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1801	1	During the past several years there have been a lot of ideas pertaining to water from the Delta. Remember when they were taking dirt parallel to 1-5 to help build the freeway? They said the peripheral canal was going there. Some of the holes can still be seen. No canal. Now it is twin tunnels. At $25 billion? When did tax funded construction ever come close to the estimate? Is there some way to lock in the price?	As described in Section 3A.4.3.3 of Appendix 3A, Identification of Water Conveyance Alternatives Conservation Measure 1, in the EIR/EIS, the Peripheral Canal proposal was defeated in a 1982 statewide ballot referendum. During construction of Interstate 5, soil was excavated from the areas adjacent to the highway alignment to provide foundation material for the highway. At the time, use of the excavation sites was proposed for the peripheral canal. The proposed water conveyance facilities would be funded by the water users.
1801	2	Question: How much water is taken from the Delta every year with the present canal system? Now when the twin tunnels are installed, how much water per year can be taken from the Sacramento River? Note: Sacramento River, not the Delta. The Delta will get more and more polluted as time goes on. Stockton and other users will need additional purification plants in order to use this polluted water. In time, the wells in Stockton will be pumping salt water. Then what?	Historic water exports are presented in Figure 5-2 in the Final EIR/EIS. The range of alternatives includes alternatives which result in reductions in SWP and CVP water deliveries south of the Delta as compared to the Existing Conditions and the No Action Alternative. The No Action Alternative and Alternatives 4H1, 4H2, 4H3, 4H4; 4A (Proposed Project); 5; 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under Existing Conditions, as described in Appendix 5A, Section C, of the EIR/EIS. Similarly, Alternatives 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under the No Action Alternative. Changes in water quality in the Delta near Stockton under the Existing Conditions, No Action Alternative, and all action alternatives are presented in Chapter 8 of the Final EIR/EIS. Please see Master Response 14 regarding water quality. This comment addresses alternatives contained within the 2013 Draft BDCP and Draft EIR/EIS. Alternative 4 remains a viable alternative. However, a modified Proposed Project (Alternative 4A/California WaterFix) also is being considered that does not include an HCP or NCCP component, or large-scale habitat restoration that would be initiated prior to operations of the proposed conveyance facilities. Without implementation of large-scale habitat restoration, the effects on salinity under the action alternatives as compared to the No Action Alternative would be less than with large-scale restoration. For example under Alternative 4A, salinity generally would be similar or less than under No Action Alternative in the central Delta (e.g., near Jersey Point, Rock Slough, and along Sacramento River downstream of Steamboat Slough). However, salinity would increase under Alternative 4A as compared to the No Action Alternative in July through September along the Sacramento River near Collinsville and Emmaton; and generally decrease or be similar in remaining months, as presented in Appendix 5A, Section C, of the EIR/EIS. Please see Chapter 8 and associated appendices in the EIR/EIS and Master Response 14. Therefore, it is not anticipated that groundwater quality would substantially change under Alternative 4A as compared to the No Action Alternative due to operations of the conveyance facilities. The EIR/EIS modeling results for the No Action Alternative indicate that, with or without the project, rising sea levels will bring saline tidal water further into the Delta than occurs at present. These changes would occur with or without implementation of the Proposed Project and no mitigation is required.
1801	3	Want a shock? Walk off 40 feet. Now come back 20 feet. Make a 90 degree turn and walk off 20 feet. Reverse and go 40 feet. Think of a circle around your marks. Pretty big isn't it? That is one tunnel. Now double it. Wow!! I doubt if many people realize how long 80 feet really is.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1801	4	I understand why they want clear fresh Sacramento River water and not polluted water from the Delta sent south. Who wouldn't? Why not add purification plants along the coast in Southern California and use the ocean water? Santa Barbara has such a plant. I think it is turned on a couple of times a year to keep it in working order. With purification plants, there would be no need for water going	Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. However, nothing in the proposed project would prevent other entities from pursuing innovative approaches to desalination or other water supply solutions. As described in Appendix 3A, Section 3A.7, Results of Initial Screening of Conveyance Alternatives, EIR/EIS (2013), desalination was included as part of Alternative B7. Issues related to desalination include land use

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		past Los Angeles (or Bakersfield) and the tunnels would not be needed.	impacts, costs, and substantial energy use requirements. Advances in technology have improved feasibility of desalination and as a statewide water use planning component; it will be evaluated by water agencies on a local/regional level. The proposed project is one part of a diverse portfolio of strategies needed to meet California's overall water management needs. It is not a substitute for increased commitments to other water supply solutions, including recycling, desalination, water conservation and storage. Please see Master Response 7 regarding desalination.
1801	5	How long will it be before another canal will be needed? Remember, Southern California will never get enough water. Eventually, purification plants will have to be built. Also, remember there is a limit to how much useable water is available from the Delta. What will happen when it is gone? Of course, put purification plants along the ocean.	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).
1802	1	The BDCP and DEIR/EIS have failed to adequately address cumulative impacts as related to the required enhancement of the resource and agricultural valves of the Delta. The Delta Wetlands Project described in BDCP DEIR/EIS Appendix 3D, page 30-78 should be included for its cumulative impact on agriculture in the Delta and for the increased fresh water consumption due to the conversion of farmland to wetland habitat. Webb Tract and Bacon Island are planned to be reservoirs. Bouldin Island and most of Holland Tract are planned for mitigation including portions converted from farming to habitat. The San Francisco Bay to Stockton Deep Water Ship Channel Project and the Sacramento Deep Water Ship Channel Project are expected to increase salinity intrusion into the Delta from Suisun Bay and will also require conversion of farmland to habitat to mitigate for spoil siles and the impacts from the deepening and corresponding enlargement of the footprint of the channels. The cumulative impact on agriculture and the impact on fresh water availability must be addressed.	Please note that Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. Alternative 4 (BDCP) remains a potentially viable alternative and was carried forward in the RDEIR/SDEIS and this Final EIR/EIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed and presented for public and agency review and comment in the RDEIR/SDEIS. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative analyzed in the RDEIR/SDEIS and Final EIR/EIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Under Alternative 4A, substantially fewer acres of habitat would be restored/enhanced and substantially fewer acres of agricultural lands would be impacted relative to Alternative 4, Please refer to Cumulative Impacts in Chapter 14, Agricultural Resources and Master Response 9. The Delta Wetlands Project is included in the cumulative impact analysis for agricultural resources. Despite the reduction in impacts to agricultural lands with Alternative 4A, the conversion of Important Farmland with implementation of this project is considered cumulatively considerable and significant. Mitigation Measure AG-1 would reduce the severity of this impact; however, it would remain significant and unavoidable. With respect to the Sacramento Deep Water Ship Channel Project, in 2015 the USCOE published in Federal Register that the EIS/R process has been terminated, pending increased economic demand for the project. (http://www.spn.usace.army.mil/Missions/Projects-and-Programs/Projects-A-Z/Sacramento-River-Deep-Water-Ship-Channel-C/.) With respect to the San Francisco Bay to the Port of Stockton ship channel, the USCOE is currently assessing the feasibility of deepening the existing 35-foot channel. The channel is currently authorized to 45-feet west of Pittsburgh. Deepening east of Pittsburgh would require new authorization. (http://www.spn.usace.army.mil/Missions/Projects-and-Programs/Projects-by-Category/Projects-for-Navigable-Waterways/San-Francisco-Bay-to-Stockton-JFB-/.)
1802	2	Exhibit 34 is Table 4.4 in Section 4 Biological Resources at page 4-159 from the Draft Delta Plan Program Environmental Impact Report released by the Delta Stewardship Council on	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Under Alternative 4A, substantially fewer acres of habitat

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		November 4, 2011. The exhibit shows the acreage of land in the Delta and Marsh devoted to natural habitat and other uses. Of the 735,900 acres in the Delta, 178,190 acres consist of Natural Community Types. Of the 106,620 acres in Suisun Marsh, 101,380 acres consist of Natural Community Types. Delta agricultural acreage is shown to consist of 477,590 acres and Marsh agricultural acreage is shown to consist of only 2,840 acres. Of the 477,590 acres remaining in agriculture in the Delta as of the date of the compilation by the Delta Stewardship Council, there is likely more public and private conversion of farmland to habitat and it is expected that the Delta Wetlands Project alone will convert an additional 20,000 acres. Further conversion of Delta agriculture to habitat as a part of BDCP will cumulatively add to the loss thereby resulting in a significant detrimental impact which has not been adequately considered. Exhibit 35 is Table 6-2 from Chapter 6, pages 6-5 & 6 of the BDCP Public Draft. The total requirement for additional habitat is shown to be 153,139 acres plus 20 miles of channel margin habitat. The 20 miles of channel margin habitat could result in conversion of hundreds of additional acres of farmland due to related levee setback and utility relocations.	would be restored/enhanced relative to Alternative 4, and Yolo Bypass enhancement would not be included in the implementation of this alternative. The RDEIR/SDEIS and this Final EIR/EIS analyzes all alternatives, including Alternative 4A. Please see Chapter 14, Agricultural Resources and Master Response 18 for impacts of the Preferred Alternative on Agricultural Resources. Under this alternative there would be channel margin enhancement on up to 4.6 levee miles. The Delta Wetlands Project is included in the cumulative impact analysis for agricultural resources. The conversion of Important Farmland with implementation of this project is considered cumulatively considerable and significant. Mitigation Measure AG-1 would reduce the severity of this impact; however, it would remain significant and unavoidable.
1802	3	The impact on farmland is not limited to the acreage directly converted. Other impacts include: buffer zones limiting the use of agricultural chemicals may be imposed; there could be crop damage due to noxious weeds and other pests emanating from the habitat areas; increased trespass, vandalism, refuse and human waste may occur on the habitat area and spill over onto adjoining farmland and increased water consumption. Perhaps more important is the reduction in agricultural base economy including impacts to supporting and dependent businesses and reclamation district assessments which are critical to the continued maintenance of levee systems.	The EIR/EIS provides an analysis of impacts to agricultural resources consistent with the requirements of CEQA and NEPA. This analysis, which appears primarily in Chapter 14, Agricultural Resources, EIR/EIS, describes the potential effects on agricultural resources from the preferred alternative (Alternative 4A), a No Action Alternative, and the 17 other action alternatives. The chapter includes discussion of the effects from constructing and operating water conveyance facilities, as well as effects that could occur from the implementation of other conservation measures (Alternatives 1A-1C, 2A-2C, 3, 4, 5, 6A-6C, 7-9) and Environmental Commitments (Alternatives 4A, 5A, and 2D) geared toward preserving, enhancing, and restoring habitat in the project area. These measures include preservation of several thousands of acres of cultivated lands in recognition of the habitat benefits that agricultural lands provide. Socioeconomic effects of the alternatives are analyzed and described in Chapter 16, Socioeconomics, EIR/EIS. Regarding reduction in revenue, This impact is addressed under Impact ECON-4 in each alternative of the EIR/S. Under Alternative 4A, the new preferred alternative, publicly-owned water conveyance facilities would be constructed on land of which some is currently held by private owners. Property tax and assessment revenue generated by lands that would be transferred from private to is estimated to total $6.7 million over the construction period. Typically, decreases in revenue could potentially result in the loss of a substantial share of some agencies' tax bases and particularly for smaller districts affected by a project. However, California Water Code (Section 85089 subdivision 9b) specifies that the entities constructing and operating a new Delta conveyance facility will fully mitigate for the loss of property tax revenues or assessments levied by local governments or special districts. This Water Code requirement will ensure that tax revenues forgone as a result of transferring land from private to public ownership will be fully offset. In addition, as discussed under Impact ECON-1, construction of the water conveyance facilities would be anticipated to result in a net temporary increase of income and employment in the Delta region. This would also create an indirect beneficial effect through increased sales tax revenue for local government entities that rely on sales taxes.
1802	4	The Economic Sustainability Plan for the Sacramento-San Joaquin River Delta dated January 19, 2012 for which a copy of the Executive Summary is attached as Exhibit 36 shows that the	As previously noted, the Preferred Project is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Impact analyses of the Preferred Project and all alternatives have been presented in the 2015 RDEIR/SDEIS and this Final EIR/EIS. For compliance with the Delta Reform

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		economic sustainability of the Delta is greatly dependent on agriculture. Water Code Section 85054 provides that the co-equal goals of water supply reliability and restoring the Delta ecosystem "shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place." The impacts of BDCP including 10 or more years of disruption due to construction; the physical impacts of construction and facilities including power lines; the so-called reuse of tunnel muck; conversion of farmland to habitat; the disputive actions affecting levees; the water quality degradation; and disruption of Delta water supply must be cumulatively rigorously explored and objectively evaluated not only as to degrading impacts but as to impacts to the legally required enhancement of the Delta.	Act, please see Master Response 31. For discussion of impacts on the Delta as a place, please see Master Response 24. The remainder of this comment raises general categories of issues related to implementation of the project, which are addressed in this Final EIR/EIS.
1802	5	The BDCP strategy of habitat in lieu of water for fish results in significant adverse impacts which have not been adequately analyzed. Conversion of farmland to habitat significantly increases the consumption of fresh water. Farming in the Delta requires drainage and periodic control of vegetation in order to sustain farming. The lands within the Delta lowlands are at or below five feet above mean sea level. Most are below the water level in the adjoining channels. With few exceptions, the Delta uplands due to their close proximity to sea level have a natural high water table. As such constant drainage is required as a part of the normal farming practices. Without such drainage, the lands would become inundated by reason of seepage and rising groundwater or would experience substantially raised groundwater. The resulting condition would be a body of water or a highly naturally vegetated area served by a high water table. Evaporative losses from an open body of water and from riparian vegetation are much higher than from the same area subjected to farming. Natural vegetation even if not riparian or part of a wetland will typically consume more water than typical Delta farming. Attached hereto as Exhibit 37 is Table A-5 from DWR Bulletin 168 - October 1978, page A-10 showing the 1976-77 Estimated Crop Et Value for the Delta Service Area. For October 1976 through September 1977 the data shows: Alfalfa: 45.8 inches Tomatoes: 34.3 inches Field Corn: 33.8 inches Riparian Veg and Water Surface: 67.8 inches The conversion of farmland growing field corn to typical wetland habitat in the Delta will result in over 2 acre feet per acre per year of additional consumptive use of fresh water.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Impact analyses of the Preferred Project and all alternatives have been presented in the 2015 RDEIR/SDEIS and this Final EIR/EIS. Under Alternative 4A, substantially fewer acres of habitat would be restored/enhanced and substantially fewer acres of agricultural lands would be impacted relative to Alternative 4. Please see Chapter 14, Agricultural Resources and Master Response 18 for impacts of the Preferred Project on Agricultural Resources, including irrigation and drainage.
1802	6	California Water Plan Update 2009, Vol. 4 Reference Guide - Topic Crop Water Use, Article 19, contains the "Historical Estimates of Agricultural and Wetland Water Use in the San Joaquin-Sacramento River Delta" by Morteza N. Orang, Richard L. Snyder, Sara Sarreshteh.	This comment provides additional information on ET for wetlands, cattails, and tules compared to certain farm crops. As previously noted, the Preferred Project is now Alternative 4A. Under Alternative 4A, substantially fewer acres of habitat would be restored/enhanced and substantially fewer acres of agricultural lands would be impacted relative to Alternative 4. Please see Chapter 14, Agricultural Resources

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		The study included both uplands and lowlands and concluded: "For the entire Delta, the Etc for the wetlands, cattails and tules was about 16% (1998), 20% (2000) and 22% (2001) higher than the agriculture-crop land-use group, which included irrigated pasture, alfalfa, all field crops, sugar beets, irrigated grain, rice, truck crops, tomato, orchard, vineyard and non-irrigated grain (Figure 7-9)." See Exhibit 38 which contains pages 1 and 7 from said study. Breach and relocation of levees in the tidal zone of the Delta could increase salinity intrusion thereby adding to the need for fresh water outflow. Increasing the tidal prism, shortening the path of bay salinity to intrude into the Delta and enlarging channels at locations constituting a restriction to intrusion are all factors which must be analyzed.	and Master Response 18 for impacts of the Preferred Project on Agricultural Resources.
1802	7	The Delta is complex and impacts will vary significantly as to the location and the operations of the SWP and CVP. An example of the negative impacts which must be analyzed is the flooding of Lower Liberty Island. The increase in the tidal prism created by the flooding of Lower Liberty Island has been found to have caused juvenile salmon migrating to the ocean to be pushed from their normal Sacramento River migration route back up into the flooded portion of Lower Liberty Island thereby further exposing such fish to the risk of predation, stranding and detrimental temperatures. (See Exhibit 29 excerpts from "Insights into the Problems, Progress, and Potential Solutions for Sacramento River Basin Native Anadromous Fish Restoration", April 2011 by Dave Vogel).	The new proposed project, Alternative 4A, no longer includes large-scale habitat restoration, including Conservation Measure 5 and Conservation Measure 2. The comment states that impacts such as the flooding of Liberty Island must be analyzed. Liberty Island flooded in 1995. Although the levees were subsequently repaired, they failed again in 1997 and the island has remained flooded. Thus the condition of Liberty Island is part of the existing condition and is not associated with the project or the project's effects. As previously noted, the Preferred Project is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Impact analyses of the Preferred Project and all alternatives have been presented in the 2015 RDEIR/SDEIS and this Final EIR/EIS. Note that the Preferred Alternative 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). No large scale habitat or flooding of islands are proposed as part of the Preferred Alternative.
1802	8	The impact of breaching and setting back levees to create habitat has impacts on flood control which are not adequately analyzed, There are obvious impacts to adjoining areas from seepage and wave action and more complex impacts to flood flows in the various channels. Delta levees should be viewed as a system where changes in one part of the system will likely result in changes to other parts of the system. Setting back a levee could result in increased downstream flow of floodwaters that could be disastrous. Breaching and setting back levees to create wetlands on Swamp and Overflowed lands is in direct conflict with the State's obligation to reclaim such lands for productive use.	Changes in water surface elevations and stream flows at certain locations in the Delta under Existing Conditions, No Action Alternative, and action Alternatives are presented in Appendix 5A, Modeling Technical Appendix. Indirect effects of changes in water surface elevations and stream flows in the Delta are addressed in other chapters addressing specific resources. Effects associated with changes in velocities and water surface elevations related to riparian corridor biological resources are addressed in Chapter 11, Fish and Aquatic Resources, and Chapter 12, Terrestrial Biological Resources.
1802	9	Construction of levees along and surrounding the Swamp and Overflowed lands was pursuant to the efforts of the State of California to reclaim the Swamp and Overflowed Lands granted to it by the United States. Such lands were acquired by the State of California from the Federal Government by virtue of the Act of Congress of September 28, 1850 (9 U.S. Stats. at Large, p. 519), generally known as the Arkansas Act. In accepting the grant from the Federal Government, the State is bound to carry out in good faith the objects for which the grant was made and thereby assumed an obligation to reclaim the lands. "The object of the Federal government in making this munificent donation to the general States was to promote the speedy reclamation of the lands and thus invite to them population and settlement, thereby opening new fields for industry and increasing the general prosperity." See Kimball v. Reclamation Fund Commissioners (1873) 45 Cal. 344,	The comment describes the history behind the Swamp and Overflowed Lands, specifically relating to its acquisition. It does not raise any environmental issue related to the EIR/EIS.

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		360. The State patented such lands into private ownership conditioned on efforts towards reclamation. Swampland Districts (Reclamation Districts) organized pursuant to state law were typically the mechanism whereby such reclamation efforts were accomplished.	
1802	10	The local governmental entities and interests built the levees for the primary purpose of draining the Delta lands and tracts so that they could be put to productive use which in many cases was farming. The original non-project levees were in a number of cases later improved as a part of a federal project and are now "project levees".	The comment describes why local governments built levees in the Delta. It does not raise any environmental issue related to the EIR/EIS.
1802	11	Conversion of Swamp and Overflowed land to wetlands and particularly the breaching or removal of levees for such purpose would appear to be in violation of the State obligations to reclaim. If the levees are project levees, the entire purpose of the federal project and expenditure would be destroyed.	Comment noted. The Lead Agencies disagree with the commenter's assertion that conversion of Delta lands to habitat is in violation of state obligations or laws.
1802	12	The BDCP DEIR/EIS has failed to adequately analyze the cumulative effect of various actions on water demand and the consequences of the actions to meet such demand. There is clearly an increased demand for water from the creation of additional habitat. The BDCP also includes water transfers to meet existing demands and additional acquisitions of water and water rights to meet environmental needs. The consequences of extracting such water from some other use and the source itself has not been analyzed. Paper water such as results from many surface water transfers with groundwater substitution can deplete surface water and lower groundwater levels with detrimental consequences. The transfer of water based on land fallowing even if the farmer is adequately compensated will have consequences to the economy including agriculturally related business and employment. There is a disconnect between the BDCP and the over-commitment of available water supply. The SWP contract renewal process which should restore contract provisions to curtail the use of intermittently available water to support permanent or long term demand such as for Municipal and Industrial development and growing permanent crops has been piecemealed out of the BDCP. The cumulative impacts of the two efforts are not adequately considered. Water transfer and surplus water provisions in the SWP contracts and CVP contracts are intertwined with the extent of the impacts arising out of the BDCP.	This Final EIR/EIS presents cumulative water supply impacts in Chapter 5, Water Supply. Cumulative impact WS-4, Cumulative Changes in Delta Exports; WS-5, Cumulative Changes in SWP and CVP Deliveries; WS -6 Cumulative Effects of Water Transfers on Water Supply disclose the potential water supply effect of the project alternatives when combined with other cumulative projects. Please also see Master Response 43, Water Transfers.
1802	13	The BDCP DEIR/EIS has failed to consistently and objectively apply assumptions as to climate change. Climate change is in major part driven by increasing temperatures. The BDCP analyzes climate change impacts in the plan area but ignores the impacts in the areas receiving water exported from the Delta. Temperature could adversely affect living conditions in the desert areas. Demand for water could greatly increase due to increased evaporation and the cost of increased consumptive use could affect demand for water and more importantly demand and the reasonableness of continued desert development. In the agricultural areas where there is the greatest demand for water exported from the Delta, temperature increases could adversely affect the growing of certain crops and thereby affect water demand. Increased evapotranspiration could also be a factor in that there will be greater demand for extraction of groundwater from overdrafted basins such that they are exhausted. Farming	The anticipated hydrologic changes due to climate change (increased temperatures and more years of critical dryness, increased water temperatures, changes in precipitation and runoff patterns, sea level rise, and tidal variations) will constrain and challenge future water management practices across the state, with or without the proposed project. The state is addressing climate change through strategies and a decision-making framework as outlined in the California Climate Adaptation Strategy and Adaptation Planning Guide. However, no single project and indeed none of the project alternatives would be able to completely counteract all of the impacts of climate change. Please refer to Master Response 19 for information regarding how the EIR/EIS deals properly and thoroughly with issues related to climate change, including increasing temperatures.

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		with only the water available through exports from the Delta could become unsustainable. The impacts of climate change in the export service area could affect the assumed demand for water and the assumed availability of funding for the plan and projects.	
1802	14	The BDCP DEIR/EIS defers mitigation and facts to include feasible mitigation measures. The document does not reflect a good faith effort to analyze or provide feasible mitigation. Worthy of note in particular is the approach to mitigation of impacts to agriculture which has no substance, no funding and no consideration as to alternative locations of habitat upstream or downstream of the Delta. Also of particular note is the reliance on other programs for addressing water quality degradation without any detailed analysis of the ability of such programs to reduce naturally occurring constituents and the long term contributions of salinity from natural sources and the CVP and SWP deliveries of water to the west side of the San Joaquin Valley.	This is a general comment regarding adequacy of mitigation. Please see Master Response 22. With respect to mitigation for impacts to agricultural resources, please see Chapter 14, Agricultural Resources and Master Response 18. With respect to mitigation of existing water quality concerns, it is important to note that the mitigation measures identified for significant water quality impacts are to address identified adverse effects of the project alternatives, not effects associated with natural or other sources or actions separate from the alternatives.
1802	15	The BDCP DEIR/EIS fails to rigorously explore and objectively evaluate all reasonable alternatives. The Alternate 4 which is preferred by DWR includes three (3) new 3000 cubic feet per second intakes on the Sacramento River connected to two 40 ft. diameter tunnels which extend to the CVP and SWP export pumping facilities in the south Delta. The water exporter purpose is to avoid export pumping restrictions intended to reduce the entrainment of special status fish at the south Delta export pumping facilities. The theory is that when such fish are exposed to entrainment at the south Delta export facilities, pumping from the new intakes on the Sacramento River can take place without harm to special status fish. It is projected that about one-half the time export pumping will continue from the south Delta and when the new intakes on the Sacramento River are used at least 3000 cfs will continue to be exported using the south Delta export pumping facilities. Water quality in the interior Delta and south Delta is expected to degrade due to the removal of the good quality Sacramento River water from the "common pool".	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. As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The effects analysis concluded that the potential adverse effects of the proposed north Delta diversions are concluded to be offset by the various beneficial effects of the conservation strategy, principally: substantial increases in floodplain, tidal, and channel margin habitat for occupancy or production of food (e.g., see Chapter 5, section 5.5.3.1.1, for discussion related to winter-run Chinook salmon), reduced entrainment at the south Delta export facilities (e.g., see Chapter 5, section 5.5.3.1.2, for discussion related to winter-run Chinook salmon), and reduced entry into the interior Delta (where survival is lower; see Chapter 5, section 5.5.3.1.3). Monitoring and adaptive management also would be undertaken to assess the effectiveness of the conservation measures in providing these and other beneficial aspects. 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. The effects analysis concluded that the potential adverse effects of the proposed north Delta diversions are concluded to be offset by the various beneficial effects of the conservation strategy, principally: substantial increases in floodplain, tidal, and channel margin habitat for occupancy or production of food (e.g., see Chapter 5, section 5.5.3.1.1, for discussion related to winter-run Chinook salmon), reduced entrainment at the south Delta export facilities (e.g., see Chapter 5, section 5.5.3.1.2, for discussion related to winter-run Chinook salmon), and reduced entry into the interior Delta (where survival is lower; see Chapter 5, section 5.5.3.1.3). Monitoring and adaptive management also would be undertaken to assess the effectiveness of the conservation measures in providing these and other beneficial aspects.
1802	16	The hope is that fish such as delta smelt will stay in the south Delta with the poorer quality water and not migrate to the good quality water at the new intake locations on the	As discussed in the EIR/EIS, the distribution of delta smelt is such that the occurrence of the species is expected to have low overlap with the north Delta intakes.

