management in all BDCP restoration areas with particular attention to any instances where maintenance is falling behind and affecting the reliability of SPFC flood control structures.	
1717	151	Central Valley Flood Protection Board (CVFPB) Encroachment Approval Required Under California law, no modification to the federal/State flood control system (SPFC), encroachment, or project may be constructed on or near the Sacramento and San Joaquin Rivers or their tributaries without the explicit approval of the Central Valley Flood Protection Board. Recent legislation has increased the board's encroachment enforcement authority to remove such encroachments if necessary. The construction description for Conservation Measure 1 water conveyance facilities indicates numerous work areas and activities that are planned on or near flood control facilities in the Board's jurisdiction, including roads and highways that have levees underneath that are to be moved, blocked, driven on in excess of current conditions or if equipment will be staged even temporarily on or near the levee. BDCP must identify which agency has regulatory responsibility and the process that must be followed in order to allow this action to occur, especially for levee systems that are under the jurisdiction of the U.S. Army Corps of Engineers, which at the very least will require permits and approvals from the Corps, CVFPB, and Reclamation Districts. A full description of the flood easement restrictions or other terms and conditions as well as hydrologic modeling results typically required for approvals to modify any portion of the State Plan of Flood Control facilities. RECOMMENDATION -- The commitment to enter into binding agreements (Memorandum of Understanding) with the CVFPB and Local Maintaining Agencies/Reclamation Districts should be inserted as a condition of the Plan permits and Implementing Agreement to memorialize how staging of construction equipment, construction traffic, and/or road re-routing will occur and negotiate permit conditions prior to any construction activities. The Memorandum of Understanding will also describe the flood-fighting funding and activities responsibilities, require development of an evacuation plan for the 10-year CM1 construction period, provide for increased costs to Local Maintaining Agency for increased levee maintenance and drainage costs, adoption of a levee maintenance schedule during the 10-year CM1 construction, responsibility for funding recovery after a flood event, and other mitigation measures to ensure the reliability of the flood protection infrastructure to perform in a high water flood event.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.2.1.1, FEIR/EIS, for information on potential DWR encroachment permits, and Section 6A.6.3.2 for potential impacts to levee integrity from increases in construction traffic. Also, see Section 6A.6.2.1.3 for a 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. Section 6A.7.2 discusses potential future hydraulic analyses during the Section 408 permitting process. Section 6A.6.3.3 includes information on potential changes in surface water elevation as a result construction activities, including cofferdam installation, and Section 6A.6.3.2 discusses potential impacts to levee stability, including increased construction traffic loading on levees. Appendix 6A also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.

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1717	152	Fails to Comply with Delta Protection Statutes Maintaining the Delta levees for flood control provides multiple benefits to the State and is recognized in several sections of the Water Code, Public Resources Code, and the Delta Protection Act. Both Project and non-Project levees are critical elements to the State's ability to convey water through the Delta and maintain water quality as part of the water supply reliability. Even if new SWP conveyance facilities are ever built, the export of water from the Delta will still require the use of the SWP/CVP South Delta pumps and conveyance of water through the Delta, so the long term stability and maintenance of these levees will remain critical components of a sustainable export supply of water. In addition, the levees are also critical to protecting the other coequal goals of protecting the Delta ecosystem and Delta as an evolving place, including protecting life and property. Legislative findings in the 2009 Delta Reform Act declare that reducing risks to people, property, and state interests in the Delta to be an inherent objective in the coequal goals for management of the Delta. River flows are talked about extensively in the BDCP: the amount of river flows for fish, water quality, and water supply. River flows are extremely important to flood management too, but managing those flows for flood protection are not analyzed in the Draft EIR/EIS. One example of how BDCP would reduce the Sacramento River Flood Control Project's designed flood flow capacity is CMs 1 and 2 require the placement of at least 10 cofferdams in the Sacramento River and Delta channels during construction of the Fremont Weir, 3 intakes, and 6 barge loading facilities. Choking the Sacramento River's flood flows in 10 locations from Natomas to Tracy could cause water to overtop levees in several areas, including up the American River when water starts backing in a flood event. RECOMMENDATION -- EIR/EIS must explain whether activities in the BDCP's Conservation Measures comply or conflict with requirements in the Delta Reform Act, Delta Protection Act, and other laws that set standards for flood protection and emergency preparedness in the Delta.	The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements Please see Appendix 3J, FEIR/EIS, for discussion on an approach that may be considered for Alternative 4A, the proposed project, to meet the Delta Plan Consistency requirements. Also, see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Refer to Section 6A.6.4 for a discussion on impacts of restoration-related environmental commitments and conservation measures, including the removal of Conservation Measure 2 under the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because it is required by the existing BiOps. Section 6A.6.3.3 includes information on potential water surface elevation changes due to construction activities.
1717	153	Fails to integrate NEPA requirements with other Planning and Environmental Review Procedures NEPA indicates the purpose of integration is so that all of the related environmental review procedures can run concurrently rather than consecutively. Currently there are several habitat restoration projects in the BDCP Conservation Measures analyzed at a Programmatic level that have their own environmental review processes under development or initiated with Public Scoping and other activities [footnote 112: "Planned FRP and other Tidal Habitat Restoration Projects For BiOps and ITP Compliance," DWR and California Dept. of Fish & Wildlife (CDFW). Fish Restoration Program: Habitat Restoration for the Delta (2010)]: --Fremont Weir Fish Passage [footnote 113: DWR, "Notice of Preparation of an Environmental Impact Statement/Environmental Impact Report on the Yolo Bypass Salmonid Habitat Restoration and Fish Passage project" (March 4, 2013). Available at http://www.usbr.gov/mp/BayDeltaOffice/docs/NOP_YBSHRFPP_03-04-2013MeganS.pdf] --Prospect Island Tidal Habitat Restoration [footnote 114: DWR, CEQA Scoping Report:	For more information regarding project and program level analysis please see Master Response 2. 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.

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		Prospect Island Tidal Habitat Restoration Project Environmental Impact Report, Fish Restoration Program Agreement (August 2013). See also Army Corps and DWR, Prospect Island Ecosystem Restoration Project Solano County, California Environmental Assessment/ Initial Study (June 2001).] --Lower Yolo Restoration Project [footnote 115: State and Federal Contractors Water Agency, Lower Yolo Ranch Tidal Restoration Project Final EIR (July 2013). Available at http://www.sfcwa.org/?attachment_id=873] --Hill Slough Tidal Marsh Restoration [footnote 116: CDFW, Hill Slough Restoration Project Phase I - Preliminary Restoration Design, Environmental Documentation and Permitting (June 2013) Available at https://www.dfg.ca.gov/ERP/erp_proj_hill_slough.asp] --Rush Ranch [footnote 117: CA COASTAL CONSERVANCY, Staff Recommendation: RUSH RANCH MARSH AND UPLAND DESIGN AND MANAGEMENT [File No. 07-071-01] (November 8, 2007) Available at http://scc.ca.gov/webmaster/ftp/pdf/sccbb/2007/0711/0711Board04_Rush_Ranch.pdf] --Lower Putah Creek Re-Alignment Many of these projects are contained in Table 3.2-1 of the Plan, Consistency of the BDCP with Requirements of Recent Biological Opinions and have separate EIS processes are also tracked in a DWR Annual Report [footnote 118: DWR, Fish Restoration Program Annual Report (Dec. 2013) Available at http://www.dwr.water.ca.gov/environmentalservices/docs/frpa/FRP_Annual_Report_Final_and_signed_Jan%20201 4.pdf] and in via the listserve updates provided by the State. [footnote 119: To subscribe to the quarterly "E-news" update from FRP, the DWR website advises contacting Dan Riordan, Chief, Fish Restoration Program. See: http://www.dwr.water.ca.gov/environmentalservices/frpa.cfm] Fish Restoration Program is a joint effort between DWR and CDFW to implement habitat restoration in partial mitigation for the State Water Project's (SWP) impacts on sensitive fish species in the Delta. These efforts are being undertaken to satisfy requirements of recent Biological Opinions for SWP and Central Valley Project (CVP) operations. FRP is also intended to address the habitat restoration requirements of the CDFW Longfin Smelt Incidental Take Permit (ITP) for SWP Delta operations. The BDCP EIR/EIS does not appear to discuss these separate processes, their relationships, similarities, or differences in terms of impacts and mitigations as they relate to similar/same projects in CMs 2-22. Even though these projects are currently being analyzed at the Project Level, the BDCP claims to only be able to provide Programmatic Level details on these projects. Because information about these projects is readily available, any projects listed in CMs 2-22 that have separate environmental analyses currently being conducted, particularly CM2 and Prospect Island in CM4, should be analyzed at the Project Level instead of Programmatic. Many of these habitat projects propose to breach, move, remove, inundate, vegetate, or otherwise encroach upon State Plan of Flood Control and Delta levees and bypasses and therefore require their flood impacts to be fully analyzed in the EIR/EIS. Of particular interest to the Association's members is the true nature, scope, intent, location, and severity of impacts associated with these related habitat restoration projects.	

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		RECOMMENDATION -- The Plan must be amended to incorporate more detailed Project Descriptions of CM2-10 projects that currently have separate Project Level Analyses being prepared and amend the EIS to incorporate more of the Project Level analyses information for the cross-over projects of the Fish Restoration Program (Plan Table 3.2-1) and disclose the Project Level impacts identified these separate analyses.	
1717	154	DEFERRED ANALYSIS OF FLOOD IMPACTS TO U.S. Army Corps of Engineers PERMITTING FAILS TO DISCLOSE SIGNIFICANT PUBLIC SAFETY RISKS Analysis, Disclosure, and Mitigation of Restricted Flood Flows Inappropriate Misleading conclusions and missing impacts associated with Alt 4 that would affect flood management adversely are common throughout the EIR/EIS, mostly because studies about the existing baseline conditions and the Project's impacts are deferred to a later time. This means the development of any necessary mitigation measures are also delayed, preventing meaningful assessment of the project's potential public safety and property impacts. An example of when insufficient information being provided leads to incorrect or misleading conclusions is found in SW-2. While it may be true that Alt 4 "would not result in adverse effects on flood management" or "an increase in potential risk for flood management" in terms of "Changes in Sacramento and San Joaquin River flood flows" as stated in the title of Impact SW-2, the current wording in that section is too broadly stated, leading the reader the impression there is no other flood management risks created by Alt 4 which is not true. There are in fact other effects on flood management from Alt 4 from CM1-4 in particular associated with increased erosion and seepage which result in additional costs to local levee maintaining agencies to repair and maintain. Yolo Bypass Flood Management, lines 38-40 states: "CEQA Conclusion: Alternative 4 would not result in an increase in potential risk for flood management compared to Existing Conditions when the changes due to sea level rise and climate change are eliminated from the analysis." "No mitigation is required." The EIS/EIR's simple, narrow focus on only how much flood flow channel capacity the proposed project would utilize fails to recognize that the existing flood facility (Yolo Bypass) is already not performing to design conditions as mentioned in a previous comment on 1986 flood event exposing flood flow capacity concerns at the south end of the Yolo Bypass. In addition, the EIR/EIS appears to have made the conclusions of no impacts from Sacramento River peak flows based on existing channel capacity and therefore failed to analyze what the new cubic feet per second flow on Sac River from Freeport to Courtland due to lost in-river channel capacity of 16.21 acres of in-water habitat during construction which includes installation of at least 5 cofferdams (3 North Delta intakes, Fremont Weir, and Walnut Grove barge dock) in the Sacramento River with a 12.3 acre in-water permanent footprint (EIR/EIS, Fish and Aquatic Resources Chapter, page Part 3 -- 11-1). This narrowing of the Sac River will certainly constrain and reduce the current flood flow capacity, but does not appear to have been analyzed in the EIR/EIS. The narrowing of channel and reduction of cubic feet per second capacity for flood flows will put additional strain on levees in terms of erosion and available freeboard during a high water event. Therefore, there is no tolerance for even small increases of 1% in some areas without	The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP including the Yolo Bypass Enhancements are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements. Please see Section 6A.6 in Appendix 6A, FEIR/EIS, for information on project consistency with flood standards and regulations. This section also discusses impacts to flood flow conveyance, scour and erosion effects, changes in surface water elevation near the intakes, and effects from restoration-related conservation measures and environmental commitments on flood management. As discussed in the FEIR/EIS, Appendix 3F Paragraph 3F.8, DWR performed preliminary hydraulic modeling to evaluate potential impacts of proposed intake structures for CM1 along the Sacramento River on river hydraulics. The modeling results indicated on-bank intakes, as proposed under the BDCP/CWF, would have minimal impacts on river hydraulics. As part of future engineering, additional hydraulic modeling will be performed to accommodate design refinements and to comply with U.S.C. Title 33 – Navigation and Navigable Waters Section 408 and other permitting requirements.

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		compromising public safety. Before more stress/increases in peak flows can be added, mitigation work to improve the current flood capacity in some channels and reaches will need to be done first (prior to construction or water ops implementation). The costs for structural or non- structural solutions and ongoing maintenance to reduce the risk level of flooding increased due to BDCP should be fully paid for by BDCP at no cost to the local levee maintaining agency (RD), landowners, or county governments. RECOMMENDATION -- The EIR/EIS needs to include an analysis of how much the Sac River is narrowed between Freeport and Courtland, quantify the loss of cfs capacity, identify any freeboard or levee stability/strength deficiencies that would be created by erosion impacts due to more narrow channel to accommodate peak flood flows for levees on both sides of the rivers as well as upstream and downstream from CM1 facilities, and offer specific mitigations to address this reduced flood management capacity impact. RECOMMENDATION - The reduced flood flow capacity in a four mile plus stretch of the Sac River due to construction of CM1 needs to be quantified, analyzed and mitigated with improvements to levee heights and stability which may require rocking or landside berms on both sides of the river to be paid for by BDCP. What will the width of the channel and the cfs capacity on the Sacramento River between Freeport and Courtland after conveyance facilities in CM1 are constructed? This is critical mitigation as the levees on both sides of the river are project levees that are part of the State Plan of Flood Control. RECOMMENDATION - The EIR/EIS should provide analysis and conclusion regarding how much the proposed water operations in Alt 4 increase flood risk above and beyond what is predicted impact from sea level rise/climate change.	
1717	155	Improperly Defers Analysis of Impacts A lead agency must identify all significant effects on the environment caused by a proposed project that cannot be avoided. The EIR/EIS cannot defer the determination of the scope and nature of significant impacts until future studies and reports are prepared without including specific performance standards, timeframes for completion, and a commitment to mitigate. The EIR/EIS relies extensively on deflecting the responsibility of properly analyzing impacts by deferring the environmental analysis of CMs2-22 to a later time and onto other agencies, which leaves our agency with inadequate information to fully assess the direct, reasonably foreseeable indirect, and cumulative impacts of a proposed action under the Preferred Project. For instance, reliable surface water resources impacts to in-Delta water users cannot be accurately determined pursuant to this EIR/EIS because Section 6.3.1.4 discloses that the changes in SWP/CVF surface water resources under this analysis are only evaluated at project level if sufficient detail was available, and could only make assumptions regarding the location and extent of tidal marsh restoration because it is only analyzed at a programmatic level in this EIR/EIS. Therefore, the true environmental impacts on in-Delta water users is insufficient for our Agency to determine if the mitigations offered are sufficient or not until the project level environmental analysis is provided. The information is far too general, even for a programmatic document, to enable decision-makers to make findings as to whether particular mitigation measure would be effective and enforceable,	Conservation Measures 2 through 21 for the action alternatives are considered in a programmatic manner in the Final EIR/EIS. Implementation of these conservation measures would not occur until site-specific engineering and environmental analyses were completed. Please see Master Response 2 regarding program vs project level of detail in the FEIR/EIS. The use of the term “will” with respect to Mitigation Measure SW-4 is included because the design plans and specifications will be required to meet these performance measures for two reasons. First, because these measures are part of many of the permits required for construction of these facilities. Second, because mitigation measures adopted in the Final EIR will become part of the commitments of the CEQA lead agency, DWR. Detailed information cannot be developed at this time until design geotechnical, bathymetric, topographic, and drainage surveys are completed to determine the specific construction methods.

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		much less whether they would be feasible. A specific example if Mitigation Measure SW-4 (from Alt 1A) which fails to meet this standard according to the following language used: --"will have to demonstrate" --"will implement measures" --"will design and implement" --"Drainage studies will be prepared" --"to assess the need for, and to finalize, other drainage-related design measures" --"Based on study findings, if it is determined" --"will design measures --"will be conducted" --"management plan will be prepared and implemented during construction." The wording above is replete with vague and ambiguous language in terms of what kind of measures or actions will be implemented, cannot meet any performance standards such as "no- net-increase" or "prevent an increase" because the impact analysis fails to include a description of the baseline conditions that were used to determine the impacts associated with altering drainage patterns and increasing the rate or amount of runoff, failed to provide details about what the studies or management plans should include, and as a whole defers any and all formulation of specific mitigation actions in specific locations and to specific harmed parties to some future date such as during construction itself. It is inappropriate and insufficient to assume that the details of mitigation to be fleshed out at a later date will be adequate to address the impacts. Further, Mitigation Measure SW-4 fails to account for and analyze impacts resulting from BDCP if the future studies and management plans are not completed before adverse impacts begin occurring or to identify the extent of these studies and management plans or their costs and how they will be paid for. Mitigation Measure SW-4 is therefore inadequate, incomplete, and not sufficiently specific and mandatory in order to be fully enforceable.	
1717	156	Description of Known and Likely Permit Mitigations Should be Disclosed in Project Description According to construction descriptions of CM1, there will be at least 9 cofferdams in the Sacramento River and tributary channels during construction of the 3 new North Delta intakes, six barge loading docks, and possibly modification of Sacramento Weir too which would make a total of 10 cofferdams. The three intake locations will be on the east-bank of the Sacramento River between about Clarksburg and Courtland and the six barges both on the river and following channels (Sacramento River is about 700-feet wide near the three intakes, leaving approx. 380-580 feet open for navigation and flood flows during the 4-6	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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		year construction period): 1. Sacramento River near Georgiana Slough in Walnut Grove; 2. North Fork Mokelumne River that connects the Walnut Grove area with the lower Mokelumne River and San Joaquin River; 3. San Joaquin River south side of Venice Island on bend east of the DWSC; 4. Middle River east side of Bacon Island 2 miles south of Connection Slough; 5. and two on Woodward Canal on north and south sides of canal on Woodward and Victoria Islands that will essentially block off the entire channel. The primary methods of mitigating the reduced flood flow capacities is to either setback the levees on the other side of the intakes/barge facilities or raise the height of levees on both sides of the river or channel to accommodate the higher surface water levels: • Water surface elevations upstream of the cofferdams could increase under flood flow conditions by approximately 0.5 foot relative to EC and No Action Alternative, which may require installation of setback levees or other measures to prevent unacceptable increases in river water surface elevations under flood-flow conditions, reverse flow areas, high velocity areas causing scour and erosion, and reflection of flood waves towards other levees. (EIR/EIS, Surface Water Chap 6) Both options are extremely expensive with the setback levee option costing more money and time due to the need to condemn properties and move county roads. Similar work done by Sacramento Area Flood Control Agency in Natomas cost over $600 million for construction of an adjacent setback levee including seepage berms, relief wells, and cutoff (slurry) walls. Installing seepage berms involve the placement of new dirt on the land side of the levee to minimize the influence of water seeping from the river underneath the existing levee, which can undermine the levee stability. The relief wells also remove water from beneath the levee foundation during elevated river stages and the cutoff (slurry) walls are low permeability wall constructed within the levee embankment to reduce the seepage of water under the levee.	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. Please see Appendix 6A, Section 6A.6.3.3, FEIR/EIS, for information on potential impacts from cofferdam installation. Under the proposed project, Alternative 4A, surface water elevation changes would not exceed 0.10 feet at any intake location even under flood flow conditions. See Section 6A.6.2.1 for more information on flood flow conveyance and capacity under the proposed project. Also, see Section 6A.6.2.1.3 for a 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.
1717	157	The fact that the mitigations necessary to have flood-neutral impacts as required in U.S. Army Corps of Engineers and CVPBD encroachment permits for construction of the intakes and barge facilities are known by the BDCP Lead Agency, those projects should be fully described. This is particularly important since installation of at least one of the intakes will be across Clarksburg and require the removal of houses and possibly businesses too. The avoidance of describing the significant environmental impacts similar to the one described above is a common occurrence due to many of the impacts and potential mitigations requiring studies to be conducted to some future deferred time. This prevents the California Central Valley Flood Control Association's members as local maintaining agencies to understand the true nature, scope, and intensity of CM1 or any of the other 21 Programmatic Conservation Measures. In fact, there is no way for Reclamation District 999 which maintains the west-bank Project levees to know that BDCP plans to set back an extended length of a portion of the system they are responsible. The Reclamation Districts, affected landowners and Clarksburg and other Delta residents	Please see Appendix 6A in the FEIR/EIS for information on how the BDCP/CWF will be implemented in way that is consistent with applicable flood protection standards and regulations and is committed to no net increase in flood risk. This appendix includes information on encroachment permits, cofferdam effects, construction traffic on levee roadways, setback levees, among others. Also, note that the new preferred alternative, 4A, is not an HCP and does not include large-scale habitat restoration. Instead, restoration would be implemented to offset and mitigate project impacts consistent with state and federal permitting processes.

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		should not have to wait until BDCP is seeking USACE and CVFPB encroachment permits to find out that Alt. 4 intends to setback their levee. RECOMMENDATION -- The Plan and EIR/EIS should describe the known mitigations that will likely be required in separate permits, like the USACE and CVFPB, requiring setback of levees on other side of intakes in order to assure accommodation of flood flows during the 9-10 construction period of CM1. This analysis should also disclose how many additional acres will have to be condemned on other side of the river, describe how existing levee road will be relocated and traffic volumes and flows changed over there, whether these impacts are considered "permanent," and if and how the impacts from these mitigations need to be additionally mitigated. RECOMMENDATION -- Noticing and consulting with the numerous Reclamation Districts that would be affected by setback levees proposed to offset the flood impacts of the 9-10 CM1 cofferdams should be immediately initiated and discussions completed prior to certification of the EIR/EIS. Fails to Provide Substantial Evidence to Support Impact or Mitigation Conclusions Under CEQA the lead agency's factual conclusions must be supported by substantial evidence -- facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts (CEQA Guidelines [Section] 15384(b)). Speculation does not constitute substantial evidence, and unsubstantiated narrative or expert opinion asserting nothing more than "it is reasonable to assume" that something "potentially may occur" is not analysis supported by factual evidence (e.g.; 2,600 dewatering radius).	
1717	158	Conclusions Lack Evidence There are too many chapters and individual impact statements that rely on conjecture instead of providing evidence to support the CEQA/NEPA conclusions to list them all, so the following will serve as an example of this systemic problem found throughout the EIR/EIS: For instance, Impact SW-8 cannot conclude that Alternative 4 will "not result in an increase to exposure of people or structures to flooding due to construction of the operations of habitat restoration facilities" simply by complying with U.S. Army Corps of Engineers, Central Valley Flood Protection Board, and DWR requirements. The impact findings must specify what physical design features, standards, requirements, and operating criteria that are required under those permits that apply to each element/feature of each of the habitat measures that will be constructed. The conclusions in the EIR/EIS must be supported by substantial evidence -- actual facts. Unsubstantiated narrative or expert opinion such as the following asserting is not analysis supported by factual evidence: --"could increase flood potential" Page 6-61, lines 30-31. --"these potential increases" Page 6-61, line 35. --"action could also reach" Page 6-61, line 36. What is the scientific background upon which these assumptions are made? Where are these assumptions anticipated to occur? Are these impacts anticipated to occur more	Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, summarizes DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 discusses project consistency with USACE, CVFPB, and DWR flood standards and regulations. Also, see Section 6A.7.2 for a discussion on potential future hydraulic analyses during the Section 408 permitting process. The commenter's referenced text is indicative of potential increases in flood potential in the absence of complying with the standards and regulations discussed in the Sections mentioned above. By designing the project elements to conform to CVFPB, USACE, and DWR engineering standards and flood protection regulations, implementation of the proposed project would not increase flood potential. Also, see Section 6A.6.4 for a discussion on impacts of restoration-related environmental commitments and conservation measures under the new proposed project, Alternative 4A, which substantially reduces the amount of tidal habitat restoration.

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		frequently than existing conditions? If so, how much more often and when?	
1717	159	MISCELLANIOUS EIR/EIS PROBLEMS Inadequate Modeling to Evaluate Flood Capacity Impacts Evaluation of flooding in the Sacramento and San Joaquin systems requires flood modeling from the Delta all the way up to the highest reaches of the levee systems. The State is currently developing models to perform this type of operation. The BDCP must utilize these models in order to adequately evaluate the impacts that any habitat or other changes within the flood system under BDCP. In the meantime, the BDCP should utilize the hydraulic analysis in the Central Valley Flood Protection Plan and other recent DWR System-Wide evaluations to analyze the impacts that BDCP features such as 9 cofferdams, levee moving and breaching, reverse flows, and other Conservation Measure impacts will have on preventing flood flows from being blocked, constrained, or otherwise redirected in unsafe ways that increase risk of levee failure from overtopping, scouring or other detrimental impacts. RECOMMENDATION -- Request that BDCP Consultants use existing analyses and modeling available in the CVFPP, other DWR flood risk evaluation studies and reports, or modeling by the CVFPP such as the 2-D modeling of Sutter Bypass to evaluate the flood flow patterns and regimes to be created by BDCP water conveyance operations, including the effects of vegetation growth in bypasses and flood flow capacities constricted by cofferdams. RECOMMENDATION -- Request the BDCP do new modeling runs (including hydraulics) and effects analysis using newer CALSIM model and specifically reporting in the EIR/EIS the hydraulic impacts in terms of locations, intensity, duration, and timing.	As described in Chapter 6; Appendix 3C, Construction Assumptions for Water Conveyance Facilities; and Appendix 3B, Environmental Commitments, FEIR/EIS, 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, in accordance with the requirements of the U.S. Army Corps of Engineers, DWR, and Central Valley Flood Protection Board. Additionally, DWR would consult with local reclamation districts, cities, and counties to ensure that construction activities would not conflict with existing and proposed flood protection measures. During the design phase, additional topographic and bathymetric surveying would be completed and final design plans would be reviewed by State and federal flood management agencies, as discussed in Chapter 3. Because these assumptions are part of the project description and will be required by State and Federal law and regulatory requirements, and because changes in maximum surface water elevations along the Sacramento River were within historical observations without flood conditions (see Appendix 5A, Section C, Modeling Results, Sections 26 through 32, of the FEIR/EIS), the impact analysis determined that flood impacts would not occur due to construction and operation of the conveyance facilities. The FEIR/EIS did analyze potential changes in SWP and CVP reservoir storage which could result in related flooding along the downstream river reaches in Chapter 6, and determined that the impacts would not be significant or adverse. Please see Appendix 6A for a discussion on project consistent with applicable flood protection standards.
1717	160	EIS fails to provide adequate summary section (NEPA [Section] 1502.12) NEPA requires that an EIS contain a section summarizing the statement. The summary is specifically supposed to stress: --Major conclusions; --Areas of controversy (including issues raised by agencies and the public); --Issues still pending resolution (including the choice among alternatives). It took a lot of searching, but we finally found Section ES.7 Areas of Known Controversy and Issues to be Resolved that listed controversial issues, but provided no discussion of the unresolved issues. This is particularly concerning in light of the long list of unresolved issues in the Federal Red Flag comments and those submitted by Cooperating Agencies. Chapter 1 Executive Summary Section ES.1 Introduction describes the purported benefits of the proposal, but we could not find a description of the EIS's major conclusions. Based on the Plan's Effects Analysis and the 750 impacts with 52 of them "Significant and Unavoidable" in the EIR/EIS including 7 Unavoidable Impacts in the Water Quality Chapter that cumulatively result in creating an Unavoidable Significant Impact in the Public Health Chapter, there are certainly some very serious environmental impacts imposed on the natural and human resources in the Plan Area that warrant a comprehensive and coherent	Section 1.7 in Chapter 1, Introduction of the FEIR/FEIS outlines the areas of controversy. The Executive Summary includes an impact summary table of all the NEPA findings. Major conclusions are included at the beginning of each resource chapter in comparison tables. As noted by the commenter, Chapter 31 includes a table of Significant and Unavoidable impacts. Section 2 of the RDEIR/SDEIS also provides an overview of some of the revisions made to the Draft EIR/EIS. Please refer also to Master Response 14, which addresses water quality issues.