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		Sacramento River. There is considerable uncertainty as to the effectiveness of the plan and "adaptive management" is incorporated.	
1802	17	Adaptive management incorporates a Governance Structure which in reality is controlled by the export water contractors. DWR and the U.S. Bureau of Reclamation are included but close ties with the export water contractors preclude any significant independence. The plan is expensive and much of the cost is intended to be pushed onto the general taxpayers rather than the water export contractors who are the direct beneficiaries.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP), including a discussion of the estimated cost of BDCP implementation and a discussion of the funding sources of the Plan. Note that all mitigation would be paid for by the participating state and federal water contractors. Please also see Master Response 33 for a discussion of the adaptive management program. Note that the adaptive management and monitoring program is not controlled by the water contractors, but ultimate decision making with rests with DWR, Reclamation, and the Fishery Agencies.
1802	18	Other alternatives should be rigorously explored and objectively evaluated.	Please see Master Response 4 for more information on alternative development.
1802	19	The main features of an additional alternative analysis are: An independent analysis of the availability of surplus water for export by the SWP and CVP should be performed recognizing 1) the need to provide water to meet the present and future needs including fish and wildlife needs in the Delta and other areas of origin; and 2) the need for carryover of stored water to meet the D- 1641 water quality objectives in the event of a reoccurrence of a six year drought comparable to the 1929-1934 or 1987-1992 whichever is most constraining. The availability should be specified by year type.	Please see Master Response 4 which provides additional information on alternatives development.
1802	20	The main features of an additional alternative analysis are: Reduce exports to such surplus amounts.	See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 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.
1802	21	The main features of an additional alternative analysis are: Curtail export pumping at the south Delta intakes in response to the actual real time exposure of fish to entrainment.	The robust monitoring and adaptive management elements proposed for the preferred alternative aim to address the uncertainty related to the potential effects of the north Delta diversions, as required for the ESA. These required monitoring and adaptive management elements will allow the fish and wildlife agencies to assess extent to which the proposed project is meeting the ESA criteria, so that any necessary adjustments to north Delta diversion operations can be made. For more information regarding impacts to aquatic resources and its associated mitigation measures please see Chapter 11 of the FEIR/EIS.
1802	22	The main features of an additional alternative analysis are: adjust outflow for fish to keep endangered fish away from the influence of the south Delta pumps.	Under the proposed project, three new North Delta intakes with state-of-the-art fish screens will reduce reliance on the south Delta. Please see Master Response 4 regarding the adequacy of the range of alternatives. 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. 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

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			screening criteria. Appendix 3F of the EIR/S 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. Please see Master Response 4 regarding the adequacy of the range of alternatives.
1802	23	The main features of an additional alternative analysis are: continue experimentation with fish deflectors at critical points to minimize improvements to fish.	Please see Master Response 4 regarding the alternatives development for the EIR/EIS. The proposed project does not hinder continued research in the use of non-physical barriers and in fact this is an area of research that could be furthered through the proposed collaborative science and adaptive management program.
1802	24	The main features of an additional alternative analysis are: Improve screens at the existing south Delta intakes.	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 (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 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. 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 (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 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

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			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.
1802	25	The main features of an additional alternative analysis are: Upon adoption of flow criteria by the State Water Resources Control Board adjust the determination of the availability of surplus water for export.	See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 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. The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on Proposed Project operations. Please see Master Response 28 and 5 for more information regarding operational scenarios and compliance with ESA respectively. See Master Response 4 for discussion of the scope of the proposed project and alternatives that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project.
1802	26	The main features of an additional alternative analysis are: From such surplus water availability determine and deduct any amounts necessary to meet water right settlement obligations.	See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 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. See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water right holders.
1802	27	The main features of an additional alternative analysis are: From the remainder determine the amounts that can be reliably supplied for permanent	The issue of crops and water use is beyond the scope of the proposed project. For more information please refer to the updated draft 2013 California Water Plan's strategy for agricultural water use efficiency, which describes the use and application of scientific processes to control agricultural water delivery and use. Also, refer to Master Response 6 and Appendix 1C for further information on demand management measures,

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		development and permanent crops.	including increasing agricultural water use efficiency and conservation, and Master Response 34 for information on the beneficial use of water.
1802	28	The main features of an additional alternative analysis are: The balance of the water, if any, should be limited by the SWP and CVP to uses which do not lead to permanent demand.	See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 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. See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water right holders. For more information regarding water demand management please see Master Response 6.
1802	29	The main features of an additional alternative analysis are: Use of water transfers should also be limited to uses which do not lead to permanent demand.	See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 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. For more information regarding water transfers please see Master Response 43.
1802	30	The main features of an additional alternative analysis are: improve all Delta levees to a minimum standard equal to or comparable to the U.S. Army Corps of Engineers PL84-99 agricultural standard with a twenty-two foot crown width. Those levees deemed most critical to water export and protection of infrastructure should be improved to a higher standard.	Physical changes to the conveyance system will minimize the potential for public health and safety impacts resulting from a major earthquake that causes breaking of Delta levees. As explained in the Final EIR/EIS, such dual conveyance provides more reliable water supplies by providing resiliency in the wake of levee failures due to a seismic event or other causes that may draw salinity into the south Delta near the existing pumps, and in response to the long-term effects of climate change, including sea level rise. However, a full restoration of the Delta levees is beyond the scope of the proposed project. Please see Master Response 3, Purpose and Need, and Master Response 4, Alternatives Development. 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 Master Response 8.
1802	31	The main features of an additional alternative analysis are: provide funding for emergency	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

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		response consistent with the armored corridor concept.	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.
1802	32	The main features of an additional alternative analysis are: provide state and federal funds to assist urban areas to become self-sufficient with the goal of eliminating reliance on imported water.	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 refer to Master Response 6 and Appendix 1C for further information on demand management measures, including increasing agricultural water use efficiency and water conservation.
1802	33	The main features of an additional alternative analysis are: provide state and federal funds to assist local agencies to develop groundwater recharge and storage projects which can utilize surplus wet period flows.	While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the 2013 Public Draft EIR/EIS, describes the potential for additional water storage. Please see Master Response 4 regarding the development of alternatives. Please see Master Response 6 for information on Demand Management. Please see Master Response 37 regarding water storage.
1802	34	The main features of an additional alternative analysis are: Return the Kern Water Bank to State Control.	See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 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. The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. See Master Response 4 for discussion of the scope of the proposed project and alternatives 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 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.
1802	35	The main features of an additional alternative analysis are: Restore the Standard Provisions to the State Water Contracts so as to limit the use of surplus water and article 21 water to uses which do not lead to permanent demand. Adjust the entitlements to the amounts that can be reasonably expected to be developed.	Please see Master Response 4 which provides additional information on alternatives development. Revisions to the State Water Contracts to limit use of available water or to adjust Table A amounts are outside of the scope and objectives of the Proposed Project.
1802	36	The main features of an additional alternative analysis are: Use an Independent Science Board to direct the application of surplus water to test variations in fish flow protection which when proven with actual results could be incorporated in revisions to water quality objectives.	To address scientific uncertainty, the proposed project descried in the 2013 DEIR/EIS included a decision tree process, a structured methodology that provides focused testing to better understand the relationship between outflow and the needs of these species and to arrive at a scientifically sound outflow requirement. As previously noted, the Preferred Alternative is now Alternative 4A. The Preferred Alternative, 4A, as well as Alternatives 2D and 54A, do not explicitly call out the decision tree approach, however, the basic concept has been retained. Please see Master Response 44, Decision Tree Approach. Please see Master Response 33,

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			Adaptive Management and Monitoring and Master Response 44, Decision Tree. The amount of water that can be diverted from the new north Delta facilities will set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors. Initial operations for the proposed project are expected to remain consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR will maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area. The intake fish screens drive the overall size of the intake structure on the riverbank, and have been numbered and sized to permit water to flow through the screens within a predetermined flow regime set by California Department of Fish and Wildlife and NMFS fish screen criteria (BDCP Appendix 5B Section 3.B.3.3).
1802	37	The main features of an additional alternative analysis are: Re-examine opportunities for increased storage of wet year flows with particular emphasis on groundwater recharge and off-stream storage.	Please see Master Response 37 regarding why an alternative focused on creating additional storage – surface and groundwater – either in the Delta or elsewhere, was not included in the EIR/EIS. Please 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.
1802	38	The main features of an additional alternative analysis are: encourage public agencies and employees to be sensitive to conflicts of interest and to work to regain public confidence.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1802	39	The main features of an additional alternative analysis are: Until there is a better understanding of environmental needs, there should not be any fixed period take permits.	The history of the Delta shows that change has been continually occurring at all scales of time and space. If the proposed project were proposing a single static remedy for the adverse changes that the Delta has sustained, it would not succeed, regardless of the permit term. For this reason the proposed project has been designed to be a dynamic program for water and ecosystem management, highly driven by and responsive to observable environmental change. This dynamic element of the proposed project is demonstrated in many aspects of the plan, including but not limited to climate change and the proposed changes in water operations though collaborative science and adaptive management. Please see Master Response 33 and 44. That said, as previously noted, the Preferred Alternative is now Alternative 4A. Alternative 4A no longer includes an HCCP/NCCP and the associated 50-year proposed permit term.
1802	40	ATT1: Table 4-4. Area (in Acres) of Natural Community Types in the Delta and Suisun Marsh	Please refer to Chapters 14 and 16 and above responses to comments
1802	41	ATT2: Table 6-2. Implementation Schedule for Natural Community Protection and Restoration Conservation Measures	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1802	42	ATT3: Economic Sustainability Plan for the Sacramento-San Joaquin River Delta Executive Summary	For economic analysis, see Chapter 16 of the Final EIR/EIS.
1802	43	ATT4: Table A-5. 1976-77 Estimated Crop Et Values, Delta Service Area (in inches)	For agricultural analysis, see Chapter 14 of the Final EIR/EIS.
1802	44	ATT5: Historical Estimates of Agricultural and Weltand Water Use in the San Joaquin-Sacramento River Delta	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.

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1802	45	ATT5: This is Part Five of my submittal. It includes submittal on behalf of both Central Delta Water Agency and South Delta Water Agency of Additional Analysis and Comments Set Three, 72 pages.	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1802	46	The reader still directed to a website to get more specific information on the proposed project and conservation actions. The DEIR/EIS link did not even point to these items specifically. Websites change, are not a suitable substitute for providing the reader information and some people do not have internet access. All relevant supporting descriptions should be included in the document, not deferred to a website.	The Draft EIR/EIS and RDEIR/SDEIS were prepared in compliance with CEQA and NEPA and include numerous technical appendices and figures. Please refer to Master Response 38 for more information on the length and complexity of the documents. Due to the size of the documents, approximately 34,000 pages total, printing hard copies for individuals or organizations is not realistic. However, those that requested hardcopies were given options in addition to downloading from the website, including obtaining the files on DVD, CD, or other format.
1802	47	Reclamation's announcement in the Federal Register that their role in the project may only be to wheel water through the BDCP facility fundamentally changes the purpose and need or the project and changes the conveyance capacity, potential operations and habitat restoration requirements. The project should go back to scoping with the CVP's level of participation defined as only for water wheeling through the facility.	Reclamation is a full partner in the project and in fact is the federal lead agency in the 2013 BDCP/California WaterFix RDEIR/SDEIS and the FEIR/FEIS. Reclamation's action in relation to the proposed project or alternatives would be to adjust CVP operations in the Delta to accommodate new conveyance facility operations and/or flow requirements, in coordination with SWP operations. This role has remained consistent. As previously noted, the Preferred Alternative is now Alternative 4A. However, Alternative 4 (BDCP) remains a potentially viable alternative and was carried forward in the RDEIR/SDEIS and this Final EIR/EIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach. Despite the addition of the new Alternative 4A and other non-HCP/NCCP alternatives, the fundamental purpose of the project, its project objectives, and purpose and need have also remained consistent throughout the planning phase. New scoping is not required.
1802	48	There were project components included in the Proposed Project that are outside of the planning or project areas that were used as rationale to exclude potential project components from further consideration in the alternatives screening process. The BDCP Proposed Project includes actions which occur outside of the planning area that was used as a screening criteria. These Proposed Project actions that are outside the planning area include transmission lines, Bear Creek habitat restoration, and others. Since the BDCP has violated the concept (fundamentally flawed and indefensible to start with) of confining potential project actions to an arbitrarily defined planning area, then any alternative or concept that was in whole or in part dismissed from further consideration on the basis of geographic location of the action during the alternatives scoping process should be reinstated and included in a revised project alternative. A good example of an alternative dismissed on this flawed and inconsistently applied screening criteria is the option for additional upstream or downstream storage as an alternative or a component to an alternative - see related comments on additional storage project alternatives.	The alternatives included in the 2013 Public 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 project objectives and purpose and need appropriately define the scope and range of alternatives considered. Please see Master Response 4, Alternatives Development. While the fundamental purpose in proposing the proposed project is to make physical and operational improvements to the SWP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations, that does not mean that project should not include impacts of the project occurring outside of the Delta planning area. Indeed, doing so would be inconsistent with CEQA and NEPA mandates to evaluate the whole of the action. The example of transmission lines where necessarily extending outside of the planning area is a prime example. Please see Appendix 3D RDEIR/SDEIS for more information regarding descriptions of programs, projects, and policies considered for existing conditions, no action alternative, no project alternative, and cumulative impact analysis for the proposed project. Please see Master Response 37 regarding why an alternative focused on creating additional storage – surface and groundwater--either in the Delta or elsewhere, was not included in the proposed project.
1802	49	The No Action definition did not include the existing Fish Screening Program in the Delta. Funding to continue and expand the Fish Screening Program was included by the BDCP as an other stressor action. This makes the proposed project comparison to the No Action condition incorrect and results in the BDCP taking too much credit for this other stressor action.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). With respect to screening of nonproject diversions, aaccording to a 2014 State Water Resources Control Board (http://www.swrcb.ca.gov/water_issues/programs/delta_watermaster/docs/wrc_legaldelta.pdf), there are more than 3,000 known in-Delta water rights and claims that are diverting from Delta sources, and many more that are illegal or unregulated. Many of these nonproject diversions are unscreened and agencies and experts, including the U.S. fish and Wildlife Service, acknowledge that unscreened in-Delta diversions may

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			impact covered fish species through entrainment and hydrodynamic influence. However, State and federal regulators have expended only modest efforts to date to determine the effects of these unscreened diversions and to regulate, monitor, and ensure these diversions are screened and minimize impact on fish. Under CM21, the BDCP (or an alternative) would provide for the funding of actions that would reduce potential entrainment of covered fish that may result from the operation of nonproject diversions, including screening. This greatly expanded effort is not a continuation of existing programs and thus is appropriately part of the Proposed Project and not the No Action Alternative. Please see Section 3.6.3.10, Nonproject Diversions (CM21).
1802	50	The current CVP/SWP operations ordered by Judge Wanger for limited reverse flows on Old and Middle Rivers resulted in reduced fish salvage at the CVP/SWP south Delta pumps in 2012. Since a simple reoperation to reduce reverse flows in Old and Middle River from CVP/SWP operations resulted in significantly reduced fish salvage which reduces the impact of the project and therefore reduces the need and justification for the BDCP project, reduced reverse flows with other complimentary modifications to the south Delta facilities and operations should be an alternative included for evaluation in the EIR/EIS. This alternative should include reverse flow restricted operations with other physical modifications to the existing CVP/SWP south Delta facilities such as, but not necessarily limited to: criteria fish screens; a controlled and reduced fish path through Clifton Court Forebay to reduce duration of exposure of fish to predators in the forebay; fish behavioral modification devices to manage fish distribution away from the intakes (bubble curtains, acoustic and light deterrents); and improved fish salvage capture, storage and release facilities and operations. This alternative could also be as a first phase of other alternatives so that there is some tangible improvement in fisheries conditions while other longer lead time alternatives.	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
1802	51	High water turbidity is well documented and accepted as an important predator protection for smelt. There have been experiments with flows to see how they protect smelt, but no experiments with increased turbidity. Increased turbidity does not cost water supply. It also might allow us to finally dredge some parts of the Delta that are in critical need of it to restore flow capacity for flood protection. A component for adaptively managing turbidity and monitoring fish survival should be included in the alternative evaluated.	Please see Master Response 17 regarding project impacts on Delta smelt and Master Response 33 for more information on Adaptive Management and Monitoring. For more information regarding adaptive management please see the Executive Summary of the FEIR/EIS. Operations for the proposed project are expected to remain consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR will maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area.
1802	52	The BDCP proposes to restore and conserve "grassland; vernal pool complex; alkali seasonal wetland complex; managed seasonal wetland; nontidal perennial emergent wetland and nontidal perennial aquatic; and cultivated lands." There is no "purpose" identified in the EIR/EIS for the project to include these types of habitats in the restoration plans. The CVP/SWP projects do not affect these habitats with their operations and therefore there is no "need" to get a take permit for these species. Any effect on these habitat types would be from the conveyance construction or from conversion to aquatic habitat types should be avoided and minimized to the extent possible and mitigated for their impacts (which does not require an Incidental Take Permit). Unnecessary inclusion of these habitat types in the restoration plans only increases the impacts of the project. There should be at least some of the alternatives considered in the	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The commenter states that the EIR/EIS should consider alternatives that do not include impacts to "grassland; vernal pool complex; alkali seasonal wetland complex; managed seasonal wetland; nontidal perennial emergent wetland and nontidal perennial aquatic; and cultivated lands." Please note that the BDCP is no longer the preferred alternative. CEQA requires that an EIR evaluate alternatives to the proposed project that are potentially feasible and would attain most of the basic project objectives while avoiding or substantially lessening project impacts. NEPA generally requires that a range of reasonable alternatives that meet the purpose and need statement of the action, to which the federal Lead Agencies are responding, be analyzed at an equivalent level of detail in the EIS. Chapter 3 of the EIR/EIS describes in detail the alternative selection process. The BDCP alternatives selected still had to meet the primary elements of the Plan, which include the contribution to recovery of covered species. These species utilize these natural communities and because these communities are affected

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		EIR/EIS that do not include these habitat types so that the impacts for including an aspect of the project in the scope that does not address an identified need or purpose can be quantified and isolated.	primarily by tidal restoration (CM4) and the water conveyance facilities (CM1), essential components of the Plan, conservation of these natural communities remains a necessary component of any viable alternative.
1802	53	The 75940 Federal Register / Vol. 78, No. 240 / Friday, December 13, 2013 states that, "Reclamation may also make decisions regarding wheeling CVP water through new Delta conveyance facilities..." - There is no mention of Reclamation wheeling water in the EIR/EIS in the project description, Purpose and Need or in the alternatives. This is a critical omission from the document. If Reclamation wheels water through the facilities, it will not have ownership of the facilities or need Incidental Take Permits. If Reclamation is only wheeling water through the facilities, what justifies Reclamation's role as a co-lead Federal Agency and more importantly for being a cost share partner in the environmental planning process (over $110 million to date and counting)?	Reclamation is a full partner in the project and in fact is the federal lead agency in the 2013 BDCP/California WaterFix RDEIR/SDEIS and the FEIR/FEIS. Reclamation's action in relation to the proposed project or alternatives would be to adjust CVP operations in the Delta to accommodate new conveyance facility operations and/or flow requirements, in coordination with SWP operations. These discretionary actions on the part of Reclamation require compliance with NEPA and the ESA.
1802	54	The conveyance alignment was biased to take lands under a Williamson Act contract in order to acquire rights-of-way for the BDCP based primarily for the lower cost of acquiring land in an agricultural preserve. BDCP needs to demonstrate there is no other outside the Williamson Act preserve on which it is reasonably feasible to locate the facilities.	The commenter states an unsubstantiated opinion that Williamson Act contracts drove selection of the conveyance alignment. Many factors were considered in selecting the alignment, none of which were the presence of Williamson Act contracts. Please see Please see Master Response 4 which provides additional information on alternatives development. The Department released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including alignment. Please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. Further refinements in the design and alignment were made as part of the 2015 RDEIR/SDEIS and described there.
1802	55	The alternatives formulation and screening criteria were not consistently applied. Alternatives identified, but not considered or not given adequate consideration in the alternative development process include: Sacramento Deep Water Ship Channel as a conveyance; additional south of water storage; additional north of Delta storage; enhancements to south Delta pumping facilities and operations; a larger number of smaller intakes distributed throughout the central and east Delta potentially incorporating an isolated Victoria Canal; and combinations of north and south of Delta storage, modification of south Delta pump facilities and operations and distributed intakes;	Please see Master Response 4 for more information regarding alternatives development and screening. 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. While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the FEIR/EIS, describes the potential for additional water storage. Please see Master Response 37 regarding water storage.
1802	56	Most of the impacts of the CVP/SWP project can be resolved or significantly reduced by improvement of the intake facilities in the south Delta to reduce fish salvage and by building additional north and south of Delta storage so that water can be diverted at times of year that have the least amount of environmental conflict. This combination of additional upstream and/or downstream storage with improved south Delta intakes (see related comment detailed description of an isolated Clifton Court	While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the 2013 Public

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		Forebay, fish criteria intake screens and improved fish salvage operations was never considered in the alternatives development process. All of these concepts as alternatives were introduced in the BDCP scoping process.	Draft EIR/EIS, describes the potential for additional water storage. Please see Master Response 4 regarding the development of alternatives. Please see Master Response 6 for information on Demand Management. Please see Master Response 37 regarding water storage. 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 (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 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.
1802	57	3.3 "As noted in Chapter 1, Introduction (Section 1.5), the Plan Area consists mainly of the statutory Delta, the Suisun Marsh, and the Yolo Bypass. The Areas of Additional Analysis are two areas outside the defined Plan Area that encompass power transmission corridors." If exceptions to the Plan Area have been made for conveyance, then other CM alternatives should not be excluded from further consideration using rationale that they fall outside the planning area.	The project area for the actions evaluated in the EIR/EIS is larger than the Plan Area because some of the effects of implementing the Proposed Project would extend beyond the boundaries of this region. The EIR/EIS analysis necessarily includes impacts of the project occurring outside of the Delta planning area, such as is the case for power transmission lines. Indeed, not doing so would be inconsistent with CEQA and NEPA mandates to evaluate the whole of the action.
1802	58	Many aspects of the alternatives formulation were predecisional. Most of the habitat restoration components included in the alternatives were identical. The BDCP did not include any variations in restoration design (e.g. sediment contributing or capturing), size, location, and implementation sequence and combinations which is very limiting to the analysis of alternatives and is therefore predecisional on the part of the project and the lead agencies. Not including permutations of the restoration design thwarts the purpose of the alternatives and environmental review process to identify the impacts of various project alternatives. The BDCP has similarly been predecisional by only including one type of intake design, one intake size and 5 intake locations. The BDCP did not evaluate a broad enough range of geographic distribution of intakes either and confined its intakes to one river reach. If most of the alternatives are exactly the same in many important aspects (restoration and intakes), then some of the most important aspects of the project are effectively not evaluated or compared. The BDCP needs to reformulate their alternatives to include permutations of alternatives that do explore real variations in these important project components.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Alternative 4A, as well as Alternatives 2D and 54A, were developed in response to public and agency input and do not include an HCP/NCCP component. Notwithstanding the addition of these alternatives in the RDEIR/EIS, 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. Please see Master Response 4 for more information regarding alternatives development and screening.

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1802	59	The BDCP did not utilize sufficient supporting or consistent rationale for dismissing potential project component. An EIR is required to include an in-depth discussion of those alternatives identified as at least potentially feasible. (Preservation Action Council v. City of San Jose (2006) 141 Cal.App.4th 1336,1350-1351; Citizens of Goleta Valley v. Bd. of Supervisors (1990) 52 Cal.3d 553, 569.)	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Please see Master Response 4 regarding the development and screening of alternatives. 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.
1802	60	It is inappropriate to piecemeal the project and environmental documents by doing the conveyance at a project level of specificity and the habitat restoration at a programmatic level as the BDCP has proposed. Most programmatic documents are for things like county General Plans which are a compilation of different projects and are blue-prints describing an envelope of potential action and scope. The BDCP project is very different from what a programmatic document should be. The BDCP habitat restorations are required in order to issue permits for the construction of the tunnel. The specific design characteristics of the aquatic habitat restorations have profound impacts on water quality and therefore operations. In addition to design specificity for the aquatic restorations, the interactions of the implementation sequence and characteristics of the change of hydraulic complexity (drainage characteristics) of intertidal habitat must be defined at a project level of specificity to determine water quality and operational affects. The habitat restorations are every bit as much a part of the core of the project as the proposed tunnels.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). For more information regarding project and program level analysis please see Master Response 2. For more information regarding how the Lead Agencies evaluated the project as a whole, please see Master Response 8.
1802	61	The level of certainty of funding is insufficient to justify the agencies issuing permits on the project. The BDCP sources of funding for large parts of the project (bond issuance from each of the water agencies for the construction and operations of the conveyance, and funding from tax payers and public resource agencies for habitat restorations) are uncertain and unreliable. There has been no tax proposed or funding source identified for the public resource agencies to pay for the habitat restorations. If any of the water agency or public resource agency funding sources fail, then the project will fail to meet its commitments and a level of species conservation that would warrant issuance of incidental take permits will not occur. Given the number of water agencies and public resource agencies involved in the funding and each one critically responsible, there will be at least 50 opportunities for funding to not be successful. Only if all of the funding efforts were successful would the BDCP fulfill its commitments. Given this simple math, it is far more likely that the BDCP will fail to raise all the funding to implement the project as planned than it is that they will be 100% successful. The BDCP has not even proposed contingency funding back-up plans such as the w[COMMENT IS CUT OFF]	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP).
1802	62	The BDCP EIR/EIS makes repeated statements in various sections regarding the potential reuse of tunnel spoils for habitat restoration, levee improvements and addressing subsidence on islands. The BDCP has provided no chemical or physical characterization of the tunnel spoils or supporting core and geotechnical sample analysis of the strata that would be bored through or analysis of their suitability for these proposed purposes. Tunnel spoils may contain contaminants (see related comments) and may render them utterly unsuitable for any reuse	Please see Master Response 12 regarding Reuseable Tunnel Material (RTM). Chemical characterization of the laboratory reusable tunnel material samples showed no indication that RTM would require handling as hazardous waste material, and that RTM would meet conditions acceptable for unrestricted land uses. Accordingly, the EIR/EIS assumes no RTM would require special shipping or disposal methods. The process for determining disposal, storage, and reuse of RTM is described in Appendix 3B, Environmental Commitments (Section 3B.1.19) of the Draft EIR/EIS. Final disposal of RTM, if moved, would be subject to all emissions control strategies outlined in Appendix 3B, Environmental Commitments. Please refer to Chapter

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		and may be required to be disposed of as a class one material. Tunnel muck is treated with a handling material to make them flow for handling and turns the material into a toothpaste-like consistency. This likely renders the tunnel spoils unsuitable, permanently, for any structural application such as levee improvements. The tunnels were proposed by the BDCP to be analyzed at a project level of detail and yet the tunnel spoils handling and disposal are clearly analyzed at only the barest of sketches of a programmatic analysis. Tunnel spoils are an integral component and requirement of the proposed project construction and therefore must also be analyzed at a project- level of detail if the proposed project is to be issued construction-related permits. How and where the tunnel spoils are disposed of m[SENTENCE CUT OFF] If the materials need to be moved to greater distances, to farther distant habitat restorations or levee improvements (as the BDCP has proposed, but not defined or disclosed), then there are greater air quality and traffic impacts. If tunnel spoils have to be disposed of as a class one material due to contaminants (which the BDCP has not analyzed), then there are a multitude of impacts which the BDCP EIR/EIS has not considered - see related comments. In order to develop a project-level analysis of the tunnel spoils and use the best available science in evaluating the impacts of the tunnel spoils, the BDCP EIR/EIS needs to be revised to include disclosure of the physical and chemical characteristics of the tunnel spoils. The sampling and characterization of the soil conditions that the tunnels will bore through must be of sufficient density and representativeness along the length of the proposed tunnel alignment that a statistically reliable interpolation of sample results can be conducted, e.g. NI 43-101 compliant. Only with this level of data collection and analysis can the BDCP evaluate impacts at a project-level. Once this level of analysis has been completed, then the BDCP EIR/EIS ca[SENTENCE CUT OFF]	31 for additional information.
1802	63	The BDCP EIR/EIS does not disclose the current deficiencies in the safety regulation compliance of the Clifton Court Forebay. The Clifton Court Forebay is not currently compliant with Division of Safety of Dams (DSOD) structural requirements. The BDCP proposed project includes modifications to the forebay (BDCP EIR/EIS Figure M3-4 page 11 of 15). BDCP proposed modifications of the forebay triggers a Division of Safety of Dams compliance requirement event. The BDCP does not disclose what components and costs of the proposed modifications of the forebay are to bring the deficient facility into current compliance. The BDCP EIR/EIS must be revised to include these material disclosures.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Preferred Alternative, Alternatives 4A, includes modification to Clifton Court Forebay. All work will be in compliance with DSOD and other applicable requirements. Please see Chapter 3, Section 3.4.1.1, Physical Components, Forebays, and the Conceptual Engineering Report at http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx for additional details regarding the Clifton Court Forebay modifications.
1802	64	Appendix 1D, section 2.2.3 This section uses "Project Area" and "Planning Area" interchangeably. The title of section 2.2.3 is "Project Area" and the first sentence of the section refers to the "Planning Area". This representation is inconsistent with how these terms are defined and used in different document sections. The EIR/EIS provides no justification for the geographic limitation of the planning area in which it considers where potential actions could be taken as part of the alternatives development process. This section says, "The EIR/EIS project area may be different than the proposed BDCP geographic scope to appropriately evaluate impacts of the proposed BDCP and alternatives." This is correct, but then the scoping document goes on to exclude potential project alternatives and alternative components from further consideration for the fact that they would occur outside of this artificially constrained and unsupported geographically constrained potential	Please see Master Response 4 regarding the development and screening of alternatives. As described in Appendix 3A, alternatives were screened based in part on the project objective of "providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species." This objective was not used as a hard and fast rule to exclude alternatives that were not physically constrained within the Planning Area, and indeed the Project Area and Planning Area are different for that very reason. See Section 1.5 for further information on the Project Area and Planning Area and why they are different.

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		area of action. The EIR/EIS is clearly inconsistent with itself on this topic and the alternatives considered should not be constrained if they meet other appropriate screening criteria. Any alternatives that were eliminated from further consideration due to geographic location should be [COMMENT CUT OFF]	
1802	65	2.2.5 The section identifies a range of fisheries species Conservation Measures, but fails to include modification of the existing south Delta diversion facilities screens to improve fish protection. Adaptation of the screens to improve fish protection has been studied several times prior to the BDCP scoping, e.g. CALFED, and therefore these concepts were readily available for consideration and inclusion in the BDCP EIR/EIS scoping development process. Although many concepts to improve the screens to improve existing CVP/SWP fish protections (see related comments) and mandate for improved protections of fish from the screens (see FWS and NMFS OCAP Biological Opinion Reasonable and Prudent Actions), the BDCP failed to include consideration of this obvious project alternative. The improvement of the existing screens as a component of the BDCP EIR/EIS alternative should be included in a revised draft EIR/EIS.	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 (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 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.
1802	66	2.2.5 "Three general conveyance concepts identified in the 2009 Notice of Preparation and Notice of Intent include: (1) a dual conveyance alternative; (2) an isolated facility alternative; and (3) a through Delta alternative." Where in the scoping process and administrative record was the concept of the tunnels introduced? Please provide documentation that the tunnel conveyance concept was identified and documented during the public scoping period. If it was not identified during the public scoping period, then the project has violated the scoping process and scoping should be reopened to allow other additional options to be introduced and considered.	The isolated facility option included in the NOI and NOP encompasses alternatives that would move water from the Sacramento River to the existing south-Delta facilities without going through the Delta. This broadly includes canal, pipeline, and/or tunnel alternatives that would isolate water conveyance from the Delta. This includes both fully isolated conveyance alternatives without the use of the existing south Delta facilities as well as dual conveyance alternatives such as the current proposed project. The concept of an isolated conveyance facility was first discussed during the CALFED process. Later, use of an isolated facility in conjunction with the existing through-Delta operations was suggested as part of the Delta Vision Process. A number of facility types were evaluated in the alternatives screening process Please refer to Appendix 3A of the 2015 Final EIR/EIS and the 2008 and 2009 Scoping Reports for additional information regarding the development of the alternatives and the nature of comments received during the scoping process.
1802	67	2.2.5 New points of diversion in the north Delta could be located along the Sacramento River between Sacramento and Walnut Grove. The BDCP never provided justification for the artificial constraint of the potential locations of the diversions. This geographic constraint is predecisional and arbitrary. The wording of this EIR/EIS statement and the language used in the Notice of Intent and Notice of Preparation is clearly predecisional. Some other proposals put forward during scoping included diversions at other locations, .e.g. at Fremont and Sacramento Weirs for the Sacramento Deep Water Ship Channel as a potential conveyance component - see related comments; distributed intakes in the west, central and east delta - see related comments. The Fremont and Sacramento weir diversion locations have the benefits of being outside of the tidal prism that affect downstream location diversion operations, would avoid exposure of the American River salmonids to the screens and is upstream of the range of the delta and longfin smelt so they would also avoid exposure and harm from the screens. The	Considerations related to siting of diversions are discussed in Appendix 3.F of the DEIR/S.

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		distributed intakes concepts are deep in the tidal prism, but have the operational advantage of being distributed so that when species of concern are located in one part of the Delta those intakes could be shut down a [COMMENT CUT OFF]	
1802	68	Table 3-1 The table identifies categories of comments received during the scoping process. Of all the comments received, the BDCP EIR/EIS claims that there was not even one comment received that was relevant to the conveyance location, conveyance types, conveyance capacity, diversion locations, intake types, or any other conveyance engineering or design attributes or options. The BDCP did not identify all the comments received related to the conveyance as a category because the BDCP had already decided what they wanted to build and where it was going to be located. As an example, the concept of the use of the Sacramento Deep Water Ship Chanel as a conveyance option as proposed by John Garamendi and Peer Swan as introduced during scoping. What unrepresentative category was that comment filed under? As an example, on page 637 of the Scoping Report, Contra Costa Water District makes a comment relative to the conveyance capacity. As another example, on page 680 of the Scoping Report, a letter from Downey, Semor and Brand dated May 30, 2008, has a whole section of the letter dedicated to conveyance alternatives and design characteristics. Where are these comments represented and how were these concepts addressed in the alternatives development and screening process? The categories used onl [COMMENT CUT OFF]	The EIR/EIS summarizes the scoping process in Section 3.2.1. However, the scoping process for the proposed project has been fully documented and is publically available. See, e.g., the 2009 Scoping Report at http://baydeltaconservationplan.com/EnvironmentalReview/EnvironmentalReview/Scoping/Scoping2009.aspx. There is no requirement in CEQA or NEPA that scoping letters or comments be individually responded to. However, scoping comments were considered in developing the project and in fact in the selection of the diversion locations. For example, diversion locations upstream of the town of Freeport were eliminated from consideration due to public scoping comments received in March 2009 citing construction impacts in an overly constrained conveyance corridor, historic building conflicts, and the precedent set by the Freeport Regional Water Project EIR, indicating that intakes in the Pocket area neighborhood would produce significant impacts. For discussion of the development, screening, and range of alternatives evaluated, please refer to Master Response 4.
1802	69	3.2.1 The EIR/EIS has a section titled "3.2.1 Scoping Process and Future Participation in the EIR/EIS Process Concepts", but the entire scoping report never discloses the alternatives development and screening process that was used. Instead of explaining the process used for scoping as the section title promises, the content of the section only lists they numbers and sources of comments received. The EIR/EIS and Scoping Report does not disclose the process in which alternative concepts identified in the scoping process were developed into alternatives. On what basis and process were concepts treated and how were they determined to be combined into an alternative or not? What were the screening criteria and where is the documentation of how each concept was treated? There should be documentation of each of the concepts identified in scoping. These individual concepts as they should have been captured were not presented in the scoping report. The screening and evaluations criteria should be clearly tied back to and supported by the Purpose and Need and Project Objectives identified in the Notice of Intent/Notice of Preparation and in Chapter 2 of the EIR/EIS. The BDCP EIR/EIS document does not disclose the evaluation criteria or provide supporting rationale for how they relate to the project objectives and needs. If the appropriate NEPA and CEQA alternatives development and screening process had been followed, a much r [COMMENT CUT OFF]	The EIR/EIS summarizes the scoping process in Section 3.2.1. However, the scoping process for the proposed project has been fully documented and is publically available. See, e.g., the 2009 Scoping Report at http://baydeltaconservationplan.com/EnvironmentalReview/EnvironmentalReview/Scoping/Scoping2009.aspx. For discussion of the development, screening, and range of alternatives evaluated, please refer to Master Response 4.
1802	70	3.3 BDCP HCP/NCCP plan The BDCP made substantial changes to the proposed project after the public scoping period for the EIR/EIS was completed. Substantive changes included changing from a eastern or western surface conveyance to two underground tunnels, substantial operational rules changes, changes in locations of and which habitat restorations were being proposed (southeast Delta habitat restorations were dropped). This means that the project that the public was allowed to propose alternatives to was substantially altered after their opportunity for input into the process. To make this violation of NEPA and CEQA scoping requirements worse, the BDCP EIR/EIS entertained and evaluated alternatives from selected	Public scoping provides helpful input for “identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed inn depth in an EIR.” (CEQA Guidelines, § 15083(a).) Consequently, “the draft EIR in preparation may need to be revised or expanded to conform to responses to the notice of preparation [i.e., scoping comments].) (Id., § 15082(a)(4).) The scoping process fully complied with CEQA and NEPA, particularly in that revisions to the proposed project locations and configurations, alternatives, and analyses were made as a direct result of the public and agency scoping comments received.