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		discussion for the public to understand the full extent of the scope and nature of the proposal. RECOMMENDATION -- Request a separate EIR/EIS Summary of Conclusions, Unresolved Issues, and Known Controversies Section that includes all three of the elements listed in NEPA Section 1502.12 be drafted and included in the EIS.	
1717	161	RECOMMENDATION - Request the Lead Agency add a comprehensive summary section to the EIS that describes the major environmental impact conclusions made, including a comprehensive and coherent discussion of whether the 750 impacts, including the 52 "Significant and Unavoidable" adverse impacts outweigh the purported benefits. This can only be done if consistent with NEPA Section 1502.14, the summary provides an objective comparison of the benefits versus adverse impacts to see if one side is weighted heavier than the other. RECOMMENDATION - Request the summary be prepared in accordance with (NEPA [Section] 1502.12) be more descriptive by specifically including as outstanding issues the need to analyze, disclose, and mitigate the extensive system-wide impacts posed by the reconfiguration and modification of the State Plan of Flood Control as an interconnected flood protection system. RECOMMENDATION -- Request the EIR/EIS summary also include the analysis of the cumulative impacts associated with pile driving, dewatering, drainage system interference, and levee road degradation will have on the ability to maintain levee integrity and PL 84-99 eligibility.	Please see Appendix 6A, Section 7, FEIR/EIS, for project impacts to levees and flood protection. Also, see Section 6A.6.2.1.3 for a discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 discusses project consistency with USACE, CVFPB, and DWR flood standards and regulations. Section 6A.6.3.4 discusses pile driving impacts, and Section 6A.6.3.2 includes information on construction traffic impacts to levee integrity. Appendix 6A also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	162	Inadequate Project Description NEPA requires that the proposal in an EIS is properly defined ([Section] 1502.4(a)). Under CEQA, the fundamental purpose of an EIR "is to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (CEQA Guidelines [Section]15003(d), citing People ex rel. Department of Public Works v. Bosio 1975. However, every chapter the California Central Valley Flood Control Association reviewed in the Draft BDCP EIR/EIS fails to evaluate the severity of many of the adverse environmental impacts that will result, directly or indirectly, from BDCP despite requirement of CEQA that the agency explore, disclose, and analyze what the actual impacts are, where they will occur, who they will affect, to what extent they can be mitigated, and whether alternative actions can reduce the project's significant impacts. Understanding the overall Project description is further complicated by bifurcating the Plan into project ready and programmatic environmental analysis of the CMs precludes any meaningful analysis of the foreseeable environmental impacts and obscures the true scope of the project (CEQA Guidelines [Section] 15384), thereby preventing meaningful CEQA review and thwarting CEQA's disclosure requirements and precluding the informed decision-making required (CEQA Guidelines [Section] 15384). The incomplete and shifting nature of the project description was further exacerbated by the overhaul of the CM1 Project description twice, including most recently in mid-August 2013. This results in the Plan and EIR being unclear whether it is referring to its originally	The proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP, including the Yolo Bypass Enhancements, are not carried forward fully in the new preferred alternative, 4A (9,000 cfs diversion capacity), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements. For more information regarding project and program level analysis please see Master Response 2. For information on the adequacy of the mitigation measures included in the FEIR/EIS, please see Master Response 22. Discussions of the main environmental attributes affecting individual covered species are provided in Appendix 2.A of the 2013 Public Draft BDCP. Effects of the proposed water conveyance and associated restoration activities on general resource areas are discussed in the applicable resource chapter in the FEIR/EIS. Resource areas are addressed separately under sections for each of the new project Alternatives, including surface water, groundwater, water quality, fish and aquatic resources, terrestrial biological resources, agricultural resources, air quality and greenhouse gases, public health, and others. Where impacts are determined to be significant, environmental commitments will be implemented to avoid and/or offset these effects, where possible. 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. Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, summarizes DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 discusses project consistency with USACE, CVFPB, and DWR flood standards and regulations. Also, see Section 6A.6.3.2 for information on construction traffic and potential effects to levees,

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		proposed project (15,000 cfs Surface Canal), Alt. 1A (15,000 cfs underground tunnels with 5 intakes), Alt. 4 (9,000 cfs tunnels with 3 intakes), or the revised Alt. 4 (9,000 cfs tunnels, 3 intakes, smaller/moved intermediate forebay, moved tunnel alignment). Failure to provide an accurate, stable, and finite project description is a prejudicial abuse of discretion (PRC [Section] 15378 and CEQA Guidelines [Section] 15124). As a result, the level of project analysis of CM1 is vague, has confusing and has contradictory physical and construction design and location descriptions throughout chapters of Plan and EIR/EIS that are literally all over the map, doesn't include baselines to evaluate impacts against, state conclusions without providing any evidence of support, fails to provide site-specific information that identifies the extent, severity, duration, locations, timing, amounts, etc. Same can be said about the level of analysis for mitigations in terms of baseline existing conditions, vague descriptions of remedies, conclusions regarding significant or not lack evidence to support. Most impacts and mitigations are merely guesstimates by consultants without any evidence to validate their validity. It is incorrect to say that specific components and detailed descriptions and timing and implementation of CM 2-22 are provided, since they are only evaluated at the program level and lack specific project information to allow an adequate impact analysis, effects, or appropriate level of mitigation. In fact, page 1-13, lines 12-14 states: "Design information for CM2-CM22, which include restoration and conservation strategies for aquatic and terrestrial habitat and other stressor reduction measures, is currently at more of a conceptual level." [emphasis added] Further, page 1-13, lines 18-19 states: "authorization of CM2-CM22 may not occur until a later date, when more detailed design information is available. [emphasis added] A more specific flood-related example is the project description and level of environmental analysis lacks sufficient details regarding the existing baseline conditions, locations, time periods, quantity of runoff and discharges from dewatering activities, and duration of these discharges to determine whether Impact SW-6 in fact properly captures and characterizes the full extent of drainage overflows and localized surface flooding from runoff created by several square miles of construction and dewatering activities anticipated in CM1. Therefore, California Central Valley Flood Control Association finds it impossible to provide comprehensive or complete comments on the EIR/EIS or evaluate the cumulative impact of various projects due to the lack of adequate detail in the project description and failure to provide specific performance targets such as, but not limited to, flood flow amounts and velocities, drainage volumes and locations from dewatering, the number of CM construction trucks (and other equipment) traveling over roads, or the levee conditions underneath the most heavily used roads for Alt. 4.	and Section 6A.7.2 on potential future hydraulic analyses during the Section 408 permitting process. Mitigation Measure SW-4 in Chapter 6, FEIR/EIS, describes measures to be taken to reduce potential effects described under Impact SW-6.
1717	163	Inadequate Baseline Description Prevents Proper Analysis of Impacts A fundamental flaw found in every chapter we reviewed in the EIR/EIS that prevents assessment of the Project's environmental impacts on the flood control system in the Plan Area is a failure to adequately describe the baseline conditions or compare with the Project design and operations. A proper environmental analysis of a project of this size and long-term (10 year)	The Existing Conditions are described in each resource chapter and assumptions for quantitative model assumptions for the Existing Conditions are presented in each resource chapter and the associated appendices. With respect to flood management criteria, the same assumptions for existing and future conditions are included in the Existing Conditions, No Action Alternative, Proposed Project, and all other action alternatives.

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		construction timeline needs to provide an accurate, stable, and finite description of the project and the existing baseline conditions used to determine the significance of environmental impacts in order to allow the public or a cooperating agency to determine the true nature and extent of the actual impacts likely to be caused by the Project. Generally most of the Impact statements contain little to no description of the existing baseline conditions that were used to determine impacts; or where the direct and indirect impacts will occur; or to account for changing conditions that are likely to occur prior to or during the 10-year construction time period. The EIR/EIS did not even use the state's Central Valley Flood Protection Plan (CVFPP) and EIR/EIS, recently adopted in 2012, to identify the 1957 design flood flow of the Sacramento River Flood Control Project as a baseline condition, let alone identify portions of the flood protection system that don't currently meet the flood project's design flow. In addition, the analysis failed to: 1) study/review existing maps of the island drainage systems and determine where and for how long disconnections will occur and how they will affect the functionality of the rest of the drainage system to prevent localized flooding of entire island's population, structures, and farmland (drainage maps are readily available at DWR); 2) to provide a specific repair/reconstruction options to avoid/fix the disconnected drainage systems; to provide assurance that the repairs will be paid for by BDCP; 4) to identify lands and land uses that will be adversely affected by localized flooding; 5) or disclose the nature and extent of any of these impacts. Maps that are readily available at DWR and possibly the reclamation districts and other public agencies of the Delta island's existing irrigation and drainage system facilities and their capacity capabilities including size of pumping stations, seepage profile, groundwater levels, stormwater detention basins, where people and properties are located and vulnerable to damage from localized surface flooding, as well as Federal Emergency Management Agency floodplain maps. These are critical baseline materials to understand the existing conditions as well as determine locations where existing facilities will be disrupted/disconnected/overloaded by the project activities.	As described under Impact SW-7 in Chapter 6 of the FEIR/EIS, the USACE, CVFPB, and DWR would require that any construction that would disturb existing levees to be designed in a manner that would not adversely affect existing flood protection. As described in Chapter 3 of the FEIR/EIS, facilities to be constructed along the levees would be designed to provide flood neutrality and to provide continued flood management at the same level of flood protection as the existing levees; or if applicable, to a higher standard for flood management engineering and permitting requirements if the standards are greater than the existing levee design during construction and operations. Additionally, DWR would consult with local reclamation districts to ensure that construction activities would not conflict with reclamation district flood protection measures. Please see Appendix 6A in the FEIR/EIS for more information on project consistency with applicable flood protection standards.
1717	164	Wrongheaded Assumptions About Levee Failures Results In Incorrect Export Water Supply Conclusions It is not reasonable for the EIR/EIS environmental analysis to make the following assumption: "expect that long-standing and regulatory mandates could be altered to provide the ability to pump water for SWP and CVP under emergency conditions resulting from the reduced water supply conditions related to a seismic event." Unless the specific alterations to these regulatory mandates are included in the BDCP permits, then this is NOT an action the EIR/EIS can "expect" to occur. This is an arbitrary and capricious assumption that the EIR/EIS inappropriately makes, obfuscating the actual significant environmental impacts to SWP/CVP water supplies. RECOMMENDATION -- The EIR/EIS should either add an Impact to Water Supply Chapter regarding the unavoidable significant adverse environmental impacts to water supply under Alt. 4 due to remaining residual risk of levee failures from earthquake or sea level rise because no levee improvements included in any of the BDCP CMs and no new flood	It is unclear where the commenter's quoted statement comes from. The impact analysis in Chapter 5, Water Supply, of the FEIR/EIS does not assume changes in State and federal water quality and flow criteria during emergency conditions, such as levee failures. The text in Chapter 5 does not include the reference included in this comment. As described in Section 3D.3.2.3.3, Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions, in the FEIR/EIS, the No Action Alternative assumptions include the continuation of existing policy and management actions, including repairs of levees on public and private lands under existing programs if the levees are integral to the main waterways of the Delta. Please see Master Response 16 regarding seismic events. The proposed project does not include a commitment to improve the current levee system except where the project explicitly includes levees in the project construction. Levees are an important public safety resource and the proposed project would not change levee policy or replace ongoing programs and grant projects aimed at facilitating and supporting levee improvements in or outside the Delta.

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		management bond money approved by California voters. The potential of a temporary shut-down of any SWP/CVP Delta water conveyance facilities during the 50-yr permit should be acknowledged in the EIR/EIS as an Impact to Export Service Areas in the Water Supply Chapter and provide a mitigation measures to provide BDCP funding for maintenance and improvement of Delta levees critical to the conveyance of SWP/CVP water supplies. RECOMMENDATION - EIR/EIS should either add an Impact to the Water Supply Chapter regarding the unavoidable significant adverse environmental impacts to SWP/CVP export water supply under Alt. 4 due to residual risk of levee failures from earthquake or sea level rise that will result in a temporary shut-down of the South Delta pumps. RECOMMENDATION -- To avoid water supply impacts from Delta levee failures, the EIR/EIS should provide a mitigation to provide BDCP funding for improvement of Delta levees proportional to how critical those levees are to the conveyance of SWP/CVP water supplies. RECOMMENDATION -- Consistent with the Delta Stewardship Council's Delta Plan RR-R2 to collect assessments on State infrastructure as part of their Delta flood risk management strategy, the BDCP EIR/EIS should include a mitigation that establishes a Benefit Assessment Fund in the BDCP's Annual Work Plan and Budget, Sec. 6.3.1, for payment of SWP/CVP's cost-share for maintenance and improvement of levees in the Plan Area critical to the conveyance of water to diversion and delivery facilities in the South and North Delta.	
1717	165	Separating Conservation Measures into Programmatic and Project-Level Project Descriptions Abuses CEQA/NEPA Purpose and Intent Due to only one of the Conservation Measures purportedly being analyzed at a Project-Level, the EIR/EIS relies extensively on deflecting the responsibility of properly analyzing impacts by deferring the environmental analysis of CMs2-22 to a later time and onto other agencies, which leaves the Association with inadequate information to fully assess the direct, reasonably foreseeable indirect, and cumulative impacts of a proposed action under the Preferred Project on the flood protection system in the Plan Area. The cumulative effects of conveyance construction with the Programmatically analyzed habitat projects could pose far greater increases in risks of flooding and could therefore threaten lives and property if not properly accounted for and mitigated in the EIR/EIS. Reliable surface water resources impacts to in-Delta water users cannot be accurately determined pursuant to this EIR/EIS because Section 6.3.1.4 discloses that the changes in SWP/CVF surface water resources under this analysis are only evaluated at project level if sufficient detail was available, and could only make assumptions regarding the location and extent of tidal marsh restoration because it is only analyzed at a programmatic level in this EIR/EIS. In addition, the information is far too general, even for a programmatic document, to enable decision-makers to make findings as to whether particular mitigation measures would be effective and enforceable, much less whether they would be feasible. RECOMMENDATION -- Require a permit condition that prohibits construction of any BDCP habitat measures if they will significantly increase flood risk when combined with the conveyance construction flood risk impacts and require alterations to water ops and deliveries as an alternate solution to any reduction in flood protection created by the habitat project. Or permits could instead require BDCP to fully pay for appropriate mitigation projects to reduce the flood risk to the same level of flood risk that would be	Please see Master Response 2 regarding program vs project level detail in the EIR/EIS documents. Also, see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Refer to Section 6A.6.4 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.

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		increased by habitat project prior to its construction.	
1717	166	Inadequate Adaptive Management The adaptive management process proposed in BDCP draft documents fails to describe how monitoring will be designed to establish cause and effect relationships between implementation of specific Conservation Measures or operation of new conveyance facilities and the type and magnitude of human impacts from those measures such as economic and public safety. Draft documents gives examples of a tidal marsh restoration project being reduced or discontinued or water operation being modified if its providing little benefit to covered species, however it does not explain what will happen if a habitat project or water operation results in causing economic or physical harm to humans in the Delta. Due to the significant scientific uncertainties regarding the impacts from the construction and operation of new conveyance facilities and the implementation of habitat Conservation Measures in the Delta, the EIR/EIS must include an adaptive management process that includes modification of any conveyance or habitat project that result in human consequences, including reducing flood protection. For instance, if the Fremont Weir project mentioned earlier is implemented and funding for vegetation maintenance in the Yolo Bypass is not available and a riparian forest starts growing in the Bypass, will the Plan adaptively manage the habitat measure to assure flood capacity is returned. Just as there is an adaptive management process for responses by covered species to the Plan's implementation, there also needs to be an adaptive management process to respond to negative human impacts caused by the Plan's implementation. Otherwise, this is not a complete adaptive management plan.	Please see responses to comment letter 1448 for a comprehensive response to comments from the Independent Scientific Review Panel, which addresses adaptive management. Also, please note that the proposed project (Alternative 4A) no longer includes the BDCP, and it does not include any actions in the Yolo Bypass. 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. Also, see Section 3.6.4.4 in Chapter 3 of the FEIR/EIS for information on adaptive management under Alternative 4A.
1717	167	Significant Modification of the Sacramento River Flood Control Project Warrants U.S. Army Corps of Engineers Acting As Co-Lead Agency (NEPA [Section] 1501.5(a)(2) and [Section] 1506.2) At least 10 of the 22 BDCP Conservation Measures propose to modify the location, configuration, and purpose of Sacramento River Flood Control Project facilities, particularly CM1 and CM2, including installing an operable gate on a flood facility (Fremont Weir) to divert water into the Yolo Bypass as part of CVP/SWP project operations as well as impacts to navigation. Consequently, the U.S. Army Corps of Engineers has direct authority and responsibility over several actions in BDCP that have overlapping dependence on conveyance of CVP/SWP export water with operation and configuration of the Sacramento River Flood Control Project and navigable waters in the Plan Area ([Section] 1501.5(a)(2)) In light of the extensive nature and scope of the changes proposed by water conveyance entities to the Central Valley federal/state flood protection system and navigable waters in the Plan Area, the U.S. Army Corps of Engineers should have a greater role in supervising the preparation of the BDCP EIS. RECOMMENDATION -- Reclamation Districts request the USACE be designated as a Co- Lead Agency on BDCP, reinitiate the NEPA environmental review process with the Corps sharing supervising responsibility for the preparation of the EIS.	Please see response to Comment 1717-157. Also, see Chapter 19, Transportation, and Chapter 15, Recreation, FEIR/EIS for a discussion on potential impacts to navigation. Also, see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations.

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1717	168	MITIGATION DEFICIENCIES Proposed Mitigations Do Not Match The Impact Description, Leaving Many Adverse Impacts Unmitigated The EIR/EIS Chapters we reviewed all included specific numbered impacts where the adverse impacts identified in the title and description were left unmitigated in the CEQA Conclusion. This type of oversight in matching the impact conclusions and proposed mitigations to the impacts described in the title and analyses description if the EIS was written in an analytic rather than encyclopedic manner as required by NEPA ([Section] 1500.4(b) and [Section] 1502.2.2(a)) and keeping discussion of less significant issues shorter than the significant impacts ([Section] 1500.4(c) and [Section] 1502.2(b)). An example of which we saw many examples in every chapter reviewed, is the effects described in SW-5 fail to mention anything related to the impacts describing "altered drainage pattern," and instead only focus on surface water changes, including elevations and velocities. As a result the conclusion is both faulty and inadequate at it fails to include any identification of impacts associated with disconnecting existing drainage systems that will result in localized flooding and other adverse environmental impacts.	Mitigation measures and impact discussions have been reviewed and revised as necessary to ensure that the mitigation and impact analysis covers the subject impact. Also, see Master Response 22 regarding adequacy of the mitigation measures. For SW-5, specifically, the analysis evaluates potential alternations to drainage patterns and surface runoff by describing these changes in terms of modifications to channel geometries and changes in velocity, floodplain roughness, and water surface elevations.
1717	169	EIR/EIS Often Lacks Mitigations for Specific Impacts Examples of detrimental natural resource and human effects associated with implementation of BDCP that fail to provide mitigation Measures to avoid or substantially lessen adverse impacts were in every chapter reviewed, but for brevity we will only describe one. Mitigation Measure SW-4 is not only insufficient, but it is disturbing because the mitigation appears to be one-sided in that it only addresses the impacts to the BDCP facilities in terms of reducing runoff from paved areas and removal of sediment to keep the intakes operational, while ignoring the significant damage caused to surrounding lands, structures, people, and economy. Since Impact SW-4 is very clear that the excavation, grading, stockpiling, soil compaction, and dewatering activities of CM1 will alter the intricate system of drainage patterns, paths, and facilities -- then where is the mitigation to re-design and re-construct a new drainage system for the lands surrounding the CM1 facilities so that they can remain reclaimed and continue their current beneficial use of the land? Where is the mitigation to deal with the Impact SW-4 of changes in drainage flow rates, directions, and velocities caused by increased water added to the existing drainage system by dewatering activities? Where is the mitigation for impacts to species, recreation and in-Delta water supplies caused by impeding Sacramento River flows, creating changes in river/channel hydraulics, and increased water surface elevations? What about the impacts on local reclamation districts for increased levee maintenance costs for seepage and erosion damage caused by impeding river flows, changing hydraulic flows, and increasing water surface elevations? Sedimentation and surface runoff from pavement impacts pale in comparison to the significant adverse impacts from disconnecting the existing drainage system and increasing water surface elevations and hydraulics.	As described in Chapter 6, Surface Water, and Chapter 14, Agricultural Resources, in the FEIR/EIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route. DWR would consult with local reclamation districts to ensure that construction activities would not conflict with reclamation district flood protection measures. See Appendix 6A for information on project consistency with flood protection standards, including discussions on potential changes in water surface elevations and changes in Sacramento River flood flow conditions. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the FEIR/EIS). 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. Potential changes in biological species, recreation, public services, and socioeconomics are analyzed in Chapters 11, 12, 15, 20, and 16, FEIR/EIS, respectively. Mitigation for Impact SW-4 is described under Mitigation Measure SW-4 in Chapter 6 of the FEIR/EIS.

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1717	170	As stated in Chapter 7 of the EIR/EIS, the existing drainage facilities are "intricate networks," which means they have been carefully designed and located to work with the natural drainage patterns on the island and to function as a system. Therefore, any disconnection potentially renders the whole system inoperable. Since Chapter 7 further confirms that successful agriculture is dependent on the operation of this drainage system and clearly states the island will become flooded without the drainage system, the impacts identified in SW-4 also apply to SW-5, and are significant and adverse to the ongoing agricultural productivity of lands adjacent to the BDCP habitat restoration areas facilities. These impacts include: 1) localized flooding of homes/businesses and farmland that could result in loss of planted crops or prevent any crops from being planted that is exacerbated by the increase in runoff associated with the discharge of water from dewatering activities into local drainages (Impact SW-6) which increases the flows and water surface elevations; 2) increased costs to local landowners and reclamation districts to re-design and re-construct a functioning drainage system; 3) increased pumping costs to local landowners and reclamation districts to build new pumps in new areas and to drain the additional water put into the drainage system by any dewatering activities associated with habitat restoration. This mitigation needs to address ALL impacts to ALL parties, not simply mitigate adverse impacts to BDCP facilities. This measure needs to be corrected to properly identify specific measures to be implemented on lands surrounding the CM1 facilities and in-river activities that are adversely impacted under Impact SW-4.	The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the FEIR/EIS). 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. For a discussion on project consistency with applicable flood protection requirements, please see Appendix 6A, FEIR/EIS. Chapter 6, Surface Water, analyzes potential impacts to existing drainage patterns and surface runoff.
1717	171	The Impact Disclosures and Conclusions Fail To Provide Supporting Evidence Of Environmental Analyses Conducted (NEPA [Section] 1500.2(b)) A lead agency must identify all significant effects on the environment caused by a proposed project that cannot be avoided. However, the EIR/EIS must first perform a rigorous analysis that discloses the nature and extent of the impacts to support the conclusion that impacts are significant in order to provide the public and cooperating agencies with adequate information to fully assess the direct, reasonably foreseeable indirect, and cumulative impacts of a proposed action. There is no evidence identified in Impact SW-6 to support the adequacy of the conclusion that or provide the nature and extent of the impacts or their location, intensity, or duration. Wording such as: --"could result in adverse effects" --"if the runoff volume exceeds the capacities of local drainages." The EIR/EIS fails to provide the comparison of the amount of the additional discharges from dewatering activities to the ability and capacity of the local drainages to accommodate, identify where and when localized will occur if dewatering discharges exceed the local infrastructure capacities, or how the additional dewatering activities will prevent farmers from keeping their lands sufficiently drained in order to grow crops. If there are lands that farmers will not be able to drain due to the drainage canals being full from CM1 dewatering discharges, then the loss of agricultural production is a significant adverse impact that needs to be acknowledged, analyzed and mitigated. CEQA conclusion lacks credibility as is general and vague in making a blanket assumption without site-specific identification of where, for how long impacts will occur, or who will be	The effects addressed in Impact SW-6 in Chapter 6, FEIR/EIS, are related to surface water bodies (e.g., Sacramento River and tributary creeks). Due to the requirements of the State and federal agencies that would be included in construction permits, and the implementation of Mitigation Measures SW-4, it was determined that as compared to the Existing Conditions, the changes in surface water flows and surface water quality due to construction of the water conveyance facilities would result in less than significant changes. Also, please see Appendix 6A in the FEIR/EIS for a description on project consistency with applicable flood protection standards. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, FEIR/EIS). 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.

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		impacted. Impacts are significant where? Significant for how long? Significant on whom? Will landowners adjacent and near construction areas experience flooding of their properties? Will reclamation district have increased pumping costs due to additional discharges by BDCP activities? Will there still be sufficient capacity for adjacent landowners to discharge their drainage? Will BDCP's use of local drainage facilities require approval or permitting by owners/operators of the drainage system?	
1717	172	Fails to Mitigate Pursuant to Federal Policy on PL 84-99 Eligibility, Particularly on Levee Vegetation Many of the reclamation districts have opted to incorporate vegetation into levee design and management for non-Project levees in the Delta. The benefits can include reducing surface erosion to the levees and providing habitat value. Unfortunately, the current U.S. Army Corps of Engineers (Corps) vegetation policy prohibits vegetation on and around federal Project levees. There are two logical implications of this Corps policy for implementation of several levee and floodway vegetation actions presumed to occur in BDCP Conservation Measures. RECOMMENDATION - The BDCP's Conservation Measures proposing any planting of vegetation on any State Plan of Flood Control facilities and floodways should emphasize that these projects should incorporate plants that will help provide bank stability near levees, albeit without encroaching into the clearance area designated by the Corps vegetation policy or impacting channel flow characteristics. RECOMMENDATION -- Request that any new habitat vegetation to be planted and managed that is an encroachment on State Plan of Flood Control facilities that would affect the eligibility under the U.S. Army Corps of Engineers' PL 84-99 (RIP) either: 1. Be compliant with the U.S. Army Corps of Engineers' Vegetation Engineering Technical Letter; [footnote: Corps' policy document #] or 2. HCP/NCCP permits must include a condition that planting of vegetation on any flood control facilities that is considered an encroachment upon the State Plan of Flood Control is prohibited until the BDCP Implementation Office is granted a waiver or approval of a System Wide Improvement Framework [footnote: U.S. Army Corps of Engineers memos on System Wide Improvement Framework process and requirements] from the Corps. RECOMMENDATION -- Request the Plan and EIR/EIS acknowledge that the USACE's no-vegetation on Project levees policy is only one of dozens of potential federal PL 84-99 guidelines, such as structural encroachments and levee penetrations, affecting Project levees and flood facilities in the Delta. Accordingly, as a mitigation the EIR/EIS should require BDCP to develop an appropriate strategy how BDCP's modifications of the State Plan of Flood Control will ensure compliance with USACE's PL 84-99 and other conditions contained in the 1953 Memorandum of Understanding with Central Valley Flood Protection Board.	Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Also, see Section 6A.6.2.1.2 regarding DWR maintenance responsibilities and conformance with USACE PL-84 standards. Because the existing levees within the project limits along the Sacramento River are federal project levees, construction of the proposed intakes would require permission from US Army Corps of Engineers (USACE) and compliance with U.S.C. Title 33 – Navigation and Navigable Waters Section 408. Section 408 requires that proposed alterations must not be injurious to the public interest or affect the USACE project's ability to meet its authorized purpose. Therefore, as part of future engineering and Section 408 permitting efforts, DWR will work with USACE and Central Valley Flood Protection Board to ensure the affected levee Sections will meet or exceed the flood protection requirements of federal project levees during and after construction.
1717	173	ECONOMIC ANALYSIS AND FISCAL ASSURANCES Transfers CVP/SWP Delta Export Water Contractor Costs to Public And Plan Area There are significant inadequacies and inequities contained in the BDCP's current funding	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. Numerous comments were

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		strategy that require substantial improvement and modification to prevent serious economic harm to the Delta region generally and the Plan Area specifically. An in depth review of the BDCP's funding strategy reveals an intentional attempt to receive economic benefits that absolve BDCP Proponents of future responsibility to provide any future compensation, land, or water supply beyond what is specified in the Plan for the next 50 years while transferring costs for regulatory obligations of the federal Biological Opinions and absorbing economic and environmental degradation from 52 "significant and unavoidable" adverse impacts on to other parties. In addition, a disregard for financial obligations under the Delta Reform Act, other Delta protection statutes, area-of-origin, and other responsibilities appears to be a systemic flaw in the BDCP's funding scheme as currently proposed. For instance, the BDCP suggests the state and federal contractors are only responsible for 12.6 percent of the costs of CM4. [footnote 120: BDCP, Table 8-41.] The rationale is that only a small portion of restoration occurring under CM4 is currently required by the U.S. Fish and Wildlife Service Biological Opinion for the Long-Term Operational and Criteria Plan. [footnote 121: OCAP BiOp] However, the BDCP fails to disclose that tidal restoration will also serve to mitigate the adverse impacts of locating new SWP diversion facilities to the North Delta -- in effect, is mitigation for implementation of CM1. Indeed, according to the Plan Effects Analysis, CM4 and CM5 are necessary to reduce the frequency and severity of reverse flows created in the Sacramento River at the Delta Cross Channel and Georgiana Slough from the construction of new SWP pumping facilities in the North Delta (CM1). Accordingly, the cost of CM4 and CM5 should be borne by CVP and SWP water contractors, because these actions mitigate the operational impacts of the North Delta intake facilities (CM1), which solely benefits the water contractors at great expense to the Delta's water quality, environment, public safety, and economy. Imposing the costs of most of the BDCP's Programmatic conservation measures on the general public when those activities should be funded by the BDCP Proponents certainly does not appear to be co-equal. Among other perks, these proponents receive the benefit of improved water quality and supply reliability, while Delta communities will deal with adverse impacts, including degraded water quality, community blight from building abandonment, and crippling of an agricultural paradise going back to the Civil War.	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.
1717	174	Even more valuable benefits directly accruing to CVP and SWP Delta export water contractors are conveniently glossed over in order to deflect BDCP costs onto others includes -- the 50-year HCP "No Surprises" rule [footnote 122: 63 FR 8859, Feb. 23, 1998 (Section 14.0 of the BDCP Implementing Agreement)] and the explicit NEPA Project Purpose, repeated many times throughout the BDCP documents, to "restore and protect the ability of the SWP and CVP to deliver up to full contract amounts." [footnote 123: See, e.g., BDCP EIR/EIS Chapter 2.] This is partially achieved by maximizing water supply for SWP and CVP relative to the Annual Operating Plan according to the "Real-Time Operational Decision-Making Process" described in Plan Chapter 3, Section 3.4.1.4.5. Under the No Surprises regulatory assurances, once the incidental take permit has been issued the federal government will not require additional conservation or mitigation measures, including land, water (includes quantity and timing of delivery), money, or other restrictions on the use of those resources covered in the Plan. (63 FR 8868) This means that if the status of a covered species in the HCP unexpectedly declines any time during the 50-year permit term, the primary obligation for undertaking additional conservation	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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		measures rests with the federal government, other government agencies, or other nonfederal water users and/or landowners who have not yet developed HCPs. So, if the BDCP fails to improve species or causes further decline of covered fish as predicted in the federal Red Flag comments, Delta and northern California water users may end up responsible for conditions caused by CVP/SWP operations. --"[t]he U.S. Fish and Wildlife Service and National Marine Fisheries Service shall not require the Permittees to provide additional land, water or other natural resources, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level provided for under the BDCP, this Agreement and the Federal Permits with respect to Covered Activities without the consent of the Permittees." [footnote 124: Implementing Agreement for the Bay Delta Conservation Plan, Section 14.3] Allowing the burden of new Endangered Species Act regulatory actions to be the responsibility of other legal users of water for the next 50 years, expecting other landowners to sacrifice their property for habitat restoration, and asking other taxpayers to fund the BDCP while the economic and regulatory benefits accrue to CVP and SWP export service areas are unacceptable re-directed impacts to the Delta and Northern California region. They certainly are not co-equal by anyone's definition. The nexus for the federal agencies providing these regulatory assurances are the purported benefits to be achieved by implementation of Conservation Measures, including CMs 2-22 which (according to Red Flag comments and the Plan's own Effects Analysis) are needed to offset the numerous significant adverse effects caused by CM1. Another example of deflection of CVP and SWP costs onto other parties occurs in the discussion of Changed Circumstances in Chapter 6, where the Plan assumes the costs associated with the failure of a "non-BDCP" levee will fall on "the appropriate responsible entity" [footnote 125: BDCP, p. 6-35.] -- presumably Reclamation Districts via assessment revenues from their local landowners. What the BDCP fails to reveal, however, is that DWR (BDCP Proponents or some combination of CVP/SWP contractors) will most likely be the "appropriate responsible entity" pursuant to the substantial land acquisitions required for CM1 and many habitat conservation measures. As a result of its land ownership, or at least management by the Authorized Entities Group, BDCP will be responsible like any other local landowner for operation, maintenance, and failure of Delta levees -- even "non-BDCP" levees. The BDCP's obfuscation of this issue misleads the public by suggesting that the cost of remediation of a non-BDCP levee will not be part of the costs of the Plan. Moreover, while the BDCP suggests local reclamation districts will be financially responsible for reconstruction of restored areas in the event of levee failure, DWR and other Proponents have failed to analyze whether any of these local reclamation districts have the resources or financial capacity to even reconstruct BDCP restoration areas. The BDCP should include such an economic analysis if the BDCP is going to rely on these local agencies to act as a backdrop in the event of levee failure. Otherwise the BDPC permittees cannot assure adequate funding for Changed Circumstances that may occur over the 50-year life of the Plan.	would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.
1717	175	The BDCP anticipates that in the event of a levee failure, one possible corrective action would be to purchase and restore additional lands as a "replacement" project. Neither the BDCP nor the DEIR/EIS discusses the additional costs of purchasing replacement lands, nor do they discuss the additional natural resource and human impacts of taking more	The additional costs of replacing restoration sites in the event of a levee failure are discussed in the 2013 public draft BDCP in Chapter 8, Section 8.2.6, Changed Circumstances Costs. One changed circumstance that is considered foreseeable is a levee failure that could flood a restoration project. Costs are allocated to

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		productive agricultural land out of production in the Delta in the event restored lands are lost to breaching of a levee from flood or earthquake. BDCP's failure to discuss these circumstances is quite troubling, particularly when DWR has been trumpeting the very likelihood of catastrophic Delta levee failure as creating the need for CM1. If such a catastrophe is so likely, surely DWR needs to have a financial plan in place, as a local landowner, to fund local Delta levees and prepare for the likelihood of having to replace large restoration areas -- or risk being out of compliance with HCP/NCCP permit conditions for contributing to recovery of species. In the aggregate, the aforementioned plethora of direct benefits accruing to CVP/SWP Delta export water contractors as a result of BDCP, as well as the expenses likely to be incurred by Delta communities, provide an argument for all Plan and EIR/EIS costs to be borne by BDCP Proponents and not general taxpayers or Delta residents.	account for that possibility and the remedial actions that would be needed (see Table 8-32). The costs of the 2013 public draft BDCP are borne by both the participating water contractors and the public as a whole because the BDCP include both mitigation and conservation. The costs of building, operating, and mitigating the water conveyance facility are proposed to be borne solely by the participating state and federal water contractors because those costs are directly related to the benefits accrued to those water contractors and their ratepayers. Note that BDCP is no longer part of the preferred project (Alternative 4A). All costs associated with the proposed project would be paid for by the participating state and federal water contractors. Also, see response to comment 1717-174 regarding the BDCP.
1717	176	RECOMMENDATION -- Revise Plan Chapter 8 and the Implementing Agreement to clarify that in exchange for the benefits received (50-year shielding from ESA, explicit prohibitions from contributing additional flows from CVP/SWP for 50 years, explicit intent to deliver full contract amounts) BDCP Proponents are responsible for all costs associated with implementing conservation actions (including mitigation of actions) identified in Plan Chapter 3, Table 3.2-1 and all mitigation measures associated with construction and operation of CM1 including any other actions in the CMs that mitigates the impacts of CM1. Other examples include any costs associated for compensating injury to other parties harmed by implementation of BDCP conservation measures, including additional costs to Reclamation Districts for O&M such as increased drainage pumping costs or levee repairs from CM1 construction traffic.	The preferred alternative, Alternative 4A, no longer includes an HCP/NCCP component seeking a 50-year permit term. Alternatives 4A, 2D, and 5A include only those habitat restoration measures needed to provide mitigation for specific regulatory compliance purposes. The MMRP will clearly delineate the responsible parties for implementing these Environmental Commitments (previously Conservation Measures) and mitigation measures associated with construction and operation of the water conveyance facilities. Also, see Master Response 5 regarding BDCP funding.
1717	177	RECOMMENDATION - Insert a Table into Chapter 31 of the EIR/EIS that estimates the number of acres and approximate locations of lands to be used for mitigation of CM 1 so that local agencies with assessments, like the Reclamation Districts can evaluate the potential revenue loss and seek payment under Water Code [Section] 85089(b). RECOMMENDATION - Require the Implementation Office to track and the Annual Progress Reports to disclose the number of acres that are purchased each year for "the construction, location, mitigation, or operation of new Delta conveyance facilities" so that a proper accounting can be kept of the in-lieu property taxes and assessments that CVP and SWP water contractors are responsible for paying to local government agencies in accordance with Water Code [Section] 85089(b).	Please note that 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". Specific locations for implementing many of the restoration activities have not been identified at this time. Therefore, the analyses consider typical construction, operation, and maintenance activities that would be undertaken for implementation of the habitat restoration and enhancement and stressor reduction efforts. Where appropriate and necessary, implementation of individual projects associated with an Environmental Commitment would be subject to additional environmental review (see CEQA Guidelines Sections 17 15162–15164; 40 CFR Section 1502.9[c]). Mitigation acreages for project alternatives can be found in Chapter 3 of the FEIR/EIS. Also, see Master Response 2 regarding adequacy of mitigation measures, and Section 3.4 in Chapter 3, FEIR/EIS, for information on restoration under the non-HCP alternatives.
1717	178	RECOMMENDATION -- Insert a condition into the HCP/NCCP permit requirements and Implementing Agreement requiring BDCP Proponents to also "pay for all property tax or assessments levied by local governments or special districts for all lands used in the construction, location, mitigation, operation, maintenance, or management of BDCP habitat conservation projects and activities." This commitment should be additionally memorialized by executing Memoranda of Understanding with each local agency with affected revenues upon purchase of BDCP-related lands in impacted agency's jurisdiction. The commitment must provide for increases in the rates due to inflation and other economic pressures.	Please refer to Chapter 16, Socioeconomics, FEIR/EIS for analysis of impacts related to the local economy and landowners. Please note the preferred alternative is now Alternative 4A and no longer includes an HCP or NCCP. Alternative 4A has been developed in response to public and agency input. The FEIR/EIS analyzes all alternatives including Alternative 4A.
1717	179	RECOMMENDATION - Mandate, via a requirement inserted into the Plan Chapter 8, that the CVP and SWP Service Contractors be financially responsible for paying all local in-lieu	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. In response to comments received during the 2013-2014 public comment period, State and

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		property assessments to Reclamation Districts for all lands purchased for purposes of complying with habitat restoration mitigation requirements such as: --Fish Restoration Project Agreement (FRPA); --Federal Biological Opinions for jeopardy associated with the continued operation of existing SWP and CVP South Delta pumps; --Operation, Criteria, and Plan, or any other regulatory requirements to meet existing statutory fish-doubling requirements as obligations under the Central Valley Project Improvement Act.	Federal agencies decided to change the approach. A modified proposed project (Alternative 4A/California WaterFix) is being considered. Alternative 4 remains a viable alternative. 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.
1717	180	Requires Comprehensive and Unbiased Economic Evaluation of BDCP To be credible, the BDCP economic analysis and EIR/EIS must provide a more robust and comprehensive analysis of how the socioeconomic impacts of implementing BDCP affects the ability of local agencies such as Reclamation Districts to perform their statutory functions. Cost Capacity Neither the Plan's finance chapter nor the EIR/EIS even broach providing any sort of cost analysis of the annual budgets for Reclamation Districts in the Delta or even a typical annual budget in order to evaluate the ability of districts to weather redirected impacts from BDCP actions affecting their revenues and ability to perform their Operating and Maintenance responsibilities. We have not polled our members, but a rough estimate of the average annual budget that many Reclamation Districts have for levees is probably about $50,000/year out of a total annual district budget of $120,000. This budget must cover other costs such as cleaning ditches as part of maintenance and paying electricity bills to pump water off of the island/lands to keep the lands drained and reclaimed so that they can be put to productive use (which in most cases is farming). The average subventions claim by a district is about $200,000, which is roughly a cost of $50,000 to the district (their 25 percent cost-share with the state). The cost analysis included in the EIR for the Delta Stewardship Council's Delta Plan estimated costs of $1.5 million per mile to improve an existing levee to a setback (page A-1 of Appendix A) and the total cost estimate of $31 to $68 million per mile to build a setback levee. The costs of levee improvements to provide 200-year flood protection for urban centers of the Plan Area (i.e., Stockton, West Sacramento) to range from $5.4 to $25 million per levee mile, and the cost of a new floodwall would be approximately $9.4 million per levee mile, with the incremental cost incurred by a local or state agency required to provide 200-year levee protection rather than 100-year to be about $6 million per levee mile. [footnote 126: Delta Plan, Page A-3] These costs clearly exceed the capacity of the annual budgets of Reclamation Districts in the	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. The proposed project will be designed and implemented to ensure flood neutrality and no net increase in flood potential or risk in the Delta. Reclamation Districts will not be responsible for mitigating impacts of the BDCP/CWF. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF/Alternative 4A), including responsibilities of the project proponents. 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.

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		Delta and in some cases the total value of the land. Concerns regarding the capacity of Delta RDs to bear the additional costs associated with redirected impacts or any expectations to cost-share in expensive projects such as setback levees necessary to offset the flood impacts of the CM1 encroachment into the Sacramento River need to be mitigated in the EIR/EIS.	
1717	181	General Public Benefit If a reclamation district had to increase its assessment to pay for building setback levees or construct slurry walls to prevent seepage from BDCP habitat restoration, they would be required to receive voter approval pursuant to Prop. 218. Unfortunately, Prop. 218 only allows the assessment to be based on the special benefit each parcel receives. The public benefits that accrue to others outside the assessment area such as the expanded floodplains and riparian habitats are beyond the scope of Prop. 218. It is also inappropriate for Delta property owners to be assessed to increase riparian habitat that other entities such as the State Water Project, Central Valley Project, or water contractors that export water from the Delta could claim as credits to be applied toward the habitat acres they are required to produce to maintain their ESA/CESA take permits for the South Delta Pumps or as habitat credits under the BDCP. Finally, the BDCP has failed to follow existing state and federal guidelines regulating the comprehensive cost-benefit analyses to be conducted for public water projects: "Economics and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" (P&G) and the "Department of Water Resources Economic Analysis Guidebook." DWR's Guidebook specifically states: "DWR should also broaden the economic analysis to include regional economic development (RED) or other social effects (OSE) accounts, which can significantly assist in the decision-making process. The RED account is particularly important if a proposed plan will have significantly different effects upon regions that might otherwise be irrelevant to the NED national perspective." As described in comments herein, the BDCP certainly represents different benefits and impacts between Northern and Southern California, which should be accounted for as RED or OSE -- but is not accounted for in this way.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. In response to comments received during the 2013-2014 public comment period, State and Federal agencies decided to change the. A modified proposed project (Alternative 4A/California WaterFix) is being considered. Alternative 4 remains a viable alternative. 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. Please see Chapter 16 in the FEIR/EIS for a discussion potential effects to socioeconomics under Alternative 4A.
1717	182	RECOMMENDATION -- DWR must undertake objective and comprehensive cost-benefit and socioeconomic analyses. The new effort must be consistent with government economic analysis standards and independently peer-reviewed for accuracy and efficacy of the methodology, assumptions, models, and results. The independent analysis should specifically describe, analyze, and quantify the adverse impacts to the Plan Area (Delta) that are identified in the EIR/EIS, such as: Cumulative impacts to levee stability and Delta flood risk from CM1 pile driving, dewatering lowering groundwater 10-20 feet, sediment loading, 9 cofferdams in the Sacramento River and tributaries, and damage from erosion, seepage, and overtopping;	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input Please see Appendix 6A, Sections 6A.6.3.3, 7.3.1, and 6A.6.3.2, FEIR/EIS, for information on potential cofferdam effects to surface water elevation, sediment loading, and levee stability and erosion, respectively. Also, see Section 6A.6.2.1.3 for a 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. Section 6A.7.2 discusses potential future hydraulic analyses during the Section 408 permitting process. Also, refer to Chapter 16 in the FEIR/EIS for a discussion on potential changes to socioeconomics under the project alternatives. Changes to groundwater levels are discussed in Chapter 7.
1717	183	RECOMMENDATION -- DWR must undertake objective and comprehensive cost-benefit and socioeconomic analyses. The new effort must be consistent with government economic analysis standards and independently peer-reviewed for accuracy and efficacy of the methodology, assumptions, models, and results. The independent analysis should specifically describe, analyze, and quantify the adverse impacts to the Plan Area (Delta) that	As required by NEPA and CEQA (when applicable), the FEIR/EIS already includes a socioeconomic analysis. Additionally, DWR is revising the Socioeconomic Impact Analysis for the project based on changes included in the Recirculated Draft EIR/Supplemental Draft EIS. Please also note that the new preferred alternative, 4A, does not include a habitat conservation plan or a 50-year permit. Impacts associated with agriculture (including seepage impacts), land use, water quality, soils, and surface and groundwater are discussed in

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		are identified in the EIR/EIS, such as: Cumulative impacts to Delta agriculture from land conversion, seepage damage, water quality degradation, soil contamination (salinity absorption), blocked access to parcels, and reduce water elevations (surface and groundwater) stranding diversion intakes and wells;	Chapters 14, 13, 8, 10, 6, and 7, FEIR/EIS, respectively.
1717	184	RECOMMENDATION -- DWR must undertake objective and comprehensive cost-benefit and socioeconomic analyses. The new effort must be consistent with government economic analysis standards and independently peer-reviewed for accuracy and efficacy of the methodology, assumptions, models, and results. The independent analysis should specifically describe, analyze, and quantify the adverse impacts to the Plan Area (Delta) that are identified in the EIR/EIS, such as: Cumulative impacts to in-Delta water supply (agriculture and drinking water) from 7 significant and "unavoidable" adverse impacts identified in Water Quality Chapter 8.	Please refer to Chapter 16, Socioeconomics, FEIR/EIS, which fulfills CEQA and NEPA requirements. Additionally, DWR is revising the Socioeconomic Impact Analysis for the project based on changes included in the RDEIR/SDEIS. Impacts to Electrical Conductivity would less-than-significant and not adverse under the new preferred alternative, 4A. See Chapter 8 in the FEIR/EIS for an updated water quality analysis for Alternative 4A.
1717	185	RECOMMENDATION -- The Plan and Implementing Agreement should include a permit condition that BDCP Proponents bear the financial responsibility for expanding floodplain and riparian habitat, including ongoing maintenance for areas credited towards meeting the Plan's Conservation Strategy's goals and objective, including costs associated with increased costs imposed upon adjacent owners and agencies to accommodate expanded habitat and regulatory obligations as a result of the presence of new or expanded habitat conditions.	In the 2013 BDCP, a majority of the riparian restoration (CM7) is designed to contribute to the recovery of the covered species. As shown in the Draft BDCP Table 8-41, only 2.7% of the cost of the riparian restoration is allocated to mitigating the effects of the construction and operation of the water conveyance facility. All of the floodplain restoration (CM5) supports the recovery of the covered fish and other aquatic covered species. Conservation measures that support the recovery of the covered species are proposed to be paid for by the public through state and federal funding sources. Please note, however, that 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 FEIR/EIS analyzes all alternatives, including Alternative 4A. Alternative 4A has a small amount of riparian restoration proposed as mitigation. This mitigation would be paid for by the participating state and federal water contractors. Floodplain restoration (CM5) is not part of the proposed project. 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.
1717	186	RECOMMENDATION - The Plan and Implementing Agreement should include a permit condition requiring BDCP Proponents to execute a Memorandum of Understanding with local Reclamation Districts and the Central Valley Flood Protection Board to pay the increased levee improvement, rehabilitation or reconstruction and ongoing O&M costs incurred as a result of constructing CM1 and creating habitat restoration areas.	The new proposed project, Alternative 4A, reduces the amount of planned habitat restoration, including the removal of and Conservation Measure 2-21 (Yolo Bypass Enhancements), compared to the previously preferred alternative, Alternative 4. 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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. The proposed project will be designed and implemented to ensure flood neutrality and no net increase in flood potential or risk in the Delta. Reclamation Districts would not be responsible for mitigating impacts of the BDCP/CWF. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix