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		parties long after the public scoping period was closed - see documentation in appendix 3A, e.g. Pyke alternative, Garamendi alternative, etc. This favoritism and bias in the process for certain favored parties is in direct conflict with NEPA and CEQA requirements and acceptance of information from private parties outside of the public review process that influences policy or decision making information violates federal advisory contracting rules (FACA) in this case. The BDCP [COMMENT CUT OFF]	
1802	71	3-27, line 18 The tunnel description has changed. The BDCP Alt 4 tunnel diameter, length and pumping vs. gravity feed project description has changed substantially since this public draft. These are material changes that alter tunnel muck disposal volumes and disposal area size, air quality from construction, volumes of cement, traffic loads and energy resource-related impacts. All impact analyses that relied upon the out-of-date project description of the tunnel are in error and must be redone. The EIR/EIS must be revised to correct these errors and recirculated for public comment.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	72	3-28, line 27 The forebay descriptions have changed. The BDCP tunnel forebay and Clifton Court Forebay modification/expansion location and size description has changed substantially since this public draft. These are material changes that alter grubbing impacts, construction footprint of disturbance, disposal volumes and disposal area size, air quality from construction, and energy resource-related impacts. All impact analyses that relied upon the out-of-date project description of the forebay are in error and must be redone. The EIR/EIS must be revised to correct these errors and recirculated for public comment.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	73	3-31, line 40 "How much of the Delta inflow can be exported at the south Delta CVP and SWP pumping plants?" This is identified as a primary objective of the proposed CVP/SWP operations and yet, the impact analysis call related to exactly this criteria was "No Determination". Since the BDCP failed to be able to make a determination, then the BDCP proposed project has failed to meet this primary objective and answer this primary question.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). With the introduction and analysis of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, in the 2015 RDEIR/SDEIS, a number of revisions were also made to the 2013 DEIR/EIS. In the 2013 Public Draft EIR/EIS, a number of impacts did not include NEPA effect determinations for a number of reasons including conflicting modeling results and lack of data or other information to support a conclusion. As part of the RDEIR/SDEIS, these effects were re-examined and NEPA determinations have been made for each effect. Please see Table 11-mult-28 in the RDEIR/EIS for a list of impacts with uncertain NEPA effect determinations in the 2013 Public Draft EIR/EIS and their respective conclusions included in the 2015 RDEIR/SDEIS.
1802	74	3-34, line 6 "Fish protection at the proposed BDCP north Delta intakes would also be provided by operational parameters that are screen approach velocity and sweeping velocity requirements. General daily or monthly rules for maximum allowable north Delta diversions were incorporated into the CALSIM modeling of each BDCP alternative." The BDCP is saying that fish protections would be provided by operating the screens in a manner that provides for screen criteria compliant approach and sweeping velocities. These are screen criteria are instantaneous and continuous measurements, not based on daily, weekly or monthly averages. Then the BDCP says it uses "daily or monthly rules" for north delta diversions. The BDCP makes it sound like the screen criteria compliance operations are integrated into the monthly CALSIM modeling, but they are not. The BDCP is saying that they will operate to screen criteria, but those operations of ramping diversions up and down with changes in tidal flow velocities at the screen face to stay compliant with approach and sweeping velocity criteria have not been modeled and there is no diversion operations model that has any feedback loop into the CALSIM model. The assurance by	The DSM2 model incorporated sweeping velocities and limitations which was used in coordinated manner with CALSIM II modeling to limit diversions related to the sweeping velocities at the fish screen, as described in Section A.5.3 of Appendix 5A, Section A, Modeling Methodologies.

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		the BDCP that the project will operate to screen criteria is only that, an unsupported commitment with absolutely no analysis or proof. The BDCP does not even know if they can operate in a screen criteria compliant mode and meet the CALSIM water operations that they have proposed and ana [SENTENCE CUT OFF] If the maximum compliant diversion volumes aggregated on the monthly basis were higher than the CALSIM target for the north delta diversions, then the operations can be proven to be compliant with the fish screen criteria and that the CALSIM model results used in the EIR/EIS analysis were correct. The BDCP failed to provide this proof that the north delta diversions can be operated in a fish screen compliant manner or that the CALSIM modeling results that determine north delta diversion monthly volumes are correct and suitable for use in the EIR/EIS analysis. If the monthly aggregated maximum compliant diversion volumes are less than the CALSIM model results used in the EIR/EIS analysis, then either the north delta diversions would have to be operated in a manner that was not fish screen compliant or the water operations that the BDCP did the EIR/EIS analysis on a model result that they cannot operate to. Unless the BDCP can prove that the north delta intakes can be operated in a screen compliant manner and that actually results in the same operations as the BDCP EIR/EIS used in their analysis, the entire water operations and water operations dependent impact assessments [COMMENT CUT OFF]	
1802	75	3-35, line 18 The BDCP is missing a Scenario If the BDCP had not incorrectly dismissed, north of delta, in-delta and south of delta storage, there could have been a "sip vs. gulp" set of operations that would attempt to divert more water in the winter high flows when there is less environmental conflicts and less diversions during the summer when environmental conflicts are the highest. Since the BDCP wrongly dismissed the storage alternatives with their predecisional and unsupported geographic constraint and the storage alternatives require full analysis in the EIR/EIS as they reasonably meet the defensible portions of the identified purpose and need, the BDCP must also include the sip vs. gulp operations scenario for the revised EIR/EIS analysis.	P As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the FEIR/EIS, describes the potential for additional water storage. Please see Master Response 37 for further information regarding water storage. See also Master Response 28 for operational criteria of the proposed project, and Master Response 4 which explains that the project is not pre-decisional.
1802	76	3-40, line 25 "Reclamation's action in relation to the BDCP would be to adjust CVP operations specific to the Delta to accommodate new conveyance facility operations and/or flow requirements under the BDCP..." This statement is a representation of Reclamation's role in the project that is inconsistent with Reclamations Notice of Availability post in the Federal Register dated December 13, 2013. Reclamation indicated that it may or may not have a role in the project and may or may not wheel water through the facility. This is very different from this BDCP representation and Reclamation's role either as a joint owner operator of the facility or wheeling or not wheeling water through the facilities and has significant implications on the environmental impacts of the project. As an example, if Reclamation is neither a joint operator or a wheeler of water through the BDCP facilities, then the amount of water diverted at peak operations would be reduced by over 6,000 CFS. Any change in Reclamations role from full partner in the facilities would mean that all of the operations modeling and the dependent impact analyses done in the BDCP EIR/EIS would be wrong and need to be redone. Reclamation has to specifically define its role and participation in the project and the BDCP project must be revised to reflect that role and the impact analysis	Reclamation is a full partner in the project and in fact is the federal lead agency in the 2013 BDCP/California WaterFix RDEIR/SDEIS and the FEIR/FEIS. Reclamation's action in relation to the proposed project or alternatives would be to adjust CVP operations in the Delta to accommodate new conveyance facility operations and/or flow requirements, in coordination with SWP operations. Reclamation, like DWR, will decide whether or not to approve and a carry out the Proposed Project in considering the Final EIR/EIS. However, if the California WaterFix project is approved and implemented, use of the new conveyance facility by only the Department and not by Reclamation or by any of the CVP Contactors is not considered likely and is not contemplated. The description in Chapter 3 Alternatives states that "Reclamation would likely enter into an agreement with DWR to wheel CVP water through the new facilities, and this action by Reclamation would be an associated federal action." This is an accurate statement and does not conflict with the NOA which indicates that Reclamation may make decisions regarding wheeling CVP water thru new Delta conveyance facilities.

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		redone to evaluate the im [COMMENT CUT OFF]	
1802	77	3-40, line 34 "Additionally, as noted above, each action alternative would include operational criteria for the water supply infrastructure, habitat conservation components, and measures to mitigate the impact of other stressors on covered species." This is a core problem with the "alternatives" evaluated by the BDCP in the EIR/EIS. The alternatives were all composed of minor variations of water conveyance facilities. As an example, all of the north delta diversion alternatives all selected from a set of 5 potential intake sites with a single type of intake design considered. There were no alternatives with intake locations that occurred either farther upstream or downstream from these 5 sites or that considered in-river type intake designs. There were some variances in operations alternatives, but they only included or excluded X2 in any meaningful difference. All of the rest of the components that make up the alternatives were almost identical in every way. In one case there was a little more or less habitat restoration. All of the other stressors actions were exactly the same for all of the alternatives. These alternatives could potentially be considered a reasonable range for the conveyance concepts (they were not - see related comments), but they certainly could never be represented as a reasonable range of alternatives for all of the other components that make up the alternatives (i.e. water operations, habitat resto [COMMENT CUT OFF]	15 alternatives and 3 additional subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4.
1802	78	3-41, line 24 "The alternatives differ primarily in their physical conveyance facility infrastructure/improvements, the locations of facilities, and diversion capacities." Yes, that is exactly the problem with the lack of range of reasonable alternative.	Please see Master Response 4 regarding the development and screening of alternatives. 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.
1802	79	3-41, line 31 "...the No Action Alternative may be described as the future circumstances without the proposed action and can also include predictable actions by persons or entities..." Here is another problem with the alternatives definitions. The No Action assumes that the agencies would not alter their operations or water delivery contracts in the face of climate change. The state and federal agencies that are the same lead, responsible and cooperating agencies for the EIR/EIS are all studying climate change in anticipation for the need to take action and adapt their operations to it. There are already policies in place for how climate change will be addressed by these agencies. The BDCP incorrectly assumes that under the No Action, there will be no operating response to the climate change the agencies are already preparing and planning for. It is not reasonable for the BDCP to assume that the future no action operations would just sit on their collective hands and do absolutely nothing in response to the climate change impacts. The advantage the BDCP is giving the proposed project over the No Action is that they assume operational responses to climate change that can also be done under the No Action. This assumption by the BDCP is designed to make the proposed project look better as compared to the No Action. MBK's comments on the BDCP EUR/ [COMMENT CUT OFF]	When climate change is added to existing conditions (the NAA_ELT scenario), climate change would cause effects (see the No Action Alternative analysis in Chapter 11, Fish and Aquatic Species). This section describes that the existing conditions scenario does not include climate change, whereas Alternative 4A scenario does include climate change. In order to make an apples-to-apples comparison of a scenario with and without the alternative, climate change must be removed. Future climate change and sea level rise assumptions were not included in existing conditions because no additional effect of climate change would occur under current conditions. However, the action alternatives all include climate change and sea-level rise assumptions. Therefore, for CEQA analyses the impact of action alternatives includes the influence of climate change and sea-level rise combined with the effects of the alternative. The analysis also includes impacts of the action alternatives compared against the No Action Alternative, which includes climate change and sea-level rise assumptions at two future periods (early long term for Alternatives 4A, 2D and 5A and late long term for the BDCP alternatives). Because climate change is included and modeled in the action alternatives and No Action Alternatives, modeled operations do assume a response relative to modeling without climate change. However, significant changes to operations beyond that which was modeled would amount to speculation. As for altering water delivery contracts in the face of climate change, there is no evidence to suggest changes would be necessary or what those changes would be and thus assuming any changes to delivery contracts would amount to pure speculation. For more information regarding climate change and GHG please see Master Response 19.
1802	80	3-41, line 35 "When the proposed action involves updating an adopted management plan or program, the No Action Alternative includes the continuation of the existing management	Please refer to Master Response 19 for information regarding how the EIR/EIS deals properly and thoroughly

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		plan or program. The CEQ [Council on Environmental Quality] suggests that the No Action Alternative may provide a benchmark that allows decision makers to compare the magnitude of environmental effects of the action alternatives (46 Fed. Reg. 39 18026 [March 23, 1981])." Climate change is a current program for DWR. It has the Climate Change Action Team, so adapting operations under a changed climate is within existing plans and policies. The current BDCP modeling shows the CVP/SWP reservoirs being drawn below their respective river valve outlets 1 year out of 12 - see related comments. There is no way in the real world that operations would be allowed to result in such a consistent catastrophic outcome. There are already agreements in place for each of the reservoirs that allow for fisheries and water agency consensus decisions to avoid reaching a point where no water can be released from the dam because water levels were allowed to go below the river outlets. The BDCP has assumed that there would not be any actions from these existing agreements to avoid these impacts. The reason the BDCP No Action assumption error is important is that the lack of reaction to climate change completely overshadows the impacts of the proposed project and other alternatives. The BDCP EIR/EIS makes this statement repeatedly that the amount of change from the project is so small as compared to the climate change impact as [COMMENT CUT OFF]	with issues related to climate change. With respect to modeled operations, it is important to note that the models are used in a comparative mode and are not used for predictive purposes. Please see Master Response 30.
1802	81	3-41, line 35 "Accordingly, this EIR/EIS uses the No Action Alternative as the point of comparison for determining impacts of the federal action under NEPA." This is correct, but that is not how the impact analysis was conducted in this EIR/EIS. The No Action has impacts and the impacts of the proposed project are treated as being the same quantity. If the NEPA No Action comparison were being done correctly, the EIR/EIS would have disclosed that the impacts of the proposed project and alternatives are in addition to those that occur under the No Action. As an example, if the No Action impact on a species was determined to be "Significant" because it adversely modified 100 acres of critical habitat and the Proposed Project had exactly that same 100 acre adverse effect, the correct impact call would be "No Effect". When the BDCP makes an impact call and presents the results they do not make it clear that the impacts reported on the Proposed Project are in addition to the impacts of the No Action. Back to the example - If the proposed project or alternatives also has a "Significant" impact, that impact is in addition to the impact of the No Action. Although the quote is correct, that is not how the impact calls are presented and interpreted in the EIR/EIS. This misrepresentation of the comparisons to the baseline must be corrected	The level of analysis is sufficient to provide an appropriate comparison between the action alternative and the NAA and doing the deeper level of analysis would not help elucidate the impacts of the preferred alternative. Also, there is no action being undertaken by the project proponents in the NAA. Therefore, there is no requirement to mitigate for any effects. For more information regarding Environmental Baselines, including the No Action Alternative, please see Master Response 1. For more information regarding significant and unavoidable impacts please see Master Response 10.
1802	82	3-42, line 1 "The CEQA baseline for assessing significance of impacts of any proposed project is normally the environmental setting, or existing conditions, at the time a Notice of Preparation (NOP) is issued (State CEQA Guidelines Section 15125[a])." This is correct, but this is not how the BDCP defined their baselines for comparison for the impact analysis in the EIR/EIS. All of the project alternatives comparisons were against the No Action, which the BDCP incorrectly claims is the exact same condition as the No Project. The No Action, No Project and Existing Conditions are all different. The existing condition has not implemented the Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives that were mandated, but are obligations of the CVP/SWP to implement so they meet the test of reasonably foreseeable and the execution of currently accepted commitments and management plans of the CVP/SWP. Since the Existing Condition and	The CEQA baseline assumes that the proposed project is not implemented, and reviews two scenarios: 1) consideration of existing conditions without the project, a “no build scenario” (State CEQA Guidelines Section 15125[a]) and is called Existing Conditions in this EIR/EIS; and 2) consideration of “reasonably foreseeable” future conditions without the project which is called the No Project Alternative in this EIR/EIS. This second scenario is equivalent to the No Action Alternative, identified below, and throughout this EIR/EIS, has been examined under that heading. The No Project Alternative allows decision makers to use the EIR to compare the impacts of approving the Proposed Project with the future conditions of not approving the Proposed Project in the year 2060. Under CEQA generally, the No Project Alternative may not be used as the sole baseline for assessing the significance of impacts unless the No Project Alternative is identical to existing conditions. (CEQA Guidelines § 15126.6(e)(1).) As the NEPA baseline, the No Action Alternative, sometimes referred to as the future no action condition,

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		the No Project are both different than the No Action and the BDCP has only made comparisons to the No Action, then the BDCP must redo the impact analyses with the correct comparisons required by CEQA.	considers no action conditions to include continuation of operations of the SWP and CVP as described in the 2008 USFWS and 2009 NMFS BiOps and other relevant plans and projects that would likely occur in the absence of project actions and which are well-defined enough to allow for meaningful analysis. The EIR/EIS has both NEPA and CEQA analysis with comparisons made against each respective baseline, with each separate require analysis clearly marked within each resource chapter. For more information regarding baselines and the No Action Alternative please see Chapter 3 of the FEIR/EIS and Master Response 1.
1802	83	3-43, line 14 "For this analysis, the No Action Alternative assumptions are limited to Existing Conditions, programs adopted during the early stages of development of the EIR/EIS, facilities that are permitted or under construction during the early stages of development of the EIR/EIS, projects that are permitted or are assumed to be constructed by 2060, and changes due to climate change and sea level rise that would occur with or without the proposed action or alternatives..." A glaring omission from this list is the inclusion of the current CVP/SWP legal obligations to implement the Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives. The BDCP is consistently unclear as to the inclusion of these current CVP/SWP legal obligations under the No Action and No Project. The way the BDCP represents it, the OCAP BO RPA obligations are conflated with the proposed habitat restoration actions. In some cases, what the BDCP has proposed is exactly what they are already obligated to do (so no credit towards contributions to conservation should be given, but they appear to be - see related comments). In other habitat restoration actions, the BDCP has proposed to do some incremental action on top of or in addition to the current CVP/SWP OCAP BO RPA obligation. This conflation of the current unimplemented OCAP BO RPA obligations that belong in the No Action and No Project with the proposed project actions makes these project alternative comparisons corrupt and useless as an environmental disclosure document. The BDCP must clearly separate current obligations yet to be implemented into the correct baselines for comparison from the proposed project actions in the EIR/EIS an [COMMENT CUT OFF]	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). For the BDCP and the action alternatives included in the 2013 Draft EIR/EIS, certain elements of the Biological Opinions Reasonable and Prudent Alternatives (RPAs) were assumed to be included with the Proposed Project. Habitat elements of the RPAs were included with the Proposed Project as logically being implemented as part of the comprehensive HCP/NCCP for the Delta that is proposed as the BDCP. With the introduction and analysis of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, in the 2015 RDEIR/SDEIS, these assumptions were changed with respect to habitat elements of the RPAs. The additional subalternatives do not include the RPA habitat components since the BDCP is not included with these subalternatives. For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the FEIR/EIS. Also see Table B-1 of RDEIR/SDEIS Appendix B for a summary of the different assumptions for Alternative 4 and 4A. For more information regarding Environmental Baselines, including No Action Alternative, please see Master Response 1.
1802	84	3-43, line 20 "These assumptions represent continuation of the existing plans, policies, and operations and conditions that represent continuation of trends in nature." Operational adaptation of the CVP/SWP to climate change should definitely have been included in the No Action and No Project definitions.	Please see response to comment 79.
1802	85	3-43, line 23 "Because the BDCP No Action Alternative assumptions are consistent with the requirements and limitations prescribed by CEQA, from this point forward in this document, the No Action Alternative also represents the No Project Alternative." This BDCP declaration that the No Action and No Project are the same is unsupported. The BDCP describes, vaguely, what the requirements are of each, but fails to establish that the elements that make up the No Action are the same as what would make up the No Project. For each element that is included in the No Action, the BDCP needs to disclose and demonstrate that the No Project elements are exactly the same. The BDCP has not made this disclosure so it is impossible for the reader to do this analysis for themselves or challenge the BDCP on the details of the definitions.	For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the FEIR/EIS. For more information regarding Environmental Baselines, including the No Action Alternative, please see Master Response 1.

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1802	86	3-43, line 33 "The anticipated effects of actions required by the 2008 and 2009 BiOps that have already occurred or are expected to be implemented prior to BDCP approval are assumed in the No Action Alternative." the current Operational Criteria and Plan [OCAP] Biological Opinion [BO] Reasonable and Prudent Alternatives [RPA]. The BDCP does not get to just arbitrary ignore these legal commitments if they do not happen to have been implemented prior to the completion of the BDCP. Many of the RPAs have scheduled implementation or planning/development milestones, so if DWR and Reclamation had been compliant with the OCAP BO RPA implementation mandated schedule, the actions would have been developed enough to model and estimate impacts on. Another problem with this BDCP EIR/EIS quote is that it presumes approval of the BDCP and that is predecisional. Another problem with this predecisional assumption is the BDCP does not know for certain if or when the BDCP would be approved. The BDCP is already 5 years behind their original schedule to complete the environmental review process and receive and Notice of Determination and a Record of Decision on the EIR/EIS, so the EIR/EIS is almost certainly wrong about what date it thought the cutoff would be for this erroneous line of logic.	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives. The comment on the BDCP being predecisional appears to unsubstantiated opinion. Regardless, the introduction and analysis of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, in the 2015 RDEIR/SDEIS that do not include a BDCP clearly demonstrate that this is not the case. For more information regarding pre-decision or pre-commitment please see Master Response 4.
1802	87	3-43, line 36 "The anticipated effects of actions required by the 2008 and 2009 BiOps that change water operations in the Plan Area or upstream were assumed in the No Action Alternative if they were reasonably certain to occur and enough was known about the effects of the action in early 2010 (when the No Action Alternative for hydrodynamic modeling was established) to define modeling assumptions for the change in water operations." All of the Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives (OCAP BO RPAs) are reasonably certain to occur because they are the current legal requirement and obligation of the CVP/SWP. The OCAP BO RPAs will remain reasonably certain until they are legally overturned or legally superseded and not a day before. BDCP has based their speculation that some RPAs may not be included in the No Action based on another process, the Remand EIS (that is farther behind in process than the BDCP) and that it might or might not supersede some of the current OCAP BO RPA legal requirements. As stated before, the BDCP must include all of the OCAP BO RPAs in the No Action as they are the current legal requirement of the CVP/SWP. The BDCP EIR/EIS quote then claims that some actions were not included in the No Action because they lacked sufficient detail to model. Many of the RPAs have scheduled implementation or planning/development milestones, so if DWR [Department of Water Resources] and Reclamation [Bureau of Reclamation] had been compliant with the OCAP BO RPA implementation mandated schedule, the actions would have been developed enough to model and estimate impacts on. DWR and Reclamation could have also engaged their federal co-leads on the BDCP, NMFS [National Marine Fisheries Service] and USFW [US Fish and Wildlife Service], that issued the OCAP Bos in consultation to develop the detail sufficiently such that the RPAs [COMMENT CUT OFF]	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs). With respect to the operational criteria of the RPAs, those criteria have been included as part of the Proposed Project in both Alternative 4 and Alternative 4A. Operations for the proposed project are expected to remain consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the FEIR/EIS.
1802	88	3-43, line 41 "The anticipated effects of some actions required by the 2008 and 2009 BiOps [Biological Opinions] in the Plan Area are also included in the BDCP conservation strategy. In some cases, these actions are included in the No Action Alternative and in other cases they are not. A key reason for these assumptions is that the 2008 and 2009 USFWS [US Fish and Wildlife Service] and NMFS [National Marine Fisheries Service] BiOps will be superseded by	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs). With respect to the operational criteria of the RPAs, those criteria have been included as part of the Proposed Project in both Alternative 4 and Alternative 4A.Operations for the proposed project are expected to remain consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS

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		the BDCP and associated BiOps." The BDCP is saying that they have included or excluded elements of the Operational Criteria and Plan [OCAP] Biological Opinion [BO] Reasonable and Prudent Alternatives [RPA] and included or excluded them from the No Action and Proposed Project at will and without regard that these are all No Action elements that cannot be included in the Proposed Project. By including these actions in the Proposed Project, the BDCP is taking credit for contributions toward conservation that are existing legal obligations of the project under the No Action. This makes the No Action look worse and the Proposed Project look better in the EIR/EIS than they actually are. The key reason given for their assumption is based on a predecisional that the BDCP will be approved by the lead, cooperating and responsible agencies; that there will be a Biological Opinion based on the approved BDCP; and that the fisheries agencies will write the BO in such a way as the BDCP would replace the current Bos in their entirety. These are unsupported and wildly biased and predecisional assumptions that must be retracted and revised. Because USFWS and NMFS are federal leads on the BDCP and approved this public draft for release, these agencies must have agreed with these predecisional eleme [COMMENT CUT OFF]	Executive Summary ES.2.2). For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the FEIR/EIS. For more information regarding pre-decision or pre-commitment please see Master Response 4.
1802	89	3-44, line 3 "As described in Chapter 1, Introduction, the current operation of the CVP/SWP is governed by requirements that include the 2008 and 2009 BiOps. The requirements of these BiOps may be modified in response to a court ordered remand process, depending on the schedule approved by the court. The new operation of BDCP will occur once the new north Delta intakes are constructed. Once the new intakes are operational, the BDCP and any corresponding BiOps will replace the then-current BiOps for long-term operation of the CVP/SWP." Yes, the current CVP/SWP operation is dictated by the current Operational Criteria and Plan (OCAP) Biological Opinion (BO) Reasonable and Prudent Alternatives. The fact that the BOs may be modified in the Remand process does not make that modification reasonably certain and it does not provide sufficient justification for the BDCP to ignore the current operating requirements in the hopes that some other process may or may not change them in the future. The rest of this BDCP EIR/EIS quote represents pure predecisional bias. There are other alternatives that do not have north delta intakes, so clearly the BDCP is anticipating that the alternative they proposed will be the one selected and implemented. It is not a foregone conclusion that the BDCP, if approved, would replace the current OACP BOs, so this statement by the BDCP is also predecisional. Only U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) have the authority to determine, at a future date after the BDCP is approved, if the BDCP would be the basis for a new BO and that BO would supersede the current in full force and affect BOs in part or in their entirety.	This comment provides an opinion about existing conditions and project assumptions that are fully disclosed in this Final EIR/EIS. Please refer to Chapter 1, Introduction and Chapter 4, Approach to the Environmental Analysis for additional discussion of these assumptions. For more information regarding Environmental Baselines, including No Action Alternative, please also see Master Response 1. The amount of water DWR can pump from the new north Delta facilities is set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors. Operations for the proposed project is expected to remain consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR must maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area. The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on Proposed Project operations. Please see Master Response 28 and 5 for more information regarding operational scenarios and compliance with ESA respectively. Please see Master Response 4 for a discussion of how the project was analyzed as a whole.
1802	90	3-44, line 9 "Examples of effects assumed in the No Action Alternative, but that are also associated with BDCP conservation measures, include the effects of operations of the Delta Cross-Channel Gates (NMFS Action IV.12) and those related to measures to reduce entrainment at the south Delta export facilities (NMFS [National Marine Fisheries Service] Action IV.3). An example of the effects of actions that are attributable to the BDCP and not assumed in the No Action Alternative include Yolo Bypass improvements and tidal marsh restoration (NMFS Actions I.6.1, I.6.2, and I.7; USFWS [US Fish and Wildlife Services] Action	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs).

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		Reasonable and Prudent Alternative Component 4)." Yes, these are all great examples of Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives that are current legal requirements of the CVP/SWP under the No Action that were incorrectly included in and any conservation credit accrued to the Proposed Project. These actions must be deleted from the Proposed Project and alternatives descriptions and analysis and added to the No Action Alternative description and analysis.	
1802	91	3-44, line 16 "In some cases, Reasonable and Prudent Alternatives actions also included in BDCP were modified to take into account new scientific information available since the BiOps were issued, or additional planning done for BDCP beyond what was developed for the BiOps. Examples of this include [Conservation Measure] CM16 Non-physical Fish Barriers, which is similar to, but much more defined and specific than [National Marine Fisheries Service] NMFS Action IV.1.3." Great, this is what alternatives are supposed to be all about. The problem is that the BDCP did not include the legally required Operational Criteria and Plan [OCAP] Biological Opinion [BO] Reasonable and Prudent Alternatives [RPAS] in the No Action as it was defined in the BO. If it had done that and then proposed an alternative plan detail for implementation then the effects of the Proposed Project could have been evaluated and disclosed. As the BDCP has done it, this action is omitted from the baseline and modified in the Proposed Project so the difference that is measured in the comparison is doing the modified proposal against doing nothing (not correct) vs. doing the baselines and analysis correctly which would have disclosed the incremental impact or benefit of doing the Proposed Project action against the current legally required action as it was defined in the BO. This action (and the others the quote implies, but does not disclose) must be included in the No Action as written in the BO and included as the BDCP has proposed in the Proposed Project so these impacts can be evaluated and disclosed. This OCAP BO RPA is a good example and precedent of the due diligence that should have been applied to all of the OCAP BO RPAs that needed further dev [COMMENT CUT OFF]	Please see Response to Comment83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs). Please see Master Response 4 regarding alternatives.
1802	92	3-44, line 20 "Requirements of the 2008 and 2009 BiOps [Biological Opinions] that call for conducting planning or feasibility studies with undefined outcomes were not assumed in the No Action Alternative. By themselves, these planning or feasibility studies would have no effect on environmental conditions. Their outcomes are unknown at this time and therefore too speculative to include in the No Action Alternative. Further environmental compliance, permitting, and ESA and California Endangered Species Act (CESA) compliance would be needed to implement any recommendations of these future studies. Examples include fish passage over SWP/CVP terminal dams such as Shasta (NMFS Actions NF4.4 and LF2). The deadlines for completing many these planning and feasibility studies have already been missed by DWR [Department of Water Resources] and Reclamation [Bureau of Reclamation] - see related comments. It is true that plans and studies, in and of themselves have no environmental affect, but the studies and plans that should have legally already been completed would have provided the detail for the Operational Criteria and Plan [OCAP] Biological Opinion [BO] Reasonable and Prudent Alternatives [RPA] requirements so that the environmental impacts of them could be evaluated in the No Action Alternative and such that the BDCP EIR/EIS could have proposed alternatives to those actions. As the BDCP has done this EIR/EIS analysis, these actions are excluded from the No Action impact	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs). With respect to planning and feasibility studies of the RPAs, including results or recommendations from studies which have yet to be completed is not possible and would amount to speculation. For more information regarding alternatives development please see Master Response 4.