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			(CWF/Alternative 4A), including responsibilities of the project proponents. 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.
1717	187	Need To Establish Reliable and Durable Funding Sources The BDCP EIR/EIS acknowledges that multiple Conservation Measures would impact the State Plan of Flood Control. Specifically, CM2, CM4, CM5, CM6, CM7, CM8, CM9, CM10, and CM12 have enough overlap with the State Plan of Flood Control that the BDCP EIR/EIS contemplates appropriating Proposition 1E money earmarked for the State Plan of Flood Control. [footnote 127: See BDCP EIR/ EIS, Table 8-48. Proposition 1E Funding Opportunities] The acquisition of 158,000 acres of property in the Plan Area (Delta) to create habitat will result in the transfer of ownership from private to public, resulting in substantial local government tax and assessment revenue losses to special districts such as Reclamation Districts. The Delta Reform Act approved by the State Legislature in 2009, includes a specific statutory requirement for BDCP to enter into contracts (or make other arrangements) to pay full mitigation of property taxes and assessments levied by local government agencies and districts for all lands used in the construction, location, mitigation, or operation of CM1, the new Delta conveyance facilities. [footnote 128: CA Water Code [Section] 85089(b)] The BDCP Proponents should to enter similar binding agreements with local agencies for the acreage in the Plan Area proposed for habitat restoration, particularly since most of these acres are existing regulatory requirements of the CVP/SWP as acknowledged in Table 3.2-1 of the Plan, "Consistency of the BDCP with Requirements of Recent Biological Opinions." There is zero benefit to the reclamation districts or the landowners who pay their assessments from widespread restoration of habitat in the Plan Area for incidental take permits for the operations of CVP and SWP Projects, but the loss of assessment revenue as a result will be fiscally devastating to the districts' annual revenues which are solely dependent on assessments collected from landowners. This is particularly true for Delta Reclamation Districts which are relatively small in terms of acreage and residents from which to collect revenues for their operating budgets.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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.
1717	188	The California Central Valley Flood Control Association is very concerned about any re-directed financial costs that are imposed on Delta Reclamation Districts as a result of impacts associated with the 50-year implementation of the BDCP. Every dollar a district has to spend to offset detrimental impacts caused by BDCP actions is a dollar not spent on critical levee construction projects to reduce the risk of flood and consequent loss of life and property. This is a serious matter, particularly considering the precarious and elusive nature of the BDCP's ability to fully fund permit activities, particularly the Programmatic Conservation Measures containing habitat restoration actions, is illustrated by the failure of the Plan	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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		identify reliable sources of money to pay the Project costs disclosed in Chapter 8, despite state and federal laws requiring a fiscally sound funding plan for HCPs and NCCPs. Section 10 of the Endangered Species Act requires the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) to ensure the applicant for an incidental take permit (ITP) has sufficient funding available to implement an HCP, [footnote 129: 16 U.S.C. Sections 1539; Southwest Center for Biological Diversity v. Bartel (S. Dist. Cal. 2006) 457 F.Supp. 2d 1070, 1105.] including specifying the sources of funding to implement mitigation measures to minimize impacts to the covered species in the plan. [footnote 130: 16 U.S.C. [Sections] 1539(a)(2)(A), (B).] Where perpetual funding is required to implement any mitigation measures, the HCP must establish programs or mechanisms to generate those funds, [footnote 131: U.S. Department of the Interior, Habitat Conservation Planning And Incidental Take Permit Processing Handbook (November 4, 1996) Fish and Wildlife Service] because an applicant for an ITP cannot rely on speculative future actions of others to fund activities related to an HCP. [footnote 132: Southwest Center for Biological Diversity v. Bartel (S.D. Cal. 2006) 470 F.Supp. 2d 1118, 1155, citing National Wildlife Federation v. Babbitt (E.D. Cal. 2000) 128 F.Supp. 2d 1274, 1294-1295, and Sierra Club v. Babbitt (S.D. Ala. 1998) 15 F.Supp. 1274, 1280-1282.] BDCP has been criticized in recent independent science reviews and intensively questioned by the Delta Stewardship Council for its policy of relying on future water bonds being approved by California voters, particularly given the multiple delays in getting a water bond drafted in 2009 to even appear on the ballot. The precariousness of BDCP's funding is exacerbated by waffling on how much funding is even needed according to the introductory paragraphs of the Plan's Funding Chapter [footnote 133: BDCP EIR/EIS Chapter 8] where the document qualifies the entire funding discussion as being based on a "programmatic level" estimation of project costs. The BDCP also relies on federal funding sources -- sources that require future action by Congress to authorize the ongoing expenditure of funds or new authorizations to provide funding for BDCP activities over 50 years. However, the BDCP financing scheme conveniently ignores the federal Antideficiency Act which prohibits, among other things, (i) the creation of obligations in excess of amounts already appropriated, and (ii) the commitment of the federal government to pay funds not yet appropriated. Relying on funding sources that exceed current federal authorizations or require the future appropriation of funds, does not constitute an available or reliable funding source as required in HCP and NCCP permits.	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.
1717	189	Like other local agencies dependent on property assessments to fund its core functions, reclamation districts would incur an untenable loss of assessment revenues from the proposed conversion of 158,000 acres in the Plan Area from private to public ownership. The California Central Valley Flood Control Association concerned the massive conversion of land proposed by BDPC may seriously impede the Reclamation District's ability to fund their O&M responsibilities. Local government agencies in the Plan Area need a reliable mechanism and funding source to replace lost local government revenues (taxes, assessments), including RDs, resulting from conversion of lands to habitat, water supply infrastructure and other actions associated with implementation of BDCP.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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			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.
1717	190	The BDCP must incorporate permit terms and conditions in the Plan, Implementing Agreement, and EIR/EIS to make the Reclamation Districts fiscally whole. Without such binding assurances, the remaining landowners within the Delta districts would be left with a proportionally higher share of the RD's fixed and administrative/ overhead costs. [footnote 134: The Agency incurs substantial costs related to engineering, management, consulting, and other necessaries related to administration of the Contract and protection of water rights and water quality.] DWR and U.S. Bureau of Reclamation have a duty under CEQA and NEPA to identify these significant fiscal impacts. Another uncertainty of reliable BDCP funding being available for mitigation implementation, reimbursement of in-lieu assessments or compensation to third parties for damages caused by BDCP is even more suspect and elusive according to Section 14.3 of the BDCP Implementing Agreement which explicitly absolves BDCP Permittees from providing any additional financial compensation beyond the level specified in the Plan.	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.
1717	191	A well-accepted method to generate annual management funding over long time horizons, an endowment is an interest-bearing account, funded up front or in increments, in an amount sufficient to generate enough yearly income to fund annual project management. Because only the interest is available for use and the principal is not withdrawn, an endowment is non-wasting, and provides a perpetual source of funding. In contrast, "Payments in Lieu of Taxes" are payments to local governments that help offset losses in property taxes due to non-taxable State government lands within the agency's boundaries. While endowments are lasting, enduring financial arrangements, in-lieu payments would be subject to the whim of the annual budgets.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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.
1717	192	The California Central Valley Flood Control Association's members have concerns about the availability of funding to implement mitigation measures for the hundreds of individual actions called for in Avoidance and Minimization Measures (Plan Appendix 3.C) and for the 750 impacts identified in the EIR/EIS. According to a California Department of Fish and Wildlife report on species conservation plans, one of the challenges the eleven conservation plans had in common was: "Costs for management and monitoring were universally underestimated and, as a result of scant resources, these programs have been largely under-funded and inadequately staffed." [footnote 135: See Comparative Review of Governance Structures for Ecosystem Management (November 2006). Available at https://www.dfg.ca.gov/habcon/nccp/publications.html.] Currently, the Plan Chapter 8 on BDCP financing offers muddled recommendations when	All avoidance, minimization, and mitigation measures will be funded by the participating state and federal water contractors, as described in the 2013 public draft BDCP. Although the proposed project no longer includes BDCP (it is now Alternative 4A), all avoidance, minimization, and mitigation measures will remain the responsibility of the participating state and federal water contractors. The Lead Agencies are aware of the deficiencies of past HCPs and NCCPs underestimating the long-term costs of management and monitoring. Please see Master Response 5 regarding the adequacy of the cost estimates and their conservative assumptions. Master Response 5 also discusses the adequacy of funding for the purposes of the state and federal regulatory requirements for the issuance of incidental take permits. An endowment will be provided as part of Conservation Measure 11 (CM11) to ensure that management of the reserve system continues in perpetuity. A portion of the cost of this endowment will be paid by the

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		dealing with endowments and other long-term funding mechanisms rather than dependable assurances -- as can be seen in these excerpts: --Section 8.4.1 says, "Endowment funds may be advanced on a short-term basis," and "Management, restoration, or monitoring actions may be deferred until funding sources are available" [emphasis added; this offers only uncertainty and ambiguity] --Section 8.4.2 says, "The Authorized Entities will not be required to provide land, water, or monetary resources beyond their commitments in this Plan in the event of a shortfall in state or federal funding." --Section 8.3.7.2 on the other hand indicates a commitment that BDCP will in fact have endowment funds, "It is assumed these costs will be paid from a nonwasting endowment that will be funded over the course of the permit term." "Under CM11 Natural Communities Enhancement and Management, an endowment will be established for post- permit term costs of CM3 through CM10." Section 8.4.3 also mentions having a "target size" for endowment to fund management and monitoring after the permit term, but fails to indicate the amount of said target. Finally, resolution of these funding issues is additionally critical to the California Central Valley Flood Control Association because state agencies do not have a good track record of paying local property taxes and assessments, forcing local government agencies to sue for recovery. [footnote 136: See, e.g., North Delta Water Agency v. CA Department of Fish & Game (Case No. 06AS03923); Manteca Unified School Dist. v. Reclamation District 17 (fees for school assessments); Kruger, Harold "Levee District 1 tells Caltrans to pay up" Appeal-Democrat (November 2, 2013). Available at http://www.appeal-democrat.com/levee-district-tells-caltrans-to-pay-up/article_510ee3bf-be28-53ca-8b52-449318e471a5.html?mode=jqm] For all these reasons, the Association asserts that a securitized endowment or similar financial assurance must be included as a condition of the HCP/NCCP permits and Implementing Agreement, in order to offset both the lost assessment revenue and the potential increased risk to public safety in the Plan Area.	participating state and federal water contractors. The remainder of the cost of the endowment will likely be paid by state bonds. The Lead Agencies acknowledge the comment suggesting a securitized endowment be provided to ensure long-term funding for land management. If an alternative is selected that includes BDCP, the description of the endowments will be clarified. 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.
1717	193	RECOMMENDATION -- To mitigate for the costs to Reclamation Districts for redirected impacts to their levee maintenance, rehabilitation, improvement and general Operation and Management costs (i.e., vegetation management and increased drainage pumping costs), the BDCP must clearly describe all sources of funding for all elements of the BDCP and require as a condition in the permits and Implementing Agreement the establishment of multiple endowments to fund all aspects over the 50-year life of the plan. Specifically, the BDCP must provide endowments to fund the following: --The Mitigation Monitoring Plan, including the hundreds of individual actions called for in the Avoidance and Minimization Measures (Plan Appendix 3.C), and any actions necessary to avoid or remedy 1981 Contract violations; --The Plan's Monitoring and Adaptive Management Program; --Management contingency assumptions (Sec. 8.4.1); --Payment of in-lieu property assessments (via an endowment or other stable and steady	The new proposed project, Alternative 4A, reduces the amount of planned habitat restoration, including the removal of and Conservation Measure 2-21 (Yolo Bypass Enhancements), compared to the previously preferred alternative, Alternative 4. 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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. The proposed project will be designed and implemented to ensure flood neutrality and no net increase in flood potential or risk in the Delta. Reclamation Districts would not be responsible for mitigating impacts of the BDCP/CWF. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF/Alternative 4A), including responsibilities of the project proponents. Before and/or during construction of the CWF water conveyance facilities, project proponents will explore

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		source of income) for lands associated with Conservation Measure 1 (Water Code [Section] 85089(b)) and for habitat/conservations lands transferred from private to public property in the Plan Area pursuant to execution of Memorandum of Understanding with Reclamation Districts. --Redirected improvement and Operation and Management costs for flood control infrastructure impacted by implementation of BDCP conveyance and habitat restoration projects.	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. For information on the financial feasibility of funding the BDCP and the Implementation Agreement, please see Master Response 5.
1717	194	RECOMMENDATION --Chapter 8 of the Plan must provide more details on specific amounts to be deposited into each endowment fund at start-up and annually thereafter, including the total "target size" stating when endowments will be considered fully funded.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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.
1717	195	RECOMMENDATION -- Request a mitigation measure be added requiring BDCP to pay for all additional Operation and Management or other related district costs (i.e., higher electricity costs for drainage pumping, levee improvements to add freeboard due to sediment increases raising water surface elevations, wave fetch erosion damage from open water/tidal habitat restoration, etc.) incurred by reclamation districts as a result of implementation of any CM projects/actions such as more frequent inundation of flood bypasses and general alteration of State Plan of Flood Control or Sacramento River Flood Control Project facilities that creates redirected impacts to districts in and adjacent to the Yolo Bypass. These costs must be included and have own section and budget line item in the BDCP's Annual Work Plan and Budget, Sec. 6.3.1 and be funded for the full 50-year permit term. RECOMMENDATION -- The BDCP must incorporate the payment to local districts into the BDCP's Annual Work Plan and Budget and report annually on flood projection maintenance and improvement projects necessary to offset impact of BDCP actions in the Annual Progress Report. As part of their reporting duties the BDCP Implementation Office must collect and review the annual budgets for the Reclamation Districts of the Delta to determine: 1) the level of impact these additional costs would have on their limited funds; 2) whether these additional costs will result in levee improvement projects (substantial rehabilitation or reconstruction) being delayed; and 3) whether the delay in levee	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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 new proposed project, Alternative 4A, reduces the amount of planned habitat restoration, including the removal of and Conservation Measure 2 (Yolo Bypass Enhancements), compared to the previously preferred alternative, Alternative 4. Instead, the proposed project includes habitat restoration necessary to mitigate

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		improvements would increase the risk of flooding and loss of life and property.	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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. The proposed project will be designed and implemented to ensure flood neutrality and no net increase in flood potential or risk in the Delta. Reclamation Districts would not be responsible for mitigating impacts of the BDCP/CWF. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	196	Evaporation of Flood Protection Bond Funding Many of the slick brochures and even the economic analysis produced by BDCP claim the new conveyance facilities (Conservation Measure 1) are necessary to protect SWP and CVP water supplies from a catastrophic earthquake that will cause a multi-level levee failure that will shut down the delivery of water from the existing Delta export pumps. This "Chicken Little" scare tactic is commonly used to convince otherwise reticent tax and ratepayers to open their wallets to fund extremely expensive projects. In fact, the fear of flood catastrophe after Hurricane Katrina in New Orleans was so great, the Central Valley benefited by having voters approve the Prop. 1 flood bond to invest in improving the State Plan of Flood Control facilities in order to protect lives and statewide infrastructure worth billions of dollars (water conveyance, electricity transmission line, highways, gas pipelines, railroads, etc). Benjamin Franklin is attributed with saying, "An ounce of prevention is worth a pound of cure." In other words, it is better to try and keep a bad thing from happening than it is to fix the bad thing once it has happened -- and less costly too. This idiom is particularly true for improving levees in order to reduce the risk of flood damage. BDCP's predecessor, CalFed, understood this, thus promoting and funding levee improvements as part of its core mission. BDCP abandons this principle by ignoring funding for levees.	Please see Sections 6A.2 and 6A.3 in Appendix 6A, FEIR/EIS, for discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF. Any modifications to Delta levees and the flood control system, as a result of constructing the project, would be fully mitigated and under the responsibility of the project proponents. In some instances, levees modified by the project would be strengthened relative to existing conditions. Levees are an important public safety resource and the proposed project would not change levee policy or replace ongoing programs and grant projects aimed at facilitating and supporting levee improvements in or outside the Delta. It is recognized that levee maintenance and safety in the Delta is an important issue for the residents of the Delta and for statewide interests.
1717	197	The Good News Not Reported Earthquakes have been cited as a substantial risk to Delta levees, with predictions of a major quake being likely sometime in the next few decades. However, there has never, in the 160-plus years of managed flood protection and control in the Delta, been a documented	Please see response to comment 1717-196 regarding levee funding programs. Also, see Appendix 3E in the FEIR/EIS for a discussion on seismic risks in/near the Delta.

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		failure of a levee due to an earthquake. During the 1989 Loma Prieta earthquake (MW 6.9), some levees showed cracks, but none failed. Contrary to the impression conveyed by the Plan and EIR/EIS, the Delta's levees are generally in good condition, and the risk of levee failure has been steadily decreasing during recent decades. These improvements are in large part due to the establishment of the Delta Levee Maintenance Program (commonly referred to as the Subventions Program) in 1973 and the Delta Levees Program in 1988. For example, there are 1,100 miles of levees in the Delta, and during the last decade there were only two levee failures--Jones Tract (2004) and Fay Island (2006)--and the 100-acre Fay Island district was in the process of improving its levees at the time of the flood. It is important to note that these levees held despite this decade's having the seventh-highest water year on record for the combined Sacramento-San Joaquin River system (2005-06). Modeling of the Delta levees' sensitivity to earthquakes has shown that quake-induced liquefaction can cause levee slumping. The history of Delta Levees, however, does not suggest a widespread series of catastrophic failures; and further modeling would need to be done that considers how liquefaction in a levee would actually function during a large-magnitude earthquake in the Delta. A complete assessment would also address the practical steps and Project Alternatives that can be implemented to achieve Project Purpose of improving water supply reliability from catastrophic failure by: --Reinforcing the strength and stability of existing levees used for water conveyance; --Immediately repairing observed damage in the immediate aftermath of an earthquake or flood event.	
1717	198	Funding Delta Levee Maintenance In a coalition letter sent to California Natural Resources Secretary John Laird on January 4, 2012, even some of the BDCP Proponents, such as Metropolitan Water District and Santa Clara Water District, acknowledged Delta levee maintenance and improvement "in the near term and in the decades to come" as important to water supply reliability. Included with the letter was a white paper entitled, "Urban Water Agencies Strategy for Delta Levees -- List of Priority Levee Projects." Yet, in the largest and most expensive water project purported to improve water supply reliability intentionally chose not to include Delta levee funding. This appears schizophrenic and a pound foolish, not to mention perplexing to say the least. EIR/EIS Chapter 5, Appendix 5B, Section 5B.2.2 Potential for Abrupt Disruptions of South of Delta Water Supplies admits: --"As noted above, sea-level rise could result in an increased risk of levee failure if the levees are not maintained and improved to accommodate the additional load. However, the State has programs and partners in the local agencies to support necessary levee improvements to minimize any increase in risk. It will be important to continue supporting these programs and to provide fund for the improvement of the levees in order to minimize the potential for inundation of the Delta islands. Without the programs and funding the potential effects on Delta water supplies could be very significant."	Please see response to comment 1717-196 regarding levee funding programs.

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		Section 5B.2.2.2 Flood-Related Failures additionally states that the State's Delta Levees Subventions and Delta Special Flood Control Projects Programs will: --"become more important to ensure export water quality and water system conveyance through the Delta as hydrologic conditions associated with sea level rise and global climate change advance." However, the EIR/EIS fails to analyze the impacts of the Delta Subventions Program less money over time, not more, due to potential future actions such as the current funding cost-share for Delta subventions sunsetting in 2018 and reverting to much smaller annual amounts or the 2016 expiration of Prop. 1E bond funding. BDCP Proponents can certainly choose not to fund improvements to levees that are the conveyance thoroughfare for SWP and CVP export water supplies, but the EIR/EIS cannot abdicate the responsibility to analyze the funding capability of maintaining these infrastructure facilities over the next 50 years.	
1717	199	Failed to Analyze Ability of Reclamation Districts to Shoulder Burden of Levees Repairs Assumed in the Plan and EIR/EIS The reclamation and levee districts that operate and maintain most flood protection and control infrastructure in the Delta rely on the local assessment roll as their primary direct funding source, and it would be highly inequitable to leave them to protect new levee improvements or higher maintenance costs associated with the creation of habitat restoration or water supply infrastructure projects without outside funding. The funding to implement such mitigation should not come from the adjacent communities, but should be part of the habitat restoration project cost. This approach is inherent in the Central Valley Flood Protection Board requirement to prepare hydraulic modeling of the effect of vegetation plantings in-stream and along levees. A permanent fund should also be established, again as part of the project cost, to maintain the levee improvements necessary for mitigation. Current funding used by the State to fund the levee improvement program in the Delta comes primarily from Propositions 1E which is due to be exhausted in 2016 and there is no additional funding for levees provided in the 2014 water bond approved by the Legislature. The EIR/EIS fails to identify and analyze the financial ability of the State or local agencies to in fact fund these levee improvements necessary for the conveyance of water under BDCP, which is significant oversight since the BDCP fails to include any direct funding for the maintenance and improvements of conveyance levees prior to or during the plan's 50-year implementation period. The annual budgets of Delta reclamation districts is typically very small, about $200,000 for non-urban districts, and the State does not have surplus general funds to contribute to these levee programs, so by the time Alt 4 is constructed in 2027 the funding for levee improvements is anticipated to be minimal for the decade prior. The BDCP Project Objectives are not met by the Plan relying on the State or local agencies that do not have identified funding sources sufficient to fund necessary levee improvements to minimize increased risk of failure between now and when the BDCP is implemented or	Please see response to Comment 1717-157. 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. Also, see Section 6A.6.2.1.1 for information on project proponent responsibilities regarding levees modified by the BDCP/CWF.

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		during the 50-year life of the BDCP, therefore the risk to the reliable SWP/CVP water supply will still exist under Alt 4 so the EIR/EIS should identify the environmental impacts associated with this residual risk.	
1717	200	The water operations as proposed in Alt 4 will not be able to provide the same water deliveries to SWP/CVP water contractors identified in the EIR/EIS if levee failures from subsidence, earthquake, or other non-flood event occur and cause the shut-down of pumping due to salinity intrusion at South Delta pumps which are relied on 51-53% of the time in Alt. 4, so this should be identified as a significant adverse impact to water exporters. RECOMMENDATION - Alt 4 should include a new Conservation Measure 23 to provide funding for specified levees in the Delta that are critical to the conveyance of water through the Delta to the South Delta pumps.	As described in Section 3D.3.2.3.3, Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions, in the Final EIR/EIS, the No Action Alternative assumptions include the continuation of existing policy and management actions, including repairs of levees on public and private lands under existing programs if the levees are integral to the main waterways of the Delta.
1717	201	RECOMMENDATION -- Conduct a cost-benefit analysis in accordance with State and federal guidelines on economic analysis, [footnote: both guidelines] including properly identifying the residual risk of levee failures that will reduce water export from the South Delta pumps due to lack of State or local agency levee improvement funding during the 50-year permits.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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 California Department of Water Resources (DWR) would not seek 50-year permits under the federal and state endangered species laws for Alternatives 4A, 2D, or 5A. 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). Please see Appendix 6A, Sections 6A.2 and 6A.3, FEIR/EIS for a discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF. Levees are an important public safety resource and the proposed project would not change levee policy or replace ongoing programs and grant projects aimed at facilitating and supporting levee improvements in or outside the Delta. It recognized that levee maintenance and safety in the Delta is an important issue for the residents of the Delta and for statewide interests.
1717	202	RECOMMENDATION -- Request an Impact be added to the Water Supply Chapter disclosing that if no levee funding is provided in sufficient annual amounts from State or federal General Fund, State water bonds, and local assessments for the long-term maintenance and improvement of levees in the Plan Area that are critical to conveyance of water supplies to the South and North Delta SWP/CVP pumps, then this will result in a significant adverse impact on SWP/CVP water deliveries. If no mitigation for the impact is proposed in the EIR/EIS, then the document will need to identify this lack of levee funding as the Plan presumes as a potential "unavoidable" impact that could occur over the 50-year period of	Assumptions in the No Action Alternative and all of the action alternatives include the assumption of continued operation of the levees as under existing policy and management practices, including levee repairs. As described in Chapter 1 of the FEIR/EIS, one of the benefits of the Project Objectives and Purpose and Need is to provide a second set of intakes that could be used following levee failures in the central or southern Delta. However, if hydrologic conditions are not consistent with criteria established in each action alternative (e.g., adequate flows to provide north Delta bypass flows), the north Delta intakes would not be operable. In that case water users would continue to manage drinking water supplies as under the Existing

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		the BDCP permits.	Conditions and No Action Alternative. Please refer to Appendices 3B and 3C of the Final EIR/EIS. Please see Master Response 16 regarding Delta levees and seismic activity.
1717	203	Redirected Financial Burdens Inappropriate and Not Analyzed or Mitigated The reclamation and levee districts that operate and maintain most flood protection and control infrastructure in the Delta rely on the local assessment roll as their primary direct funding source, and it would be highly inequitable to leave them to protect new levee improvements or higher maintenance costs associated with the creation of habitat restoration or water supply.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Section 6A.6 in Appendix 6A, FEIR/EIS for a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	204	Avoid Erosion of Reduced Flood Risk Investments The EIR/EIS failed to analyze whether BDCP's proposed alteration of Sacramento River Flood Control Project (SRFCP) facilities will reduce or eliminate any portion of the public safety benefits achieved with $4 billion allocated from Prop 1E and 84, approved by local assessments, or allocated by Congress for numerous flood protection projects built in recent years. These public investments would be lost if additional improvements to recently completed local flood projects need additional funding for more improvements to offset increased flood risks created by BDCP projects modifying the SRFCP for water supply reliability. The levee improvements that have been done since SB 34 (1988) through the Delta Levees Program and funding from Props. 1E and 84 has resulted in an increased level of protection. In fact, the amount of money spent on levees after 2006 (Props. E and 84) will be more than had been spent in the previous 20 years combined, therefore the BDCP Plan should evaluate how CMs will alter the location and configuration and whether will result in redirected impacts that reduce the level of flood risk reduction achieved with recent levee	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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

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		improvement projects funding by Prop. 1E and 84.	CEQA/NEPA process. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Also, see Sections 6A.2 and 6A.3 for a discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF. For potential impacts to flood protection and levees from implementation of environmental commitments and conservation measures, please see Section 6A.6.4.
1717	205	Several details should be addressed in the EIR regarding non-Project levees. First, non-Project levees that are going to be deemed part of the through-Delta corridor should be identified. In addition, the document should describe the kind of rehabilitation would be accomplished on these levees to ensure that the failure risk is reduced due to the Project altering historical water surface levels. In addition, the EIR/EIS should address other levees in the Delta that provide benefit to the through-Delta portion of the dual conveyance facility; in particular, the levees that provide water quality benefits. The "domino effect" should be addressed in regard to levees that may, or may not, be maintained in the future. It is a documented fact that when levees fail and islands are not reclaimed, the neighboring islands experience extensive increases in maintenance due to seepage problems and increased wind/wave fetch forces. These non-Project levees are maintained by local reclamation districts. The eastern alignment of the canal, in particular, will bifurcate a number of these reclamation districts. The BDCP document should address the future of reclamation districts once a canal is built through their boundaries. The canal will affect both the operation and maintenance of existing levees, possibly cause seepage problems that would hinder the structural stability of these levees, and would also create a separation of landowners that would change the ability to drain the lands.	Please see sections 6A.2 and 6A.3 in Appendix 6A, FEIR/EIS, for discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF. Also, see Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Figure 1 in Appendix 6A identifies project and non-project levees in the Delta. Refer to Chapter 3 and associated figures, FEIR/EIS, for a description and depiction of the proposed project, Alternative 4A. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	206	There are issues with flood bypasses in the Delta as well. By way of example only, several proposals have been made to install habitat projects within the Yolo Bypass. Vegetation along or in a floodway influences hydraulics and reduces water velocity. Although the Bypass levees were designed with five or more feet of freeboard, water levels rose to within a foot of overtopping in 1986, meaning habitat restoration projects in the Bypass would invariably require levee improvements as mitigation, particularly given that the Bypass levees protect substantial lands on either side of the Bypass, including the City of West Sacramento and thousands of acres of productive farmland and natural and developed habitat.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.4, FEIR/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 the

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			new proposed project, Alternative 4A. 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.
1717	207	In the San Joaquin side of the Delta, of particular concern is expansion of existing floodways in the Paradise Cut area. While the local residents and flood managers recognize and support the flood control benefits of modifying Paradise Cut to be inundated with flood flows, there are also important redirected impacts to existing flood control facilities that need to be taken into account when designing and permitting. For example, the modification to this area will cause flows to be diverted west and north along the non-Project levees of the south and central Delta instead of continuing in the San Joaquin River towards Stockton. The reinforcement and improvement of the non-Project levees impacted will have to be mitigated and the potential for injuring legal water users in the San Joaquin River due to changes in flow patterns, timing, and volumes. The economic impacts, both beneficial and detrimental, of these changes in water flows needs to be analyzed thoroughly in a cost-benefit analysis conducted in accordance with State and federal guidelines for evaluating public water projects. The funding to implement such mitigation should not come from the adjacent communities, but should be part of the habitat restoration project cost. This approach is inherent in the Central Valley Flood Protection Board's requirement to prepare hydraulic modeling of the effect of vegetation plantings in-stream and along levees. A permanent fund should also be established, again as part of the project cost, to maintain the levee improvements necessary for mitigation. RECOMMENDATION -- Analyze the environmental and economic impacts from BDCP actions that reduce effectiveness or level of flood protection achieved with prior flood improvement projects and public funding.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.4, FEIR/EIS, for a discussion on impacts from restoration -related environmental commitments and conservation measures, including the removal of Conservation Measure 5 (Seasonally Inundated Floodplain Restoration) under the new proposed project, Alternative 4A. Also, see Section 6A.6.2.1.3 which discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations.
1717	208	The substantial inadequacies of the BDCP documents fail to meet the legal requirements for HCP/NCCP permit approvals under state and federal endangered species laws or the environmental review disclosure and mitigation required for certification of the EIR/EIS to take place. Therefore, the California Central Valley Flood Control Association requests the State to recirculate the Plan and EIR/EIS for public review and comment after revising in accordance with these and other comments.	For more information regarding the public review period duration please see Master Response 39.
1717	209	To protect people and property in the Plan Area, the California Central Valley Flood Control Association requests that BDCP Proponents revise the EIR/EIS to ensure the proposed conveyance and habitat conservation measures fully disclosure and mitigate impacts to the State Plan of Flood Control and to Delta levees. BDCP Conservation Measures must be designed, constructed, operated, and maintained to avoid imposing any new flood risks, re-directed flood and maintenance impacts to reclamation districts, or creating new regulatory obligations (including Endangered Species Act), or affecting the local flood control agencies' ability to protect lives and property. Local flood control districts in the Delta operate on tight operating budgets and strict public safety mandates. They cannot be responsible for increased capital, operation, and maintenance costs incurred as a result of BDCP implementation.	Now the preferred project (Alternative 4A/California WaterFix) is being considered. 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

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			CEQA/NEPA process. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. The proposed project will be designed and implemented to ensure flood neutrality and no net increase in flood potential or risk in the Delta. Reclamation Districts would not be responsible for mitigating impacts of the BDCP/CWF. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	210	ATT1: Letter from California Central Valley Flood Control Association to the State and Federal Contractors Water Agency, dated June 6, 2013 with Comments on the Draft EIR for the Lower Yolo Restoration Project	This comment describes an attachment to the comment letter related to another project.
1717	211	Members of the California Central Valley Flood Control Association are significantly interested in, and impacted by, various habitat projects, including this Project, which are being undertaken as partial fulfillment of the restoration targets contained within the Reasonable and Prudent Alternative (RPA) of the 2008 U.S. Fish and Wild life Service Delta Smelt Biological Opinion and referenced in the 2009 National Marine Fisheries Service Salmonid Biological Opinion issued for continuing operations of DWR's State Water Project and U.S. Bureau of Reclamation's Central Valley Project. This Project, like the other RPA restoration projects, are essentially encroachments on the largest and most important facility upon which the functionality and performance of the Sacramento River Flood Control Project (SRFCP) relies. The Association's primary interest regarding this Project is assuring that its construction, implementation, and maintenance activities will not in any way impede, diminish, or impair the flood flow capacity or functionality of the Yolo Bypass or other flood facilities dependent on the performance of the Bypass during flood events. The floods of 1986 and 1997 clearly demonstrate that the Yolo Bypass currently cannot spare even an incremental interference with its flood control function. In the lower Bypass, the levee and design capacity provides protection estimated at up to the 65 to 70 -year event, conveying as much as 500,000 cubic feet per second. Under current conditions, however, the Bypass has little to no margin for safety during high flow events. The U.S. Arm y Corps of Engineers has recognized that during the 1986 flood (estimated to be a 70-year event in the lower Yolo Bypass), waters rose to within one foot of the top of the levees (RD 2098), even though the levees were designed with five feet of freeboard. District records indicate that at District Unit # 1, levee mile 5.5, floodwaters encroached as much as 2.1 feet into the levee freeboard. In the un-leveed areas between District Unit # 1 and north to the Putah Creek levees, substantial water moved from the Bypass onto lands for which no flood	Please see response to comment 1717-209 regarding project consistency with flood protection standards, in addition to the development of the new preferred alternative, 4A, which does not include Yolo Bypass improvements.

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		easements exist.	
1717	212	An increase in water surface elevations could make the critical difference between outflanking or overtopping, altering erosion potential and decreasing the available freeboard and the passage of waters safely between the levees of the Bypass. These conditions can quickly erode the backside of levees and imperil life and property. Under these circumstances, the flood control function should not be balanced against, or compromised in order to enable or promote any other potential purposes within the Bypass including conservation or habitat development for purposes of mitigating species impacts associated with SWP or CVP water conveyance. All modifications to the Bypass must be completely mitigated to eliminate any detrimental flood management impacts to the Sacramento River Flood Control Project and ensure that the Bypass performance is not degraded.	Modification of the Fremont Weir and Yolo Bypass operations are only considered in a programmatic manner in the EIR/EIS (please see Master Response 5). Implementation of these measures would not occur until site-specific engineering and environmental analyses were completed to address flood issues. Please see response to comment 1717-209 regarding project consistency with flood protection standards.
1717	213	The primary concern of the California Central Valley Flood Control Association regarding this Project is assuring that its construction, implementation, and maintenance activities recognize the paramount flood control purpose of the Bypass, and do not impose new risks, re-directed flood and maintenance impacts, regulatory obligations (including ESA), cost or impediments to state and local flood management agencies in the vicinity of the Project and Bypass. Local districts already operate on tight budgets. They cannot and should not be responsible for increased capital, operation and maintenance costs, increased liabilities, or endure other obligations to offset the proposed Project impacts that could undermine the performance of the Sacramento River Flood Control Project for the purpose of accommodating projects undertaken within the Yolo Bypass.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. The proposed project will be designed and implemented to ensure flood neutrality and no net increase in flood potential or risk in the Delta. Reclamation Districts would not be responsible for mitigating impacts of the BDCP/CWF. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.

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1717	214	The California Central Valley Flood Control Association would be concerned about any increased localized surface flooding caused by the Project's alteration, disruption, and disconnecting of existing drainage facilities and would encourage the re-design and construction of the current drainage system be in place and functioning prior to Project construction.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.3.3, FEIR/EIS, for information on potential impact to drainage and runoff under the proposed projects. Also, see Section 6A.6.2.1.3 for a 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.
1717	215	Based on the review of the Project's Draft Environmental Impact Report, the activities proposed appear to provide multi-benefits that are compatible with purpose and function of the Bypass, however, we believe the Final EIR should include as a flood impact mitigation the requirement that the Project be subject to an appropriately crafted Central Valley Flood Protection Board (Board) permit that is routinely monitored and contains the following, but not limited to, legally enforceable requirements and conditions: 1. Recognizing the current deficiency in the lower Yolo Bypass ability to pass design flows at or below the design water surface elevation, permits should be required to demonstrate a net positive flood control improvement as evidenced by lower water surface elevations during a project design flood condition upon completion of the permitted project. 2. Projects should not impede or foreclose flood conveyance improvements designed to correct current deficiencies or meet future flood system needs within the existing project area nor diminish or subjugate, in any way, the existing flood control easements held and enforced by state and local agencies. 3. Permits should contain clearly defined and enforceable limits as to vegetation type, orientation, maximum acreages and hydraulic roughness. Permits should assure that the applicant, and any successor property owner or Project manager, has the continuing obligation, long-term funding, authority and ability to maintain the Project to the permitted standards, and that the Board has the clear duty and authority to require or undertake remedial work if the applicant is unwilling or unable to do so. Such flood management maintenance and remedial work, when necessary, must not be impeded nor prevented under the terms of permits and approvals required by other agencies of the state and federal government. It should be the applicant's obligation to ensure coordination of such permits and approvals as a condition of perm it issuance. In exercising this authority the	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.4, FEIR/EIS for a discussion on impacts of restoration-related environmental commitments and conservation measures, including significant reductions in the amount of planned habitat restoration and the removal of Conservation Measure 2 under the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because it is required by the existing BiOps. Also, see Section 6A.6.2.1.3 for a 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. Refer to Section 6A.6.2.1.1 for information regarding potential DWR encroachment permits

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		Board must have direct access to the project endowment to accomplish any required work. 4. Permits should contain requirements for annual monitoring and reporting by the applicant to document and ensure that the permitted encroachment is operated and maintained in accordance with permit conditions. Additionally, periodic analysis of the hydraulic performance of permitted encroachment should be required to identify and document project impacts to the Bypass's conveyance capacity. 5. The Board must retain continuing authority to modify permit conditions, compel project modifications or revoke the permit if the project fails to meet the required flood control performance, does not meet the net positive flood control assurances, does not or cannot operate to meet perm it conditions, or impedes the ability of the Sacramento River Flood Control Project from fully and unconditionally utilizing the existing flood control easements. 6. Implementation of permitted projects must not result in new or increased regulatory actions, costs or requirements on adjacent private or public operations as a result of the project, its contribution to environmental enhancement or the expectation that adjacent property, facilities or operations facilitate or contribute to the success or performance of the proposed project. Any additional operation and maintenance or levee improvement costs incurred by adjacent flood control agencies due to implementation of this Project should be paid for by the Project. The California Central Valley Flood Control Association would reiterate that any modifications or encroachments to the Sacramento River Flood Control Project must be subject to the Board's continuing jurisdiction to require unconditional removal, at the installer's sole cost and effort, in the case permitted projects impair existing function, or an enhanced level of flood protection, or the correction of existing hydraulic deficiencies is implemented to accommodate current and future flood control needs in the Yolo Bypass.	for construction activities under the proposed project. Section 6A.6 also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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.
1717	216	ATT2: Letter from Reclamation District No. 2068 to Bill Edgar, President, Central Valley Flood Protection Board. Dated March 26, 2013 on the flood control function in the Yolo Bypass	This comment describes an attachment to the comment letter that does not raised a specific comment. Please refer to text within the comment letter that may reference this attachment and corresponding response.
1717	217	ATT3: BDCP Review Document Comment Form of the California Central Valley Flood Control Association, Dated February 16, 2010, titled Regulatory Assurances and Changed Circumstances and Unforeseen Circumstances	This comment describes an attachment to the comment letter. See response above.
1717	218	Page 6-5 Section 2 Line 24-26 Comment: This section contains a provision that must be revised because it fundamentally misconstrues the nature and obligations of local levee maintaining agencies and would undermine the spirit of cooperation we expect the BDCP Management Entity should have with local flood control agencies. The provision asserts that the BDCP Management Entity should seek funding from a levee maintaining agency to pay for habitat-related damages that occur from a levee break. However, local maintaining agencies are not insurance policies for landowners, and are almost never financially responsible for damage from floods just because they result in levee breaks. The provision should therefore be revised to	Please see response to comment 1717-215 regarding levee maintenance under the proposed project.

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		require the BDCP Management Entity to cooperate with the local maintaining agency to repair breached levees in the project area, while itself making expeditious repairs to the flood-damaged habitat. Page 6-5 of the Working Draft Plan Implementation includes the following provision, with the objectionable portion underlined: Failure of levees not constructed as part of a BDCP activity reduces the benefits to covered species produced by restored tidal marsh. In the event of a failure of a levee not constructed as part of a BDCP action, the entity with jurisdiction and responsibility for the levee will be expected to make all necessary repairs. Following repair of the levee, the BDCP Management Entity will, to the extent practicable, identify and undertake actions through the adaptive management process to restore the degraded or lost habitat. The Management Entity will seek to obtain funding from the party responsible for the levee failure for the actions necessary to restore habitat functions provided by the tidal marsh.	
1717	219	Page 6-5 Section: 2 Line: 24-26 Comment: Most levees within the Sacramento-San Joaquin River Delta were constructed 100 or more years ago by private landowners. Local reclamation and levee districts were formed later to operate and maintain (O&M) the levees. The U.S. Army Corps of Engineers upgraded many of these levees (called federal project levees) to engineering standards, and many have also been incorporated by the State into the Adopted Plan of Flood Control. However, for almost all Delta levees, the districts have retained their historical role in conducting O&M. [footnote 1: See, e.g., Water Code [Section] 8370.] In this capacity, local districts perform multiple inspections of the levees within their jurisdiction annually and conduct O&M as needed throughout the year, helping assure that the levees will perform as expected during floods. In the event of a levee break, the districts engage in flood-fighting and afterward work with State and Federal authorities to arrange for an expeditious repair. Districts are not, however, akin to an insurance policy and somehow legally responsible for all damage that results from floods that happen to result in a levee failure. For one thing, levees do not remove all risk of flooding. Levees are constructed of compacted soil with some rock and other additional protections, and are intended to reduce flood risk to a level consistent with the levee's design criteria. When a break occurs, it is almost always because the levee was subjected to an overwhelming natural force. Because no flood control system is ever without risk of failure, landowners who purchase property within a flood plain do so with the understanding that their property may ultimately be damaged due to flooding. Accordingly, many local levee districts provide occasional notifications to landowners to that effect. One example, from Reclamation District No. 2068, is attached.	Please see response to comment 1717-215 regarding levee maintenance under the proposed project. Also, see Master Response 16 regarding seismic and levee failure events in the Delta.
1717	220	Page: 6-5 Section: 2	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. Numerous comments were

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		Line: 24-26 Comment: With very limited exceptions, California law grants local districts with immunity from suit. [footnote 2: See generally Gov't Code [Section] 810 et seq.] Even if a local district has been negligent in conducting O&M, and that negligence is associated with a levee break, a damaged landowner still cannot recover. [footnote 3: See, e.g., Kambish v. Santa Clara Valley Water Conservation District, 185 Cal.App.2d 107 (1960).] The recent case of Tilton v. Reclamation Dist. No. 800, 142 Cal.App.4th 848 (2006), provides a good overview of negligence law's limited application to levee districts. There are admittedly a few exceptions to immunity for a flood control project, such as a design that uses private property not historically subject to flooding as a retention basin to provide flood protection to other property. Although the exceptions tend to be highly publicized, they are rare and have little application to Delta levees, which almost always extend around an island's entire exterior boundary and thereby provide equal protection to all lands. The reason for district immunity is simple: the law is intended to encourage the formation and continued existence of districts in order to maximize flood control projects. If local districts were financially responsible for all flood damage in their jurisdictions, they would be quickly dissolved, leaving landowners to maintain their own levees-a virtually impossible task without a competent staff, engineering consultants, heavy equipment, and a stable funding source.	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. Please see response to comment 1717-215 regarding levee maintenance and project consistency with flood protection standards.
1717	221	Page: 6-5 Section: 2 Line: 24-26 Comment: It is highly implausible that a levee break would cause damage to tidal habitat restored under the BDCP. The habitat areas will all, or virtually all, be located outside of levees, where they can be influenced by ocean tides and left exposed to seasonal flood waters. Levees breaks, by contrast, result in flood water inundating areas within their boundaries. The levees do, however, provide protection to water conveyance infrastructure and other systems relied upon by the members of the BDCP Steering Committee. Consequently, the BDCP Management Entity should be directed to support and cooperate with local reclamation and levee districts in the event of a levee break, not attempt to hold them financially responsible for the effects of natural disasters. We therefore request that the above-cited provision be revised, preferably as follows: Failure of levees not constructed as part of a BDCP activity reduces the benefits to covered species produced by restored tidal marsh. In the event of a failure of a levee not constructed as part of a BDCP action, the entity with jurisdiction and responsibility for the levee will be expected to pursue necessary and reasonable repairs. Following repair of the levee, the BDCP Management Entity will, to the extent practicable, identify and undertake actions through the adaptive management process to restore the degraded or lost habitat. The Management Entity will further cooperate with and provide support to local levee maintaining agencies to ensure an expeditious repair of the failed levee.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Section 6A.6 in Appendix 6A for a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. 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

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			operations of the CWF.
1717	222	ATT4: Letter from California Central Valley Flood Control Association, Dated May 13, 2009, on Scoping Comments on the BDCP and EIR/EIS to Office of Environmental Compliance - DWR	This comment describes an earlier comment letter that was addressed in environmental documents.
1717	223	Federal Project Levees The Federal government has reconstructed levee systems along the Sacramento and San Joaquin River systems. The individual levees within these systems act in coordination in order to provide flood benefits to all lands within the Central Valley of California. The State of California is currently working on the Central Valley Flood Protection Plan, which will evaluate the current system and recommend implementation of certain flood projects. The main concern of the Association is that the BDCP must act in accordance and coordinate with the ongoing work of the State under the Central Valley Flood Protection Plan. In particular, the key component of the Sacramento system is the Yolo Bypass, which carries 80% of the water at the latitude of Sacramento during extreme floods. The BDCP documents indicate that additional water will be diverted into the Yolo Bypass during periods of non-flood flow. This will be accomplished by notching, or gating, the Fremont Weir at a lower elevation than currently exists. The BDCP should describe more specifically how this will be accomplished and evaluate any impacts, such as seepage, erosion, and wave fetch damage to adjacent levees, that this will cause on neighboring levee systems due to increased flooding of the Bypass. The Bypass levees are designed for short term, infrequent flooding; and are typically not armored by riprap, nor are they designed to prevent seepage for a long period of time.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Appendix 6A, Section 6A.6.2.1.3, FEIR/EIS, for a 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. Also, see Section 6A.6.4 for a discussion on impacts of restoration-related environmental commitments and conservation measures, including the removal of Conservation Measure 2 under the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because it is required by the existing BiOps.
1717	224	The current State plan of flood control and the Central Valley Flood Protection Plan are currently evaluating the adequacy of the existing flood control system. In addition, the plans will be looking at increasing protection to urban areas at the 200-year flood frequency level. The results of these plans may cause the Yolo Bypass and other parts of the system to be modified in order to increase their flood carrying capacity. It is imperative that the EIR/EIS evaluate impacts to flood protection when developing habitat or additional floodways under its plan. The EIR/EIS must avoid reducing current flood capacity throughout the whole Central Valley flood control system. During the scoping sessions, very little detail was given in regards to the notching or gating of the Fremont Weir in order to provide flows in the Yolo Bypass during non-flood years. It was indicated during the scoping sessions that flooding could extend 45 days, up to May 1. This change to the Yolo Bypass operation would essentially render farming infeasible due to the uncertainty, or inability, to adequately work the soil in time to plant crops. This change in land use could significantly change the vegetation regime in the Yolo Bypass; which could therefore, reduce the flood carrying capacity if a riparian forest is allowed to grow in the Bypass as has previously occurred in the Sutter and Tisdale Bypasses. Currently, as a byproduct of farming operations, the lands within farming areas and hunting clubs are	Please see Appendix 6A, Section 6A.6.4, FEIR/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 Conservation Measure 5 (Seasonally Inundated Floodplain Restoration), and substantial reductions in the amount of planned habitat restoration under the new proposed project, Alternative 4A. 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). Also, see Section 6A.6.2.1.3 for a 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. Refer to Section 6A.6.2.1 for potential project impacts to flood conveyance and capacity. See Master Response 2 regarding project vs program level of detail in EIR/EIS documents.

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		maintained by the farmers and hunters. Lack of vegetation maintenance for as little as one year could effectively create thick stands of habitat that would act to increase the coefficient of friction within the Yolo Bypass and change the flood carrying capacity. The BDCP EIR/EIS must describe in detail how this capacity will be maintained, or improved if flood capacity improvement is part of the Central Valley Flood Protection Plan.	
1717	225	In the San Joaquin side of the Delta, of particular concern is expansion of existing floodways in the Paradise Cut area. The modification to this area will cause flows that have historically continued in the San Joaquin River towards Stockton to be diverted west and north along the non-Project levees of the south and central Delta. Evaluation of flooding in the Sacramento and San Joaquin systems requires flood modeling from the Delta all the way up to the highest reaches of the levee systems. The State is currently developing models to perform this type of operation. The BDCP must utilize these models in order to adequately evaluate the impacts that any habitat or other changes within the flood system under BDCP. The BDCP plans indicate that levees may be removed in order to flood certain areas that are currently being farmed. The BDCP must identify which agency has regulatory responsibility and the process that must be followed in order to allow this action to occur, especially for levee systems that are under the jurisdiction of the U.S. Army Corps of Engineers.	Please see Appendix 6A, Section 6A.6.4, FEIR/EIS, for a discussion on impacts from restoration -related environmental commitments and conservation measures, including the removal of Conservation Measure 5 (Seasonally Inundated Floodplain Restoration) under the new proposed project, Alternative 4A. Also, see Section 6A.6.2.1.3 which discusses DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. Section 6A.7.2 discusses potential future hydraulic analyses during the Section 408 permitting process.
1717	226	Non-Project Levees The BDCP plan refers to a through-Delta portion of its dual conveyance facility; however, there are very few details regarding what this component will entail. The bulk of the levees that currently comprise the through-Delta corridor, and also protect water quality in the western Delta, are non-Project levees; that is, not part of the Federal flood control system. They are currently maintained by the local reclamation districts. These levees essentially form the Delta and protect all the land-based habitat and improvements, which include thousands of acres of water fowl habitat, State highways and county roads, gas and electrical transmission lines, railroads, and small urban populations. In addition, these levees support channel margin habitat along their slopes, and within the shallow water areas waterward of the levee. They also protect existing channel islands, which are remnants of the original Delta habitat. Several details should be addressed in the EIR regarding non-Project levees. First, non-Project levees that are going to be deemed part of the through-Delta corridor should be identified. In addition, the document should describe the kind of rehabilitation that would be accomplished on these levees to ensure the failure risk is reduced due to Project levels. In addition, the EIR/EIS should address other levees in the Delta that provide benefit to the through-Delta portion of the dual conveyance facility; in particular, the levees that provide water quality benefits. The "domino effect" should be addressed in regard to levees that may, or may not, be maintained in the future. It is a documented fact that when levees fail and islands are not reclaimed, the neighboring islands experience extensive increases in maintenance due to seepage problems and increased wind/wave fetch forces. These non-Project levees are maintained by local reclamation districts. The eastern alignment of the canal, in particular, will bifurcate a number of these reclamation districts. The BDCP document should address the future of reclamation districts once a canal is built through their boundaries. The canal will affect both the operation and maintenance of	Please see Appendix 6A, Section 6A.6.1.2, FEIR/EIS, for information on project consistency with USACE, CVFPB, and DWR flood standards and regulations, and Sections 6A.6.3 and 6A.6.4 for impacts from construction and operations of the proposed project. Figure 1 in Appendix 6A identifies project and non-project levees in the Delta. Also, refer to Chapter 3 and the associated figures for an updated description of the new proposed project, Alternative 4A, and the alignment through the Delta. For information on DWR levee maintenance responsibilities, please see Section 6A.6.2.1.2. 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.

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		existing levees, possibly cause seepage problems that would hinder the structural stability of these levees, and would also create a separation of landowners that would change the ability to drain the lands.	
1717	227	All of the existing habitat in the Delta is protected by levees. The BDCP document should address how this existing habitat will fare in the future, especially if levees should fail and islands are not reclaimed. The scoping sessions did not present any information regarding existing habitat and the future of this habitat. In addition, the BDCP document should investigate the possibility of increasing habitat, such as channel margin habitat, in conjunction with rehabilitation of existing levees that are important to the through-Delta portion of the dual conveyance facility. These multi-objective projects could provide extreme benefit to the Delta lands and habitat.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Please see Section 6A.6.2.1.3 for a 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. Also, see Section 6A.6.2.1.2 for information on DWR responsibilities regarding levees modified by the proposed project. Implementation of Alternative 4A will not increase flood risk to existing habitats due to flood protection requirements described in the previously referenced sections. Existing levee policies and programs are assumed in all the project alternatives, thus response actions to levee failure events are expected to be similar to existing conditions. Sections 6.A.2 and 6.A.3 discuss existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF. Also, see Master Response 3 regarding the purpose and need of the proposed project.
1717	228	General Comments Regarding Habitat Creation The U.S. Army Corps of Engineers has increased its requirements that habitat be removed from certain levees. The BDCP should address how this will affect its plans. Habitat creation in the floodway can impact flood carrying capacity and other flood control benefits that currently exist. The inability to maintain habitat development in the future could cause additional problems. Under the topic of adaptive management, will BDCP be considering removal of habitat should it prove to negatively affect flood control, or have impacts to human health and safety. The adaptive management process proposed in BDCP draft documents fails to describe how monitoring will be designed to establish cause and effect relationships between implementation of specific conservation measures or operation of new conveyance facilities and the type and magnitude of human impacts from those measures such as economic and public safety. Draft documents gives examples of a tidal marsh restoration project being reduced or discontinued or water operation being modified if its providing little benefit to covered species, however it does not explain what will happen if a habitat project or water	Please note that the proposed project (Alternative 4A) no longer includes the BDCP, and therefore no longer includes any actions in the Yolo Bypass, or floodplain restoration. Please see Section 6A.6.2.1.3 for a 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. Section 3.6.4.4 in Chapter 3, FEIR/EIS, describes the adaptive management and monitoring program under Alternative 4A.

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		operation results in causing economic or physical harm to humans in the Delta. Due to the significant scientific uncertainties regarding the impacts from the construction and operation of new conveyance facilities and the implementation of habitat conservation measures in the Delta, the EIR/EIS must include an adaptive management process that includes modification of any conveyance or habitat project that result in human consequences, including reducing flood protection. For instance, if the Fremont Weir project mentioned earlier is implemented and funding for vegetation maintenance in the Yolo Bypass is not available and a riparian forest starts growing in the Bypass, will the Plan adaptively manage the habitat measure to assure flood capacity is returned. Just as there is an adaptive management process for responses by covered species to the Plan's implementation, there also needs to be an adaptive management process to respond to negative human impacts caused by the Plan's implementation. Otherwise, this is not a complete adaptive management plan.	
1717	229	It is impossible to provide comprehensive or complete comments on the Bay Delta Conservation Plan Environmental Impact Report/Environmental Impact State or evaluate the cumulative impact of various projects to be in a final EIR/EIS due to the lack of a project description or specific performance targets such as, but not limited to, bypass flows and outflows, greenhouse gas impacts, or seismic stability. The purpose of an EIR is to provide State and local agencies and the general public with detailed information on the potentially significant environmental effects which a proposed project is likely to have and to list ways which the significant environmental effects may be minimized and indicate alternatives to the project. The lack of specificity or details on the proposed project prevents the California Central Valley Flood Control Association and its local agency members from being able to identify the significant environmental effects of the project [COMMENT INCOMPLETE IN ORIGINAL]	This comment comes from scoping comments sent to DWR in 2009 in response to a Notice of Preparation. At the time these scoping comments were made, the Draft EIR/EIS had not yet been prepared. The comment identifies the contents that the California Central Valley Flood Control Association said at the time should be included in the then-future Draft EIR/EIS. The Lead Agencies believe that the FEIR/EIS includes all of the requested contents and all of the contents required under NEPA and CEQA. A comment on an NOP need not be treated as a comment on a draft EIR, as scoping comments serve different purposes than comments on an NOP. (See Sierra Club v. City of Orange (2008) 163 Cal.App.4th 523, 536-538 [comments on an NOP cannot be a basis for exhaustion of administrative remedies with respect to arguments on the adequacy of an EIR].) Please see Master Response 40 regarding Public Outreach adequacy, 41 transparency, and 42 for public comments. Please see Master response 4 regarding Alternative development and 9 for information regarding the Cumulative Impact Analysis.
1717	230	ATT5: Letter from California Central Valley Flood Control Association to Mr. Anthony Saracino, Chair of the California Water Commission. Dated October 12, 2011 on topic of Evidence for findings for Resolutions of Necessity.	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 or the Final EIR/EIS.
1717	231	ATT6: Letter from Soluri Meserve Law Corporation, Representing Reclamation District 999, Dated May 14, 2009, to California Department of Water Resources on Comment for Notice of Preparation	This comment describes an attachment to the comment letter referencing a previous comment letter on the NOP that was considered in the proceeding environmental documents.
1717	232	Provision of these comments should not be interpreted as an indication of acceptance of the premise that the suite of actions generally referenced in the NOP and in BDCP materials [footnote 4: In addition to the Notice of Preparation (NOP) itself, these comments are also informed by materials generated by the BDCP process. Even with these supplemental materials, there is still no clear description of the far-reaching actions being contemplated.] are, on the whole, appropriate given the numerous considerations relevant to management of water and other resources of the Sacramento San Joaquin Delta. In particular, Reclamation District 999 is concerned that the BDCP is being planned without serious consideration of the impacts it will have on the environment and communities within the Delta.	Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. Chapter 3, Description of Alternatives, of the Final EIR/EIS gives a detailed description of which actions are included within each of the BDCP and non-HCP alternatives. Resource areas are addressed in the Final EIR/EIS concerning the San Joaquin Valley and Sacramento River, including but not limited to surface water (Chapter 6), water quality (Chapter 8), fish and aquatic resources (Chapter 11), terrestrial biological resources (Chapter 12), socioeconomics, including Delta communities (Chapter 16), and public health (Chapter 25). Where impacts are found to be significant, mitigation and/or environmental commitments will be implemented to avoid and/or offset these effects, where possible. Please also refer to Master Response 24 addressing comments regarding impacts on the Delta as a place.
1717	233	Reclamation District 999 recognizes the intense effort that is being dedicated to this Project by public and private entities alike with the goal of receiving 50-year incidental take permits ("ITP") for the covered species that authorize take related to operation of the State Water	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) is being considered. Alternative 4 remains a viable alternative. Please also refer to Chapter 32 of the EIR/EIS for an

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		Project ("SWP") and Central Valley Project ("CVP") Delta facilities. ITP coverage would facilitate continued and increased exports of water over current levels for use out of the Delta watershed with "No Surprises" assurances under the Endangered Species Act. [footnote 7: Under the No Surprises policy, the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water or other natural resources beyond the level otherwise agreed upon could not be required without the consent of the PREs. (See 50 C.F.R., [Sections] 17.22, subd. (b)(5), 17.32, subd. (b)(5), 222.307, subd. (g).)] Despite the proposed dramatic and permanent changes to the Delta landscape and waterscape, and the proposed 50-year duration of "take" coverage, the BDCP process has not included significant outreach to and incorporation of feedback from local communities within the Delta. While Steering Committee representation of entities other than the Potentially Regulated Entities ("PRE") has grown, the Planning Agreement for the BDCP squarely provides ultimate decision-making authority regarding the Project to the PREs. [footnote 8: See Bay Delta Conservation Plan, Planning Agreement (October 6, 2006, rev'd March 19, 2009), [Section] 7.4.1.1.] A prerequisite to Steering Committee membership is also an agreement with the Planning Goals formulated in 2006, which do not include any specific references to the protection, or even consideration, of core in-Delta interests (e.g. protection of in- Delta beneficial uses of water and land and minimization of disturbances to existing communities). As a result of these and other factors, Steering Committee membership is not considered a reasonable option by many representatives of interests within the Delta. The District finds the repeated references to a "collaborative process" in BDCP materials misleading because such a description indicates participation by all affected parties in a consensus-driven process. [footnote 9: See generally, Wondollek at al., Making Collaboration Work: Lessons from Innovation in Natural Resource Management (2000).] However, fundamental decisions regarding the components and direction of the BDCP were made well before the District (and likely any other entities within the Delta) began participating in the BDCP process. [footnote 10: For example, the selection of "the main new physical feature of [the] conveyance system includes the construction of a new point (or points) of diversion in the north Delta on the Sacramento River and an isolated conveyance facility around the Delta." (The Bay Delta Conservation Plan: Points of Agreement for Continuing into the Planning Process (November 16, 2007), at p. 3.) The casting of this massive structure with correspondingly massive impacts on habitats and species not previously affected by PRE diversions as a "conservation measure" occurred subsequently in the process.] Though some improvements have occurred since the BDCP process began (e.g., accessibility of meeting materials, although handouts are often withheld until the meeting and copies are not always provided to all audience members), a greater understanding of local concerns and actual responses to those directly impacted by the Project must occur to gamer local support for this Project. In addition to practical reasons to consult with the affected communities regarding development of such an enormous and far reaching project, close consultation with affected entities such as the District is legally required. Under CEQA, the District has management authority over several resources affected by the project and requests that its concerns be carefully considered. [footnote 11: Tit. 14 Cal. Code Regs., div. 6, ch. 3 ("CEQA Guidelines"),	extensive account of the outreach that was done, as well as Master Response 40 and Master Response 41 for comments pertaining to transparency and adequacy of outreach efforts.