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		analysis, no alternatives to these RPAs are proposed and the CVP/SWP impacts of legally required and therefore reasonably foreseeable actions have not been included in any of the impact analyses of the BDCP EIR/EIS.	
1802	93	3-44, line 28 "Requirements of the 2008 and 2009 BiOps that involve reporting, monitoring, or research actions are not assumed in the No Action Alternative because they are not expected to affect the environment or covered species This is an inappropriate way to treat the No Action baseline definition. All of the Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives (OCAP BO RPA), which are current legal requirements of the CVP/SWP, must be included in the No Action alternative description and analysis. Once No Action elements have been analyzed and disclosed in the EIR/EIS, then it can be determined that reporting, monitoring and research actions don't have impacts. We agree that reporting does not have impacts, but strongly disagree with the BDCP's supposition that monitoring and research cannot. As an example, seine trawling to sample for smelt presence and distribution results in take and mortality of the fish. It is possible, and a real risk, that these fish could literally be monitored into extinction by seine trawling. It is highly inappropriate for the BDCP EIR/EIS to have dismissed monitoring- and research-related OCAP BO RPAs from analysis of possible impacts in both the No Action and Proposed Project and alternatives. These actions must be included in the analysis and let the analysis prove or disprove the impacts (or lack thereof) and disclose it in the EIR/EIS rather than making this unsupported and incorrect assumption of no impacts.	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs). With respect to impacts from monitoring and research, those actions are generally regulated under separate authorizations that appropriately consider effects to listed species.
1802	94	3-44, line 37 "At the time the 2009 BiOp was issued, the RPA actions (NMFS Actions I.6.1, I.6.2, and I.7) did not contain detail sufficient to include them in the hydrodynamic modeling or to determine the future effects of the actions. Action I.6.1 required Reclamation and DWR to submit to NMFS by December 31, 2011, a "plan to implement this action."" Yes, the Operational Criteria and Plan [OCAP] Biological Opinion [BO] Reasonable and Prudent Alternatives [RPAs] lacked sufficient detail to hydrodynamically model, but the implementation plan, that the BDCP statement implies it completed on time almost 2 years before the public draft EIR/EIS release should have. Even if the operations required parts of the description were incomplete because DWR [Department of Water Resources] and Reclamation [Bureau of Reclamation] failed to meet their legal obligations to provide these implementation plans by that date (see related comments), there was still sufficient information in the OCAP BO RPAs to analyze them at a programmatic level of detail in the No Action. The BDCP EIR/EIS did not do this and instead analyzed these current legal obligations of the CVP/SWP at a programmatic level only in the Proposed Project. This error biases the entire analysis in the EIR/EIS. DWR and Reclamation must fulfill the OCAP BO RPA requirement for the implementation plan and that plan must be sufficiently detailed to model hydrodynamically, and must include this BO RPA in the No Action (not the Proposed Project) for the revised EIR/EIS analysis.	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs). OCAP RPA Actions I.6 & I.7 refer to restoration of floodplain rearing habitat and fish passage at Yolo Bypass barriers, but as noted in the EIR/EIS, there is not yet sufficient detail to specifically model these actions. It is noted, however, that the BDCP overlaps and subsumes these actions with respect to similarities in enhanced seasonal floodplain fish rearing habitat and improved fish passage at structures and weirs on Yolo Bypass.
1802	95	3-45, line 1 "As described above, portions of the 2008 and 2009 USFWS [US Fish and Wildlife Service] and NMFS [National Marine Fisheries Service] BiOps [Biological Opinions] would be superseded by the BDCP and its associated BiOp for operation of CVP/SWP in the Delta.." This is very specific and positive about an undetermined outcome from the project that is not within the authority of the project to decide. This, of the many, many examples, is	As explained in the EIR/EIS, construction and operation of the proposed conveyance facilities will require take authorization under ESA and CESA. Because the conveyance facilities will be operated in conjunction with coordinated operations of the existing CVP and SWP delta facilities, a new BiOp will include both existing and new delta facilities and as such the existing BiOps for existing delta facilities operations will necessarily be superseded. This is not predecisional and there is no commitment to supersede or retire the existing BiOps absent project approval. For more information please see Master Response 4.

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		perhaps one of the more egregiously predecisional by the BDCP EIR/EIS. This is a point blank, in your face predetermination of how things are going to go even though the EIR/EIS has not been approved and the new Biological Opinion not drafted or approved.	
1802	96	3-45, line 6 "Early in the BDCP planning process, it was assumed that the BDCP may become the vehicle to implement actions in the Yolo Bypass. However, Reclamation and DWR continue to develop environmental documents consistent with the RPA in coordination with the BDCP process. This was a bad assumption as the BDCP timeline for implementation was completely incompatible with the implementation schedule legal requirements from the Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives. Who was this assumed by? That is not disclosed. The legal compliance process with the OCAP BO RPAs does not need to coordinate with the BDCP. It is efficient for the legal compliance process to keep the BDCP informed, and the BDCP to consult with the fisheries agencies on their potential development of alternatives to the OACP BO RPAs, but there is not need for the OCAP compliance process to "coordinate" with the BDCP as the BDCP is slowing the process down to the point where DWR and Reclamation are in violation of the law with their implementation schedule of the OCAP BO RPAs.	Please see Response to Comment 83 above on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs).
1802	97	3-45, line 9 "The BDCP proposes actions in the Yolo Bypass that go beyond those in the NMFS [National Marine Fisheries Service] 2009 BiOp [Biological Opinion] actions." Enhancements to the No Action is what is supposed to be called a Proposed Project or alternative. The BDCP must propose the modifications it wants to make to the Operational Criteria and Plan [OCAP] Biological Opinion [BO] Reasonable and Prudent Alternatives [RPA] in their Proposed Project and alternatives and include the OCAP BO RPA in the No Action. Just because the BDCP has added mandated detail development to the OCAP BO RPAs that was required of DWR [Department of Water Resources] and Reclamation [Bureau of Relcamation], it does not mean that the BO RPA action is exclusively in the domain of the Proposed Project and not of the No Action. If the BDCP has enhanced the action as compared to the No Action legal requirement, great, include that component of the enhancement as part of the Proposed Project. Any other approach, such as the BDCP EIR/EIS is currently using, is a sham and a purposeful misconstruing of the baseline for the purpose of making the Proposed Project impact analysis more favorable as compared to the No Action. The developed detail of the Yolo Bypass BO RPA must be included in the No Action definition and any enhancements to that action can be described and included in the Proposed Project or alternatives.	Please see Response to Comment 83 above on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs).
1802	98	3-45, line 10 "CM2 Yolo Bypass Fisheries Enhancement includes 20 component projects that are to be implemented in four phases (years 1 to 5, 6 to 10, 11 to 25, and 26 to 50)." That is a lot of implementation schedule and plan to gloss over with no detail and no reference to any other part of the document that may actually have or not have that information. It appears there is an intricate implementation schedule that is not being publicly disclosed.	As explained in the BDCP, the Lower Yolo Restoration Project was part of the 2008 USFWS BiOp and the CALFED Ecosystem Restoration Program (ERP), and an EIR for the Project was certified in July 2013. (BDCP p. 6-17.) Additional details on the project are available in those documents. Funding sources for the project include the ERP, Fish 32 Restoration Program Agreement, and members of SFCWA. The Yolo Ranch EIR was certified in July 33 2013. Construction is anticipated to begin in 2014. As previously noted, the Preferred Alternative is now Alternative 4A, which no longer includes the BDCP, including CM2. For further responses to comments on the BDCP, please see Master Response 5 (BDCP).
1802	99	3-45, line 22 "This additional detail was not known at the time of the NMFS 2009 BiOp and therefore could not be modeled in the No Action Alternative."	Please see Response to Comment 83 and 94.

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		No matter how many times you say it, it is still not true. The EIR/EIS managed to incorporate a higher level of detail in the Proposed Project for this action, so it could have and should have used that information that was available for the No Action project description and impacts analysis.	
1802	100	3-45, line 23 "Similarly, the 2008 U.S. Fish and Wildlife Service (USFWS) Action Reasonable and Prudent Alternative (RPA) Component 4 related to the restoration of 8,000 acres of tidal habitat was not included in baseline modeling assumptions. Although tidal habitat restoration may occur prior to the implementation of the BDCP, generally, this restoration will be part of CM4 and is analyzed at a program level in this EIR/EIS. It is becoming very clear just how corrupted the interpretation of the No Action has been. This is a Reasonable and Prudent Alternative that is part of the No Action and the BDCP gives no rationale or justification for not including it in the No Action and including it as part of the Proposed Project. The summary table describing what was included in the No Action as opposed to the Proposed Project and alternatives is very inconsistent with this information and was very misleading. Since the baseline has been so corrupted, and the baseline is used for comparison against for the Proposed Project and alternatives, the entire BDCP EIR/EIS analysis is corrupted and must be redone with a correct baseline for comparison.	Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs).
1802	101	3-45, line 32 "The inherent challenge in envisioning No Action conditions nearly half a century away (2060) has required the Lead Agencies to make some informed judgments about what might happen outside the immediate SWP/CVP context during such an extended time period." The challenge of the No Action over a 50 year period of time is small in comparison to the understanding of the implications of the Proposed Project and alternatives. The No Action is merely a continuation of current policy and plans with some changes in condition such as Climate Change. The much greater uncertainty, not identified or disclosed by the EIR/EIS, is the ability to predict the outcome of so many new actions of the Proposed Project above and beyond the continuation of existing plans and policies over a 50 year period of time. There is over 150,000 acres of aquatic habitat restoration to be implemented in over a dozen locations with no specific designs or management plans. Aquatic habitat restorations are well documented for being unpredictable in terms of how they develop over time and what habitat values are actually created. There is additional compounding uncertainties over exotic invasive species interactions with the habitat restorations. What the BDCP EIR/EIS is not telling the reader here is that the uncertainties of the No Action are much smaller than the certainties of the Proposed Project.	The three additional sub-alternatives (4A, 2D, and 5A) developed by the Lead Agencies embody a different implementation strategy that would not involve a 50-year HCP/NCCP approved under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization for a much shorter period under ESA Section 7 and California Endangered Species (CESA) Section 20181(b) (RDEIR/SDEIS Executive Summary Section ES1.1). Please see Response to Comment 83 on assumptions regarding the Biological Opinions Reasonable and Prudent Alternatives (RPAs). The originally proposed habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21) would not be included as part of the Preferred Alternative, 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 project versus program level planning please see Master Response 2. With respect to the comment regarding uncertainty and unpredictability, particularly with respect to habitat restoration, please note that the project includes a comprehensive monitoring and adaptive management program. Please see Master Response 33 concerning adaptive management and monitoring.
1802	102	3-45, line 36 "Since such changes could affect how the SWP and CVP under the BDCP would operate within a larger water supply framework, the analysis of the No Action Alternative in this EIR/EIS is intended to identify the predictable or foreseeable actions of California water suppliers other than DWR and Reclamation under a long- term scenario in which a BDCP is not approved or implemented." Here is a clear double standard being applied by the BDCP EIR/EIS. The EIR/EIS says in other parts of chapter 3 (see related comments) that it cannot include actions of third	For more information regarding the No Action Alternative please see Master Response 1 and Chapter 3 of the FEIR/EIS. For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the FEIR/EIS.

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		parties that would be required for a California master water plan. And yet, here is the statement by the BDCP that says that they are including actions by third parties that are out of their control as part of the No Action alternative description. These might be appropriate under the cumulative analysis, but not in the No Action and applying the prohibition of actions that are third party dependent from the Proposed Project, but integrating them into No Action assumptions is clearly inconsistent and biased by the BDCP EIR/EIS.	
1802	103	3-45, line 41 "such conditions would likely entail continuing uncertainty of SWP/CVP south Delta exports, continuing vulnerability in the south Delta to long-term reductions in water quality due to sea level rise, and continuing vulnerability resulting from a major seismic event harming Delta facilities so as to temporarily halt export operations. The BDCP EIR/EIS analysis clearly shows that the variations in water supply deliveries vary more from year to year (water year type to water year type) under the Proposed Project than under the No Action. The EIR/EIS analysis determined that the Proposed Project has "Significant and Unavoidable" water quality impacts in the delta and these impacts are in addition to those that occur under the No Action alternative, so the BDCP EIR/EIS quote is obviously in error. The proposed project does nothing to improve south of delta CVP/SWP seismic reliability. If those facilities fail it is the same failure to deliver water as if the delta facilities fail.	Please refer to Master Response 16 which addresses the project benefit in improving seismic reliability of the SWP.
1802	104	3-46, line 12 "An emergency spillway would prevent the intermediate forebay from overtopping by spilling to an adjacent approximately 350- acre inundation area. From this forebay, water would be pumped by an intermediate pumping plant..." This description is inconsistent with the current proposed project description so all of the impact analyses related to this topic and facilities footprint are wrong and must be redone.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The additional alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	105	3-51, line 22 "CDFW would approve the BDCP as an NCCP and issue permits pursuant to Fish and Game Code Section 2835 to DWR for the incidental take of covered species from the construction, operation, and maintenance associated with water conveyance, ecosystem restoration, and other activities as described in the BDCP..." It seems like the BDCP EIR/EIS rarely passes up an opportunity to be predecisional and biased. The CDFW does not have to approve the BDCP or issue permits as that is their authority to decide. The EIR/EIS also presumes and is predecisional that the BDCP Proposed Project will be the one that is approved and permitted rather than it potentially being another alternative from the EIR/EIS.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Preferred Alternative would no longer include an NCCP or permits issued under section 2835. Regardless, disclosing the need for permits for whatever alternative is ultimately approved, if any, is not pre-decisional or a pre-commitment to a course of action. Issuance of permits remains within the permitting agencies' discretion. Please see Master response 1 for additional information.
1802	106	3-52, line 31 "Lined or unlined canal between the intake pumping plants and an intermediate pumping plant." There is a huge difference in construction equipment, materials, and impacts for a lined vs. an unlined canal. The difference between unlined and lined makes a huge difference in impacts. The conveyance is supposed to be a project-level description and impact analysis.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see

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		This clearly is not. There is also much more detail regarding the conveyance facilities design description for Alternative 4, the Proposed Project, as compared to this alternative. The EIR/EIS is required to do an equal level of detail analysis between the alternatives and in this regard the document clearly fails. The document must be revised to provide a true project-level of detail and consistent level or detail and analysis of the alternatives.	http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	107	3-54, line 2 "3.5.3.2 Conservation Components Conservation components under Alternative 1B would be identical to those under Alternative 1A. 3.5.3.3 Measures to Reduce Other Stressors and Avoidance and Minimization Measures to reduce other stressors and AMMs under Alternative 1B would be the same as those under Alternative 1A." This is a good example of alternatives that fail to provide any reasonable range of alternative. The conservation components and other stressors components are exactly the same for almost all the alternatives. - see related comments.	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, Draft EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS. For more information regarding Environmental Commitments please see Appendix 3B of the FEIR/EIS.
1802	108	3.5.9 The EIR/EIS provides a different level of detail between alternatives. Alt 4 had 6 pages of description and detail and alt 3 had 2 and an eighth pages. This is hardly the equal level of detail of project alternative development and analysis that is required in the EIR/EIS.	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 For more information regarding development of alternatives and screening please see Master Response 4. For more information regarding alternatives descriptions please see Chapter 3 of the FEIR/EIS.
1802	109	3-65, line 33 "Borrow areas and areas identified for the storage and/or disposal of spoil, Reusable Tunnel Material, and dredged material. This is not a project-level description as the differences between these different potential uses of borrow areas used for these different purposes have significantly different environmental effects. We do not know what "RTM" is. The BDCP is purposely not making the document accessible to the layman by using unexplained jargon and acronyms.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made, including areas for placement of Reusable Tunnel Material, or "RTM." The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	110	3-85, line 21 "...sites were recommended based on the site's ability to minimize effects on aquatic and terrestrial species, maintain a diversion structure's functionality, provide adequate river depth, provide adequate sweeping flows, maintain flood neutrality..." The Fish Facilities Technical Team did no analysis to evaluate the resulting impact of intakes on flood neutrality. This analysis would have required bathymetry and detailed intake designs the FFTT did not have. This BDCP claim is false and predecisional and must be retracted.	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.
1802	111	3-85, line 30 "These construction activities would necessitate realignment of existing roadways, employee parking, lighting, fencing, control and communication devices, and landscaping. A new perimeter berm would be constructed, and the space enclosed by the existing levee and new perimeter berm would be backfilled up to the elevation of the top of the perimeter berm, creating a building pad for the intake structure and adjacent pumping plant." None of these requisite components of a diversion facility were disclosed in the original or subsequent Notice of Intent or Notice of Preparation. Without the disclosure of the requisite components of the project in the NOI and NOP, the public was not aware of how the project may affect their quality of life and livelihoods. These facilities will affect	Public scoping provides helpful input for "identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed inn depth in an EIR." (CEQA Guidelines, § 15083(a).) Consequently, "the draft EIR in preparation may need to be revised or expanded to conform to responses to the notice of preparation [i.e., scoping comments].) (Id., § 15082(a)(4).) The scoping process fully complied with CEQA and NEPA, particularly in that revisions to the proposed project locations and configurations, alternatives, and analyses were made as a direct result of the public and agency scoping comments received. It would have been inappropriate to complete all preliminary engineering design details and decisions before conducting public scoping.

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		residents miles away from the location of the facilities (noise and light pollution and visual blight on the pastoral landscape) and the public was not aware of that during the public scoping process due to the lack of disclosure of the NOI and NOP. The BDCP purposely withheld this information from the public during the scoping period to avoid public awareness of the implications of the project and consolidating project opposition. The NOI and NOP must be reissued to address these and other deficiencies - see related comments.	
1802	112	3-85, line 35 "A conceptual rendering of the intake design is provided in Figure 3-19. A schematic of a typical intake structure is shown in Figure 3-20. "Conceptual" and "typical" intake designs certainly do not meet the test of a project-level conveyance analysis or disclosure. The EIR/EIS CM1 description falls very short of a project-level description and analysis and therefore must not be issued take or construction-related permits based on this EIR/EIS document. If this document is revised to provide that level of detail, that constitutes a material change in content and warrants reissuance of the document for public review and comment.	For more information regarding project and program level analysis please see Master Response 2. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. This level of design is appropriate for conducting project-level environmental review under CEQA and NEPA.
1802	113	3-86, line 16 "A typical new perimeter berm would have a broad-based, generally asymmetrical triangular cross section. The berm height, as measured from the adjacent ground surface on the landside vertically up to the elevation of the berm crest, would range from approximately 20 to 45 feet to provide adequate freeboard above anticipated water surface elevations. The width of the perimeter berm (toe of berm to toe of berm) would range from approximately 180 to 360 feet. The minimum crest width of the berm would be 20 feet; however, in some places it would be larger to accommodate roadways and other features. Cut-off walls would be constructed to avoid seepage, and the minimum slope of levee walls would be three units horizontal to one unit vertical." A project level project description must have the number of cubic yards of fill material and location of fill material source. Only with this level of detail can the air quality impacts of the project be determined. The BDCP EIR/EIS description is clearly lacking anything approaching this required level of detail and does not indicate where or if this information could be found in the document. The EIR/EIS CM1 description falls very short of a project-level description and analysis and therefore must not be issued take or construction-related permits based on this EIR/EIS document. If this document is revised to provide that level of detail, that constitutes a material change in content and warrants reissuance of the document for public review and comment.	Please see Response to Comment 112 above.
1802	114	3-87, line 1 "From the river bottom to the top of the structure, the intake structure would be approximately 55 feet tall, with the top deck elevation aligning with the top of the adjacent levee to maintain flood protection and provide access. Depending on the height of the river at the intake location, the intake would rise above the river's surface by 20-30 feet. This description does not fit the conditions at the proposed north delta intake locations. It says the top deck of the structure would be at the adjacent levee height and be 20 - 30 feet above the river depending on river height. Full flood flow stage elevations of the river in the areas of the proposed intakes are within just a couple feet of the top of the levees so the description of the BDCP of 20-30 feet of freeboard is outrageously and scarily ignorantly far off from an engineering perspective for a project description that the BDCP claims is at a project level of detail. The top of the levee is only 20-30 feet above the height of the surface of the river under low flow conditions, e.g. 10K cfs or less.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.

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1802	115	3-87, line 6 "... the elevation of the top rim of the surge tower would be approximately 65-70 feet (North American Vertical Datum of 1988 [NAVD 88])." The description provides an absolute elevation of the tower, but not one relative to the land surface elevation. If the elevation at that poorly described location is 10 feet, then the tower is 55'-65' above ground level? The BDCP must provide a specific elevation of the structure and volumetrics, not an absolute elevation range, in order to meet a project-level description and dependent analysis.	The description of surge towers combined with the location of the structures is adequate for the purposes of the CEQA and NEPA analyses. For Chapter 17, Aesthetics and Visual Resources evaluated the potential for changes in visual quality of surge towers in combination with other intake facility and forebay facilities. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives.
1802	116	3-87, line 8 "The elevation of the top of the surge towers would range from approximately 70 to 105 feet." That is a significant range in height (50% from low to high) and it is undetermined if that is absolute elevation or elevation of the structures above the ground level. This is obviously not a project-level detail, description and analysis.	The description of surge towers combined with the location of the structures is adequate for the purposes of the CEQA and NEPA analyses. For Chapter 17, Aesthetics and Visual Resources evaluated the potential for changes in visual quality of surge towers in combination with other intake facility and forebay facilities. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives.
1802	117	3-87, line 10 "The intakes would be sized to provide screen area, in accordance with federal and state standards, sufficient to prevent entrainment and impingement of salmonids and delta smelt. The intake sizes (length along the river at the face of the intake) would vary depending on intake location from approximately 700 to 2,500 feet for the pipeline/tunnel, modified pipeline/tunnel, and east alignments; and from 850 to 2,300 feet for the west alignment. Each intake, with the exception of the intakes proposed for Alternative 9, would have a maximum conveyance capacity of 3,000 cfs." It is not reassuring that the only detail provided on the intake project-level design is that whatever the unspecified design may end up being that the BDCP assures us it will be compliant with standards. Then the description goes on to give a huge range of intake lengths from 700 to 2500 feet long (a 350+% increase from low to high is not a small or insignificant range). This intake description does not meet a project-level of detail and does not merit issuance of take- or construction-related permits. The document does not indicate that there may be more detailed descriptions of these designs to be found elsewhere so if they do exists, they might as well as not have been disclosed at all for how reader unfriendly the BDCP has consistently made this document. All intakes but one absurd and unprecedented size set of intakes at 7,500cfs (alt 9) are all at 3,000cfs which definitely does not represent a reasonable range of alternatives for intake size.	For more information regarding project and program level analysis please see Master Response 2. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.
1802	118	3-87, line 17 "The fish screen sizes, like the individual intake sizes, would vary depending on intake location and would range from 10 to 22 feet in height and from 915 to 1,935 feet in length." In the preceding BDCP EIR/EIS paragraph (see preceding comment), the BDCP EIR/EIS says the shortest intake is 700 feet and in this quote, one paragraph later, it says it is 915 feet. The description is clearly inconsistent and must be corrected. If analyses were conducted on a 700 foot length assumption for duration of fish exposure to the screens and the actual length is 915, then the analysis must be redone. A project-level analysis of fish screens requires 2D or 3D modeling of water approach and sweeping velocities at the fish screen face in order to meet the test of best available science as this level of analysis is well precedented and is the anticipated standard for this type of in-water structure environmental analysis. Since the BDCP doesn't know even know the length of their proposed screens, it could not have done this requisite level of analysis that would	Intakes would vary from 700 -2300 feet depending on the intake. For construction assumptions of the proposed project please see Appendix 3C of the EIR/EIS. 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 PD EIR/S 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.

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		potentially warrant issuance of take and or construction permits.	
1802	119	3-87, line 19 "It is anticipated that the screen cleaning system would include several traveling brush cleaning systems installed on the waterside of the intake. As an alternative to the fixed screen panel and brushing system, a traveling screen system with a screen belt and stationary brush/water jet system could be used." There is a big difference in impacts between these two screen cleaning systems in terms of injury to fish and creation of predator holding habitat and predation rates at the screens. The BDCP does not say for sure which one they plan on using so the EIR/EIS cannot evaluate and disclose the differences in impacts between these two screen cleaning options. Without the BDCP selecting, defining and analyzing the specific screen cleaning option, this document cannot be considered project-level analysis for the conveyance and cannot be issued take- or construction-related permits based upon it.	The description of intake screens and cleaning system is adequate for the purposes of the CEQA and NEPA analyses. 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 FEIR/EIS 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. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives.
1802	120	3-87, line 25 "Radial gates downstream of the intakes would limit flow to this maximum, while slide gates on each bay would equalize approach velocity across the face of the fish screen." There would be radial gates on Georgiana Slough? Radial gates may regulate the total flow, but even if they are right up against the screens, they cannot regulate approach velocities across the screen. This description, that is supposed to be at an equal project-level of description, makes no sense.	The description of intake screens in the EIR/EIS is adequate for the purposes of the CEQA and NEPA analyses. This comment raises questions concerning the conceptual design details underlying the Proposed Project. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.
1802	121	3-87, line 33 "Although the intake fish screens would remove debris and sediment from the intake inflow…" Screens with 2mm openings do not screen out sediment. The approach velocities are far too low to entrain sediment even a quarter that size. This description is incorrect and misleading with regards to the screens functioning as a component of the sediment separation function of the design.	The description of intake screens in the EIR/EIS is adequate for the purposes of the CEQA and NEPA analyses. This comment raises questions concerning the conceptual design details underlying the Proposed Project. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.
1802	122	3-87, line 40 "The sedimentation basin would be approximately 120 feet long by 40 feet wide by 55 feet deep, and would have interior concrete walls to create separate sedimentation channels." Again, this description is too generalized and has too big a range of size to conduct a project-level impact analyses and the document does not direct the reader to any other part of the document to find this information.	The description of the sedimentation basins located within the intake facility footprint combined with the locations of facilities shown in Chapter 3, Description of Alternatives is adequate for the purpose of the CEQA and NEPA analyses presented in this Final EIR/EIS. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives.
1802	123	3-88, line 13 "It is anticipated that during most periods when five intakes are operating at about 3,000 cfs each, approximately 137,000 dry pounds of solids per day would be pumped to the solids lagoons. During periods of high sediment load in the Sacramento River, the daily mass of solids would be expected to increase up to 253,000 dry pounds per day. The annual volume of solids is anticipated to be 486,000 cubic feet (dry solids basis). This is an analytical conclusion, not a design description. This conclusion is also wrong and misleading as the suspended sediment load of the Sacramento River varies greatly based on time of year, upstream tributary conditions and activities and general preceding precipitation events. The sediment loads during "most periods" will certainly not be half	The comment expresses a disagreement with the estimation of the amount of solids removed from the sedimentation basins but does not provide evidence or information for a different conclusion. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including the sedimentation basins. For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. yejh

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		the "high sediment load" as described in the BDCP EIR/EIS quote.	
1802	124	3-88, line 21 "Suction dredging around the intake structures using raft- or barge-mounted equipment and pumping sediment to a landside spoils area." The BDCP fails to define a project-level description and analysis of the dredging activities which would have had to include: dredging locations, seasonal timing, volumes, frequency, equipment to be used, hours of operation, number of personnel, parking and staging locations, barge parking and unloading locations, dredging mitigation plans and fish avoidance plans, dredge spoil disposal plans and dredge spoil contaminant contingency plans.	The description of dredging around the intake structures in the EIR/EIS is adequate for the purposes of the CEQA and NEPA analyses. For information regarding project and program level analysis please see Master Response 2.
1802	125	3-88, line 39 "Each of the pumping plant sites would be approximately 1,000 by 1,000 feet (approximately 20 acres)." 1,000' by 1000' is 22.96 acres. It is not approximately 20 acres as the BDCP claims, it is approximately 23 acres. The BDCP's description understates the size of the pumping plant site by 15% which is a significant understatement and under-disclosure of impacts. The BDCP must rectify this inaccurate representation and correct the impact analyses that were conducted on this erroneous understatement of the pump plant footprint size. This understatement of BDCP facilities size and impacts is systematic and pathological throughout this document - see all of the related comments on BDCP understatements of impacts and project characteristics.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	126	3-88, line 42 "Under the modified pipeline/tunnel alignment (Alternative 4), each of the pumping plant sites would be approximately 1,800 by 1,500 feet (approximately 60 acres)." 1800 by 1500' is 62 acres. This is only a 3% understatement by the BDCP, but it is still a systematic understatement of impacts.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	127	3-89, line 9 "Pumping capacity could be varied by reducing the number of pumps on line and/or adjusting the pump operating speed." The BDCP failed to propose or describe how the pumps would be operated when ramping up and down in diversion volumes during tidal changes that affect tributary flows and velocities that the operations must comply with. The method that the pumps are ramped up and down have impacts on power demand and the local and regional power grids. Without the missing operational description of how the pumps are ramped up and down, the requisite analysis of project-level power impacts cannot be evaluated and disclosed. The pump operations must be tied to the north delta intake operations model, which is also missing from the project description and analysis - see related comments.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. The description of water operations is adequate for the purpose of the CEQA and NEPA analyses presented