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		[Section] 15086, subd. (a)(3).] Under NEPA, an EIS must be conducted "in cooperation with State and local governments" and other agencies with jurisdiction by law or other special expertise. [footnote 12: 42 U.S.C., [Sections] 4331, subd. (a), 43 3 2, subd. (C)(iv).] Consultation under CEQA and NEPA is thus formally requested at this time.	
1717	234	Comments on Scope of Environmental Review Project Description Significant work still needs to be undertaken to develop a proper Project description that would properly support an adequate environmental review process. A Notice of Preparation (NOP) must include "sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the information shall include: (A) Description of the project, (B) Location of the project [], and (C) Probable environment effects of the project." [footnote 13: CEQA Guidelines, [Section] 15082, subd. (a)(l).] The lack of detail regarding the Project being proposed, including the interchangeability of major Project components that would dramatically change the scope and location of impacts severely constrains Reclamation District 999's ability to provide detailed NOP comments at this time.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Also, see responses to comments 1717-229 and 1717-232 regarding the NOP and development of the EIR/EIS.
1717	235	It is unclear from the Notice of Preparation what level of review is contemplated for the various proposed actions. For instance, the NOP does not explain the level of review (i.e., project or program) that elements of the BDCP will be analyzed. A "program EIR should be explicit about what level of review is contemplated for project-level approvals." [footnote 14: Remy et al., Guide to the Environmental Quality Act, 11th ed. (2007), at p. 654, discussing Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency (2005) 134 Cal. App. 4th 598.] The public must be apprised, in particular, of those aspects of the Project that will not receive additional environmental review.	For more information regarding project and program level analysis please see Master Response 2. Also, see responses to comments 1717-229 and 1717-232 regarding the NOP and development of the EIR/EIS.
1717	236	Given the far-reaching effects of the BDCP Project under consideration as well as the underlying statutory mandates associated with development of Habitat Conservation Plans, one would expect that a sound scientific basis would support the currently proposed components of the BDCP. This scientific basis is, however, completely lacking in many respects. For example, biological goals and objectives for the BDCP still have not been established, and certainly had not been established prior to selection of the project components. [footnote 15: According to the U.S. Fish and Wildlife Service's Five Point Policy, biological goals and objectives "create parameters and benchmarks for developing conservation measures, provide the rationale behind the HCP's terms and conditions, promote an effective monitoring program, and, where appropriate, help determine the focus of an adaptive management strategy." (Final Addendum to the Handbook for Habitat Conservation Planning and Incidental Take Permitting Process, 65 Fed. Reg. 35251-35251 (June 1, 2000).] Without such objectives, the process of weighing the efficacy of proposed components to meet Endangered Species Act requirements is not well	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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. 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

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		grounded. Additionally, it is not clear that the development of the BDCP project description (conservation measures/actions) comport with Endangered Species Act (ESA) guidance regarding the priority of avoiding, minimizing and mitigating impacts to covered species. "Mitigation actions under HCPs usually take one of the following forms: (1) avoiding the impact (to the extent practicable); (2) minimizing the impact; (3) rectifying the impact; (4) reducing or eliminating the impact over time; or (5) compensating for the impact." [footnote 16: Habitat Conservation Planning and Incidental Take Permit Processing Handbook (1996) ("HCP Handbook"), at p. 3-19; see also 16 U.S.C., [Section] 1539, subds. (a)(2)(A)(ii-iii), (a)(2)(B)(ii).] The BDCP project description must be developed based on these underlying ESA principles, which provides more emphasis on avoidance of take in the first place, especially where compensation or mitigation for a given impact will lead to take of additional species and new environmental effects. [footnote 17: See HCP Handbook, at p. 7-2 (describing circumstances under which take associated with mitigation activities may be authorized).)]	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.
1717	237	With respect to the Project objectives/statement of purpose and need from a CEQA/NEPA perspective, project applicants are typically afforded a measure of flexibility to select project objectives and components. [footnote 18: See, e.g., CEQA Guidelines, [Section] 15124, subd. (b); 40 C.F.R., [Section] 1502.13.] In this instance, however, the participation of public entities with statutory responsibilities to the public, along with the far-reaching scope and effects of the project dictates a more careful inspection of foundational assumptions underlying the selection of Project components. The ongoing and probable future public financing of development and implementation of the BDCP also creates a heightened responsibility for development of objectives that also serve a broader public interest beyond the interests of the Potentially Regulated Entities. Given the long time horizons for the sought take coverage as well as the certainty that conditions will change over time, a rigorous adaptive management program is crucial to long term improvements in Delta ecosystems and viability of special status species. The adaptive management component of the BDCP must be carefully developed and articulated with enough specific details to understand what it means to the District. As with other foundational components of this Project, a complete description, of an effective adaptive management plan has yet to be developed. Technical comments on the draft Adaptive Management Plan made available thus far are attached for the consideration of the Project team members. (Exhibit B: Adaptive Management and Public Participation Comments.)	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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. Also, see Master Response 33 regarding adaptive management.
1717	238	Project Baseline Under CEQA and NEPA, an EIR must include a description of the physical environmental conditions in the vicinity of the project from both a local and regional perspective. [footnote 19: Ibid; 40 C.F.R., [Section] 1502.15.] An accurate description of the environmental setting of the Project is critical because it establishes the baseline physical conditions against which a lead agency can determine whether an impact is significant. [footnote 20: CEQA Guidelines, [Section] 15125, subd. (a).] The EIR/EIS must thus include detailed description of Delta communities and the surrounding environment. Equally important, the baseline for the EIR/EIS must account for current export levels (as modified by recent Endangered Species Act (ESA) and California Endangered Species Act (CESA) litigation and related regulatory actions). It may not be assumed that SWP and CVP	Baseline levels and assumptions for water supply are clearly addressed in Chapter 5, Water Supply, FEIR/EIS. Please also refer to Master Response 1 regarding the environmental baseline.

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		contract water amounts are already being fulfilled. Thus, current export levels are the appropriate environmental baseline against which to measure impacts of the Project. [footnote 21: See Save Our Peninsula v. Monterey County Board of Supervisors (2001) 87 Cal.App.4th 99, 121 (impacts of project must be measured against real conditions on the ground).]	
1717	239	Project Impacts Several probable components of the BDCP would have major environmental and other impacts within Reclamation District 999. It is unclear, however, whether and exactly how these components of the Project will ultimately be pursued. In light of this incomplete and shifting Project description, Reclamation District 999 is only able to provide general comments at this time. The District recommends consideration of the following impacts associated with the potential western alignment of an isolated conveyance facility: --Impacts from conversion of farmland to canal and associated facilities. In agricultural areas such as the District, conversion of farmland leads to other indirect environmental and social effects that also must be disclosed, and to the extent required by law, mitigated.	See Master Response 22 for more information regarding agricultural impact mitigation. Please see Chapter 16, Socioeconomics, of the FEIR/EIS, for discussion of potential effects on agricultural production and employment in the Delta. For impacts to agricultural resources, also see Chapter 14, FEIR/EIS.
1717	240	Project Impacts Several probable components of the BDCP would have major environmental and other impacts within Reclamation District 999. It is unclear, however, whether and exactly how these components of the Project will ultimately be pursued. In light of this incomplete and shifting Project description, Reclamation District 999 is only able to provide general comments at this time. The District recommends consideration of the following impacts associated with the potential western alignment of an isolated conveyance facility: --Impacts from destruction of habitat for riparian and terrestrial species.	The commenter recommends that impacts to riparian habitat and terrestrial species from the western alignment (presumably Alternative 1C) be considered. Effects on valley/foothill riparian and terrestrial species from Alternative 1C are addressed in Section 12.3.3.4, Chapter 12 of the FEIR/EIS.
1717	241	Project Impacts Several probable components of the BDCP would have major environmental and other impacts within Reclamation District 999. It is unclear, however, whether and exactly how these components of the Project will ultimately be pursued. In light of this incomplete and shifting Project description, Reclamation District 999 is only able to provide general comments at this time. The District recommends consideration of the following impacts associated with the potential western alignment of an isolated conveyance facility: --Impacts from incompatibilities of canal and associated facilities with existing local land use plans. --Impacts associated with ancillary facilities for the canal, such as power supply and access roads.	Potential impacts to land use are discussed in Chapter 13 of the FEIR/EIS. Impacts associated with construction features such as access roads and power lines are discussed in the EIR/EIS resource chapters.

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1717	242	Reclamation District 999 also urges analysis of impacts of all BDCP Project components on the availability of water within the Delta for beneficial uses. Any isolated conveyance facility and northern intake point(s) would reduce the amount of freshwater within the Delta. Potential results of changes in water quality on the environment, special status species, and beneficial in-Delta uses of water must be carefully analyzed. [footnote 22: Water rights within the Delta are afforded priority over the SWP and CVP. (See, e.g., Wat. Code, [Section] 12203; see also Wat Code, [Section] 11460 (area of origin protections).)]	The resources identified in this comment, including water supply, water quality, special status species, and other in-Delta beneficial uses, have been fully evaluated in the Draft EIR/EIS, RDEIR/SDEIS, and Final EIR/EIS.
1717	243	A major component of the BDCP is restoration [footnote 23: The use of the term "restoration" here should not be considered an acceptance of the premise that these activities would actually restore areas to a previously historic condition.] of tidal and shallow water habitats, some of which may occur within the District, [footnote 24: This comment is based upon materials provided in the BDCP process, not the NOP itself. These materials have typically included only low quality maps that depict constantly shifting proposals described by constantly changing nomenclature. As discussed in section III.A above, an intelligible and stable project description is necessary to an NOP that adequately informs the public.] in order to increase primary production [footnote 25: Primary production is the conversion of sunlight into food energy by plants or aquatic plant- like organisms (phytoplankton).] of food for species sought to be covered by the Habitat Conservation Plan. It has been postulated in the BDCP that additional nutrients provided by increased primary production would benefit the listed fish species, but the requirements for additional primary production to aid in listed fish species growth rate improvement is a complicated issue. The type (form/availability), size, location and timing of that food resource provided are critical in the actual value of that resource. Furthermore, it is possible that increasing primary production may not yield the desired effect. (See Exhibit C Terrestrial Species and Habitats Comments.) For instance, there is no indication that the addition of more nutrients (eutrophication) or primary producers in the system would benefit fish. Eutrophication can have significant negative site-specific and regional impacts, which can vary both in space and time. The proposed management of the Delta does not have any mechanism for fine-tuning, managing, or otherwise controlling the degree and transformation of nutrients in this system. This well-intentioned, but undeveloped idea could by itself lead to extinction of rare aquatic species, the potential for which must be analyzed in the EIR/EIS.	Substantial restoration is not included in the preferred alternative, 4A, but the uncertainty associated with the benefits of restoration are described in the FEIR/EIS. Additionally, the FEIR/EIS included supplemental analysis related to impacts of restoration related to sediment loading, contaminants, and other topics. Also, see response to comment 1717-243 regarding the BDCP alternative.
1717	244	The contemplated restoration activities, because of the potential to release and dislodge mercury within subsurface soils, would also create the potential for release of mercury that would otherwise continue to be sequestered underground. (See Exhibit D, Mercury Issues Comments.) The EIR/EIS must fully analyze the impacts of mercury releases that would occur as a result of soil disturbance from restoration activities on human and natural communities. This analysis should recognize the use of Delta waterways for subsistence fishing as well as the potential for contamination of drinking water supplies for use within and outside of the Delta.	The water quality analysis assesses the potential for effects of the project on mercury as part of Chapter 8, Water Quality, FEIR/EIS. Please refer to Impact WQ-13, Effects on Mercury Concentrations Resulting from Facilities Operations and Maintenance, and Impact WQ – 14, Effects on Mercury Concentrations Resulting from Implementation of CM 2-22, for analyses of conveyance facility and restoration effects on mercury concentrations.
1717	245	The magnitude of the BDCP Project also makes essential a full analysis of cumulative impacts. In particular, Reclamation District 999 is concerned about the impacts of the BDCP in combination with another proposed Project that would potentially bifurcate and disrupt lands within the District: the Transmission Agency of Northern California Transmission Project ("TTP"). One alternative route of the TTP includes massive transmission lines through the District. The TTP, in combination with components of the	All cumulative impacts are discussed in each resource chapter. A full list of reasonably foreseeable and already approved or permitted future projects considered in the cumulative analyses is presented in Appendix 3D, FEIR/EIS. This particular project mentioned by the commenter is not included. The preparation of the EIR/EIS for this project was cancelled in 2009.

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		BDCP, would result in cumulative environmental impacts that must be carefully considered. [footnote 26: See CEQA Guidelines, [Section] 15130; 40 C.F.R., [Section] 1508.25, subd. (c)(3).] For instance, the combination of the TTP and a western conveyance facility would interfere with the ability of farmers within the District to continue agricultural activities. Together, these massive infrastructure projects would also disturb important habitat areas relied upon by myriad species. Moreover, we are aware that the TTP proponents have been in communication with the Department of Water Resources, given the need for power along any new conveyance route. To the extent that these projects are interrelated and interdependent, they must be reviewed in tandem. [footnote 27: See CEQA Guidelines, [Section] 15378, subd. (a); 40 C.F.R. [Section] 1508.25, subd. (a)(3).]	
1717	246	Mitigation Measures to Address Significant Impacts Associated with Project Once a detailed BDCP Project description is complete, an effective program to mitigate potentially significant effects to the extent feasible will be critical to the local communities where components of the Project are located. Mitigation will be necessary both during construction and operation of the Project. While the lack of a detailed Project description constrains the ability to make specific suggestions, the District recommends consideration of the following measures: --Measures that would protect local soils and water from mercury contamination resulting from conversion of any upland areas within or upstream of the District to tidal or seasonal wetland habitat.	A full description of all of the alternatives addressed in the FEIR/EIS are included in Chapter 3, Alternatives Description. Please also refer to Master Response 14 regarding mercury. Additionally, Impact WQ-31 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 FEIR/EIS identifies Environmental Commitments to be implemented by the lead agencies. These commitments are y designed to avoid, prevent, and minimized potential discharges of constituents of concern.
1717	247	Mitigation Measures to Address Significant Impacts Associated with Project Once a detailed BDCP Project description is complete, an effective program to mitigate potentially significant effects to the extent feasible will be critical to the local communities where components of the Project are located. Mitigation will be necessary both during construction and operation of the Project. While the lack of a detailed Project description constrains the ability to make specific suggestions, the District recommends consideration of the following measures: --Measures to compensate for direct and indirect loss of agricultural productivity in the area, such as programs to develop markets for agricultural products that are grown within the region.	Please see Master Response 18 for more information regarding agricultural impact mitigation. Please see Chapter 16, Socioeconomics, of the FEIR/EIS, for discussion of potential effects on agricultural production and employment in the Delta. In addition, Chapter 14 discusses potential effects and mitigation to agricultural resources under the project alternatives.
1717	248	Mitigation Measures to Address Significant Impacts Associated with Project Once a detailed BDCP Project description is complete, an effective program to mitigate potentially significant effects to the extent feasible will be critical to the local communities where components of the Project are located. Mitigation will be necessary both during construction and operation of the Project. While the lack of a detailed Project description constrains the ability to make specific suggestions, the District recommends consideration of the following measures: --Measures to reduce water losses during transport.	All of the mitigation measures and other measures needed to reduce significant/adverse environmental effects are presented in the FEIR/EIS. This FEIR/EIS is also accompanied by a Mitigation Monitoring and Reporting Program which describes mitigation measures, environmental commitments and avoidance and minimization measures and how they would be implemented. Water lost during transport in the California Aqueduct or Delta Mendota Canal is not addressed in this FEIR/EIS because that portion of the SWP and CVP systems is not included in the action alternatives project description.
1717	249	Mitigation Measures to Address Significant Impacts Associated with Project Once a detailed BDCP Project description is complete, an effective program to mitigate	The lead agencies have developed a comprehensive set of environmental commitments that will dramatically reduce construction related energy use and carbon emissions. Specifically, the Exhaust Reduction Plan identifies a performance standard of model year 2013 engines for all offroad equipment with

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		potentially significant effects to the extent feasible will be critical to the local communities where components of the Project are located. Mitigation will be necessary both during construction and operation of the Project. While the lack of a detailed Project description constrains the ability to make specific suggestions, the District recommends consideration of the following measures: --Measures to decrease the energy use and related carbon footprint associated with the Project.	greater than 50 horsepower. This standard will be achieved through a variety of different means, including use of newer and more fuel efficient equipment. The Exhaust Reduction Plan also requires marine vessels and onroad haul trucks to utilize newer engines, which will consume less fuel and emit fewer emissions, relative to the fleetwide average. The project will also comply with all best management practices outlined in DWR's Climate Action Plan, which include development of tire inflation, ride sharing, and debris recycling programs, as well as use of high efficiency lighting. Please refer to Appendix 3B, Environmental Commitments, FEIR/EIS for additional information. As discussed in Chapter 22, Air Quality and Greenhouse Gases, FEIR/EIS the proposed project also includes aggressive mitigation that will offset construction-related emissions of nitrogen oxides, reactive organic gases, and particulate matter not reduced through onsite commitments, but still in excess of air district and federal de minimis thresholds, to below CEQA thresholds or net zero. Offsets will be purchased through local air district programs, which provide monetary incentives for engine retrofits and other low-emissions equipment. Accordingly, the projects funded through project contributions to local air district offset programs will help to reduce regional energy consumption and carbon emissions, especially considering that most funded projects have a lifespan longer than the 14-year project construction period. Similar to the criteria pollutant offset mitigation, the project would also offset all construction-generated greenhouse gas (GHG) emission to net zero through implementation of Mitigation Measure AQ-21. Potential energy-conservation strategies that may be pursued to achieve this performance standard include use of electric-powered or alternatively fueled construction equipment, use of low carbon concrete, energy efficiency retrofits for existing residential and commercial buildings, and development of biomass waste digestion and conversion facilities. Specific requirements for the environmental commitments and Mitigation Measure AQ-21 will be outlined in the Mitigation Monitoring Report Protocol (MMRP) and considered a condition of project approval.
1717	250	Alternatives to Project Given the major environmental and community impacts that could result from implementation of a Project of this magnitude, Reclamation District 999 urges inclusion of a detailed discussion of a broad array of Project alternatives in the EIR/EIS. The District does not agree with, and did not participate in, the initial selection of Project components. Had the District had an opportunity to participate in the development of the Project, the District would have urged that components be selected based both on established biological goals and objectives, with major consideration being given to minimization of disturbance to existing communities within the Delta. Though this did not occur during project development, the EIRIEIS must, as a minimum, consider alternatives that would address special status species requirements and avoid or minimize impacts on Delta ecosystems and communities.	Please see Master Response 4 regarding the range of alternatives selected and studied, and Master Response 9, regarding cumulative impacts to the Delta. The alternatives included in the FEIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The Lead Agencies carefully evaluated all potential alternatives that were proposed during the scoping process and during time of preparation of the Draft EIR/EIS. Also, see Master Response 40 and Master Response 41 regarding public outreach and transparency, respectively.
1717	251	As recognized by the state and federal courts that have considered the issue and the existence of the BDCP process itself, the Project's diversion of water from the Delta watershed results in take of special status species. Reductions in exported water would reduce take of special status species and other water quality impacts. Thus, alternatives that would reduce water exports should be given primary consideration as a means to conserve special status species.	The range of alternatives in the FEIR/EIS includes alternatives which result in modeled reductions in SWP and CVP water deliveries south of the Delta as compared to the Existing Conditions and the No Action Alternative. The modeled No Action Alternative and Alternatives 4H1, 4H2, 4H3, 4H4; 4A (Proposed Project); 5; 6A, 6B, 6C; 7; 8; and 9 indicated less SWP and CVP water deliveries south of the Delta than under Existing Conditions, as described in Appendix 5A, Section C, of the FEIR/EIS. Similarly, modeled Alternatives 6A, 6B, 6C; 7; 8; and 9 indicated less SWP and CVP water deliveries south of the Delta than under the No Action Alternative. Also, see Master Response 4 regarding alternative development, and Appendix 5E for supplemental modeling requested by the SWRCB related to increased Delta outflows.

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1717	252	Specifically, serious consideration of the ability of water use efficiency and conservation, and development of alternative supplies to meet water supply objectives of the Potentially Regulated Entities, must be provided in the EIR/EIS. Such alternatives include but are not limited to: desalinization, wastewater re-use, rainwater collection, groundwater banking, conjunctive use, and additional storage.	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. For more information regarding alternatives to the proposed project please see Master Response 4. For more information on demand management, please see Master Response 6
1717	253	Because the bulk of water exported from the Delta is used for agricultural purposes, water use efficiency and related options must also focus on the San Joaquin agricultural sector. As Reclamation District 999 landowners are primarily farmers, the District appreciates the importance of maintaining a productive agricultural sector to the state and the nation. However, when agriculture relies on water exported from a watershed that is facing multiple challenges caused in large part by the exports themselves, special considerations arise. [footnote 28: In addition to removing water from the Delta ecosystem, San Joaquin Valley agricultural users also contribute contaminated return flows back into the Delta, exacerbating water quality and other impacts related to the initial diversion. Indeed, one of the primary benefits of a new northern diversion point is the ability of the SWP and CVP to divert water that does not contain "used" SWP and CVP water.] Agriculture served by Delta water can and must move forward on measures that use water more efficiently, while continuing to provide essential foods and agricultural products. [footnote 29: See, e.g., The Pacific Institute, More with Less: Agricultural Water Conservation and Efficiency in California- A Special Focus on the Delta (September 2008). Though questions have arisen as to the feasibility of some of the measures discussed in this report, the report clearly indicates that agriculture can use water more efficiently.] These measures must be included in the EIR/EIS.	State constitutional restrictions require the reasonable and beneficial use of water and state law requires that water supplied from the Delta be put to beneficial uses. The lead agencies do not have the authority to designate what water deliveries are used for. Please see Master Response 34 regarding the potential uses of water delivered via BDCP/CWF proposed conveyance facilities. Through the Legislature and through executive agencies, California has embraced water conservation on numerous fronts, as have many California water agencies. Many of these efforts are highlighted in Appendix 1C, Demand Management Measures, FEIR/EIS, which describes conservation, water use efficiency, and other sources of water supply, including recycled water. While these elements are not proposed as part of the BDCP/CWF, the Lead Agencies recognize that they are important tools in managing California's water resources.
1717	254	Reclamation District 999 hopes that the significant public and private investment dedicated thus far to addressing Delta issues through the BDCP leads to tangible improvements that ultimately benefit all those reliant upon Delta resources. Because the Delta contains irreplaceable natural resources and is also the water hub of California, informed decision making is essential. As the BDCP is refined, emphasis should be placed on options that avoid a situation where the "solution" creates significant (and perhaps unanticipated) consequences, such as the current SWP/CVP pumping configuration. The imperiled status of endangered and threatened species within the Delta is yet another indication that watersheds do have a carrying capacity for water exports. With a growing state population that is removed from our largest fresh water supplies, simply continuing to transfer more and more water from one part of the state to another is not a viable long term plan. The District looks forward to participating in the BDCP process to ensure that the District's longstanding stewardship of Delta resources may continue.	The proposed California WaterFix Project is designed to provide a more reliable water supply, in a way more protective of fish. It is projected that water deliveries from the federal and state water projects would be about the same as recent history. The proposed project was also developed to meet the rigorous standards of the federal and state Endangered Species Acts; as such it is intended to be environmentally beneficial, not detrimental. Refer to Master Response 3 (Purpose and Need) for more information on the benefits of the project.
1718	1	Thank you for the opportunity to comment on the Bay Delta Conservation Plan (BDCP) and related draft Environmental Impact Report/Environmental Impact Statement (dEIR/EIS). These items are insufficient as informational documents. Failures include incorrect description of the project, failure to consider all viable alternatives to the project, and insufficient analysis of significant aspects and impacts of the project. The project should proceed, if at all, only after re-evaluation in refined draft documents, and after those refined drafts have been made available for further public review.	In July 2015, the lead agencies made a RDEIR/SDEIS available for public review and comment. The RDEIR/SDEIS was prepared to provide the public and interested agencies an opportunity to review engineering refinements made to the water conveyance facilities; to introduce new sub-alternatives: Alternatives 4A (California WaterFix), 2D and 5A; to explore multiple regulatory approaches; and, to include updated environmental analyses that, in part, were conducted in response to issues raised in the more than 12,000 comments received on the 2013 Draft EIR/EIS. The description of the proposed project is provided in Section 4 of the RDEIR/SDEIS.