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			in this Final EIR/EIS. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives.
1802	128	3-89, line 19 "Ground improvements would also be needed to improve foundation materials that are susceptible to liquefaction." What undisclosed improvements are those? These would likely have significant undisclosed impacts and risks to human health and safety. These must be disclosed, described, evaluated and mitigated.	Potential ground improvement methods are described on page 3-91 in the PDEIR/EIS and page 3-127 in the FEIR/EIS.
1802	129	3-90, line 6 "This substation and its transformers would convert power from the conveyance facility's main 230 kV transmission line to 69 kV, for use by the pumping plants and other facilities." We do not recall there being any analysis of the electromagnetic affects on human and animal health from these substations and power converters.	Current scientific evidence does not show conclusively that EMF exposure can increase health risks, and state and federal public health regulatory agencies have determined that setting numeric exposure limits is not appropriate. However, in light of the scientific uncertainty and public concern about potential public health impacts from EMF exposure, the California Public Utilities Commission developed EMF design guidelines, which are intended for new construction or major reconstruction of electric utility transmission, substation, and distribution facilities. Based on this, utility companies are required to consider the "low-cost, no-cost" EMF design guidelines in order to reduce potential health risks associated with power lines. The lead agencies will procure design and construction of the proposed new transmission lines and appurtenances such as supports (poles and towers) and substations through electrical utility providers. The lead agencies will specify that design and construction of power facilities be in accordance with electric and magnetic field (EMF) guidance adopted by the California Public Utility Commission, EMF Design Guidelines for Electrical Facilities. As identified in Chapter 25, Section 25.3.2, Determination of Effects, the impact analysis takes into consideration electrical substations and transformers. Generally, the strongest EMF around the outside of a substation come from the transmission lines entering and leaving the station (National Institute of Environmental Health Sciences and National Institutes of Health 2002, "EMF—Electric and Magnetic Fields Associated with the Use of Electric Power").
1802	130	3-90, line 31 "...the levee roads would need to be realigned." A realignment is a shift in the path of the road within or near the existing roadbed. The BDCP is proposing a rerouting of the state highway around the intakes that will add miles to the length of the highway to this short but critical transportation infrastructure to the delta. This BDCP rerouting of a state highway has impacts on transportation costs and emergency response. Again, and systematically, the BDCP has misrepresented the description of the project so that it can downplay the impacts of the project.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	131	3-91, line 14 "Periodic mussel cleaning in the sedimentation basins and solids removal from solids lagoons for off-site disposal would be required. Sediment in channels would also be removed periodically." The Operation and Maintenance description does not identify or disclose any use of hazardous or special handling requirement materials such as moluscicides, herbicides, pesticides, fungicides, chlorine, cleaning agents, paints, solvents, aerosols, etc. Nor does it describe the storage or disposal of the materials including the potentially contaminated sediments separated at the intakes. Without these descriptions and disclosures from the BDCP, these risks and impacts cannot be assessed and disclosed in the EIR/EIS.	The Lead Agencies will coordinate planning, engineering, design and construction, operation, and maintenance phases with the appropriate agencies to ensure compliance with applicable environmental standards. Please see Appendix 3B, Environmental Commitments, FEIR/EIS, for information on the material disposal and reuse plan included in the BDCP/CWF. As described under AMM2 in Appendix 3B, herbicides will be used in accordance with the manufacturer recommended uses and applications and in such a manner as to prevent primary or secondary poisoning of covered fish, wildlife, and plant species and depletion of prey populations upon which they depend. All uses of such compounds will observe label and other restrictions mandated by the U.S. Environmental Protection Agency (EPA), the California Department of Pesticide Regulation, and other appropriate state and federal regulations, as well as additional project-related restrictions imposed by USFWS, NMFS and/or CDFW. Use of

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			pest control agents (e.g. pesticides) will follow the same guidelines as described for herbicides above.
1802	132	3-91, line 16 The Operation and Maintenance description of the intakes is substantially incomplete. The BDCP does not say one word about how the intakes must be operated in order to comply with fish screen criteria. All of the proposed intakes are in intertidal reaches of the river that have significant variations in flow and water column velocities throughout the tidal cycles - see related comments. In order to not violate the minimum sweeping velocity and duration of exposure to fish, the diversion volumes must be ramped up and down on the tidal cycle - see related comments. If they are not, as an example, at a slack tide with zero velocity the smelt and juvenile salmonids would be exposed to the intakes for hours. This duration of exposure certainly overwhelms the fishes sustained swimming speed performance - see related comments. As stated in numerous other comments, the north delta intakes and tunnel must have an operations model, just like every other element of the CVP/SWP currently does - see related comments. Without a north delta intake and tunnel operations model, there is no feedback loop to CALSIM to ensure that monthly water deliveries result in continuous compliance of the intake screen operations - see related comments.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including operations and control. For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. The description of intake operation is adequate for the purpose of the CEQA and NEPA analyses presented in this Final EIR/EIS.
1802	133	3-91, line 19 "Depending on foundation material, foundation improvements would require excavation and replacement of soil below the new levee footprint and potential ground improvement." The BDCP does not know the nature of the foundation material at the proposed intake sites nor does it know what or how much foundation improvement is required. The BDCP does not even describe or evaluate the worst case scenario to provide coverage for permitting, so instead it does nothing on this topic to evaluate or disclose these impacts. This is clearly not a project-level description or impact analyses and clearly does not warrant issuance of take- or construction-related permits based on this EIR/EIS.	Project plans have not advanced yet to the point where engineering and design work are complete. Environmental review is typically conducted based on less complete plans, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis Geotechnical analyses including borings have been conducted to establish geologic soil conditions sufficient for conceptual design and the environmental analysis under CEQA and NEPA. Additional borings and other investigations will be performed as part of further design to confirm geologic conditions. Soil samples will be collected along the existing levee crown and levee landside toe, as well as at varying distances away from the existing levee landside toe, based on the proposed layout of each intake site of conveyance alternatives. The type, number, depth, and spacing of borings will be in accordance with published agency guidelines, including USACE Sacramento District - Geotechnical Levee Practice, and USACE - Geotechnical Investigations. For more information concerning the geotechnical exploration plan, please see response to comment 149. For more information concerning the conceptual design, please see the 2013 the Conceptual Engineering Report at http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.
1802	134	3-91, line 22 "All construction and modifications will comply with applicable state and federal flood management, engineering and permitting requirements." Promises do not mean anything in the absence of designs and analyses that prove conformance with requirements. The BDCP must prove that the intakes will result in a flood neutral impact. To do this they would need: detailed intake designs, engineering scale channel cross sections and bathymetry, calibrated stage discharge curves at the intake site, 2D modeling of backwater affects of the intake and consultations with the USACE. The BDCP has absolutely not a single one of these.	As part of the planning and environmental assessment process, the lead agencies 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 lead agencies 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 Lead Agencies will coordinate planning, engineering, design and construction, operation, and maintenance phases of the alternative with the appropriate agencies. For more information concerning the geotechnical exploration plan, please see response to comment 149. For more information regarding Environmental Commitments please see Appendix 3B of the RDEIR/SDEIS

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			Project plans have not advanced yet to the point where engineering and design work are complete. Environmental review is typically conducted based on less complete plans, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Master Response 3 for further information regarding the level of detail provided in the EIR/EIS Analysis.
1802	135	3-92, line 25 "To the extent possible, all in-water construction activities would take place between June 1 and October 31." Emphasis added. How much work would occur outside of this seasonal window that is timed to reduce exposure of Threatened and Endangered fish species to construction-related impacts? What determines what is possible? How much is too much? The BDCP must commit to only constructing under the June 1 - October 31 period or disclose exactly what deviations it plans from that. The document identifies a fish rescue plan, but does not identify minimization and mitigation measures for pile driving impacts on fish such as bubble curtains to dampen noise and fish avoidance measures. These are significant omissions of the current document description of the alternatives and plan.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made, as well as refinements in mitigation. The new alternatives along with refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. Please also see Master Response 22 regarding adequacy of mitigation measures.
1802	136	3-92, line 37 "The intake structures and associated bank protection would permanently change existing substrates and local hydraulic conditions in the immediate vicinity of the intakes." The BDCP never describes how the intake construction would protect the critical toe of the levee to protect levee integrity. This is a significant risk for levee failure for the BDCP to have omitted, but seeing as none of the conveyance facilities are described at a project level of detail, this omission is consistent with quality and completeness of the rest of the document.	Additional construction details are included in the Conceptual Engineering Report—Dual Conveyance Facility Modified Pipeline/Tunnel Option —Clifton Court Forebay Pumping Plant (MPTO/CCO), Volume 1. (California Department of Water Resources 2015) which is a referenced document to the FEIR/FEIS as well as posted on the project website. Additionally, Impact GEO-4 in Chapter 9, Geology and Seismicity, of the FEIR/FEIS discusses the potential for levee failure resulting from construction impacts and concludes that DWR would conform to Cal-OSHA and other state code requirements and conform to applicable geotechnical design guidelines and standards, such as USACE design measures. Conformance with these requirements and the application of accepted, proven construction engineering practices would reduce any potential risk such that construction of the action alternatives would not create an increased likelihood of loss of property, personal injury or death of individuals from slope failure at borrow sites and spoils and RTM storage sites and there would not be a significant impact.
1802	137	3-92, line 39 "The Sacramento River would remain navigable during construction of the intakes." This is a declaration of a conclusion of an analysis, not a component of the project or alternative descriptions. The statement is also incorrect. The river is not 400' wide at some of the proposed intake locations, it is 300'. The cofferdam is 60' wide and the no boating exclusion zone around the cofferdams would be an additional 100'. This would mean the project would block up to 53+% of the entire river width. For commercial ships or barges, navigable depths of the river may only be in the middle of the river so subtract 50' width from the other side of the river for the navigable channel. Barges can be 50+ feet wide and are part of an important infrastructure in responding to emergency levee breaks. A large barge would have only a 90' navigable channel for it's 50' width which is a navigation hazard and impairment. The USACE is the ultimate judge of what is and is not a navigation hazard or impairment, so the BDCP should have consulted with the USACE on this matter rather than making unsupported and incorrect claims of no impact in a section that is [COMMENT CUT OFF]	The comment expresses disagreement with the statement that the Sacramento River would remain navigable during construction of the intakes. The comment notes that the U.S. Army Corp of Engineers (USACE) is the ultimate judge with respect to navigation hazards or impairment in the Sacramento River. As discussed in Chapter 1 of the Final EIR/EIS, the proposed project will require permits and authorizations from USACE. USACE has regulatory authority over activities within certain waters within the project area and would be required to issue an authorizations under: Section 404 of the CWA (discharge of dredged or fill material into waters of the United States), Section 10 of the Rivers and Harbors Act (activities in, under, or over navigable waters of the United States), and Section 14 of the Rivers and Harbors Act (activities that have the potential to affect USACE civil works projects, including project levees). Activities that would involve the construction of any structure in or over any navigable water of the United States must obtain authorization from USACE pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC §403 et seq.; 33 CFR §§ 322 et seq.). See Appendix E, for more detailed discussion of the USACE permit process and the specific informational needs of USACE under its various regulatory authorities.
1802	138	3-93, line 10 "If open-cut trenching is used and the native materials are generally of good quality in the area of conduit construction, excavated material from the trench would be	Project plans have not advanced yet to the point where engineering and design work are complete. Environmental review is typically conducted based on less complete plans, because complete engineering

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		used as embedment and backfill materials. If the native soils are not suitable as foundation materials for the trench, suitable materials would be imported to the site." This is definitely not a project-level description. The BDCP does not know if the local soils can be used as trench fill or if they will have to be imported. It they are imported or not has traffic and air quality impacts that the BDCP has not analyzed or disclosed. This is clearly not a project-level description or impact analyses and clearly does not warrant issuance of take- or construction-related permits based on this EIR/EIS.	and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis.
1802	139	3-93, line 14 "Cut and cover construction would likely be used for landside pipe placement using long reach backhoes, scrapers, and excavators placed on levees or on the landside of the levees." To meet a project-level description to support a project-level impact analyses that would warrant take and construction related permits, the description must include the number, type of equipment used (down to the make and model) and the number of hours and date ranges the equipment would be used. The BDCP provided none of the project level requisite information.	See response to comment 138 above.
1802	140	3-93, line 30 The BDCP project description of the tunnels never says how thick the cement wall is. The description gives an inside diameter, but not an outside diameter or a tunnel wall thickness. Without the thickness of the tunnel walls being defined and disclosed, the volumetrics from the amount of cement to be used cannot be calculated. Without the amount of cement to be used, the staging areas with cement batch plants cannot be sized, the amount of energy used for transportation of cement cannot be determined and the amount of truck traffic and air pollution associated with the tunnel construction cannot be evaluate, disclosed or properly mitigated. The BDCP must provide a complete project-level project description that includes the tunnel wall thickness, volumetrics, etc. so the required project-level impact analysis can be done. Until the project description is completed and the project-level analysis done and released to the public for review, the BDCP project must not be issued take or construction-related permits.	See response to comment 138 above. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.
1802	141	3-93, line 31 "The tunnel system would be operated under pressurized conditions at a constant volume with isolation facilities to allow reducing the number of tunnels in operation during periods of lower flow and to maintain velocity in active tunnels." By only operating one of the two big tunnels under lower flows, the BDCP only makes the problem of stagnating water in the idle tunnel a more frequent and longer duration event than we have identified in previous related comments. As stated in other comments, the water that goes stagnant in the idle tunnels will go anaerobic and anoxic and be a contaminated water treatment and disposal problem rather than water supply. The stagnant water from the tunnels from the idle intakes are a particular problem as how will the BDCP operations keep that contaminated water from mixing with the fresh water in the intermediate forebay when the idle intake pumps are started after being off for weeks or months at a time? The BDCP does not discuss or disclose this impact.	The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. Section 11.1.3 of this report describes how the tunnels would be dewatered if taken out of service for maintenance or other reasons, and thus stagnation of water is not an issue and does not give rise to environmental impacts that have not otherwise been disclosed and analyzed in the EIR/EIS.
1802	142	3-94, line 5 The description never addresses how the tunnels propose avoidance of active or abandoned gas and water well casings.	Additional geotechnical exploration will be conducted as part of subsequent design phases and will provide additional information on the potential for encountering existing wells along the tunnel alignment. This potential impact is addressed in Chapter 24, Hazards and Hazardous Materials. Please refer to Section

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		Many wells exist in the delta and only a portion of them are available on well log documentation. There is a significant risk of the Tunnel Boring Machine hitting one of these undocumented casings - see related comments. The "Big Bertha" TBM in Seattle is a good case study for the unmitigated risks the BDCP is engaging in without a well casing avoidance and risk minimization plan.	2.4.2.2.13, California Occupational Safety and Health Act which describes tunnel safety orders of the California Code of Regulations related to this issue. Please also refer to Impact HAZ-1, which describes potential natural gas accumulation in water conveyance tunnels and how this potential effect would be addressed during tunnel drilling operations.
1802	143	3-94, line 5 The description never discloses the "gassy tunnel drilling protocol". The BDCP identifies that there is a risk of gas collecting in the tunnel during drilling and says it will use gassy tunnel drilling protocols. The BDCP never describes or discloses these protocols, so it has failed to implement an avoidance, minimization and mitigation measure for the risk of tunnel gas explosions that would risk surrounding levee failures and workers and community health and safety. The BDCP says it will have a protocol for the drilling process (spoiler alert - it does not), but it never says what measures the project would take to mitigate the risks of gas (explosive, toxic, or otherwise) building up in and/or being released from the operational tunnels. This risk is elevated during periods of low to no flows when out gassing of methane from breaking down organic materials in the tunnels is high. The BDCP must propose avoidance, minimization and mitigation measures for these significant risks of the BDCP construction and operation.	This potential impact is addressed in Chapter 24, Hazards and Hazardous Materials. Please refer to Section 2.4.2.2.13, California Occupational Safety and Health Act which describes tunnel safety orders of the California Code of Regulations related to this issue. Please also refer to Impact HAZ-1, which describes potential natural gas accumulation in water conveyance tunnels and how this potential effect would be addressed during tunnel drilling operations.
1802	144	3-94, line 20 "Road access to the top of the pad will be provided for maintenance vehicles." The description does not disclose the size of the access ramp. This is a footprint impact of the project and presumably represents additional lands that would be condemned for the project. These impacts must be disclosed and evaluated.	The area needed to construct access ramp is already included in the footprint identified for the tunnel shafts.
1802	145	3-94, line 27 "Maintenance requirements for the tunnels have not yet been finalized." See comment above about missing mitigation action for gas or toxin accumulation in the tunnels during operations. See previous other comments regarding the anoxic water that will come out of the tunnel after periods of low or no operations and the treatment and disposal impacts it creates. The tunnels will have sediment that must periodically be removed as tunnel velocities below about 5fps will allow sediment to precipitate in the tunnel - see related comments. The BDCP obviously anticipates the need to dewater the tunnels, but does not provide any description of those operations nor disclose the impacts of them. As an example, in the dewatering process, is foreign water going to be introduced into tributaries that will cause straying of salmonids? We do not know because the BDCP has not defined this operation. The BDCP must also anticipate that the tunnels will be colonized by exotic and invasive mussels and clams. These will periodically have to be removed. These removal processes will likely involve toxic and hazardous materials. The BDCP has failed to identify, characterize, evaluate, quantify, disclose or mitigate for these impacts. With no maintenance plan, this pro [COMMENT CUT OFF]	See response to comment 143 regarding the potential for gas collection in tunnels. See response to comment 141 regarding tunnel dewatering. Additional detail on operation and maintenance can be found in the Conceptual Engineering Report at http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. The issues raised in this comment do not give rise to potential environmental impacts that have not otherwise been disclosed and analyzed in the EIR/EIS.
1802	146	3-94, line 27 The BDCP did not describe any emergency response plans to protect or repair the facilities. Any project-level operations plan requires a series of emergency response plans to address and mitigate for all reasonably foreseeable emergencies that could occur at the facilities. These emergency responses should have included: fire, earthquake, flood, power outages, prolonged power outages, levee break flooding, levee break scouring, structural failure of the tunnel or related facilities, puncture of the tunnel by dredging or drilling, emergency	As described in Chapter 24, Hazards and Hazardous Materials, the construction contractor would be required to prepare an emergency plan prior to construction of the tunnels (Title 8, Division 1, Chapter 4, Subchapter 20, Article 9, “Emergency Plan and Precautions”). This plan would outline the duties and responsibilities of all employees in the event of a fire, explosion or other emergency. The plan would include maps, evacuation plans, rescue procedures, communication protocol, and check-in/check-out procedures. Copies of the plan would be given to the local fire or designated off-site rescue teams and Cal/OSHA. In addition, Appendix 3B, Environmental Commitments, describes that emergency-response plans would be

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		dewatering of the tunnels, maintenance or inspection boat loss, maintenance or inspection diver loss (DWR should be acutely aware of this one given its recent loss in the SWP canal), autonomous vehicle loss, toxic gas accumulation, explosive gas accumulation, gas explosion, sudden flow stoppage water hammer, terrorist threat, etc. The BDCP did not provide even one of these obviously required operational and emergency response plans. Plans do not have environmental impacts but staging equipment and supplies (which may be toxic or hazardous) do. These plans must be developed and disclosed so that the public is aware of the types and magnitudes of these risks and what the potential environmental effects of imple [COMMENT CUT OFF]	in place as part of Hazardous Materials Management Plans, Spill Prevention, Containment, and Countermeasure Plans, Fire Prevention and Control Plans, and construction site security. These types of emergency-response plans are not required to be prepared and disclosed as part of the CEQA/NEPA environmental document. Rather, once an alternative is chosen, and prior to construction/implementation of that project alternative, the plans would be drafted and refined such that they are project- and site-specific (as necessary).
1802	147	3-95, line 9 "Intervention (or safe haven) zones could be situated at intervals of 2,000 feet along the tunnel alignment. These subsurface intervention sites would be constructed by injecting grout from the surface to a point in front of the Tunnel Boring Machine." Here is a whole other category of project footprint impacts that has not been defined to a project-level or analyzed, disclosed or mitigated in the EIR/EIS. So the BDCP is saying here that somewhere (undefined), approximately every 2,000' along the length of the 35 mile long tunnel that there will be surface site that will inject slurry into the soil. This means there would be 92 sites of surface disturbance of unknown size and location that would have impacts that the BCDP has not analyzed, mitigated or disclosed. The BDCP must defined where these site would be, describe the equipment used and duration, analyze traffic and air quality impacts, evaluate temporary and permanent habitat and land use modification, disclose other impacts and mitigate for these impacts.	Safe haven zones were identified at representative locations, based on the best available information, along the conveyance facility alignment to acknowledge that these types of facilities may be needed during tunnel boring operations and to include their footprints in the impacts of facility development. This approach allows for an estimate of the potential contribution of these facilities to ensure that potential impacts are not under estimated. Precise location of these facilities will be identified prior to project construction and sited, to the extent feasible on agricultural land. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives.
1802	148	3-95, line 35 "If needed, supplemental environmental compliance documentation will be completed." This is called piece-mealing the environmental impacts of a project and it is in violation of NEPA and CEQA. The sites must be identified and their impacts identified in the revised public draft BDCP EIR/EIS as these sites are a requisite part of the construction of the tunnel, not a separate project or one occurring far in the future unrelated to the construction.	Discussions of the main environmental attributes affecting individual covered species are provided in Appendix 2.A of the 2013 Public Draft. Effects of the proposed water conveyance and associated restoration activities on general resource areas are discussed in Ch. 4 of the RDEIR/SDEIS. Resource areas are addressed separately under sections for each of the new project Alternatives, including surface water, groundwater, water quality, fish and aquatic resources, terrestrial biological resources, agricultural resources, air quality and greenhouse gases, public health, and others. Where impacts are determined to be significant, 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. 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. For more information regarding how the project was evaluated as a whole please see Master Response 8.
1802	149	3-95, line 36 "The proposed tunnels are anticipated to be constructed in soft, alluvial soils with high groundwater pressures." The soil core sample number and distribution taken by DWR near (rarely over) the tunnel conveyance route are insufficient for the BDCP to claim that they have any certainty regarding soil conditions they will encounter over the 35 mile conveyance route - see related comments. There is a 7 mile stretch of the route that no cores were taken, so the BDCP has no idea at all what is going on there. This BDCP statement is just wishful thinking that is not backed up by fact. The BDCP must evaluate what the impacts to the schedule and environmental consequences would be if the material is not of soft alluvial material.	Regarding the part of the comment pertaining to the soil cores, the commenter is presumably referring to the information derived from the initial geotechnical investigation (i.e., the Draft Geotechnical Exploration Plan—Phase 2). DWR released a description of an expanded geotechnical investigation effort in October 2014, the Draft Geotechnical Exploration Plan—Phase 2, Revision 5. That document presents a general geotechnical exploration plan with the rationale, investigation methods, and criteria for obtaining subsurface soil information and laboratory test data to support preliminary engineering and final design of the Modified Pipeline/Tunnel Option (MPTO) with north Delta pumping plants as well as the MPTO with Clifton

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		The BDCP also has no contingency plan or analysis to cover the impacts of contaminated soils spoils - see related comments.	Court pumping plant. The plan involves approximately 600 boring and cone penetration test locations, which provide geotechnical information for entire conveyance alignment. In proposed tunnel alignments and at pump shafts and safe haven areas, the explorations will include advancing boreholes to a depth of approximately 300 feet. The exploration plan provides a series of 1 inch = 2,000 foot scale aerial photo-based maps showing the numbers and locations of where borings, cone penetration tests, extraction wells, piezometers, and test pits will be advanced or conducted. It also describes the equipment that would be used and the physical and strength properties that would be assessed in the laboratory testing program. The Final EIR/EIS has been revised to reflect the contents of the Phase 2 exploration plan. The exploration plan itself is available for public inspection at DWR's office. Additionally, Figure 9-4 of the EIR/EIS has been revised to reflect the more recent, additional soil borings that were completed along the MPTO/CCO alignment, which provide boring data at a closer spacing than that shown in the original Figure 9-4. Regarding the part of the comment pertaining to contingency plans or analysis of the impacts of contaminated spoils, please see Appendix 3B, Section 3B.2.18 regarding the disposal and reuse of spoils, RTM and dredged material.
1802	150	3-96, line 2 "A diesel-powered train would transport construction workers through the tunnel during construction." In order to have a project-level impact analysis that could potentially warrant construction permits the BDCP must define, disclose and analyze the impacts. It must define: what make and model of train, how many trains, and how many hours per day operated, locations of train operations. The current document provides none of this information, so the document does not meet a project-level analysis.	The commenter is directed to Appendix 22B, Air Quality Assumptions. Table 22B-5 identifies the number of locomotives required during each construction phase, as well as the daily operating hours. All locomotives were assumed to be 25-tons and operate a 150 horsepower engine. Pursuant to the Exhaust Reduction Plan, all engines would be EPA Tier 4 certified. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives.
1802	151	3-96, line 16 "Soil conditioning agents such as foams, polymers, and bentonite may be used to make soils more suitable for excavation by a Tunnel Boring Machine." Soil conditioners are used for materials handling and transport, not for excavation.	Soil conditioners can be added in front of the tunnel boring machine cutterhead to facilitate excavation and processing of the material.
1802	152	3-96, line 34 "...it was assumed that Reusable Tunnel Material would be stacked to a height of 10 feet…" It is hard to see how a 10 deep pile will air dry. A pile this high will also disrupt local drainage and redirect flood flows, both of which are significant impacts the project did not identify, disclose or mitigate.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made, including areas for placement of Reusable Tunnel Material, or "RTM." The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. Pleas also see Master Response 12.
1802	153	3-97, line 34 "Depending on the type of soil removed through tunneling, the type of soil conditioners added, and the material management and water treatment processes required, Reusable Tunnel Material may be reused locally (e.g., for levee reinforcement or as fill material in support of restoration activities) or transported to another location for reuse." That statement has absolutely no certainty or specificity. It all might be reusable or none of it. It might be reused for some things, but they do not know if or where or how much. The BDCP must be able to answer all of these aspects of tunnel spoil disposal. The possible	Please refer to Master Response 12 regarding RTM. All RTM is proposed to be stockpiled as part of the proposed project. The possibility of reuse would be evaluated as a subsequent, separate action subject to CEQA compliance. Chemical characterization of the laboratory reusable tunnel material samples showed no indications that RTM would require handling as hazardous waste material, and that RTM would meet conditions acceptable for unrestricted land uses. Accordingly, the EIR/EIS assumes no RTM would require special shipping or disposal methods. The process for determining disposal, storage, and reuse of RTM is described in Appendix 3B, Environmental Commitments (Section 3B.1.19) of the Draft EIR/EIS. Final disposal of RTM, if moved, would be subject to all emissions control strategies outlined in Appendix 3B,

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		outcome that the BDCP does not include here is that the tunnel spoils may be contaminated such that they must be treated as a class 1 material. They have not discussed this nor have they evaluated the impacts of it or provided mitigation plans for it - see related comments.	Environmental Commitments. Please refer to Chapter 31 for additional information.
1802	154	3-98, line 18 "In areas where the existing ground slopes toward the canal on both sides, a drainage ditch would be constructed along both sides of the canal to collect water and direct it to collection points for removal by pumping." This discharge of the project will have to be permitted by the Regional Water Quality Control Board and meet discharge water quality standards. The BDCP failed to identify the need for this permit and did not describe or disclose the water treatment facilities that would be required.	Chapter 1 discusses permits that may be required from the RWQCBs in the course of implementing the proposed project. Please also see Appendix 3B 1, which summarizes the Environmental Commitments, AMMs, and CMs for the proposed project, including treatment as necessary for discharges under the Construction General Permit for Construction and Land Disturbance Activities (Construction General Permit [CGP]) (Order 2010-0014-DWQ or any more recent version) issued from the State Water Resources Control Board (SWRCB) and its required development and implementation of a stormwater pollution prevention plan (SWPPP). In addition, a water treatment plant has been identified in this EIR/S. As mentioned in Chapter 3, Description of Alternatives, and Appendix 3C, Construction Assumptions, a water treatment facility would be situated with the combined pumping plants at Clifton Court Forebay. However, no additional public water treatment facilities would be required as disclosed in Chapter 20, Public Services and Utilities, of the Final EIR/EIS.
1802	155	3-98, line 38 "Use of a drainage ditch parallel to the canal to control seepage and groundwater levels. Water in the drainage ditch would then be pumped into the sloughs or back into the canals." See preceding comment. Also see related comments on foreign water introduction and impacts on salmonid straying.	Please see response to comment 154 above.
1802	156	3-99, line 6 "Under the canal with a culvert to existing drainage systems." middle part of the culvert would be 100+ feet from either end and under no flow conditions would go anaerobic. This would become a toxic mess during flood flows and/or pump out operations of the drainage ditches. This inundated culvert would become permanent mosquito breeding habitat. These impacts have not been disclosed or mitigated by the BDCP EIR/EIS.	As indicated in Chapter 25, Public Health, although construction and operation of the water conveyance facilities would increase surface water area in the Plan Area and therefore potentially provide habitat for vectors that transmit diseases (e.g., mosquitoes), DWR would consult and coordinate with San Joaquin County and Sacramento-Yolo County MVCDs and prepare and implement MMPs. BMPs to be implemented as part of the MMPs would help control mosquitoes during construction and operation of the water conveyance facilities. These BMPs would be consistent with practices presented in California Department of Public Health's Best Management Practices for Mosquito Control in California. With respect to water quality issues in the drainage water, please see response to comment 154.
1802	157	3-99, line 7 "Over the canal with an overchute to existing drainage systems. Overchutes require piers similar to those supporting bridges to support the structure and span the width of the canals." Whoever wrote this knows nothing about the delta. The delta does not have the kind of terrain elevation drops in drainages that would make this type of flood bypass feasible.	As described in Appendix 3C, Construction Assumptions for Water Conveyance Facilities, in the EIR/EIS, use of overchutes would be limited along the canal alignment due to the topography. Overchutes could be used at siphon locations or in areas with higher topography on one side of the canal than the water surface elevation.
1802	158	3-99, line 9 "Around the canal and through a gap between the existing levee and the ends of the canal embankments." So the flood flows scour the levee and cause another levee failure - brilliant.	This comment is on the risk to the conveyance facility canals from flooding in the adjacent islands. One way of reducing that risk may be by providing a means for drainage water to pass from one side of the canal to the other.
1802	159	3-99, line 11 "To new storm drain pumps that would pump the water to sloughs or the canal." Storm water discharge permits required and probably water treatment required prior to discharge. No water treatment plants for this were identified in the EIR/EIS.	See response to comment 154.

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1802	160	3-99, line 12 "Construction of irrigation ditches to supply water for agricultural use may be required in areas where irrigation water supply ditches are separate from drainage ditches. The irrigation ditches would likely need to be elevated above the existing ground to allow for gravity flow. New pumps or siphons may be required to supply the irrigation ditches." This sounds like a mitigation. To be project specific the EIR/EIS needs to describe where, when, how many, what footprint, what size pumps, how often run, etc. The BDCP has not defined any of these so this is not a project-level description. Additionally, Alt4, will also require these facilities and did not describe or disclose them there either.	Mitigation measures to minimize impacts to agricultural operations from construction or operation of conveyance facilities under the action alternatives are identified in Chapter 12, Agricultural Resources, under Impact AG-2 as Mitigation Measures AG-1, GW-1, GW-6, and WQ-11.
1802	161	3-100, line 8 The BDCP did not describe head control structures that would be required for intermediate pumping stations and siphons. Water trapped behind the head control structures would build up algal loads during periods of low and no flow operations. The algae will cause taste and odor impacts on drinking water quality that the BDCP did not evaluate, disclose or mitigate.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including operations and control. For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. The description of operation and maintenance is adequate for the purpose of the CEQA and NEPA analyses presented in this Final EIR/EIS. No “trapped” water or associated algal growth and taste and odor impacts are anticipated in operation of the conveyance facilities.
1802	162	3-100, line 8 The BDCP did not describe wind induced wave erosion control structures that would be required for the canal. The highest velocity winds that occur in the delta tend to be north winds. The canal is oriented largely north south on all alignments so the white cap waves should be spectacular and highly erosional. The BDCP identified a concrete lining near the top of the canal, but did not provide for erosion from waves when the canal is less than full during periods of low or no operations.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including operations and control. For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. Alternative 4A would not involve construction of unlined canals; therefore, there wind induced wave erosion is not an issue and there would be no adverse effect.
1802	163	3-104, line 35 "Under the pipeline/tunnel alignment, an intermediate forebay near Hood would provide storage of approximately 5,250 acre feet with a surface area of 760 acres and would provide a transition between the north Delta intakes and the intermediate pumping plant." We believe the BDCP has revised the size and location of this facility since the release of the PDEIR/EIS. All of the operations modeling and impact analyses and that were conducted on this out of date definition are incorrect disclosures of what impacts would occur based on the project that is currently being proposed by the BDCP - see related comments. The	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including operations and control. For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A,

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		revised project must receive full analysis in the revised PDEIR/EIS.	further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	164	3-104, line 40 "… this feature would also include a seepage cutoff wall to the depth of the impervious layer.." It would be entertaining for the BDCP to disclose how deep the impervious layer is in this area. My guess is 1000+'. That is going to be one heck of a cutoff wall. The BDCP must disclose the volumetrics of this construction so that air quality, traffic and other appropriate impacts are disclosed and mitigated.	The proposed dewatering approach for construction will include the installation of slurry cutoff walls prior to dewatering the construction site. Installation of slurry cutoff walls will be utilized to mitigate the potential effects on surrounding groundwater levels during construction, as well as to facilitate the construction activities. Potential effects to groundwater from construction activities were analyzed in the RDEIR/SDEIS (See Section 7.3.3.9, Appendix A of the RDEIR/SDEIS.) However, the analysis represents a worst-case scenario because the analysis did not take slurry cutoff walls into consideration. This Final EIR/EIS includes updated information based on the use of slurry cutoff walls to reduce the extent of dewatering activities during construction of the conveyance facilities and the use of a combination of toes drains, interceptor wells and, and soil grouting to reduce the potential for seepage onto lands adjacent to the forebays during operations of the conveyance facilities. This Final EIR/EIS concludes that as a result of the updated project description, the potential adverse effects to groundwater due to construction and operation of the conveyance facilities will not be adverse. The slurry cutoff wall would extend to a depth below the invert elevation of the excavation to allow for removal of groundwater below the excavation and formation of a structurally-sound foundation for the intake, levee, or other structure. The depths of the slurry cutoff wall would be dependent upon the local geology and could change even at the same intake location or along the forebay levee. The design objective would be to extend the slurry cutoff wall to a clay layer that would be allow the wall to form a relatively good seal that would force the groundwater to move around or under the slurry cutoff walls. Information from recent geotechnical borings was recently provided to the EIR/EIS groundwater impact analysis team. This information indicated the presence of 10 to 20 foot thick clay layers located at depths of 50 to 140 feet below the ground surface near the intakes and Intermediate Forebay, and at depths of 0 to over 140 feet below the ground surface near Clifton Court/Byron Tract Forebay.
1802	165	3-105, line 1 "Limitations on delivery of water from the intakes into the intermediate forebay and the need to operate the intermediate pumping plant efficiently would limit the ability to deliver flow from the pipelines/tunnels during portions of the day to the existing Banks and Jones pumping plants." This is the first acknowledgement we have seen that the BDCP anticipates the requirement of ramping intake diversions up and down daily (presumably based on tidal cycles). This does not constitute a description and disclosure of those intake operations. Emphasis added with underlining. So the BDCP says it is going to ramp up and stop flows in a gravity fed pipeline on a daily basis. The BDCP needs to recheck their math on the hydraulic gradient of the gravity feed from the headworks to the south delta facilities, tunnel coefficient of friction, and the mass of water stopping and starting as they are misrepresenting the tunnel operations and their ability to ramp flows up and stop them with gravity feed on a daily basis. This is another good example of why a north delta intake and tunnel operations model is required.	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including operations and control. For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. The description of operation is adequate for the purpose of the CEQA and NEPA analyses presented in this Final EIR/EIS.
1802	166	3-105, line 13 "The pipeline/tunnel alignment would require two 33-foot diameter (minimum) surge towers,.." The tunnel diameter of 40' is mismatched to the surge tower diameter so in the occurrence of a water hammer event the project has just created huge backpressures that will cascade back down the tunnel (exactly what the surge tower is designed to prevent) and the world's largest water cannon as water will be accelerated up the smaller diameter surge tower.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. As described in Table 3.7, the inside diameter of the tunnels from the Intermediate Forebay would be 33-feet or less under Alternatives 1, 2, 3, 5, 6, 7, and 8. The inside diameter of the tunnels from the Intermediate Forebay would be 40 feet only under Alternative 4 as it was described in the Draft EIR/EIS. However, surge towers are not required under Alternative 4, as indicated on page 3-105 of the Draft EIR/EIS. As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on

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		This under sizing of the surge tower diameter is dangerous to the tunnel integrity, would likely shatter the transition vault from the tunnel to the surge tower and be a danger to the workers and the surrounding population and areas.	the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including operations and control. For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS.
1802	167	3-105, line 27 "It is assumed that the intermediate pumping plant would require periodic harvesting of pond weeds to maintain flows and forebay capacity." The BDCP has not disclosed how they would dispose of the aquatic weeds harvested. They will emit greenhouse gas as they decompose and odor problems for neighbors. The BDCP did not quantify the biomass of weeds to be removed, the frequency of this operations, the disposal method or location, analyze the impacts of these operations or mitigate the impacts from these operations.	This comment addresses Alternatives 1 through 8, including Alternative 4 (known also as the BDCP). In response to comments received during public review of the 2013 Draft EIR/EIS. Alternative 4 remains a viable alternative. However, a modified Proposed Project (Alternative 4A/California WaterFix) also is being considered to provide modified conveyance facilities for the SWP and CVP with the reduction of the intermediate forebay by more than 94 percent as compared to the 2013 Draft EIR/EIS, and does not include an intermediate pumping plant. Due to reduction in size of the intermediate forebay, aquatic weed growth would be limited and easily controlled to avoid periodic major harvests. Under alternatives that would involve an intermediate pumping plant (Alternatives 1A, 2A, 3, 4, 5, 6A, 7, and 8), vegetation that may periodically collect in the intermediate forebay would be harvested and disposed of as part of regular facility maintenance practices. No additional impacts as suggested in this comment are expected because vegetation management would be conducted consistent with other SWP facilities to avoid odor and air quality/greenhouse gas emissions. No changes to the EIR/EIS project description or analyses has been made related to this comment.
1802	168	3-105, line 43 "For Alternatives 1A, 1B, 2A, 2B, 3, 4, 5, 6A, 6B, 7, and 8, the Byron Tract Forebay would be constructed on the southeast side of Clifton Court Forebay." Where are the design detail schematics, location, footprint, etc.? The BDCP has changed these since the issuance of the PDEIR/EIS, so the newest revisions of the Proposed project have not been disclosed to the public and even the ones that were current at the time of the PDEIR/EIS release were not provided. The BDCP did not disclose the DSOD deficiencies of Clifton Court Forebay - see related comments.	Information regarding physical and operational components of the proposed project is detailed in Chapter 3 of the FEIR/EIS.
1802	169	3-106, line 6 "Additionally, a new embankment would be constructed around the perimeter of the forebay, as well as an embankment dividing the forebay into a northern cell and a southern cell. The northern end would receive water from Tunnel 2 (from the north Delta intakes), which would pass under Italian Slough in a culvert siphon before entering Clifton Court Forebay (north). The northern cell would provide storage of approximately 6,070 af. The southern cell of the forebay would continue to provide functionality for the existing through-Delta conveyance system and would provide storage of approximately 26,000 af." That is a very confusing description, does not work without a supporting engineering schematic and this description provides insufficient detail for the EIR/EIS to evaluate. The divisions between the fish screened water from the north delta intakes and the unscreened inflows to the south delta intakes are particularly important to understand the mechanics for fisheries impacts. This description is inadequate to support the fisheries and water quality impacts assessments. How does this modification of Clifton Court Forebay work	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO), including operations and control. For more information see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx. With the introduction of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, further refinements in the design and alignment were made. The new alternatives along with the design and alignment refinements were fully described, analyzed, and disclosed for public review and comment in the 2015 RDEIR/SDEIS. The description of operation is adequate for the purpose of the CEQA and NEPA analyses

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		with the modification of a non-Division of Safety of Dams compliant facility?	presented in this Final EIR/EIS.
1802	170	3-106, line 14 "New forebays would be dredged to remove sediment and maintain design capacity." In order to meet project-level analysis, the BDCP needs to provide a schedule, equipment used, volumes removed, and disposal locations for the sediment removal. The BDCP has provided none of these.	The description of forebays located within the intake facility footprint combined with the locations of facilities shown in Chapter 3, Description of Alternatives is adequate for the purpose of the CEQA and NEPA analyses presented in the Final EIR/EIS. No specific example of impact analysis inadequacy is provided in this comment. Please refer to Master Response 2, regarding project vs. program level analyses presented for some of the alternatives. For construction assumptions of the proposed project please see Appendix 3C of the EIR/EIS.
1802	171	3-106, line 14 "Maintenance requirements for the forebay embankments would include control of vegetation and rodents, embankment repairs in the event of island flooding and wind wave action, and monitoring of seepage flows. Maintenance." These maintenance actions would be required for all of the BDCP facilities: intakes, pumps, intermediate forebays, tunnel facilities, etc. but this is the only place these actions are mentioned. There is no detail provided as to what materials will be used. These will be controlled materials that require special handling, storage, application restrictions (e.g. spray drift management), and disposal or empty containers. The BDCP has provided none of these details or the frequency, magnitude or area extent of these actions.	Project plans have not advanced yet to the point where engineering and design work are complete. Environmental review is typically conducted based on less complete plans, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis. The Lead Agencies 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 Final EIR/EIS as well as Master Response 22.
1802	172	3-106, line 18 "Maintenance requirements for the spillway would include the removal and disposal of any debris blocking the outlet culverts. Dredging may be necessary to remove sediments in the forebays. As designed, both forebays are expected to have capacity to store sediment accumulated over a 50- year period. However, depending on the actual sedimentation rate, dredging may be necessary more or less often." Where is the debris and sediment to be disposed and what quantity and frequency are anticipated? What equipment and how many hours of operation are required? These are all required for the impact analysis and full disclosure of the impacts of the project.	The amount of sediment removed at the forebays is anticipated to be minimal because most of the sediment would be removed at the intake sediment basins and dewatered in on-site lagoons. Specific sediment accumulation in the forebays would be determined during design; and like the sediment collected at the intakes, would be disposed of at licensed locations for sediment disposal. For more information regarding disposal and reuse of spoils, RTM, and dredged material please see Appendix 3B of the FEIR/EIS.
1802	173	3-106, line 30 "Much of the excavated material at both locations is expected to be high in organics and unsuitable for use in embankment construction. Some of the excavated material below the peat layers at both locations may be suitable for use in constructing the embankments. To the extent possible, spoils to be used for the embankments would be stored onsite. Under the modified pipeline/tunnel alignment, nearly 8 million cubic yards of material would be dredged from Clifton Court Forebay..." What equipment, how many hours over what dates? Unless the BDCP provides this level of information it cannot and must not get Water Quality Regional Control Board construction permits.	The level of information provided in the EIR/EIS is adequate for Environmental Analysis. Please see Master Response 2. The Lead Agencies 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 Final EIR/EIS. For construction assumptions Please refer to the Final EIR/EIS, 3C. For additional permitting information please refer to Master Response 45, Permitting.
1802	174	3-107, line 24 "While only one of these points of interconnection would be used, both are depicted in figures, and the effects of constructing transmission lines leading from both sites are combined and accounted for in resource-specific impact analysis." This is how a project-level impact analysis is supposed to be done. This is the first of the alternatives components that sounds like it was treated appropriately. This example is in stark contrast how all of the rest of the project components and the uncertainties of the footprint were handled, which was deficiently. The BDCP must reanalyze all of the project components that do not take this strategy of taking the largest potential impact of the project as it is described and evaluating those impacts to create a disclosure document that	The level of information provided in the EIR/EIS is adequate for Environmental Analysis. Environmental review is typically conducted based on plans not 100% complete, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis.

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		provides an envelope of action for the project. The project, with this one potential exception, is consistently deficient on this point.	
1802	175	3-109, line 45 Description was provided to reduce raptor take associated with the transmission lines (in one case of a monopole), but no mention is made of measures to reduce other bird strikes. The International Migratory Bird Treaty Act compliance requires that all projects incorporate measures to address impacts to migratory birds. There are many bird species in the Plan Area that are covered under this act and there are no described project features to avoid, minimize or mitigate their impacts.	Please refer to AMM20 Greater Sandhill Crane (BDCP Appendix 3.C, Avoidance and Minimization Measures for Alternatives 1A-1C, and 9 and Appendix 3.K of the FEIR/FEIS for Alternatives 4 and 4a). This AMM includes a measure to require the placement of bird strike diverters on all new transmission lines constructed for the project to minimize the potential for birdstrike for avian species.
1802	176	3-120, line 15 Barker Slough intake relocation appears to has been incorporated into the Proposed Project. At no point can we find the disclosure of the rationale for why the relocation of the current intake appears to be incorporated into the BDCP project. Is this compensation/mitigation to Solano County for not objecting to the Yolo Bypass modifications, the impacts of the current CVP/SWP operations on their water quality or the impacts of the BDCP on their water supply quality?	DWR and the Solano County Water Agency are evaluating an alternate intake for the Barker Slough Pumping Plant because operations have been limited by water quality constraints and provisions in the USFWS and NMFS BiOps. Water conveyance operations of this potential new facility are incorporated in Chapter 3, Sections 3.6.1, Water Conveyance Facility Components, and 3.6.4, Water Conveyance Operational Components.
1802	177	3-121, line 25 "...analyses consider typical construction, operation, and maintenance activities that would be undertaken for implementation of the habitat restoration and enhancement efforts." There is no such thing as "typical" for these types of actions that have so little precedent in this geographic area and no precedent at this scale of habitat restoration. A "typical" construction analysis is particularly useless for water quality impact assessments of the project. Levee break locations, size, orientation, habitat inundation depth, contouring, vegetation plans, sucessional vegetation development all make a huge impact in the tidal exchange characteristics and water quality discharge of these habitat restorations. Further, without specific locations of these aquatic habitat restorations it further confounds and frustrates any meaningful analysis of the water quality impacts of these actions. As stated in previous comments, water quality effects of these habitat restorations are inextricably linked to CVP/SWP water quality operating constraints so these habitat restoration actions may not be done at a programmatic-level since they are having project-level impacts on operations - see related comments.	The analysis for CMs 2-21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis, and meets NEPA and CEQA requirements. Section 3.6.2 and 3.6.3 of Chapter 3, Alternatives, describe typical measures that would be entailed in conservation measures and conservation components. Please also note that 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. Under Alternative 4A, substantially less habitat restoration would occur than under Alternative 4.
1802	178	3-122, line 13 "3.6.2.1 Yolo Bypass Fisheries Enhancement (CM2)" As previously commented, the Yolo bypass action is part of the mandated conditions of the 2009 Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives. The BDCP may have provided more detail, but this action belongs in the No Action description. Only the components of the description that are above and beyond the RPA can be considered part of the BDCP proposed project or alternatives - see related comments.	Please refer to Master Response 1 and Appendix 3D in the final EIR/EIS for definitions and explanation of why the baselines used in the EIR/EIS are appropriate under CEQA and NEPA.
1802	179	3-125, line 15 "This conservation measure would be implemented under all action alternatives. CM2 actions are proposed for implementation in four phases: Phase 1—year 1 to year 5 of BDCP implementation; Phase 2—year 6 to year 10;..."	All conservation measures were developed at a sufficient level of detail and specificity to ensure their implementation. Because the proposed Alternatives are broad in scope many of the measures have flexibility to accommodate various appropriate conditions and methods. For example, conservation measures that protect, restore, or enhance natural communities provide management guidelines and

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		Given this BDCP proposed implementation timeline, this EIR/EIS must address these actions at a project-level of detail or there will not be time for a subsequent environmental document, engineering design, permitting, contracting, and completion of construction. Either project-level detail must be provided and analyzed in this EIR/EIS or the schedule of these actions needs to be pushed back in implementation. The delay implementing these actions would put DWR and Reclamation even further into violation of the implementation timeline mandated in the Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives.	principles that allow land managers the freedom to implement techniques best suited to site-specific conditions. Preserving this flexibility is an important part of the conservation strategy, as articulated in Section 3.6, Adaptive Management and Monitoring Program, of the 2013 Public Draft BDCP. Please refer to Master Response 2 regarding project vs program level of detail used in the analysis.
1802	180	3-125, line 20 "The Category 2 and 3 actions would be more fully defined and evaluated in the Yolo Bypass Fisheries Enhancement Plan (YBFEP) and/or YBFEP EIR/EIS, as appropriate." So the BDCP is describing actions and taking credit for the benefits of them for actions that will actually be or may be analyzed and implemented by a different project. These actions are described as being implemented by the BDCP in years 1 - 10 of the BDCP project - this description is clearly misleading and deceptive. These other project actions that the BDCP is taking credit for include: Component Project 4: Expanded Fish Rearing at Knaggs Ranch; Component Project 5: Fish Ladder Operations Study at Fremont Weir; Component Project 6: Experimental Sturgeon Ramps at Fremont Weir; Component Project 7: Auxiliary Fish Ladders at Fremont Weir; Component Project 8: Fish Screens for Small Yolo Bypass Diversions; Component Project 9: New or Replacement Impoundment Structures and Agricultural Crossings at the Tule Canal and Toe Drain; Component Project 10: Lisbon Weir Improvements; Component Project 11: Lower Putah Creek Improvements; Component Project 12: Water Supply Improvement for the Yolo Bypass Wildlife Area; Component Project 13: Use of Supplemental Flow through Knights Landing Ridge Cut; Component Project 14: Flood-Neutral Fish Barrie [COMMENT CUT OFF]	The actions covered by the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Implementation Plan (Bureau of Reclamation and California Department of Water Resources 2012) are intended to address two of the Reasonable and Prudent Alternative (RPA) actions outlined in the NMFS (2009) BiOp: RPA Action I.6.1 and RPA Action 1.7. RPA Action I.6.1 (Restoration of Floodplain Rearing Habitat) requires increased seasonal inundation in the lower Sacramento River Basin, and RPA Action I.7 (Reduce Migratory Delays and Loss of Salmon, Steelhead, and Sturgeon at Fremont Weir and Other Structures in the Yolo Bypass) requires multispecies fish passage improvements and assessment of their performance. While there are some differences in the requirements of the NMFS (2009) BiOp and CM2, both RPA actions are intended to be covered under Conservation Measure CM2. The integration of these separate but overlapping processes will occur formally once the BDCP has been approved. Until that time, coordination will occur through the Yolo Bypass Fishery Enhancement Planning Team. This team provides a forum to discuss and coordinate the integration of these and other ongoing planning efforts in the Yolo Bypass.
1802	181	3-126, footnotes "Improvements to Upper Putah Creek, outside the Plan Area, will be included as part of the Yolo Bypass Fisheries Enhancement Plan. Improvements to Upper Putah Creek will support fish passage, water quality, and spawning habitat improvements in Putah Creek upstream of the Yolo Bypass Wildlife Area and downstream of Solano Diversion Dam (Phase 1)." This is another example of the BDCP violating their self imposed, unsupported and predecisional geographic constraint for potential actions to be included in the BDCP project or alternatives. Seeing as the BDCP can include actions outside of the Planning Area anytime they want, they cannot use the plan area as a criteria or rationale to dismiss other alternatives, e.g. upstream and downstream water storage - see related comments. If this is not a BDCP action and is being implemented only by the YBFEP, then the BDCP cannot portray the action as being a feature and benefit of the BDCP project as it has done here in the EIR/EIS.	Please refer to response to comment 180 within this comment letter, above.
1802	182	3-128, line 21 Phase 3 (Year 11 to Year 25) The Yolo Bypass Fisheries Enhancement Plan is not part of the BDCP so here is another project action that the BDCP is taking credit for: Component Project 20: Sacramento Weir Improvements.	Please refer to response to comment 180 within this comment letter, above.
1802	183	3-133, line 28 "South Delta Restoration Opportunity Area" From the Independent Science Review Panel comments from their private 2014 meeting	The Restoration Opportunity Areas are conceptual in nature. Restoration planning activities within the ROAs would occur over the permit duration and would be determined on a site-by-site basis via subsequent environmental documents. As previously noted, the new preferred alternative (Alternative 4A) does not

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		with the BDCP it sounds like this Restoration Opportunity Area has been dropped from the BDCP proposed project and alternatives. The description of where the implementation may occur for all of the different habitat types must be revised to reflect this BDCP deletion of the South Delta ROA.	include large-scale habitat restoration. Instead, the proposed project includes habitat restoration necessary to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b).
1802	184	3-134, line 11 "In some areas, tules could be planted and farmed for several years to raise the elevation of subsided lands." Publications on tule cultivation to raise subsided lands indicate land can be raised by as much as 1/4 inch per year. So if "several years" from the BDCP is 4 then we should expect that they have raised subsided lands (temporarily) by approximately 1".	This comment is specific to actions included in the former preferred alternative, Alternative 4, however the new preferred alternative is Alternative 4A. Alternative 4 (BDCP) remains a potentially viable alternative and was carried forward in the RDEIR/SDEIS and this Final EIR/EIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed and presented for public and agency review and comment in the RDEIR/SDEIS. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative analyzed in the RDEIR/SDEIS and Final EIR/EIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. For further responses to comments on the BDCP, please see Master Response 5 (BDCP).
1802	185	3-136, line 29 The BDCP does not provide any description of the location, frequency, seasonal timing, duration, or volume of dredging or the disposal methods and locations of the dredge spoils. Without this level of detail, the BDCP cannot have completed impact analyses of land disturbance, water quality impacts, fisheries impacts, air quality impacts from dredging or transport, greenhouse gas emissions from drying spoils, potential dredge spoil contaminants, land use changes, traffic and other impacts.	As previously noted, the level of information provided in the EIR/EIS is adequate for Environmental Analysis. Environmental review is typically conducted based on plans not 100% complete, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis.
1802	186	3-136, line 33 "Roads and utilities on the levees to be breached or lands to be inundated that required modification would be constructed to a condition equal to or better than the preconstruction conditions." Levees with levee roads that will be breached by the BDCP will be restored to have the same passage and access as prior to the project, so that means the BDCP will construct bridges over all of these breaches. If there are not bridges over the breaches, then the road access condition would not be as good as preconstruction condition.	Please see Chapter 19 (Transportation), FEIR/EIS, for potential impacts to levees as a result of the proposed project. As previously noted, the new preferred alternative (Alternative 4A) does not include large-scale habitat restoration. Instead, the proposed project includes habitat restoration necessary to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b).
1802	187	3-137, line 29 "Channel straightening and levee construction have disconnected river channels from their historic floodplains over much of the Plan Area…" This is true and has been true for about a hundred years. The delta pelagic organism decline has only occurred in the last 20 or so years, so the causal mechanism the BDCP is trying to imply here is false. Look to other changes in the last 20 or so years as the primary culprit for POD. One of the primary changes has been the more aggressive reoperations and increased exports of the CVP/SWP operations.	Please see Chapter 5, BDCP, for a discussion on the potential mechanisms underlying the POD. As it relates to Delta smelt, a recent POD synthesis prepared by the Interagency Ecological Program (2005) described entrainment as likely being important under certain conditions but not universally important in all years. Kimmerer (2008) had similar conclusions, that losses of adult delta smelt due to entrainment were important in certain years, while in other years the population-level effects were small.
1802	188	3-138, line 33 "In cases where farming is no longer feasible or compatible with floodplain habitat goals, discontinue farming within the setback levees and allow native riparian vegetation to naturally establish on the floodplain or actively plant native riparian vegetation." Perennial vegetation in the floodplain will adversely affect flood flow capacities. These are	Please see Appendix 6A in the FEIR/EIS for potential project impacts of restored vegetation on drainage and flood flow conveyance.

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		not flood neutral actions.	
1802	189	3-139, line 24 "At least 10 linear miles would be enhanced by year 10 of Plan implementation;…" This means that the BDCP is anticipating a restoration action can be further developed, go through the entire environmental review, permitting, contractor selection, construction preparation and implementation process in less than 10 years. Add it up, it does not work and the BDCP will miss this schedule commitment. For any actions less than 15 years out, the BDCP must include them at a project-level of detail in this BDCP environmental document or it is certain they will miss their implementation schedule. This BDCP HCP planning process has already been 7 years in the making and it is not even past public comment yet.	As previously noted, Alternative 4A is the new preferred alternative and includes substantially fewer acres of habitat that would be restored/enhanced. Please refer to response to comment #1 within this comment letter, and Master Response 5 (BDCP).
1802	190	3-139, line 29 "Because of the riprap armoring on many levees, adjacent channel margins are devoid of vegetation or have only low quality vegetation that provides very limited benefits for covered species. Without vegetation along channel margins to provide shade and nutrient inputs, habitat value for covered fishes in these channels has declined. Both the quality and quantity of riparian, emergent wetland, and tidal mudflat habitat for covered terrestrial species have declined as a result of channel- margin levees." It is the U.S. Army Corps of Engineers' requirement for no levee vegetation that has reduced the riparian habitat quality. Look at the levees in Elk Slough. The habitat is diverse, provides cover, shade and a huge and diverse food base. Levees are not the problem, naked rip wrap mandated by the USACE is.	The comment describes the perceived deficiencies in the USACE levee requirements regarding riparian habitat on levees. It does not raise any environmental issue related to the EIR/EIS.
1802	191	3-154 line 29 "CM13 would provide for the control of Egeria, water hyacinth, and other Invasive Aquatic Vegetation throughout the Plan Area." The dictionary definition of "control" that is applicable to this BDCP claim is: "to eliminate or prevent the flourishing or spread of". These are lofty goals that are impossible for the BDCP to achieve. The BDCP will agree that it will not and cannot eliminate these aquatic weeds. Can the BDCP prevent the spread of these aquatic weeds? The answer is "no" and the mechanical removal of them will actually be the mode of action that mobilizes them for an increased rate of spread. The BDCP plan could temporarily stop them from flourishing, but that is not the same as "preventing" them from flourishing as in the definition of control. It is clear even from this cursory analysis that the BDCP cannot and will not "control" these aquatic weeds. The BDCP must revise this CM to reflect what benefit it can realistically provide rather than the current substantially overstatement of benefits.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. The new preferred alternative is Alternative 4A and no longer includes Conservation Measure 13. Further consideration will be given to the terminology used to describe actions to manage Aquatic Invasive Species, and revisions to the Draft BDCP would be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.
1802	192	3-167 line 35 "3.6.3.11 Avoidance and Minimization Measures (CM22)" These are all mitigations of impacts that only occur with the implementation of the Proposed Project. They minimize the amount of impact the project will have on covered species, but this does not contribute to conservation. Because these are only mitigations for project impacts they cannot be credited as contributing to conservation. The BDCP must remove these as a CM and correctly represent them as mitigations. Most of these mitigations are only commitments to create a plan in the future. Plans have no impacts or benefits so the commitment to create a plan must not be credited for any mitigation or contribution to recovery. Others of these are commitments to follow building codes, etc. These are legal requirements of the project, so these also do not contribute to mitigation or	The document has been revised to treat avoidance and minimization measures as a separate component of the conservation strategy. Please refer to Appendix 3B in the Final EIR/EIS for details on avoidance and minimization measures and environmental commitments.

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		conservation. Consultation with other agencies is also not a mitigation or contribution to recovery.	
1802	193	3-177 line 26 "However, because of the many factors affecting the ability to transfer water through the Delta, the actual quantities of water transfer water that may be facilitated as a result of the BDCP is speculative." It may be speculative for how much excess capacity may be utilized in future water transfers, but it is not speculative to quantify how much excess capacity is created by the BDCP conveyance and project. As an example, the Lower Yuba River Accord water transfers through the delta and through the CVP/SWP system are very constrained by the lack of available unused capacity of the CVP/SWP. One of the impacts of the BDCP project will be to substantially increase the operational flexibility and utilization capacity of the system. The BDCP EIR/EIS must quantify and compare the amount of unused CVP/SWP capacity in the No Action and in the Proposed Project and alternatives. The increase in unused available capacity is potentially growth inducing so this impact must be evaluated, quantified, disclosed and mitigated - see related comments. The BDCP operations assumed that Reclamation would be a 100% partner in using all of their capacity through joint operations that would utilize the BDCP facilities. According the page 181 line 16, Reclamation will not be an owner or operator of the BDCP facilities and may or may not even wheel water through the BDCP facilities.	The Yuba River Accord transfers have only been constrained by the Delta being in excess conditions (especially in summer 2011) and by the export limitations of the Biological Opinions. The Yuba transfers have not otherwise been constrained by Delta export capacity or capacity within other SWP or CVP facilities. The Yuba transfer quantities are optimized to provide greater transfer quantities in the drier year types when extra capacity is available in the SWP and CVP facilities. Chapter 30 (Growth Inducement and Other Indirect Effects), FEIR/EIS, discusses indirect effects related water transfers. Chapter 5 (Water Supply), FEIR/EIS, discusses potential changes in water transfers due to implementing the project alternatives. It's important to note, however, the BDCP/CWF alternatives do not authorize future water transfers, and any future water transfer agreements will need to go through separate environment review processes and obtain necessary permits. The Chapter 5 water transfer analysis has not been limited or constrained by cross-Delta transfer capacity, although such constraints are currently a factor in the export of transfers. In the future, transfer supplies could be moved in the BDCP/CWF facilities or across the Delta, depending on operational and regulatory constraints, and transfer capacity is likely to limit actual cross-Delta transfers at times. However, the water transfer analysis does not place any such limits on conveyance capacity through the in-Delta channels or through the BDCP/CWF facilities at this time. Please see Appendix 5D for more information on the assumptions used in the water transfer analysis. As described in the section referenced by the commenter, Reclamation would likely enter into an agreement with DWR to wheel CVP water through the new facilities, and this action by Reclamation would be an associated federal action.
1802	194	3-181 line 13 "All CVP maintenance described in this section is a federal action associated with the BDCP (or an alternative) and will be covered in Section 7 consultation." If Reclamation had done a section 10 consultation, then they would not have had any nexus with the BDCP project at all. Reclamation never did have a reason to participate in the BDCP project and it certainly did not have the project nexus to be the lead federal agency and equal co-funding entity of the BDCP EIR/EIS.	As previously noted, the new preferred Alternative, Alternative 4A, embodies a different implementation strategy that would not involve a 50-year HCP/NCCP approved under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization for a much shorter period under ESA Section 7 and California Endangered Species (CESA) Section 2081(b) (RDEIR/SDEIS Executive Summary Section ES1.1). As stated in Chapter 1 in this Final EIR/EIS, SWP operation of new conveyance facilities and/or flow patterns proposed under the proposed project or alternatives would require changes in existing CVP operations specific to the Delta that provide for diversion, storage, and conveyance of CVP water consistent with applicable law and contractual obligations. Reclamation's action in relation to the proposed project or alternatives would be to adjust CVP operations in the Delta to accommodate new conveyance facility operations and/or flow requirements, in coordination with SWP operations.
1802	195	3-181 line 16 "Although DWR would own and operate the new intake and conveyance facilities, and their operations would be covered activities as described in Section 3.6.4.2, Reclamation would likely enter into an agreement with DWR to wheel CVP water through the new facilities, and this action by Reclamation would be an associated federal action." Talk about burying the headline. Here we are on page 181 of Chapter 3 of the EIR/EIS document and just now it is disclosed that Reclamation will not be an owner or operator of the BDCP facilities. Even Reclamation's roll for wheeling water through the BDCP facilities is speculative according to this quote. Given Reclamation's non-roll in the BDCP, Reclamation should never been a federal lead agency in this project. USFWS and/or NMFS must take over all administrative responsibilities as lead agency from Reclamation. Reclamation must explain why it provided equal amounts of funding for the environmental	Please refer to response to comment 194 within this comment letter above. A detailed discussion of agency roles and responsibilities is provided in Chapter 1, Introduction, of the Final EIR/EIS.