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		The BDCP and its dEIR/EIS do not succeed in providing important and necessary information to the public, including, without limitation: -failing to make information in the BDCP and dEIR/EIS concise and readily available to the public, -failing adequately to convey the extent of energy to be used by the "BDCP proposed project" (preferred alternative), -failing to reduce reliance on water supplied through or from the Delta, -failing to address climate change adequately, -failing to include a reasonable estimate of all costs, and -failing adequately to analyze all proposed viable alternatives.	For comments pertaining to the range of alternatives evaluated, please refer to Master Response 4. For comments pertaining to the energy use of the project, please refer to Draft EIR/EIS Chapter 21, Energy . For comments pertaining to reliance on Delta water supplies, please refer to Master Response 31. For comments pertaining to the size and complexity of the document, please refer to Master Response 38. For comments pertaining to cost, please refer to Master Responses 5. For comments pertaining to climate change, please refer to Draft EIR/EIS Chapter 29, Climate Change as well as RDEIR/SDEIS Section 5, Revisions to Cumulative Impact Analyses.
1718	2	Information in the BDCP and dEIR/EIS is not clear, concise or readily available to the public Documents of intense public importance should present clear, concise information that is readily available to the public. The BDCP and associated draft Environmental Impact Report/Environmental Impact Statement (dEIR/EIS) typify documents of tremendous public importance. The BDCP and dEIR/EIS are predicated on providing a framework for authorizing the issuance of permits for "taking" [footnote 1: Under the California Endangered Species Act (CESA), "take" can mean "hunt, pursue, catch, capture, or kill" or to attempt any of the same; under the federal Endangered Species Act (ESA), "take" includes "harass, harm, pursue, hunt, shoot, wound, kill trap, capture, or collect, or to attempt to engage in any such conduct."] protected Delta species in the context of continuing and potentially increasing diversions from the Delta and its watersheds, while achieving the mandated goals of protecting, restoring and enhancing the declining ecosystem of the Sacramento-San Joaquin Delta (Delta). The California Environmental Quality Act (CEQA) Guidelines clearly state that public participation is an essential part of the CEQA process. [footnote 2: California CEQA Guidelines section 15201] Yet, the BDCP and dEIR/EIS have been published in a format [footnote 3: The format was a DVD disc supplied by state staff during a visit to a state-sponsored BDCP "open house".] that impedes the public's ability meaningfully to evaluate all relevant aspects-and thus, impacts-of the project. Inability to conduct convenient searches hinders public review and input. The entire document, for instance, cannot be searched using one search query. Multiple searches are needed for a single query because of the number of document parts involved. The BDCP itself includes 12 chapters and 25+ Appendix parts; the dEIR/EIS comprises 185 separate parts. As a result, a search for a single term in the BDCP and dEIR/EIS would involve repeating the same query over 220 times, through each of the individual chapters and sections. In view of the internal inconsistencies in the dEIR/EIS (discussed, below), the ability to complete sufficient searches is critical to accessibility and the public's ability to file comments timely. Additionally, the dEIR/EIS Index includes thousands of page references for specified topics, but no hyperlinks. Hyperlinks throughout the BDCP and dEIR/EIS would improve information accessibility and public's ability to search, review and respond	The size and complexity of these draft documents reflect a lengthy effort to analyze a proposed habitat conservation plan along with 18 alternatives under both state and federal laws. However, please note that the Alternative 4 is no longer the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP. Although the science and analyses that support the proposed project is 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 decision makers. Master Response 38 provides more information on the ways in which the document was made accessible for meaningful public review. Master Response 40 provides information about the noticing and document availability. Specifically, lead agencies planned and implemented a robust outreach program to engage stakeholders in the public review processes for the proposed project. The public engagement process was developed consistent with CEQA and NEPA guidelines for conducting public outreach for an EIR/EIS. Consistent with CEQA and NEPA requirements, the documents were made available online and at libraries throughout the state. The references cited in the documents were made available electronically at the DWR document repository located in West Sacramento. The references were available for public review during regular business hours. The draft documents were made available electronically as pdf files. Because of the size of the documents, they were broken down into logical chapters and sections. The lead agencies recognize that there are my ways to provide the documents but logical chapters and sections is the most practical way to provide the documents and is consistent with industry best practices. The table of contents provided for the EIR/EIS serves as a guide for readers to locate the subject matter they are most interested in. The pdfs, including the extensive table of contents, allow for word searches in order to quickly find the chapters and appendices on the topics of interest to each reviewer. 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. More information on the ways in which the document was made accessible for meaningful public review is provided in Master Response 38.

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		timely with comments on the BDCP and dEIR/EIS. Individual sentences and paragraphs cannot be saved reliably to another file (only parts of the desired text typically can be copied, requiring multiple attempts to reproduce a selected text). Notes, highlighting, etc., cannot be saved using the standard pdf "annotate" functions. Annotations to the text of the BDCP and dEIR/EIS cannot be saved without saving the entire annotated document to a separate file on separate media (desktop or flash drive). However, the newly-saved document cannot be copied normally (because copying results in nonsense characters), and needs to be re-typed for use in a comment letter, making even the ability to save to a flash drive problematic.	
1718	3	Time for response is inadequate; format is not user-friendly CEQA Guidelines [footnote 5: CEQA Guidelines [Section] 15141] recommend that the "text of draft EIRs ... for proposals of unusual scope or complexity should normally be less than 300 pages" while also recommending public review for such documents of < 60 days [footnote 6: Id., [Section] 15103]. Since the bloated BDCP and DEIR/EIS documents (+30,000-pages) are +100 times the length of the described DEIR of "unusual scope or complexity", one hundred times that review time would be 6,000 days, not the +182 days that have been granted. The review period granted is inadequate under CEQA standards. Full disclosure and complete public involvement are signature elements of CEQA. However, this BDCP and DEIR/EIS combination appears to be an electronic document dump. It does not constitute full or adequate disclosure and its obfuscated contents preclude proper public involvement. Information must be comprehensible in order to be useful. The agencies that have created this collection of documents should reissue the BDCP and DEIR/EIS as a searchable document on DVD disc, with hyperlinks and with adequate additional time granted for public review, so that the public review function, which is essential under CEQA, can be adequately and timely performed.	Please see Master Response 39. It explains that the 228-day comment was far longer than required by the CEQA Guidelines or by NEPA and discusses the many ways in which the agencies sought to ease public review and comment. DVDs were provided upon request and staff was widely available to guide readers looking for information on specific topics. More than 3,000 documents have been posted online since 2010, including both the first and second administrative drafts of the Draft EIR/EIS. For more information regarding document length and complexity please see Master Response 38.
1718	4	Information about energy impacts of water conveyance should be readily available to the public; information should be clear and concise. Information about preferred alternative Conservation Measure 1's energy use disseminated through the BDCP and DEIR/EIS process is misleading, as it claims that the proposed twin tunnel alternative, will save energy by using gravity flow ("a conveyance system designed to use gravity flow to maximize energy efficiency…" [footnote 7: DEIR/EIS Ch. 3, sec. 3.2.3, page 3-12]), and "involves … two tunnels to convey water by gravity; no intermediate pumping plant; and operations guided by Scenario H (described in Section ES.5.2.2)." [footnote 8: Id. at page ES-23] This fails as adequate public disclosure because it fails to mention in this broad claim the impact(s) of the 18 to 21 new pumps (500 horsepower each) that will be used to lift water from the intake tunnels into a proposed new forebay. While clean energy sources may be sought as a power source for these 18 to 21 new pumps, it is clear the large amounts of energy that will be expended could be better used in other ways that don't involve the transfer of enormous amounts of water over long distances. The DEIR/EIS states, that "[s]ome utility grid reinforcement and upgrade may be needed to accommodate this large new pumping load." [footnote 9: Id., p 3-108] It also states: "Alternatives 4 and 5 could result in a net increase or decrease in GHG emissions, depending on the analysis condition (2025 or 2060) and pumping scenario." [footnote 10: DEIR/EIS, ES-58] With no easily-searchable reference to either analysis condition 2025 or 2060, or to	Section 21.3.1.2 Operation, provides a clear and concise description of the additional pumping and energy requirements for each alternative. The energy requirements for the alternatives with different pumping plants and flows are discussed. Table 29-11 summarizes the annual average pumping and net energy use for all BDCP alternatives, allowing the reader to make a comparison between alternatives. The CALSIM model (version II) was used to characterize additional pumping and pumping energy requirements for the BDCP alternatives. Section 21.3.1.2 described the energy factors for each alternative as a function of the different facilities and the different pumping at the proposed north Delta intakes and at the existing south Delta pumping plants in section 21.3.1.2. Section 21.3.2.1 describes how SWP procures power through long-term and mid-term contracts based on year-ahead and month-ahead outlooks, and these are documented through demand forecasts submitted to CEC and CAISO and capacity compliance demonstrations submitted to CAISO. Therefore, a discussion of new or expanded power generation facilities for the project is not warranted. Energy for additional pumping will be obtained in exactly the same way as energy for existing CVP and SWP pumping plants is obtained; there will be a higher energy demand, but there will not be any new energy generation facilities dedicated to the project. The greenhouse gas and climate change analysis presented in Chapter 22, Air Quality and Greenhouse Gases, is based, in part, and the new pumping and energy requirements presented in Chapter 21; the GHG emissions (and release of other air pollutants) from the increased energy generation required for the

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		pumping scenario(s), this statement is vague and uninformative. The projected increase or decrease of GHG emissions should be clearly set forth in the DEIR/EIS Executive Summary and elsewhere in the documents, so that the documents reflect proposed and foreseeable conditions. The DEIR/EIS states "caution is required when interpreting outputs from the model results as a basis for trying to predict energy consumption associated with water deliveries." [footnote 11: DEIR/EIS, Ch 21, page 21-12] "Also, different regulatory environment settings in the CALSIM-II model would produce different allocations and system water deliveries, thereby also incidentally affecting energy consumption." [footnote 12: Id.] As the dEIR/EIS implies, the analysis done does not adequately discuss the different regulatory settings that would produce differing energy figures. Others have discussed the inadequacy of the CALSIM-II model used in these calculations. It is outdated; calculations should be done with a more updated model. While claiming, "[i]t is unlikely that any new generation will be constructed solely to provide power to the BDCP conveyance (or an alternative) facilities…", the DEIR/EIS states "[p]urchased energy may be supplied by existing generation, or by new generation constructed to support the overall energy portfolio requirements of the western electric grid." [footnote 13: DEIR/EIS, Ch. 2, p. 3; Executive Summary p. 3-109] The statement that energy may be supplied through these sources is not sufficiently definite to address a very significant issue. Energy sources that contribute to increased GHG, and consequently global warming, must be specified and evaluated in the document. "PG&E's distribution system would likely provide power for the through Delta/separate corridors alignment (Alternative 9) because the system currently reaches most of the proposed facilities." [footnote 14: Id.] Again, guesses as to the energy use of the proposed alternative are not an adequate basis for public review. This is an inadequately-addressed problem that requires more certain statements in order for public review to be meaningful.	alternative are included. Please refer to Chapter 22 for a discussion of energy-related GHG emissions and impacts.
1718	5	Interbasin transfers require effective opportunities for informed public participation The BDCP, including all alternatives, is a clearly plan to transfer water from one basin to another, and thus effective opportunities for public participation are required. As mentioned throughout this comment, informed public participation in this case cannot occur because the public is not able to access pertinent information, and information provided is conflicting, incomplete or obfuscated. As stated above, the proposed BDCP (twin 40-foot tunnels) would exacerbate the existing over-allocation of water from the Delta. As the dEIR/EIS states: [t]he purposes of the proposed actions under the BDCP are to achieve the following. … 3. 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 held by SWP contractors and certain members of San Luis Delta Mendota Water Authority, and other existing applicable agreements.	The proposed project would not affect upstream water rights or entitlements. It aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. The project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. The CALSIM II modeling performed for conveyance facility operations takes into account projected future demand for water supply in areas upstream of the Delta (as part of the future No Action baseline) prior to calculating Proposed Project diversion estimates to ensure that no area-of-origin protections or upstream water rights are affected by project conveyance facilities. Please see Appendix 5A of the FEIR/FEIS for additional modeling details. Please see Master Response 26 regarding water resources in northern California.

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		The above Purpose Statement reflects the intent to advance the coequal goals set forth in the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. [footnote 15: Exec. Summary, dEIR/EIS, p. ES-10] Succeeding text claims to limit the breadth of the statement above by relating it to the upper limit of legal CVP and SWP contract deliveries as an "upper bound" for alternatives, and not a target. However, setting an upper bound for the CVP and SWP deliveries, which is clearly far above the historical full natural flows, biases consideration of projects, and skews evaluation of alternatives. It seems to offer validation for an amount of water that was never delivered and likely cannot be delivered from current sources without serious environmental consequences. Perhaps these documents are suggesting that increased amounts of water, over historic CVP/SWP deliveries, could be obtained through other Northern California sources. This might account for the larger-than-historic upper limits included in the purpose statement. Such origin-of-waters change has not received study in this BDCP/dEIR/EIS process, and language proposing delivery of these larger amounts should be eliminated from these documents, barring further information, review and opportunity for public comment.	
1718	6	The State Water Resources Control Board found that "mean annual unimpaired or full natural flow in the Delta Watershed between 1921 and 2003 was 29 million acre-feet per annum (AFA), with a maximum of 73 million AFA in 1983. … The Central Valley Project and State Water Project hold … permits and licenses within the Delta watershed that account for 53% of the total face value of the water rights within the watershed." [footnote 16: Water Rights within the Bay/Delta Watershed, SWRCB, 9/26/08.] The total face value of those water rights and licenses is approximately 245 million AFA. [footnote 17: Id.] Thus, full deliveries of CVP and SWP contract amounts would take 53% of 245 AFA, or 129.5 AFA, which amounts represent almost twice the largest amount of full natural (unimpaired) watershed flow in the reported 80-year period. The "purpose" of restoring and protecting the ability of the SWP and CVP to deliver up to full contract amounts has no place in this document. The DEIR/EIS should be purged of this "purpose" and re-evaluation of alternatives should be done, along with recirculation of the documents for adequate public assessment. The National Research Council (NRC) found that "in some basins, the Water Board has overallocated available supply by more than 800 percent (measuring supply as average annual runoff)." [footnote 18: page 33, Sustainable Water and Environmental Management in the California Bay-Delta, National Research Council, 2012] The NRC also noted "[w]ater scarcity has long existed in much of California…. The magnitude or intensity of scarcity has grown over time and it continues to grow." [footnote 19: Id. at page 32] The current drought, with the prospect of decades more, requires a purpose and a solution that do not promote the unattainable goal of allocating water which cannot be satisfied under any likely scenario.	Water rights issued to DWR and Reclamation on rivers in the Trinity and Central Valley watersheds include a wide range of beneficial uses from hydropower to municipal, industrial, and agricultural water users. However, not all of the water diverted under the water rights is consumptively used. For example, water diverted for hydropower electric generation is fully returned to the water bodies; and a portion of the water diverted from municipal, industrial, and agricultural water uses is returned to the water bodies. In addition, the amount of water diverted is dependent upon water rights priorities and the need to meet environmental flow and quality requirements. Therefore, it is difficult to compare the total volume of water rights licenses to the total amount of water available in the system. For example, water rights issued to DWR and Reclamation are not fully available to provide water under the SWP and CVP water contracts in many years due to the demands of senior water rights holders and regulatory requirements. As discussed in Appendix 5A, Section B, of the FEIR/EIS, the total water demand for water delivered by the SWP and CVP (including water to senior water rights holders and wildlife refuges) is 11.05 MAF/year. Under Alternatives 1 through 9, long-term average exports range from 3.098 MAF/year (Alternative 8) to 5.456 MAF/year (Alternative 1). Long-term average exports would be 4.441 MAF/year and 5.144 MAF/year under the No Action Alternative and the Existing Conditions, respectively. It is not possible to use the CVP and SWP facilities and the proposed water coneyance facilities full-time throughout the year to export 129 MAF/year due to regulatory requirements on diversions and availability of water rights water.
1718	7	Selection of the dual conveyance twin tunnels does not demonstrate compliance with state policies regarding reduced reliance on the Delta	Under the range of alternatives considered in the EIR/EIS, only water under existing water rights issued to DWR and Reclamation could be delivered to SWP and CVP water contractors. Under the Existing Conditions and the No Action Alternative, full contract amounts are not delivered in the majority of times to the SWP

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		The Delta Reform Act of 2009 declared the policy of the state to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. [footnote 20: California Water Code [Section] 85021] Instead, the BDCP state-preferred action would harden demand through construction of twin tunnels that would facilitate and enhance the ability to transfer increased amounts of water from the Delta in the future. As discussed above, CM1 calls for exports in a range of 4.71 to 5.59 maf/year—over a half million acre-feet more than have actually been exported on average. Further, CM1 aims to "protect and restore" CVP/SWP contract amounts, which could mean transfer of up to 129.5 maf/y (under certain conditions), or about 25 times what has been historically conveyed. The amount of export has not been clearly stated, making adequate comment on potential exports impossible. Not only do these potential amounts (up to 5.59 maf/year on the one hand, and up to 129.5 maf/y) conflict with state policy of reducing reliance on the Delta, but the upper range identified indicates the possibility of transfer amounts that have not been evaluated in the BDCP dEIR/EIS. The clearly-anticipated potential for transfer of water in amounts well over historical transfers should be adequately discussed in a revised and re-issued dEIR/EIS.	and CVP water contractors. Water exports are less under Alternatives 6, 7, 8, and 9 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 Draft BDCP EIR/EIS). The comment includes values consistent with projected long-term average exports for the CALSIM II model results under Alternatives 1 through 9. It should be noted that the projected long-term average exports under Alternatives 1 through 9 range from 3.098 MAF/year (Alternative 8) to 5.456 MAF/year (Alternative 1). Long-term average exports would be 4.441 MAF/year and 5.144 MAF/year under the No Action Alternative and the Existing Conditions, respectively. It is not possible to use the CVP and SWP facilities and the proposed water conveyance facilities full-time throughout the year to export 129 MAF/year due to regulatory requirements on diversions and availability of water rights. Increased water supply reliability is only partially achieved through implementation of the proposed project. The BDCP/California WaterFix 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 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. 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, Water Demand Management). Some of these future water supply actions are included in the No Action Alternative and all of the alternatives, as described in Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions, of the EIR/EIS. As described in Chapter 3, Description of Alternatives, the action 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 Alternatives 1 through 9 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.
1718	8	The BDCP and dEIR/EIS fail as informational documents in their failure to adequately discuss water supply reliability secured from differing sources in the breadth required under state law. Adequate discussion cannot occur in an information vacuum. Here, the BDCP and dEIR/EIS discussions do not include water sources other than the CVP and SWP. However, in addition to the required reduced reliance on the Delta, the Delta Reform Act says that	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. 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

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		"[p]roviding a more reliable water supply for the state involves implementation of water use efficiency and conservation projects, wastewater projects, wastewater reclamation projects, desalination, and new and improved infrastructure, including water storage and Delta conveyance facilities". [footnote 21: California Water Code [Section] 85004(b)] These sources therefore should have been included and should have been fully evaluated in the BDCP and its dEIR/EIS. The publication in mid-June 2014 of the Natural Resources Defense Council/Pacific Institute's issue brief, The Untapped Potential of California's Water Supply, represents information that clearly should have been developed during the BDCP dEIR/EIS process, but wasn't. It could have been considered in the BDCP review process, had that process not been unreasonably curtailed (see "Time for response is inadequate", supra). The Natural Resources Defense Council/Pacific Institute issue brief identified 14 million acre-feet (maf) in new supplies and reduced demand - more than all California cities use yearly - that would better supply California with locally-sourced water and that would also protect environmental and natural resources. Ignoring that potential, the BDCP and dEIR/EIS analysis proposes a 9,000 cubic feet per second facility that would only provide 6.5 million acre feet of water per year, at huge cost, with uncertain funding and uncertain benefits, along with likely serious environmental damage to the Delta. Irresponsibly, the BDCP and dEIR/EIS focus on increased water deliveries from conveyance through or around the Delta to supply "reliable" water for California, discussing water supply reliability only in terms of the "current and projected future inability of the SWP and CVP to deliver water to meet the demands of certain south-of-Delta SWP and CVP water contractors—in all water year types and considering ecosystem and species requirements…." [footnote 22: dEIR/EIS, ES.2.2.2.2; see also dEIR/EIS 2.5.2.] These demand amounts are recognizably unattainable, as discussed above, footnote 23: Restored and protected contract amounts have the potential to reach 129.5 maf/year, for instance.] yet the BDCP and dEIR/EIS seek to promote deliveries beyond the system's capacity, claiming "[i]t is the responsibility of the SWP and CVP to meet these beneficial uses regardless of hydrologic conditions." [footnote 24: dEIR/EIS, ES.2.2.2.2] BDCP and dEIR/EIS analysis should, instead, include the options the Water Code suggests and which are identified in the NRDC/Pacific Institute issue brief - efficiency and conservation projects, wastewater projects, wastewater reclamation projects, etc., in a discussion of a coordinated approach that could meet demand amounts from a variety of sources.	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.
1718	9	Climate change Climate change impact is treated in BDCP and dEIR/EIS as reflecting only the need to construct new conveyance infrastructure that will "improve water supply reliability (i.e., increase the long-term average of Delta exports), and will therefore, provide more reliable water supplies which will provide additional resilience and adaptability to increases in water demand as a result of higher temperatures and increased evapotranspiration and evaporation. [Other alternatives] actually result in reduced water supply reliability and therefore provide reduced resilience and adaptability to the impacts of climate change." [footnote 25: dEIR/EIS, ch . 29, page 29-20]	The BDCP and DEIR/S climate change analysis are 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 BDCP and DEIR/S use a central tendency projection that is considered a reasonably foreseeable future condition as described in DEIR/S 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 Draft BDCP 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

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		BDCP and dEIR/EIS climate change analysis begins by citing increased annual precipitation in the U.S., with statistics from 2007, and a warming trend in the Sacramento River basin… accompanied by a gradual trend toward increasing precipitation, starting in the 1930s." [footnote 26: BDCP Ap2C [Section] 2.C.2.4] This biases the discussion and ignores the well-recognized trend toward a drier climate with generally lower precipitation in California. BDCP and dEIR/EIS climate change analysis should include full discussion of the drier climate change models, which predict 17% reduction in Sacramento River flows by 2030 and 34% by 2080. [footnote 27: Des Jardins, California Water Research, presentation on March 1, 2014, PowerPoints available at: http://www.lwvlamv.org/wp-content/uploads/2014/03/BDCP-LWV-deidredesjardins-presentation.pdf, citing, e.g.: US Geological Survey, California Water Science Center, Hanson et al. 2012; Null and Viers, Water and Energy Sector Vulnerability to Climate Warming in the Sierra Nevada: Water Year Classification in Non-Stationary Climates, CEC White Paper, July 2012.] These climate models predicting significant drying were not considered in the BDCP and dEIR/EIS climate modeling, which used only middle-amount precipitation ("central tendency") scenarios in its modeling, [footnote 28: Id.] even while acknowledging that "one recent analysis generally indicated a drying trend in California during the 21st century (Cayan et al 2009)." [footnote 29: BDCP Ap2C, [Section] 2.C.2.4.] Discussion of the 55-inch sea level rise requirement was largely inadequate, despite the California Water Code that requires the BDCP to include a comprehensive review and analysis of "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…." [footnote 30: California Water Code [Section] 85320(b)(2)(C)] Discussion of the legally-required 55-inch rise needs to be more than ceremonial in these documents. Des Jardins pointed out that the dEIR/EIS used an upper value of 18 inches for sea level rise analysis instead, in violation of the 55-inch standard enunciated in the Water Code. [footnote 31: Des Jardins remarks, California Water Research, presentation on March 1, 2014; see footnote, supra] The dEIR/EIS noted that a National Research Council report 2012 projected a range of up to 66 inches, but those projections from the NRC study were not used directly in the BDCP analysis because it was published after the BDCP modeling analysis, and the projection years were not directly aligned with the 2025 and 2060 analysis periods used for BDCP. [footnote 32: dEIR/EIS ch. 29, page 29-13.] It was decided, instead, to use the mid-range of the estimates for each BDCP timeline: 6 inches by 2025 and 18 inches by 2060. [footnote 33: DEIRS, App 5A, page 5A-A69] While this failure to follow legislative directive regarding sea level rise analysis might not seem fatal to the analysis, under Water Code provisions it could mean that the BDCP will not be incorporated into the Delta Plan, and that public benefits associated with the BDCP would therefore not be eligible for state funding. [footnote 34: Water Code [Section] 85320, especially [Section] 85320(b)(2)(C)] A full analysis of sea level rise that includes the 55-inch mandated amount would also demonstrate that—even if the twin tunnels were built—salinity intrusion could reach the north Delta intakes of the proposed tunnels and drastically curtail exports by 2100. [footnote 35: Des Jardins remarks, California Water Research, presentation on March 1, 2014; see footnote, supra] Large tunnels with potential to convey huge amounts of water to areas outside the Delta will not provide much benefit under the predictable lower-precipitation models. The BDCP	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. As described in Sections 29.2and 29.5.1.3 of Chapter 29, Climate Change, the California Ocean Protection Council and other scientific bodies have projected that sea level rise along the California coast will not reach 55 inches until approximately the year 2100. Best available information suggests a range of potential sea level rise from 17 to 66 inches (42 to 167 24 centimeters) by 2100 (National Research Council 2012). Given the inherent variability in anticipated 25 future scenarios, a broad range of potential sea level changes (from 6 to 55 inches) was analyzed. The BDCP EIR/EIS analyzed projected conditions in Years 2025 and 2060 with the sea level rise projections based on research available during the analysis and a 55-inch sea level rise for the year 2100, as described in Appendix 5A, Section A, Modeling Methodology, and in Appendix 5A, Section D.3, Climate Change Modeling. As described in Appendix 5A, Section B, CALSIM II and DSM2 Modeling Simulations and Assumptions, the CALSIM II model included assumptions that water would be released from the SWP and CVP reservoirs under the No Action Alternative and the action alternatives to counter the salinity intrusion due to sea level rise and maintain the water quality requirements under State Water Resources Control Board Decision 1641 to the extent possible based upon the availability of SWP and CVP water rights. These actions would result in reductions to SWP and CVP water contract deliveries.