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		planning and predesign project engineering process for a project it will have no roll or ownership in.	
1802	196	3-181 line 20 "All operations of new intake and conveyance facilities are included as either covered activities or federal actions associated with the BDCP (or an alternative) and the effects of those activities/actions are addressed by the BDCP and at a project-level of detail in this EIR/EIS." There is not one single element of the BDCP Proposed Project conveyance or operations that meet the test of being a project-level impact analysis. The BDCP does not know the exact location or footprint (they give ranges) of the intakes or hydrodynamics of the intake screens in operation under a range of flow conditions - see related comments. The BDCP has not done any modeling of the intake hourly and daily operations - see related comments. The tunnel route has changed and there are no volumetrics on the amount of cement to be used - see related comments. The BDCP has not defined or disclosed what make and model equipment will be used in what locations for what hours over what period - see related comments. The BDCP says they have not defined what the tunnel conveyance maintenance operations will be yet - see related comments. The water operations are interdependent with the water quality impacts of the habitat restorations - see related comments. The habitat restorations are not even really described at a programmatic level. In order to have project-level operations, the habitat restorations impacts on water quality (that will often dictate [COMMENT CUT OFF]	The level of information provided in the EIR/EIS is adequate for Environmental Analysis. Please see Appendix B RDEIR/SDEIS for supplemental modeling for the new alternatives. For more information regarding project and program level analysis please see Master Response 2.The Lead Agencies 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 Final EIR/EIS. For construction assumptions Please refer to the Final EIR/EIS, 3C.
1802	197	3-182 line 25 "No more than 300 cfs can be diverted at any one intake." This is worded as an instantaneous measurement, not as an average as the next sentence seems to imply.	As stated in the cited text of the 2013 Public Draft EIR/EIS regarding constant low-level pumping, “Diversions of up to 6% of total Sacramento River flow such that bypass flow never falls below 5,000 cfs. No more than 300 cfs can be diverted at any one intake. While referred to as constant, pumping would vary with flows at Freeport. Constant refers to the percentage of river flow that could be diverted; it is not a continuous pumping level.” Therefore the amount of water diverted at the intakes will not be more than 300 cfs during constant low-level pumping, however the amount diverted may be less than 300 cfs and the variation in flows is dependent on the flows at Freeport, therefore it is not a continuous pumping level.
1802	198	3-182 line 26 "While referred to as constant, pumping would vary with flows at Freeport." Freeport cannot be used to measure flows at the intakes. The intakes are substantially deeper into the tidal prism than the proposed intake locations. The southernmost Proposed Project intake is easily 10 river miles downstream of the Freeport Gage. When was the last time the Freeport Gage was calibrated and how often does the BDCP propose it would be recalibrated? From the description, it sounds like only the flows at Freeport would be used to determine intake operations and compliance. The BDCP fails to take into account diversions that occur below the Freeport Gage but above the intakes, e.g. RD999 300cfs diversion just upstream of Clarksburg into Winchester Lake. The BDCP's description does not take their own diversion volumes into account either. If Freeport Gage is at 5,000 cfs the way this is written, if RD 999 and the three Proposed Project intakes were each taking their 300 cfs of water, then the flow at/below the downstream most BDCP intake would be 3,800cfs - a clear violation of the intent of the low flow diversion operating compliance requirement.	The north Delta diversion (NDD) real-time operational criteria presented in Chapter 3, FEIR/EIS, would be focused on a combination of flows in the Sacramento River at Freeport and downstream of the intake screens; flows at the intake screens to maintain sweeping velocities; and real-time monitoring of fish presence/movement. In addition, operations would only occur during positive, uni-directional flow conditions. Determination of North Delta Bypass flows immediately downstream of the North Delta Diversions is based on Sacramento River flows at Freeport. It is recognized that there are other diversions between Freeport and the North Delta Diversions. In the model, those diversions are part of the CALSIM II Delta depletion factor. However, in real time, the North Delta Diversions would need to be operated in a manner that would maintain the Bypass Flows after the other diversions (including those of RD 999) have occurred. For example, if the Bypass Flow Criteria was “9,000 cfs plus 50% of the amount over 9,000 cfs” and the flow at Freeport was “12,000 cfs,” it would appear that the North Delta Diversions could divert “1,500 cfs.” However, because the other diversions could divert “1,200 cfs” (based on this commenter’s scenario); the North Delta Diversions could only divert 300 cfs. It is recognized that in real-time, the effects of diversions located upstream of the North Delta Diversions would reduce the flows to the SWP and CVP as compared to the values indicated in the EIR/EIS. However, the flows in the Sacramento River immediately downstream of

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			the North Delta Diversions would be consistent with the flow conditions shown in the EIR/EIS.
1802	199	3-183 line 15 North Delta Intake Operations Criteria Where is the disclosure of the operations of the north delta intakes to maintain minimum sweeping velocities under tidal conditions? See related comments.	Please see Section 3.3.1.2 in Chapter 3 of the FEIR/EIS for information on sweeping velocity requirements. Also, see Appendix 5A, FEIR/EIS, for a description on the assumptions used in modeling sweeping velocity restrictions on the north Delta diversion.
1802	200	Table 3-16 "5,000 cfs to 15,000 cfs - Flows remaining after constant low level pumping" This bypass flow criteria is not well thought out. With flows at 5,001cfs at Freeport, the BDCP can run each intake at 300cfs. The BDCP fails to take into account diversions that occur below the Freeport Gage but above the intakes, e.g. RD999 300cfs diversion just upstream of Clarksburg into Winchester Lake. There are a number of other intakes in this reach that amount to another potential couple hundred cfs of diversions. The BDCP's description does not take their own diversion volumes into account either. If Freeport Gage is at 5,001 cfs the way this is written, if RD 999 and the three Proposed Project intakes were each taking their 300 cfs of water, then the flow at/below the downstream most BDCP intake would be 3,800cfs - a clear violation of the intent of the low flow diversion operating compliance requirement and this would dewater other water supply intakes and have significant water quality impacts. If it is a BDCP alternative with 5 intakes the remaining flow after the last intake would be 3,000 cfs or less (assuming additional existing diversions of 200cfs, e.g. RD 150. 3,000cfs of flow in the Sacramento River above Sutter Slough confluence is a horrible idea and has m [COMMENT CUT OFF]	As shown in Chapter 3 of the EIR/EIS, minimum north Delta bypass flows in the Sacramento River would result in no diversions at the North Delta Diversions if the Sacramento River flows were 5,000 cfs or less. If the flows at the North Delta Diversions were 5,001 cfs, the North Delta Bypass flows would restrict the diversions so that the Sacramento River bypass flow would not be less than 5,000 cfs, therefore, the diversion could not exceed 1 cfs, which would result in no constant low level pumping. Determination of North Delta Bypass flows immediately downstream of the North Delta Diversions is based on Sacramento River flows at Freeport. It is recognized that there are other diversions between Freeport and the North Delta Diversions. In the model, those diversions are part of the CALSIM II Delta depletion factor. However, in real time, the North Delta Diversions would need to be operated in a manner that would maintain the Bypass Flows after the other diversions (including those of RD 999) have occurred. For example, if the Bypass Flow Criteria was "9,000 cfs plus 50% of the amount over 9,000 cfs" and the flow at Freeport was "12,000 cfs," it would appear that the North Delta Diversions could divert "1,500 cfs." However, because the other diversions could divert "1,200 cfs" (based on this commenter's scenario); the North Delta Diversions could only divert 300 cfs. It is recognized that in real-time, the effects of diversions located upstream of the North Delta Diversions would reduce the flows to the SWP and CVP as compared to the values indicated in the EIR/EIS. However, the flows in the Sacramento River immediately downstream of the North Delta Diversions would be consistent with the flow conditions shown in the EIR/EIS. It also should be noted that constant low level pumping would not occur if the flows immediately downstream of the North Delta Diversion would be 5,000 cfs or less, or if the flows at the fish screens did not meet minimum sweeping velocities or meet positive, uni-directional flow conditions.
1802	201	Table 3-17 The cfs used here seem to be daily averages, but that is not disclosed. Daily average bypass flows will do nothing to protect fish at the intake screens from inadequate sweeping velocities. Still nowhere in these north delta intake operations descriptions is there anything regarding how they will be operated under tidal low velocities, slack tide zero velocities or tidal reverse flows that occur in the river reach where the proposed intakes would be located - see related comments.	The DSM2 model incorporated sweeping velocities and limitations which were used in coordinated manner with CALSIM II modeling to limit diversions related to the sweeping velocities at the fish screen, as described in Section A.5.3 of Appendix 5A, Section A, Modeling Methodologies. Operations would only occur during positive, uni-directional flow conditions. For more information regarding operational components please see Section 3.1.1.2 in Chapter 3 of the Final EIR/EIS.
1802	202	3-187 line 17 "...open the 17.5-foot and 11.5-foot elevation gates when Sacramento River flow at Freeport is greater than 25,000 cfs to provide local and regional flood management benefits, while coinciding with pulse flows and juvenile salmonid migration cues, and to provide seasonal floodplain inundation for salmonid food production, juvenile rearing, and spawning. This action based on modeling assumptions would cause Yolo Bypass inundation of 3,000-6,000 cfs depending on river stage." If the flow at Freeport is at 25,001cfs, the BDCP will open the Fremont weir gate and divert somewhere between 3,000 to 6,000cfs. Even taking the more favorable interpretation, the flow after opening the Fremont Weir gates would be 22,000cfs at Freeport. Would the BDCP then shut down the Fremont Weir gate because Freeport is below 25,000cfs? If they do as this is worded, then the frequent opening and closing of the Fremont Weir gates	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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

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		would cause horrific amounts of fish stranding in the Yolo Bypass. Obviously it makes no sense to use a downstream gage as the basis for an upstream operation as the BDCP has proposed, especially when the flow of the American River is between those two locations. The BDCP should use the gage on the Sacramento River downstream of the Feather River confluence. The BDCP has also never been clear that these bypass diversion flows will be accounted for in the intake bypass operations criteria. The BDCP must demonstrate and specifically clarify that these bypass flows are subtracted from the flows that will be used to calculate compliance with the intake bypass requirements - see related comments. This is another example of a propos [COMMENT CUT OFF]	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.
1802	203	3-188 line 24 "The in-Delta municipal, industrial, and agricultural water quality requirements criteria would require the SWP and CVP to comply with existing agreements with water rights holders related to operations of the SWP and CVP. These requirements include water operations in accordance with State Water Board D-1641 related to north Delta and western Delta agricultural and municipal and industrial requirements..." It is these water quality operational requirements that will be directly affected by the BDCP implementation of the aquatic habitat restorations. The impact analyses of these consistently identifies that water quality coming out of these habitat restorations into the rest of the delta will be lower due to concentration of contaminants from reduced rate of water turnover (refreshening) and from concentration from evaporation. When these lower water quality volumes from the BDCP aquatic habitat degrade water quality at these compliance points, the BDCP will have to alter their conveyance water operations to comply. These can be major water operations changes in response to water quality degradation such as shifting from north delta diversions to south delta diversions or reducing the amount of diversions. This is why the aquatic habitat restorations must be at a project-level of detail if the BDCP wants their water operations to be analyzed at a project-level of detail. In the current BDCP EIR/EIS analysis, because the water operations have insufficient information on the location, size, design characteristics (e.g. water depth, intertidal hydraulic complexity, levee breac [COMMENT CUT OFF]	Alternatives that were presented in the Draft EIR/EIS evaluated restoration conservation measures at a program level of detail that match the level of detail in the Draft BDCP. Operations modeling analyses performed with CALSIM II and DSM2 included assumptions about tidal wetland restoration actions proposed under the alternatives to approximate the effect these changes could have on Delta hydrodynamics. These assumptions are included in Appendix 5A, BDCP/ California WaterFix EIR/EIS Modeling Technical Appendix. Therefore, changes in water quality constituent concentrations are disclosed assuming changes the potential for restoration actions to change Delta hydrodynamic conditions. This approach provides a fair approximation of the operations impacts associated with the project alternatives and is considered to be a project-level analysis. Please also refer to Master Response 2 which describes the project-level versus program-level analysis for some of the alternatives.
1802	204	3-209 line 20 "...SWP water contractors contractually agree to repay all SWP capital and operating costs incurred for the water supply and fish and wildlife mitigation features." The entire HCP/NCCP is a mitigation for fish and wildlife impacts from the CVP. The CVP contractors are therefore responsible for paying for all of the conservation measures and mitigations for the BDCP, not the public - see related comments.	As described in the 2013 public draft BDCP, Chapter 8, the entire cost of the proposed water conveyance facility would be paid by the participating state and federal water contractors whose ratepayers (businesses and residents) receive water from the Delta. These costs include all construction, operation and mitigation costs for the direct and indirect effects of the water facility construction and operation. Please refer to Master Response 5 for more information on the costs and funding of the BDCP.
1802	205	3-210 line 3 "One funding method would be to use existing payment provisions of the SWP Water Contracts under which DWR would charge the SWP water agencies for the costs of the BDCP..." This sounds very uncertain. Either they should know this is how they will pay for it or not. This does not rise to the level of certainty of funding required to approve the HCP or issue take permits.	Please refer to response to comment 204 within this comment letter, above.
1802	206	3-210 line 22 "A consideration if all SWP contractors must participate in funding BDCP as a condition of an amendment is whether the costs to all contractors are feasible." This sounds very uncertain. Either they should know if the water contractors can afford to pay for it or not. This does not rise to the level of certainty of funding required to approve	Please refer to response to comment 204 within this comment letter, above.

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		the HCP or issue take permits	
1802	207	3-210 line 27 "Water Contract amendments or new funding agreements for implementing BDCP that include provisions for allocating benefits, such as more reliable water supply, to contractors who pay for BDCP, could create the potential for redistributing SWP water south of the Delta." Exactly, this is why the updating and revising the Coordinated Operating Agreement must be part of the scope of the BDCP - see related comments.	As stated in Chapter 1 in this Final EIR/EIS, SWP operation of new conveyance facilities and/or flow patterns proposed under the proposed project or alternatives would require changes in existing CVP operations specific to the Delta that provide for diversion, storage, and conveyance of CVP water consistent with applicable law and contractual obligations. Reclamation's action in relation to the proposed project or alternatives would be to adjust CVP operations in the Delta to accommodate new conveyance facility operations and/or flow requirements, in coordination with SWP operations. As stated in Chapter 1 in this Final EIR/EIS, SWP operation of new conveyance facilities and/or flow patterns proposed under the proposed project or alternatives would require changes in existing CVP operations specific to the Delta that provide for diversion, storage, and conveyance of CVP water consistent with applicable law and contractual obligations. Reclamation's action in relation to the proposed project or alternatives would be to adjust CVP operations in the Delta to accommodate new conveyance facility operations and/or flow requirements, in coordination with SWP operations.
1802	208	3-211 line 1 "If the final agreements or amendments have potential to have an environmental effect not already contemplated in the BDCP EIR/EIS, DWR would prepare additional analysis." This is called piece-mealing the environmental impacts of a project and it is in violation of NEPA and CEQA.	The cited text is referring to any additional potential future impacts on growth-related issues, not already addressed in the analysis. These effects are unknown at this time, and are speculative; therefore they are not addressed in this EIR/EIS.
1802	209	Covered activities do not address all of the current CVP/SWP system (upstream tributaries, existing canals or on-going affects of CVP/SWP operations and water deliveries. The EIR/EIS did not include analysis of impacts from on-going CVP/SWP operations, including: leaks, salt accumulation, erosion loss of habitat, degradation of beneficial uses, disposal of contaminants, greenhouse gas contributions, etc. Since this document does not address the existing facilities maintenance and operating impacts, the BDCP cannot be awarded any permits for coverage on these activities.	Consistent with CEQA and NEPA requirements, the BDCP/CWF EIR/EIS appropriately compares with-project conditions to the Existing Conditions (CEQA) and No Action Alternative (NEPA) baselines to show potential effects of implementing the project alternatives relative to without-project conditions. Please see Chapter 4 in the FEIR/EIS for more information. Projects included in Existing Conditions and the No Action Alternative can be found in Appendix 3D, FEIR/EIS. In addition, a description of existing ecological conditions can be found in Chapter 2, BDCP.
1802	210	Some aspects of the covered activities that the BDCP is seeking immediate permits on were only analyzed at a programmatic level. The BDCP is seeking permit coverage for current CVP/SWP maintenance activities. Some types of maintenance could appropriately be described at a program level, e.g. weed control, but other maintenance activities such as dredging in front of intakes and sediment disposal need to be described at a project level as they both have very specific impacts. The BDCP does not provide an adequate level of detail for these types of high impact activities and therefore any permits issued should not cover these activities.	The level of information provided in the EIR/EIS is adequate for Environmental Analysis. Please see Master Response 2 for information on project vs program level of analysis. The Lead Agencies 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 Final EIR/EIS. For construction assumptions Please refer to the Final EIR/EIS, 3C. For additional permitting information please refer to Master Response 45, Permitting.
1802	211	A 50 year duration for the Incidental Take Permits is too long for the uncertainties and lack of detail included in many important parts of the project description and analysis. Given the level of certainty of the function of the conservation measures, climate change and other sources of impacts to the ITP covered species that could substantially alter their conditions and the relative needs for conservation from this project, a 50 year permit is too long a period. Federal Energy Regulatory Commission hydroelectric facility licenses typically only last 25 to 30 years for this reason of anticipated changes in circumstances and therefore a more frequent need to update the license terms. The BDCP has many project	As previously noted, the Preferred Alternative is now Alternative 4A, and no longer includes an HCCP/NCCP and the associated 50-year proposed permit term. For information on project vs program level of analysis, please refer to Master Response 2.

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		aspects that are more prone to uncertainty than a hydroelectric facility relicensing. As an example, sea level rise is a major risk and change in circumstance for the BDCP project that is typically not a factor in the uncertainties constraining the appropriate duration of hydroelectric facilities licensing. The uncertainties in sea level rise impacts alone should limit the duration of the ITPs for the BDCP.	
1802	212	At no time should the project be allowed to degrade or reduce the amount or quality of habitat or reduce species populations in the course of the implementation of the project. The pace of the amount of habitat lost to conveyance construction occurs at a much faster pace than the restoration and functional development of habitat restoration CMs. The level of detail provided in the EIR/EIS does not even allow a detailed accounting of habitat loss by type (species) by year or an accounting of the type and quantity by year of fully functioning habitat restoration or mitigation, so a detailed analysis to quantify this shortfall is not even currently possible. Degradation of habitat conditions have led to the listing of the species that the BDCP proposes to cover. Since the purpose of the HCP/NCCP is to conserve and protect the covered species, the project should not be allowed to result in a net negative quantity and quality of habitat for the listed/covered species at any point in time during the BDCP project.	The Recirculated Draft EIR/Supplemental Draft EIS released in 2015 introduced a new preferred alternative, 4A, which does not include a HCP or conservation measures. The alternative implementation strategy allows for other state and federal programs to address the long term conservation efforts for species recovery in programs separate from the proposed project. Alternative 4A would result in no significant and unavoidable impacts to terrestrial biological resources. Please refer to Chapter 12, Terrestrial Biological Resources, for more detail.
1802	213	The conveyance facilities and operations should not be called a "conservation measure" unless they actually contribute to conservation. The document does not conclude that the conveyance and operations result in a reduction in take, so it does not meet the test of what should be called a conservation measure.	The Draft BDCP describes the intended conservation outcomes associated with the conveyance facilities in detail. Please refer to Chapter 3, Conservation Strategy, in the 2013 public draft BDCP.
1802	214	Some of the other stressor conservation measures would be implemented by third parties, e.g. invasive species removal, illegal fishing, etc. Since the BDCP cannot guarantee the function or overall funding or even future existence of these third parties, the CMs implemented by these third parties do not meet the test of certainty and the potential benefits from these CMs should not be relied upon in determining contribution to conservation and justification for issuance of the Incidental Take Permits.	Please refer to Master Response 5 regarding BDCP funding.
1802	215	Habitat restorations are the majority contributor to the conservation of the species that justify the take permits that are the objective of the project and allow the SWP to operate. The beneficiaries of the project, the SWP water contractors should have to pay for the habitat restoration project, not the public through the public trust resource agencies.	The alternative implementation strategy under the new preferred alternative (4A) allows for other state and federal programs to address the long term conservation efforts for species recovery in programs separate from the proposed project. Please refer to Chapter 3, Description of Alternatives, for additional detail about the habitat restoration proposed under Alternative 4A, which is substantially less than what is proposed under Alternative 4. Please refer to Master Response 5 regarding costs and funding of the project.
1802	216	The BDCP plan materially conflicts with other habitat conservation plans (HCPs) that are in various planning and implementation phases in the same locations/areas and same terrestrial species that BDCP proposes. The BDCP is proposing to restore many of the same lands that are currently part of HCPs being developed by the delta counties: Sacramento, San Joaquin, Yolo, Contra Costa and Solano. The BDCP's plan is in direct and significant conflict with these other local and regional plans. These other HCPs were initiated first, are more developed/further along the approval process, have more specific plans (not just the nebulous and programmatic undefined future to be defined later proposals of the BDCP) and are closer in timing to	Please refer to Impact BIO-187 and Impact BIO-192 in the Draft EIR/EIS, which address any conflicts with other HCPs/NCCPs. As previously noted, the preferred alternative is now Alternative 4A, and does not include an HCP/NCCP.

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		implementation and contribution to the conservation of these species. The BDCP is disrupting the efforts and plans of these other HCPs to protect and conserve the many of the same terrestrial species as the BDCP proposed covered species. Because of this BDCP direct conflict with the other plans, the BDCP is actually reducing the overall near- and mid-term conservation of these species. This conflict with other HCPs and the resulting reduction in conservation for the BDCP proposed covered species was not adequately discussed or disclosed in the BDCP EIR/EIS. This significant direct impact to habitat that would have otherwise been created and implem [COMMENT CUT OFF]	
1802	217	The BDCP impact analysis does not include the CVP/SWP reservoir operational impacts. The BDCP Proposed Project does result in a reoperation of the CVP/SWP reservoirs, so the impact analysis that omits those effects is incomplete and deficient. Further, because of this omission, the incidental take permits and covered activities should not cover reservoir operations, maintenance or their related impacts.	The water supply analysis in Chapter 5 of the Final EIR/EIS addresses changes to water supply to SWP and CVP water users in the Delta region, upstream of the Delta Region, and Export Service Areas due to operation of the action alternatives and other conservation measures/restoration actions that affect tidal marsh habitat restoration. The ability to release water from storage to make available to SWP and CVP water users is dependent upon the capability of the reservoir to store adequate water to meet: 1) instream releases, especially with cold water to protect aquatic resources, and 2) Delta outflow requirements, including flows to maintain freshwater conditions in the western Delta (as described in Chapter 8, Water Quality). Impacts related to changes in Delta outflow and SWP/CVP upstream reservoir storage are relevant to a variety of beneficial uses, and thus specific impact analyses are provided in those related chapters, including water quality (see Final EIR/EIS Chapter 8, Water Quality), conditions for fisheries (see Chapter 11, Fish and Aquatic Resources), recreation (see Chapter 15, Recreation), and hydroelectric generation potential (see Chapter 21, Energy).
1802	218	The description of operations and maintenance of the Proposed Project tunnel conveyance facilities do not include disposal of contaminated water from water stored in tunnels during nonoperational periods. Water in the tunnels during periods of no diversions and water with extended periods in the tunnel from low diversion periods (500 cfs will result in a one week transit time) will have all the oxygen consumed from the water from biological oxygen demand. This will happen quickly in the nutrient rich and biologically active water diverted from the Sacramento River. Microbes will consume the oxygen and plankton that dies from lack of sunlight will consume additional oxygen as it decomposes. Once the oxygen is depleted the water will go anaerobic and anoxic. It will form taste and odor components that will make the water in the tunnel unsuitable for drinking water without significant water treatment. The anaerobic conditions will methylate the mercury in the water and accumulated in the tunnels creating a human and animal health hazard and a disposal and treatment problem for the CVP/SWP. The State Water Resources Control Board 401 permit for the project should thoroughly address this water quality degradation and discharge issue and waters from the tunnel should not be allowed to be discharged into the delta or the CVP/SWP canals until it is treated to appropriate waste water disch [COMMENT CUT OFF]	The commenter is concerned with two water quality conditions in the tunnels, one in which no diversions are occurring, the other in which low level pumping is occurring, resulting in a long transit time in the tunnels. The comment claims that adverse water quality conditions relative to dissolved oxygen would occur under both conditions. The extent of water quality degradation is dictated by a number of factors, consequently the claims that unacceptable anoxic conditions will develop in the tunnels cannot be made with certainty. The commenter also states that due to anaerobic conditions microbially mediated mercury methylation will occur, posing a human and animal health hazard; however this is not likely to impact downstream water uses due to demethylation. Low-level pumping would occur most of the time, given sufficient flows at Freeport (See Chapter 3 in the FEIR/EIS for information on operation criteria at the NDD). Water will enter the tunnels highly oxygenated and flowing, and transferred water would mix with aerated water at each of conveyance intakes, at the intermediate forebay, and upon entering the CCFB. In addition, water exported south of CCFB would be pumped and transported through pipelines and open channels (up to several hundred miles depending on the SWP service area), providing conditions that are conducive to increasing dissolved oxygen levels. For the condition in which pumping is at low levels, it is likely there would be some ongoing decay and consumption of oxygen due to biological demand during these longer transit times. The degree to which this occurs and will have an adverse effect when diversion operations increase depend, in part, on how much settling of organic matter is achieved prior to increased tunnel diversions, what the biological oxygen demand (BOD) is of water in the tunnels, and other factors related to the water itself, such as temperature and abundance and composition of the bacterial community. Anaerobic bacteria communities specialized to degrade BOD in an anoxic environment grow slowly, and will be flushed and scoured (but perhaps not completely) from the conveyances during high flow such that the communities are minimized or do not result in adverse water quality impacts during subsequent low and no-flow periods. If conditions do become anaerobic in the tunnels during periods of low-level pumping, methylation of mercury may occur, however upon reentry into an open waterbody or introduction of oxygen into the

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			system, aerobic bacteria will reverse the process via demethylation. This turnover can happen quite rapidly (Hintelmann et al. 2000), and thus methylmercury concentrations in the CCFB should not be affected. For additional information regarding project effects on mercury concentrations in the export services area, please refer to Chapter 8, Water Quality, Impact-WQ 13. Mercury concentrations under Alternative 4A at the export pump locations show decreases relative to Existing Conditions (between 8% and 14%, depending on the model equation used) and relative to the No Action Alternative (ELT) (9% to 15%). In summary, the resulting water quality in the tunnels may see some oxygen depletion due to BOD in the water; however, it is unlikely that the BOD will be sufficient to result in anoxic conditions that result in unacceptable water quality conditions claimed in the comment. Moreover, dilution of tunnel water at CCFB, exposure to air during open channel export, reentry into downstream, forebays, and convntional drinking water treatment by downstream agencies will significantly attenuate any water quality concerns. Since the water in the tunnels will be aerated and mixed with highly oxygenated water along its course, at each of the project intakes as well as at the intermediate forebay, methylated mercury that does form over the course of water transit will become demethylated upon reentry into an aerobic environment at CCFB. Source: Hintelmann, H., Keppel-Jones, K., Evans, R.D., Constants of mercury methylation and demethylation rates in sediments and comparison of tracer and ambient mercury availability. 2000. Environmental Toxicology and Chemistry 19:9 (2204-2211).
1802	219	Covered activities do not include maintenance of all facilities that the BDCP will have to take responsibility for in perpetuity. The BDCP has proposed a number of actions that will require them taking over responsibility for facilities maintenance for the life of the project. In other cases, mitigations are responsibilities of the project in perpetuity. These obligations of the project to maintain facilities for the life of the project or in perpetuity include: relocated diversions of other affected surface water rights holders (e.g. Barker Slough and other Cache Slough intakes proposed to be relocated, surface water diversions on the Sacramento River that are moved or replaced due to the footprint of the intake facilities, maintenance of fish screens that are installed on surface water diversions (CM), and replumbed delta Reclamation Districts that have their water supply and drainage ditches disrupted by BDCP conveyance, tunnel muck disposal and habitat restorations (e.g. Andrus Island). The BDCP has failed to identify, characterize, quantify or disclose these needed covered activities for maintenance of other facilities. The BDCP document is incomplete and deficient. Once these glaring omissions have been rectified, these will be material changes to the document that will warrant it being recirculated for p [COMMENT CUT OFF]	The level of information provided in the EIR/EIS is adequate for Environmental Analysis. Please see Master Response 2. The Lead Agencies 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 Final EIR/EIS. For construction assumptions Please refer to the Final EIR/EIS, 3C.
1802	220	The BDCP EIR/EIS states, "This covered activity would also include improvements and routine maintenance of the Fremont Weir and Yolo Bypass..." Fremont Weir and Yolo bypass are USACE facilities. The BDCP does not have jurisdiction, permission or even a letter of agreement from the USACE authorizing them to modify/improve/maintain these facilities. Since the BDCP does not have authority, jurisdiction or authorization to modify these facilities and seems to have made no material effort to obtain them, the agencies utilizing the EIR/EIS document to support decision making regarding issuing permits, the EIR/EIS should not be considered as providing adequate assurances that the BDCP will or even can fulfill its promises. Without consent of the USACE at this stage of the project for these modifications and maintenance activities, the agencies issuing permits should assume that the BDCP will not receive these permissions and therefore any potential contribution to conservation of species for conservation	As previously noted, the Lead Agencies will coordinate planning, engineering, design and construction, operation, and maintenance phases of the alternative with the appropriate agencies.