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		and dEIR/EIS need to perform modeling that adequately takes into account the drier scenarios, and re-release the BDCP and dEIR/EIS with adequate time for public comment.	
1718	10	Nonstructural and minimal-structure alternatives should be evaluated preferentially Water supply sources should be evaluated with emphasis on nonstructural alternatives. Certain federal law also endorsed nonstructural solutions in assessing the value of projects for water resources development and management. [footnote 36: H.R. 1495, the Water Resources Development Act of 2007 (Pub. L. No: 110-114, [Section] 2031)] This proposal, however, suggests construction of redundant and unnecessarily large infrastructure that would be capable of exporting more water than the system is currently capable of producing. The project alternatives should be re-analyzed with full recognition of the preference for nonstructural approaches.	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 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. 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 FEIR/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. 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 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 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.
1718	11	COSTS, financing must be adequately assessed All short- and long-term economic costs should be examined and assessed in terms of economic, social and environmental costs and benefits of water. In this case, costs have not been sufficiently accounted for, or analyzed. The California Legislative Analyst's Office (LAO) reported an estimate of $24.8 billion for total BDCP costs over the 50-year term of the permits, but pointed out that that estimate does not include financing costs, such as interest payments. [footnote 37: Legislative Analyst's Office, Financing the Bay Delta Conservation Plan, February 12, 2014, available at: http://www.lao.ca.gov/handouts/resources/2014/Financing-the-BDCP-02-12-14.pdf] The	Please see Master Response 5 regarding the adequacy of the proposed project cost estimates, including an explanation of how debt service is accounted for in these estimates, cost contingencies, and the risk of cost overruns. Please also see Master Response 5 regarding the adequacy of the proposed project funding strategy. The funding chapter of BDCP is not required to be a financing plan. Project funding and financing is not required to be described in the EIR/EIS except as it relates to the environmental impacts of the proposed project. The Lead Agencies would prepare separate financing plans to implement proposed project. For potential socioeconomics impacts due to the project implementation, please see Chapter 16 in the EIR/EIS.

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		LAO also detailed the uncertainty of the costs, finding that: land acquisition prices could be higher than anticipated; actual construction costs can differ significantly from estimates due to cost overruns (up to 34% on average); cost estimates do not capture the potential range of costs; it is unclear whether the benefits of the tunnels will outweigh their costs. Additionally, the LAO suggested problematic issues with funding sources. It warned of the following: about terms of contracts between DWR and water contractors that will need renegotiation, which could put the state at risk for extra expenditures; that future bond measures for ecosystem restoration may not be approved even though needed for the state share of restoration actions, including even some restoration actions needed before tunnel construction and despite the BDCP statement that the SWP and CVP will not pay additional costs or forgo water in the event of a funding shortfall; about the potential for additional public (state and federal) liability if species do not recover and costly restoration actions were necessary, beyond those already specified. These LAO-identified problems were not dealt with in depth—or sometimes at all— in the BDCP and dEIR/EIS. Recent disclosures of intent to pay for BDCP through higher taxes and likely bonds exemplify these sorts of previously-undisclosed and unexamined expenditures and funding sources. [footnote 38: See, e.g., Goldman Sachs discussion and document at http://www.c-win.org/webfm_send/445; Santa Clara Valley Water District (SCVWD) memo from agenda item 4.2, July 8, 2014 "State Water Project Tax Discussion".] Some water district officials have also echoed those cost concerns. At a 1/27/2014 BDCP update presentation to the Santa Clara Valley Water District (SCVWD) Board, a Director [footnote 39: Director LeZotte, SCVWD] noted that it was hard to determine the accuracy of figures presented to the board when estimates were given in 2012 dollars and with the project at only a 10% design level. The responding BDCP presenter noted that the contingency range might change as more design was determined—perhaps even closer to 50%. At that meeting, another SCVWD Director also cited concerns about low BDCP contingency percentages [footnote 40: Director Keegan, an engineer, quoted an article from the California Management Review, 2009, Delusion and Deception in Large Infrastructure Projects: "Large infrastructure projects almost invariably arrive late, cost overruns of 100% are not uncommon." The article is available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2229781]. As a professional engineer, she noted that the channel tunnel project had been 50% over budget; other projects she was aware of had been up to 100% over budget. The uncertainty of cost figures due to early design stage could be cured in part by re-releasing the BDCP and dEIR/EIS for public comment after more certain cost figures become available. For instance, the presenting professional at the 1/27/2014 SCVWD BDCP update said that geotech is key in tunneling project. However, at a state-sponsored BDCP Open House on 1/22/2014 in San Jose for this project, state staffers reported that many more geotech borings needed to be done. Maps of current borings were not available, they said, because of privacy concerns, some having been done on private land. The BDCP and dEIR/EIS should not move forward until more certain costs have been revealed for analysis. Cost analysis in the BDCP for the preferred CM1 (pipeline/twin tunnel) has tended not to focus on the annual debt service, which would average approximately $1.1 billion/year from 2021 through 2055. [footnote 41: BDCP, Ch. 8, Table 8-5 lists a cost estimate for water	

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		facility construction showing a 50-year total expenditure of $1.456 billion, but those costs do not include the financing costs.] Added to the $24.8 billion O&M cost acknowledged by the LAO, the financing would bring the conservative estimate (not including other identified uncertainties) for the project to $62.2 billion. This was not clear, or clearly discussed, in the BDCP and dEIR/EIS.	
1718	12	Alternatives to the preferred pipeline/twin-tunnel should have received in-depth consideration: The National Resource Defense Council's "Portfolio Alternative" [footnote 42: The Portfolio alternative is supported by numerous water districts and municipalities, business organizations, governmental organizations and independent bodies, as well as elected officials. See, e.g., http://switchboard.nrdc.org/blogs/dobegi/growing_support_for_analysis_o.html] - which would include a single new water intake and single tunnel under the Delta, with investments in local water supply development, levee improvements, and south of Delta storage—was incorrectly analyzed by the state as a two-tunnel alternative, resulting in the Portfolio plan's being rejected on the basis of cost. This kept the Portfolio plan from receiving the benefit of full CEQA analysis, which analysis would have demonstrated the potential benefits of $5.9 billion funding of local water supplies, storage, and levees. The state later acknowledged the plan would cost $5.9 billion less than the state's preferred pipeline/twin tunnel option, but has not corrected its inadequate evaluation of the Portfolio Alternative. [footnote 43: Id.]	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. For more information regarding alternatives to the proposed project please see Master Response 4.
1718	13	Flow conditions in the BDCP have not been adequately described The hydrologic conditions description in the BDCP is inadequate to describe existing conditions. Only three years were rated as to Delta inflow, outflow and export. Given the importance of flow determinations, and the importance of flows that reflect the current and increasing drought conditions, the amounts of those flows should be easily-accessed and should receive extended discussion as to availability and likelihood of continuing.	The hydrologic analysis in the EIR/EIS was based upon the CALSIM II model simulation of monthly flows over an 82-year period which included a range of conditions from critical dry to wet water years, as described in Appendix 5A, Section A, Modeling Methodology. The modeling simulations were used to analyze conditions under the Existing Conditions, the No Action Alternative, and the action alternatives.
1718	14	Insufficient yearly inflow/outflow and average annual export rates A hydrograph of the Delta is mentioned on page 2-26, BDCP, where Figure 2-10 is cited, but there is no link to that figure, either on the disc supplied or in the online chapter. Finding it required paging through 139 of the chapter's pages. Only years 1998, 2000, and 2001 were depicted in the Figures following Ch. 2 describing "existing conditions". Export figures for these years range from: 4,780 TAF in 1998 (a "Wet Water Year, BDCP Fig. 2-7), to 6,321 TAF for 2000 (an "Above Normal Water Year", Figure 2-8), to 5,076 TAF for 2001 (a "Dry Water Year", Fig. 2-9). Average monthly flow rates by water year type (wet, dry, above-normal below-normal and critical) between 1956 and 2006 for the Sacramento, Mokelumne and Consumnes, and the San Joaquin Rivers are given in Fig. 2-10 (BDCP).	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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) is being considered. Alternative 4 remains a viable alternative. 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.

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		These figures are not approachable. They do not provide information about the numbers of wet or dry years, for instance. Thus, actual flow numbers cannot be determined.	
1718	15	Limitations in the BDCP and its dEIR/EIS analyses include, without limitation, the difficult-to-use format, the failure to include important data, the failure to ensure reduced reliance on water from or conveyed through the Delta (and its watershed), and failures to conform to requirements of California law. State policy requires a reduced reliance on the Delta for California's water supply needs. This should be met through improved regional supplies, conservation, and water use efficiency. Rather than constructing the proposed monolithic infrastructure that the twin tunnels represent, the state should first develop the necessary water supplies through water use efficiency, water recycling, advanced water technologies, local and regional water supply projects and improved regional coordination of local and regional water supply efforts. The twin tunnels project, Conservation Measure 1, is premature. It should not be considered before all other local and regional methods have been exhausted.	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 size and complexity of these draft documents reflect an unprecedented effort to analyze a proposed project under both state and federal laws for habitat conservation plan along with 15 alternatives. Although the science and analyses that support the Draft EIR/EIS is 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. More information on the ways in which the document was made accessible for meaningful public review is provided in Master Response 38. Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act, of the Final EIR/EIS explains the requirements in the 2009 Delta Reform Act for incorporating the Bay Delta Conservation Plan (BDCP) into the Delta Plan and enabling the BDCP to be eligible for state funding. Additional information on compliance with the Delta Reform Act is provided in Master Response 31. The Draft EIR/EIS and the Partially Recirculated Draft EIR/Supplemental EIS were developed in compliance with CEQA and NEPA requirements for disclosure of impacts, evaluation of a reasonable range of alternatives and proposed avoidance, minimization and mitigation measures. More information regarding the range of alternatives evaluated is provided in Master Response 4.
1719	1	Wheeler Ridge-Maricopa Water Storage District ("District") is a public agency providing irrigation water service to 78,000 acres (122 square miles) of farms at the south end of the San Joaquin Valley. The District also corrects groundwater overdraft for an additional 32,000 acres of farms (59 square miles). The District's farmers grow healthy and affordable food for people to eat while also providing jobs and economic benefits for the residents of Kern County, California, and the United States.	The comment provides general information about the Wheeler Ridge-Maricopa Water Storage District.
1719	2	The Wheeler Ridge-Maricopa Water Storage District's primary water supply is provided from a 197,088 acre-feet annual entitlement from the State Water Project (SWP) via contract with the Kern County Water Agency. If the District had its own contract with the SWP, it would be the third largest water agency participating in the SWP with 5% of the SWP Table A contractual water supplies. SWP water supplies delivered through the Delta are irreplaceable in providing a sustainable water supply for the 110,000 acres (172 square miles) of farmlands and underlying groundwater basin within the District, and for even larger areas in Kern County. Due to fishery declines in the Sacramento-San Joaquin Delta and watershed, and the resulting	The comment provides information about the District's water supply.

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		regulatory restrictions on SWP water supply conveyance imposed by the U.S. Fish and Wildlife Service and National Marine Fisheries Service, the District's average annual SWP Table A contract allocation has been cut from 80% in 2004 to 60% since then, and Article 21 flood flows used for groundwater replenishment and banking have been cut even more severely. The result is the District's SWP water supply, which was previously sufficient to correct severe local groundwater overdraft and provide a long-te1m sustainable water source for food production, is no longer sufficient or sustainable for these purposes. The regulatory restrictions have increased the frequency and magnitude of water supply shortages (regulatory droughts), and thereby also significantly increased water supply and food production costs.	
1719	3	The Bay Delta Conservation Plan (BDCP) proposes a comprehensive solution intended to achieve California's co-equal goals of a reliable water supply and improved Delta ecosystem for the benefit of all water users. The Wheeler Ridge-Maricopa Water Storage District supports the co-equal goals. If properly permitted and implemented, the BDCP would be the critical element necessary to both restore fishery populations in the Delta and watersheds, restore water supplies to their sustainable levels of ten years ago, and prevent substantial reduction in food production within the District. Such reduction has not yet occurred (due to substantial investments by the District and its customers in groundwater banking projects and local groundwater development), but will occur in the near term. Therefore, the District has a critical interest in the success of the BDCP, and hereby provides comments on the draft BDCP as released on December 13, 2013.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. In response to comments received during the 2013-2014 public comment period, State and Federal agencies decided to add three additional alternatives that potentially achieved meeting the project objectives without preparing a habitat conservation plan (HCP) or natural community conservation plan (NCCP). A modified proposed project (Alternative 4A/California WaterFix) is being considered. 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.
1719	4	Unfortunately, despite several years of diligent effort on the part of federal, state and local public resource agencies (including the State Water Contractors, Kern County Water Agency, and this District), the BDCP as currently drafted would not accomplish the co-equal goals and would not provide the required water supplies and assurances necessary to justify the Wheeler Ridge-Maricopa Water Storage District's financial participation therein. The District's investment in the BDCP would exceed $1 billion over the 50 year permit term (including debt service but excluding O&M expenses). The District's farming customers demand that such expenditures be justified by benefits. Improvements to the BDCP are required in order for the BDCP to accomplish its goals and justify District participation.	The alternatives in the Draft EIR/EIS were developed to deliver SWP and CVP water up to the upper limit of legal SWP and CVP contractual water amounts, with the understanding that full contract amounts would not be delivered on average for the alternatives considered in the EIR/EIS. Alternatives 1, 2, 3, 4, and 5 would result in similar or greater SWP and CVP water deliveries than under the No Action Alternative by Year 2060 (shown in Tables 5-6 and 5-9). However, due to climate change, sea level rise, and projected population growth, the No Action Alternative and Alternatives 4, 5, 6, 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). See also Master Response 5 for additional information on the BDCP.
1719	5	A particular impediment to accomplishing the co-equal goals and providing adequate assurances to justify BDCP investment has been the unreasonable positions of the National Marine Fisheries Service and U.S. Fish and Wildlife Service. These positions have been that it is somehow acceptable, once public agencies with public monies from their customers have invested $16 billion in new conveyance (ignoring interest costs and assuming no capital cost overruns), to limit the SWP yield to no more than current conditions (average annual SWP allocation of 60%). The unreasonable nature of this view is illustrated as follows. Suppose it were proposed that the public provide $16 billion for habitat improvements in the Delta, but only to maintain current critically low fishery populations with a prohibition against restoration or increase in said populations. Such a position is obviously unacceptable, yet it is directly analogous to the BDCP position advocated by the federal fishery agencies with	The proposed project was developed to meet the standards of the federal and state Endangered Species Acts. 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 EIR/EIS alternatives assume continued operations in accordance with the federal Clean Water Act (as regulated by the U.S. Environmental Protection Agency and State Water Resources Control Board), Endangered Species Act (as regulated by NMFS and USFWS), Rivers and Harbors Act (as regulated by the U.S. Army Corps of Engineers). The action alternatives include other methods to achieve some of the existing regulatory objectives than occurs under existing operations.

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		respect to SWP water supplies.	
1719	6	The Kern County Water Agency (Agency), of which the Wheeler Ridge-Maricopa Water Storage District is a member unit, has identified several critical issues related to the yield, cost and assurances of the BDCP. Most notably, the yield of the completed project must not be lower than the pre-2006 historical yield of the combined SWP and CVP, and must provide an assured water supply to all participating public water agencies. The costs of the project must not exceed the estimates in the draft BDCP (Chapter 8) and must be allocated following a "beneficiary pays" methodology, with Public Water Agencies (PWAs) covering the costs of the water conveyance infrastructure and public funds covering the cost of conservation measures providing public goods. Lastly, the PWAs must have assurances that the BDCP will minimize risks of additional regulatory requirements that would reduce future yield from the Projects.	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.
1719	7	Key decisions remain relating to BDCP specifics on cost allocations, operations, outflow range, financing and other issues. While the draft BDCP provides an important framework for developing a range of operational outcomes that will provide a level of certainty that merits investment by participating public water agencies and by the state and federal governments, the current draft is not yet an acceptable solution to the challenges facing California's water resources and the Delta.	Operations criteria under the action alternatives as well as the Existing Conditions and No Action Alternative are described in Chapter 3, Description of Alternatives in the Final EIR/EIS. Appendix 5A, Section C, in the Final EIR/EIS, presents projected SWP and CVP water deliveries and Delta outflow conditions under all action alternatives as compared to the Existing Conditions and No Action Alternative. 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 California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Water Action Plan please follow http://resources.ca.gov/california_water_action_plan/. Future committees for project implementation may provide future opportunities for innovative input as well. 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/.
1719	8	BDCP Yield. Conveyance Operations. In order to provide water supply reliability consistent with restoration of SWP water supplies to their pre-2006 conditions, the proposed conveyance must operate in such a way that additional water required for fish and wildlife will be made up with no net loss to the SWP and CVP contractors. The Real Time Operations proposed in the BDCP and draft Implementing Agreement (IA) are designed with the "purpose of maximizing conservation benefits to covered fish species and maximizing water supplies. (IA pg. 27)" However, it is unclear how the dual maximization will be achieved. Therefore, the BDCP and IA must include specific language stating conservation benefits cannot be increased at the expense of water supply.	Real Time Operations are described in Chapter 3, Description of Alternatives, of the Final EIR/EIS. The new preferred alternative, Alternative 4A, does not include an HCP/NCCP component.
1719	9	The decision-tree described in the BDCP, in addition to being based on an incomplete understanding of the connection between smelt abundance and salinity levels, has the potential to decrease water supplies from the SWP to the point where the proposed conveyance is not financially feasible. Though there are measures still under consideration	See Response to Comment 1719-3. Please see Master Response 44 for additional detail on the Decision Tree approach for Alternative 4. Please note that the new preferred alternative, Alternative 4A, does not utilize the Decision Tree approach for

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		that could alleviate the risk of water supplies falling below the point of affordability, no specific plan has yet been proposed. The BDCP must include a floor below which water supplies could not fall. This floor would be a minimum 75% average annual Table A water supply, plus restoration of pre-2006 conditions for SWP Article 21 high flow water supplies critical for replenishing overdrafted groundwater basins in Kern County.	operations. Alternative 4A is modeled with a starting operational scenario of H3+. Please see Chapter 3, Description of Alternatives, of the Final EIR/EIS for additional detail.
1719	10	Flexible Pumping Operations in a Dynamic Fishery Environment. Water supply conveyance options must allow the greatest flexibility in meeting water demands by allowing the diversion of water where and when it is least harmful to migrating salmon and in-Delta fish species. The new screened intakes proposed by the draft BDCP in the northern, rather than southern, Delta would substantially reduce reverse flow conditions caused when water is pumped from the south and would lead to a more natural flow pattern in the estuary. In this respect, the draft BDCP meets the co-equal goals of improving water supply reliability and enhancing the Delta ecosystem.	See Response to Comment 1719-3.
1719	11	Climate Change Risks. Conveyance options must reduce long-term risks associated with rising sea levels and salinity intrusion. Intake locations should be able to withstand an estimated 1- to 3-foot sea-level rise in the next 100 years. The proposed intakes in the northern Delta are upstream of predicted climate change driven salinity intrusion. This location will protect water supplies from the effects of levee breach, as well as sea level rise. Impacts to the Delta ecosystem from climate change-related salinity intrusion are not mitigated by moving the intakes to the northern Delta; however, other conservation measures in the draft BDCP are intended to mitigate climate change-related risks to the Delta ecosystem. In this respect, the draft BDCP meets the co-equal goals of improving water supply reliability and enhancing the Delta ecosystem.	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.
1719	12	Cost Allocation. The "beneficiary pays" model is the most equitable way to allocate costs for the BDCP between Public Water Agencies and the state and federal governments, between the CVP and SWP contractors, and among the SWP contractors. Costs for each portion of the BDCP must be allocated to the parties benefitting from that portion of the project. In the case of the conveyance facilities, those PWAs participating in the project should bear the full cost of those facilities. Costs for habitat restoration and other conservation measures providing public goods should be paid from public funds. Chapter 8 of the draft BDCP outlines costs for various conservation measures and allocates to PWAs costs for design, construction, maintenance and mitigation of the proposed conveyance. Sufficient restoration of pre-2006 water supplies is required in order to make the costs even marginally affordable for agriculture, and the District cannot afford to pay more than these allocated costs. The BDCP should clearly state that the project is contingent upon commitment of state and federal funding for the remaining costs.	See Response to Comment 1719-3.
1719	13	Design and Construction Oversight. Management of the design and construction phases of the conveyance portion of the BDCP must involve Public Water Agency (PWA) oversight to ensure budgets and schedules are met. The draft BDCP outlines involvement of the Authorized Entities Group, of which some PWAs may be a part, in the Implementation Office, but lacks clear definition of the management of the design and construction phases of the proposed conveyance. The BDCP and supporting documents must clearly define involvement of the PWAs in managing the budgets and schedules for design and construction of the proposed conveyance.	The purpose of an EIR/EIS is to provide the public and the decision-makers with detailed information about a project's environmental effects, ways to minimize the projects effects, and reasonable alternatives to the project. The information requested, while relevant to the ultimate management of the design and construction of the facilities associated with the proposed project, is not relevant to the potential environmental impacts of the proposed project and is therefore outside the scope of an EIR/EIS. The adaptive management/collaborative science component of the proposed project contains a description of the proposed management of one of the processes PWAs may be involved related to the design and construction phase of the project.

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1719	14	Public Funding Shortfall. All funding sources should be based on firm commitments that are clearly defined in order for the BDCP to move forward. The draft BDCP is structured in a way that allows for cooperative funding from several agencies at various governmental levels. However, the project is contingent upon receiving funding from all of these sources in order to provide the desired results. Funding from bonds or appropriations is less certain than the funding provided by the PWAs. The BDCP must clearly state that a commitment to funding from the state and federal agencies is required for the project to move forward.	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.
1719	15	BDCP Assurances. Regulatory Stability. Conveyance options should minimize risks of additional regulatory requirements that could reduce yield from the Projects. As a Habitat Conservation Plan under Section 10 of the federal Endangered Species Act (ESA) and a Natural Community Conservation Plan under Fish and Game Code Section 2800 et seq., the BDCP offers a path of regulatory stability for both the Public Water Agencies (PWAs) and wildlife agencies. The BDCP should define and describe this regulatory stability and offer a clearer explanation of how this approach differs from the current species-by-species approach to regulation and ESA enforcement.	The new preferred alternative, Alternative 4A, does not include an HCP/NCCP component. 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.
1719	16	Permittees. The Public Water Agencies should be eligible for permittee status. In particular, the Kern County Water Agency must be among the project permittees in order to assure its active participation in governance of the BDCP. Some PWAs, including the Agency, have applied to become permittees and the language in the BDCP is favorable but unclear. The BDCP must clearly state that PWAs are eligible for permittee status equal to the California Department of Water Resources.	The 2013 public draft BDCP proposed that the participating state and federal water contractors, including Kern County Water Agency, be permittees where applicable to CM implementation. See Master Response 5 regarding the BDCP Governance structure.
1719	17	Rough Proportionality. The IA states that if the BDCP is implemented as designed, the California Department of Fish and Wildlife (CDFW) will consider the project in compliance with applicable "rough proportionality" requirements under California's Natural Community Conservation Plan. However, many of the restoration and other conservation measures are to be paid for with public funds. A shortfall of public funds could therefore put the project in jeopardy. The BDCP must include a provision stating the permits would remain in effect provided the permittees are fulfilling their obligations, even if there is a lack of public funding.	The new preferred alternative, Alternative 4A, does not include an HCP/NCCP component. 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.
1719	18	Biological Goals and Objectives. The biological goals and objectives of the project should be determined on the basis of the best available scientific information regarding the covered species, habitats and natural communities. Biological objective DTSM2.1 in the draft BDCP is not based on the best available scientific information and should be deleted or changed. Whereas the stated intent of DTSM2.1 is to improve Delta smelt habitat, it fails to do so by defaulting to the use of salinity as a proxy for Delta smelt habitat. Recent scientific information demonstrates that salinity is one characteristic element of delta smelt habitat, but that the species inhabit water with a wide range of salinity, and that other biotic and physical factors must be considered when defining Delta smelt habitat.	Objective DTSM2.1, which was developed in cooperation with the fish and wildlife agencies, does not default to the use of salinity as a proxy for delta smelt habitat. Salinity is one of several elements that are considered when defining suitable delta smelt habitat. The others include flow, temperature, turbidity, food availability and the presence of delta smelt. There are three sub objectives that are intended to capture a wide range of habitat conditions suitable for delta smelt. The preferred alternative is now Alternative 4A, which no longer includes habitat restoration, beyond what is required to mitigate effects of constructing and operating the project. Alternative 4A would not serve as habitat conservation plans/natural community conservation plans (HCPs/NCCPs) under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b).
1719	19	Adaptive Management Plan. Operational changes implemented through the Adaptive Management Plan and other adaptive measures have the ability to impact yield from the Projects. The BDCP mentions a fund through which water could be purchased to meet those operational changes. Details regarding this fund, including its sources, are not clearly	See Master Response 33 regarding adaptive management and monitoring.

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		defined. The BDCP should clearly state that the Adaptive Management Plan and other adaptive measures will not cause a net loss of water from the Projects. It should also define the Supplemental Adaptive Management Fund as a resource funded by the state and federal government to be used to offset any water costs resulting from implementation of the Adaptive Management Plan.	
1719	20	Permit Term. The BDCP is intended to result in a 50-year Incidental Take Permit that cannot be changed beyond the limits of the Adaptive Management Plan, unless the regulatory agencies determine that the species are in jeopardy. However, the permit term is not clearly defined in the draft BDCP, and will not be firm until the permits are issued. The BDCP must clearly state that it is intended to result in permits with a 50 -year term.	See Master Response 5 for information on the BDCP.
1719	21	The Wheeler Ridge-Maricopa Water Storage District has purchased water from the SWP for more than four decades, and have undertaken efforts to increase regional storage and conveyance to allow Kern County to capture water when it is plentiful and reduce demands on imported supplies during dry and critically dry years. These efforts, including significant financial investment, will be diminished if water deliveries from the SWP continue to degrade. The SWP provides essential water supply benefits to Kern County and helps the County achieve other water resource development objectives. For example, the SWP facilitates groundwater replenishment. Since the 1970s, this District, the Kern County Water Agency and its other member units have developed groundwater recharge projects, providing below ground storage of water captured in wet years and allowing that water to be recovered in dry years.	The importance of SWP and CVP water deliveries to support local water management is discussed in Chapter 7, Groundwater, in the Final EIR/EIS.
1719	22	You are urged to revise the BDCP to address the concerns described. This is necessary in order to improve Delta fisheries, ensure broad public agency participation in the BDCP, and restore Public Water Agency water supplies to pre- 2006 conditions with adequate assurances. Such revisions are required to justify the necessary monetary investment by the Wheeler Ridge-Maricopa Water Storage District's customers.	See Response to Comment 1719-3 and refer the Final EIR/EIS for an analysis of all alternatives, including the new preferred alternative, Alternative 4A.