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		measures related to these facilities should be discounted and attributed with no contribution to species conservation.	
1802	221	The BDCP EIR/EIS states, "This covered activity would also include improvements and routine maintenance of the Fremont Weir and Yolo Bypass..." The BDCP description of covered activities of these facilities is incomplete, misleading and is inadequate in level of detail to merit issuance of coverage under permits. As an example, the BDCP document does not identify, characterize, quantify or disclose the amount, timing, type, frequency and locations of dredging to maintain the channel approach to the fish ladders from the river and for the channels leading from the bypass to the fish ladders. High flows can regularly erase these channels that are required for fish passage to be functional and dredging could be required on an annual or even more frequent basis. Dredging is a high impact activity and the BDCP provides no detailed description of these activities sufficient to allow any meaningful analysis or disclosure. Further, the BDCP provides no measures to avoid, minimize, or mitigate the significant impacts that always occur with dredging of any level of scope. The BDCP EIR/EIS is incomplete in its analysis and disclosure, is deficient and requires this additional analysis, should be recirculated after this analysis is completed and should not be provided with coverage of these activities without the additional level o [COMMENT CUT OFF]	Please refer to Master Response 2 regarding project vs program level of detail in the analysis. Also, as previously state, Alternative 4A is the new preferred alternative and no longer includes Conservation Measure 2.
1802	222	The 75940 Federal Register / Vol. 78, No. 240 / Friday, December 13, 2013 states that the covered activities are only "in the Sacramento- San Joaquin Delta (Delta) and vicinity." Either the BDCP covered activities are only in the Sacramento-San Joaquin Delta (Delta) and vicinity or the BDCP is in direct conflict with the Federal Register Notice. The CVP/SWP conveyance and facilities in the San Joaquin Valley, Central Coast, South Sierra Foothills and Tehachapi's and south cannot be considered in the vicinity of the delta and therefore the proposed covered BDCP activities do not address the maintenance and operations in these areas. Without coverage for operations and maintenance activities in these areas, the BDCP will still be in violation of the permitting requirements for the project. The lead and responsible agencies should not issue permits for the CVP/SWP for operations and maintenance in these service areas that are specifically excluded in the covered activities area according to the Federal Register Notice.	The BDCP Plan Area is defined by the boundaries of the legal Delta with the addition of the Suisun Marsh area. The EIR/EIS project area includes the Plan Area, upstream of the Delta region and the SWP and CVP export Service Areas because some of the effects of implementing the BDCP or its alternatives would extend beyond the BDCP Plan Area. The analysis in the EIR/EIS includes impacts to Delta outflows, which ultimately reach the San Francisco Bay. More information on how the San Francisco Bay was considered in the EIR/EIS are provided in Master Responses 14 and 17. For a discussion of the EIR/EIS Project Area please also see section 1.5 in Chapter 1 of the Final EIR/EIS. For a discussion of permitting, please see Master Response 45.
1802	223	The 75940 Federal Register / Vol. 78, No. 240 / Friday, December 13, 2013 states that "take authorization of covered listed species would be effective at the time of permit issuance." Since no actions by the project to conserve or restore the species will have been implemented at the time of permit issuance, what is the justification for NMFS and FWS to have the species coverage effective as of the permit issuance? It would be more defensible for the agencies to establish performance/project implementation thresholds for the effective Incidental Take Permit (ITP) coverage. Additionally, DWR and Reclamation have not yet implemented the Reasonable and Prudent Alternatives (RPAs) that the National Marine Fisheries Service and FWS Biological Opinions (BO) required in order for the CVP/SWP to avoid jeopardy of listed species. Until those RPAs are implemented, by the BO definition, those species populations remain in jeopardy. An ITP should not be issued until the BO RPAs have been completed and there is sufficient certainty of conservation benefits to the species before the ITP coverage should come into effect.	The timing of when ITPs become effective for the new preferred alternative, Alternative 4A, is a decision made by the regulatory agencies, not DWR and Reclamation.

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1802	224	The 75940 Federal Register / Vol. 78, No. 240 / Friday, December 13, 2013 states that, "The Applicants seek 50-year incidental take permits for covered activities within the proposed Plan Area. The Plan Area encompasses the Delta and additional areas in which conservation measures may be implemented pursuant to the Plan." The Plan Area defined in the EIR/EIS does not include the CVP/SWP reservoirs or tributaries upstream of the delta, nor does the document address any impacts of the CVP/SWP that are currently occurring in these areas or would result from the proposed project or alternatives. As a result of the exclusion of these geographic areas from the EIR/EIS and impact analyses, the Incidental Take Permits and any other permits issued to the BDCP cannot be not inclusive of the reservoirs and upstream tributaries.	Please see Master Response 25 regarding upstream reservoir operations. Also, see response to comment 1802-202.
1802	225	There is insufficient information on the design, function, size, location, timing, sequence of implementation and combinations of habitat restoration actions to evaluate the effects on species even at a programmatic level. As an example of the deficiency of the description of the proposed aquatic habitat restorations, the current descriptions do not identify and are insufficient to determine if the aquatic habitat restorations would be sediment sinks or sources. This is an important water quality impact factor, so without this necessary level of detail, the potential impact of the proposed aquatic habitat restorations cannot be determined. There are additional deficiencies in the description of the aquatic habitat restorations that do not describe the depth of water and rates circulation. This information is required to evaluate if the aquatic habitat restorations would promote mercury methylization impacts. Since these questions can't be determined, even at a programmatic level based on the level of description of the habitat restoration measures, the agencies cannot justify issuing permits on the BDCP project or credit these habitat restorations with contributions to conservation.	Please refer to Master Response 2 regarding project vs program level of detail in the analysis. Also, as previously noted, the new preferred alternative (4A) does not include an HCP and thus substantially less habitat restoration would occur than under Alternative 4.
1802	226	Aquatic habitat restoration plan level of detail is insufficient to allow any meaningful analysis of environmental effects or understanding of interactions of these actions with the CVP/SWP operations. The BDCP does not describe or disclose the proposed aquatic habitat characteristics in a level of detail sufficient to support the evaluation of the nature and magnitude of impacts from these actions. The BDCP description of these actions does not disclose water depth, substrate, in-situ and mobilized contaminants, channel complexity, turbidity, food base, hydraulic characteristics of tidal interchange, time requirements for habitat functionality to develop after implementation (habitats are not immediately functional and channel and vegetation equilibrium will not be reached for years or even decades), and hydraulic complexity development. Without these specific descriptions of the proposed aquatic habitat restorations, there cannot be an appropriate evaluation of methylization of Hg, turbidity, Dissolved Oxygen, concentration of salts and other water quality constituents from evaporation and transpiration, habitat type and quality, contribution to species conservation, and other water quality impacts. The BDCP description of the proposed aquatic habitat restorations and their analysis of them are deficient and are insufficient to support issuance of incidental take permits.	Please refer to response to comment 225 within this comment letter, above.
1802	227	Habitat restorations proposed in the BDCP as part of the project are being analyzed in separate environmental documents from the BDCP EIR/EIS. Dutch Slough and McCormick/Williamson Tract are both habitat restorations proposed for	Habitat restoration at these sites is occurring as a part of separate actions, unattached to the BDCP and the new preferred alternative. Also, please note that the originally proposed habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21) would not be included as part of the preferred alternative, except to the extent required to mitigate significant environmental effects under

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		near-term habitat restoration as part of the BDCP, but those project environmental impacts are being evaluated in separate documents. This separation of project components for separate environmental analysis is piece-mealing which is illegal. If these restoration actions are to be included in the BDCP, the other environmental documents should be incorporated in their entirety into the BDCP EIR/EIS and their impacts integrated with the impacts of the rest of the BDCP proposed project. Other near-term habitat restorations should also be included in the BDCP EIR/EIS at a project level of analysis and not carried forward in separate environmental document/planning processes in order to avoid additional piece-mealing.	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.
1802	228	The timing, sequence and combination of potential habitat restoration has been left too vague to be functional to determine impacts or benefits to specific species. As an example, if all of the intertidal habitat restoration were to occur in the Cache Slough complex all at one time, it would have a very different impact on water quality and value to specific species than if the same amount of intertidal habitat was implemented in the eastern delta. In order for an adequate evaluation of the impacts of the proposed project aquatic habitat restorations, to characterize the effects on and interactions with those restorations on CVP/SWP operations and determine the temporal distribution of contributions to conservation by species, the BDCP EIR/EIS document is deficient, should be revised to include and analyze this level of detail and should be recirculated after these material changes have been made.	Please refer to Master Response 2 regarding project vs program level of detail in the analysis. Also, as previously noted, the new preferred alternative (4A) does not include an HCP and thus substantially less habitat restoration would occur than under Alternative 4.
1802	229	Incidental Take Permits should be issued with specific expectations about the timing, magnitude, location and characteristics of habitat restorations. If the implementation of the project does not conform to the scenario of habitat restoration that was analyzed and the impacts disclosed for, then the agencies would not be justified in the issuance of take permits.	Incidental Take Permits (ITP) issued via Section 10 of the Federal Endangered Species Act (ESA), and Section 2081 of the California Endangered Species Act (CESA) and related Natural Communities Conservation Plan (NCCP) are based on the Habitat Conservation Plan (HCP) program goals and objectives, success criteria, and performance standards. Implementation is supervised and authorized by the regulating agencies, and their staff approves location and design of restoration sites as they are developed to insure they meet program goals and objectives. Implementation cannot occur prior to the issuance of take permits. If restoration does not meet the plan's (and permits') requirements, an adaptive management plan is implemented. If that fails to meet take permit requirements, the permit may be amended or de-authorized. There are specific expectations identified in the ITP application for timing, magnitude and characteristics of restoration. Exact locations cannot be identified in an ITP, for if an identified location could not be restored, or the agencies determined it was not an appropriate site after issuance of the take permit, the project proponents could not implement the conditions of the permit; flexibility is needed as restoration progresses, to identify the best locations for restoration as new and best science is developed.
1802	230	The Incidental Take Permits should not be effective until a targeted amount of species conservation and recovery have been implemented and the function and contribution to recovery verified through monitoring and evaluation of the project. A commitment by the BDCP does nothing to actually benefit the species until the related actions are implemented and verified as successful in contributing at their planned level of contribution to conservation of the proposed covered species. The Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives for the CVP/SWP (not yet implemented by DWR and Reclamation) are designed to avoid jeopardy for the current CVP/SWP project and operations. Until the BDCP delivers the actual planned conservation benefits to the proposed covered species, there is no justification for the agencies issuing ITPs.	Please refer to response to comment 229 within this comment letter, above. Also, as previously noted, the new preferred alternative (4A) does not include an HCP and thus substantially less habitat restoration would occur than under Alternative 4.

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1802	231	The Biological Goals and Objectives are not specific enough to support the use of adaptive management and there are no specific quantitative threshold condition triggers for adaptive management changes. The BDCP proposes goals for various conservation measures and monitoring programs, but there are no meaningful or functional triggers for adaptive management either to end a program, modify a program or escalate a program. The goals the BDCP proposes, such as juvenile salmonid escapement improvements or improvements in reduction of predation related to the south delta operations are levels of improvement and survival that are not practical to monitor at a level of accuracy that is scientifically defensible. There is not a single study that has ever been published on juvenile escapement survival that is statistically defensible to a population or survival rate within a margin of error of plus or minus 10% or less. Yet BDCP goals and adaptive management program criteria are proposed for levels of improvement that are less than this - see following comment. These BDCP adaptive management proposals are unimplementable at the level of detail, resolution and statistical defensibility. The BDCP should revise their conservation measure goals and adaptive management triggers such that they are practicably monitorable in a statistically defensible and accurate manner s [COMMENT CUT OFF]	The Adaptive Management Program is intended to provide a process for addressing uncertainty associated with the effectiveness of management actions taken to prevent jeopardy and adverse modification of critical habitat to federally listed species and to prevent jeopardy and minimize and fully mitigate effects on state listed species from the proposed project and related actions. Please refer to Master Response 33 regarding adaptive management and monitoring, and Master Response 2 regarding project vs program level of detail in the analysis.
1802	232	Methods proposed to measure habitat and species population conditions are not accurate enough to measure the improvements that are set in the biological goals and objectives. As an example, it is infeasible to measure with a statistically defensible reliability, a 75% fish survival from salvage operations or a 2% increase in juvenile salmonid escapement.	Effectiveness monitoring would document the performance of project elements relative to design expectations. On a longer timeframe of months and years, adaptive management would be used to further adjust and fine tune operations based on long-term monitoring and other data. Please refer to master response 44 regarding the Decision Tree Approach, and Master Response 33 regarding adaptive management and monitoring.
1802	233	The project is implementing a number of conservation measures simultaneously that are intended to benefit the same species that the project proposes to adaptively manage. Even if the project could measure the biological performance of these conservation measures, how does it propose to determine which concurrently implemented conservation measures are working and which ones have failed and are not contributing to conservation and recovery? Unless this question can be answered, the BDCP cannot successfully adaptively manage the proposed project actions and therefore the credit attributed to the adaptive management of these actions for contribution to conservation should be discounted and not contribute to the justification for the issuance of Incidental Take Permits.	Please see Master Response 33 regarding the BDCP adaptive management and monitoring program. Note that Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal.
1802	234	Adaptive management of conservation actions has been repeatedly identified by the BDCP as a (false) assurance of an conservations measures contribution to conservation. The potential adaptive management changes to the conservation measures were not sufficiently defined as allow analysis of those contingencies nor did the BDCP EIR/EIS include an analysis of the impacts of those adaptive management programs. Near term habitat restoration conservation measures are proposed by the BDCP and they seek construction level permits to implement them, but they do not analyze the potential adaptive management impacts of those actions. This means these near-term actions have not been fully analyzed and do not warrant issuance of construction level permits. Since the adaptive management measures are core to the BDCP assurances of achieving contribution to conservation, the adaptive management measures should not be subject to analysis in a subsequent environmental document unless the permits related to implementing the conservation measure are also dependent upon that subsequent environmental document.	As noted previously, Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal. Details of the implementation schedule and a discussion of the adaptive management strategy to be used by the lead agencies in implementing and monitoring the success of the conservation measures under BDCP is outlined in BDCP Chapter 6, Plan Implementation. A discussion and comparison of adaptive management and monitoring approaches between BDCP and the non-HCP alternatives, including Alternative 4A, is provided in Chapter 4, Approach, in the Final EIR/EIS.

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		In order to remedy this deficiency of the current document, the BDCP should provide adequate level of detail of adaptive management measures for these near and mid-term habitat restoration conservation measures an [COMMENT CUT OFF]	
1802	235	The BDCP proposed project is unclear on if a conservation measure fails to meet objective if the program is terminated or not. There are environmental impacts from continuing programs and there are losses of benefits from discontinuing programs even if they are only partially successful. The BDCP has not defined how, when, why or any other details regarding the cessation of conservation measures that are purportedly adaptively management. If you cannot even define how, why or when a program would or would not be terminated, how can you claim you are adaptively managing it?	See BDCP section 3.4 for description of conservation measures. For each measure it is stated what would be done if the measure does not perform as expected. Please see Master Response 33 regarding BDCP conservation measures, and the adaptive management and monitoring program. Note that Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal.
1802	236	The level of detail (and lack thereof) describing potential adaptive management actions and specific triggers (and lack thereof) for adaptive management implementation do not provide a sufficient level of certainty sufficient to support permitting. The BDCP proposed project does make it possible for them to cancel many of the proposed conservation measures even though they failed to provide clear triggers for this. With the possible cancelation of so many of the proposed conservation measures the agencies must evaluate how much contribution to recovery would remain for each proposed covered species if the BDCP were to terminating all of the conservation measures that the plan would allow them to do. If they were to cancel all of the conservation measures the BDCP proposed project allows them to there would be little remaining to contribute to species conservation and no justification for the agencies to issue Incidental Take Permits (ITPs). Since this is a possible or even likely outcome given the uncertainties of the performance of the proposed conservation measures and the limitations to the accuracies of the proposed performance monitoring methods, the agencies cannot be justified in issuing the ITPs.	Please see Master Response 33 regarding BDCP conservation measures, and the adaptive management and monitoring program. Note that Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal. 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 (CSAMP) developed for Alternative 4A would not, by itself, create nor contribute to any new significant environmental effects; instead, the CSAMP would influence the operation and management of facilities and protected or restored habitat associated with Alternative 4A.
1802	237	The BDCP EIR/EIS Executive Summary states, page ES 25 that "Because the BDCP No Action Alternative assumptions are consistent with the requirements and limitations prescribed by CEQA, the No Action Alternative also represents the No Project Alternative." The baseline timeframes of the No Action and No Project are not the same and require different assumptions regarding what the CVP/SWP operational commitments and requirements and climate change. Plans and programs which do not exist in the No Project, but are easily and reasonably foreseeable in the No Action condition do have operational and other related environmental affects that interact on the CVP/SWP operations and with the direct, indirect and cumulative impacts of the BDCP Proposed Project. The No Project definition should contain all existing operating commitments of the CVP/SWP and all other approved and reasonably foreseeable plans, programs and policies at the time of the issuance of the Notice of Preparation (2009) and should not include climate change assumptions. The "future" No Action incorporates all of the assumptions of the No Project plus additional conditions that can be anticipated at the future date(s) which would include implementation of additional plans, projects and policies; climate change; and conditions, e.g. future drawdown of groundwater in CVP/SWP service areas and future groundwater quality in CVP/SWP s [COMMENT CUT OFF]	The Existing Conditions and No Action Alternative scenarios include the RPAs; therefore, there would be no significant impacts under existing conditions. However, when climate change is added to existing conditions (the NAA_ELT scenario), climate change would cause effects (see the No Action Alternative analysis in Chapter 11, Fish and Aquatic Species). This section describes that the existing conditions scenario does not include climate change, whereas Alternative 4A scenario does include climate change. In order to make an apples-to-apples comparison of a scenario with and without the alternative, climate change must be removed. For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the Final EIR/EIS. For more information regarding Environmental Baselines please see Master Response 1.
1802	238	The interim period definitions of the No Action are incorrect and inadequate to appropriately identify and disclose the impacts of the BDCP Proposed Project and	The implementation process and schedule would be coordinated, to the extent possible, to ensure that the proposed BDCP would be phased in a balanced manner so that sufficient environmental commitments (e.g.,

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		alternatives. The BDCP project goes through several distinct phases of implementation and therefore has environmental affects that change significantly during the implementation period of the Proposed Project. There is an initial period of the proposed project where it has proposed some limited scope habitat restorations and will be destroying and disturbing habitat in the construction of the conveyance facilities. These impacts should be considered the first near-term analytical milestone in the project as it appears likely that the BDCP project will result in a net negative affect on species during this period. The Proposed Project (HCP/NCCP) should never result in a condition that is a net negative on the species it is supposed to protect and restore or the incidental take permits should not be issued to the BDCP. The initiation of operations of the conveyance would be the next appropriate analytical milestone for analysis and next date a No Action definition should be established. This second No Action interim period would isolate the impacts of implementing the proposed conveyance operations. By isolating the implementation of the proposed operations from the near-term and mid-term p [COMMENT CUT OFF]	Best Management Practices [BMPs]) and mitigation are implemented before or concurrent with Conservation Measure (CM) 1 Water Facilities and Operations and related actions. Please refer to Chapter 4, Approach, in the Final EIR/EIS for more details.
1802	239	Habitat restoration actions that are part of the No Action condition are included as Conservation Actions in the BDCP proposed project. Habitat restoration actions that are required from the 2009 Operational Criteria and Plan Biological Opinions are included in the description and scope of the Proposed Project Conservation Measures. Almost 5 years after the Reasonable and Prudent Actions (RPAs) of the OCAP Bos became the law, DWR and Reclamation have made no tangible progress at all in implementing these measures - see related comments. The BDCP has correctly included some of the RPAs into their No Action definition, but left other RPAs out, e.g. reoperate Shasta flood reserve and fish passage at all dams - see related comments. The BDCP definition of their conservation measures includes the scope of some of the RPAs, e.g. CM2 and CM5. The scopes of these conservation measures are inclusive of the requirements of the RPAs, but are not the same as the RPAs. The BDCP has muddied the comparison of the Proposed Project to the No Action by incorporating No Action restorations into the Proposed Project. To make a clean and appropriate comparison, the BDCP should have excluded the RPAs from their Proposed Project. The BDCP should have made a category of "Current Project Obligations Not Yet Implemented". This way the N [SENTENCE CUT OFF] The smelt will not benefit from the shallow water rearing habitat because it is too shallow to be suitable for smelt habitat and does not generate food base for them. The smelt would incur an net negative impact from this example habitat restoration from the increased predator pressure. This example is a very real risk associated with the Yolo Bypass and Cache Slough restoration actions proposed by the BDCP as some of the highest populations of smelt have been observed in this geographic area under the current (un- BDCP restored) conditions. When aquatic habitat is first inundated, as in when a aquatic habitat restoration is first implemented, there is a net negative on fisheries conditions. This phenomenon is well documented with levee breaks and flooding of islands. The amount of potential habitat is increased with the initial inundation, but the habitat functioning has not occurred (no local food base generation, broken food chains) and water quality conditions are very poor (high turbidity, dissolved oxygen sags or crashes, mobilized contaminants, etc.). Fish that are sucked into the new inundated area are subjected to reduced quality of habitat and reduced food ba [COMMENT CUT OFF]	As the NEPA baseline, the No Action Alternative, sometimes referred to as the future no action condition, considers no action conditions to include continuation of operations of the SWP and CVP as described in the 2008 USFWS and 2009 NMFS BiOps and other relevant plans and projects that would likely occur in the absence of project actions and which are well-defined enough to allow for meaningful analysis. For more information regarding baselines and the No Action Alternative please see Chapter 3 of the FEIR/EIS and Master Response 1. The Recirculated Draft EIR/Supplemental Draft EIS released in 2015 introduced a new preferred alternative, 4A, which does not include a HCP or conservation measures. The alternative implementation strategy allows for other state and federal programs to address the long term conservation efforts for species recovery in programs separate from the proposed project. Discussions of the main environmental attributes affecting individual covered species are provided in Appendix 2.A of the 2013 Public Draft. Effects of the proposed water conveyance and associated restoration activities on general resource areas are discussed in Ch. 4 of the RDEIR/SDEIS. Resource areas are addressed separately under sections for each of the new project Alternatives, including fish and aquatic resources. Where impacts are determined to be significant, environmental commitments will be implemented to avoid and/or offset these effects, where possible. Please refer to Master Response 5 for additional discussion regarding restoration benefits.

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1802	240	The BDCP Proposed Project/Action includes some actions that are part of the No Action condition but that have not yet been implemented in the No Action nor do those actions have coverage by any other previous environmental document or analysis. By including No Action/Project elements into the BDCP Proposed Project/Action (e.g. CM2 and CM5), the BDCP has muddied the clarity and the purpose of a comparative environmental analysis to isolate and disclose the impacts of implementing proposed project actions. The BDCP Proposed Project (alt 4) and alternatives CM2 incorporates 8,000 acres of aquatic habitat restoration that are mandated by the OCAP Biological Opinion from 2009. In the example of CM2, the BDCP No Action/Project should have included the 8,000 acres of aquatic habitat restoration in the No Action and proposed and described any additional habitat restoration in the proposed project as separate and in addition to those 8,000 acres. The same goes for the misrepresentation of the No Action component of CM5. DWR and Reclamation have abused their agency discretion by combining unimplemented No Action/No Project condition actions with the BDCP Proposed Project and alternatives.	Please see response to comment 239 within this comment letter, above.
1802	241	The BCDP is proposing that the unimplemented actions from the 2009 FWS and National Marine Fisheries Service Operational Criteria and Plan Biological Opinions, which are part of the No Action condition, are covered by this EIR/EIS document sufficient to support issuance of related permits for construction and maintenance of these facilities and habitat restorations. The covered activities described in the BDCP EIR/EIS include implementation and maintenance activities for actions that are included in the No Action condition. The BDCP is seeking coverage for these activities because these actions are not covered by any existing environmental document impact analysis or by existing permits. The problem with the approach taken by the BDCP on this is that the BDCP has not proposed any avoidance, minimization or mitigation measures for the significant impacts associated with implementing these actions. As an example, fish passage at Fremont Weir, a 2009 OCAP BO RPA, is included in the BDCP proposed CM2. Construction of the fish passage and periodic dredging maintenance of fish passage channels (see related comment) have significant impacts which the BDCP has not proposed any avoidance, minimization or mitigation measures to address. There are many other examples of unimplemented No Action actions that are incorporated into the Proposed Project that have significant impacts which the BDCP has not proposed avoidance, minimization and mitigation measures for.	The level of analysis is sufficient to provide an appropriate comparison between the action alternative and the NAA and doing the deeper level of analysis would not help elucidate the impacts of the preferred alternative. Also, there is no action being undertaken by the project proponents in the NAA. Therefore, there is no requirement to mitigate for any effects. For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the Final EIR/EIS.
1802	242	Reclamation is developing an EIS to address the environmental impacts of the CVP from the Remand of the 2009 Operational Criteria and Plan Biological Opinions, but DWR has not provided any notice that it intends to do a similar EIR analysis of the SWP impacts. Reclamation is conducting the Remand EIS due to a court order that was issued almost 2 years ago. The CVP and SWP operations are coordinated, so the court orders to modify CVP/SWP operations and the environmental impacts of these actions apply equally to the SWP operations. DWR needs to develop an equivalent EIR to address the Remand on the SWP operations and impacts. DWR and Reclamation should address the impacts of implementing the 2009 OCAP BO Reasonable and Prudent Alternatives in these documents so that the impacts of implementing these actions can be clearly defined for the BDCP No Action and that appropriate avoidance, minimization and mitigation measures can be developed to address the significant impacts of these actions. With this approach (and by	Please see Appendix 3D in the FEIR/EIS for a description of on how and why certain projects and programs were included in the No Action Alternative and Existing Conditions baseline conditions, including the inclusion of previous biological opinion requirements. The development of BDCP/CWF baselines are consistent with CEQA and NEPA guidelines, which do not necessitate the need to complete a remand EIR/EIS prior to recirculating a BDCP/CWF EIR/EIS. Furthermore, Reclamation has recently requested reinitiation of consultation with USFWS and NMFS on the Coordinated Long-term Operation of the CVP and SWP. Potential changes to CVP and SWP operating criteria and adjustments to existing RPA's under the NMFS (2009) and USFWS (2008) Biological Opinions through this process will be included in future BDCP/CWF operations, in addition to the new criteria proposed under the BDCP/CWF.

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		complying with the court order to conduct the environmental analysis in a timely manner) the BDCP can clean up the No Action baseline/Proposed Project conflicts that were identified in the preceding two comments. The Remand EIS and EIR documents should be completed prior to the recirculation of the BDCP EIR/EIS.	
1802	243	Judge Wanger's Remand on the Operational Criteria and Plan Biological Opinions has modified the Fall X2 and reverse flow criteria on Old and Middle Rivers but it did not set aside the other existing DWR Reasonable and Prudent Alternative obligations from those BOs. There is no evidence that DWR or Reclamation has engaged in any good faith efforts to comply with the existing OCAP BO RPA project requirements. The OCAP BO RPAs are existing obligations of the SWP and CVP and are part of the baseline condition of the BDCP. Some of the RPAs have operational implications (e.g. tributary flows, reservoir cold water pool availability and delta water quality), but the BOs do not contain sufficient specificity of the design and operational characteristics of the RPAs for these baseline conditions to be accurately modeled. DWR and Reclamation's missed deadlines in fulfilling their current BO baseline obligations by applying a best faith effort to develop and implement them are compromising the baseline modeling assumptions of the BDCP. The BDCP only analyzed the OCAP BO RPA aquatic habitat restoration actions at a programmatic level of detail when if DWR and Reclamation had not missed their deadlines for developing project level descriptions per the BO, the BDCP would not be analyzing these actions at an insufficient level of detail. and so that the BDCP baseline modeling assumptions are not fundamentally flawed and/or immediately obs [COMMENT CUT OFF]	As described in Appendix 5A, Section B, CALSIM II and DSM2 Modeling Simulations and Assumptions, CVP and SWP operations under the No Action Alternative are consistent with the 2008 USFWS BO and 2009 NMFS BO. All of the operational criteria under the BOs except Component 3, Fall X2, under the 2008 USFWS BO are included in the Existing Conditions assumptions (because Fall X2 had not begun to be implemented in 2009 near the time of the Notice of Preparation or Notice of Intent publication). Please refer to Master Response 1 for more information on environmental baselines used the analysis.
1802	244	DWR and Reclamation should make every effort to comply with the existing Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternative requirements so that they are in compliance with the law as it stands and so that the species are protected in the interim period until other potential conservation actions are developed and implemented. DWR and Reclamation waiting for the BDCP to be approved and implemented is not an acceptable excuse for not complying with the law. Once the OCAP BO RPAs are implemented, DWR and Reclamation (as well as NMFS and FWS) should monitor the level of protection and conservation achieved. Once the results of these actions are understood (after at least several years of monitoring), these learning's can be utilized to develop and propose a refined BDCP program if that program is even needed to conserve the fish species at that point. Proposing the BDCP project with such large impacts before even implementing mandated conservation actions from the OCAP BO RPAs and seeing what level of conservation actions would achieve does not stand the test of reason and is irresponsible and indefensible action on the agencies part. Until the current obligations of the CVP/SWP to protect species are fulfilled, the BDCP project should not be approved or issued incidental take permits.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. For additional detail on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of habitat restoration benefits, please see Master Response 5. Please see Chapter 1 for a discussion on the requirements of the 2008 and 2009 Biological Opinions that govern current operation of the CVP/SWP. Additionally, please see master response 45 regarding permitting. Please refer to response 83 regarding RPAs.
1802	245	The BDCP must have multiple baselines so that the impacts of the proposed project can be fully disclosed. The first baseline should be the No Action Alternative without the Biological Opinion Reasonable and Prudent Alternatives and the second would be a No Action Alternative with the BO RPAs. These baselines should be compared to each other so that the impacts of implementing the BO RPAs can be isolated and disclosed. No other environmental	Please refer to Master Response 5 for an in depth discussion of the environmental baselines used.

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		document has been released to the public to date that evaluates the impacts of the changes in operations from the BO RPAs on the CVP and SWP and therefore, the disclosure of impacts as the BDCP has currently defined their No Action scenario (with some RPAs included and some excluded) has not be evaluated or disclosed.	
1802	246	The BDCP has selected Alternative 4 as their preferred project even though it has significantly more adverse, significant and significant unavoidable impacts after mitigation than most of the other project alternatives, including and specifically the No Action alternative. See comments on the executive summary impact table. The No Action has significantly less impacts than the proposed project (alt 4) or any other alternative proposed by the BDCP. Because it has the least impacts of all alternatives, the No Action must be selected as the Least Environmentally Damaging Project Alternative (LEDPA).	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. For 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.
1802	247	According to the draft analysis Alternative 3 passed the alternatives development screening process and therefore has been qualified by the BDCP as sufficiently meeting the purpose and needs identified for the project. If the No Action Alternative is not selected as the Least Environmentally Damaging Project Alternative (LEDPA) because it does not "reasonably" meet of the project objectives and needs identified in chapter 2, then according to the draft analysis Alternative 3 must be selected as the LEDPA. According to the draft analysis Alternative 3 has significantly less impacts than alternative 4 and other alternatives which were given full analysis in the document. According to the draft analysis Alt 3 reasonably met the project needs and therefore if not the No Action, then according to the draft analysis Alt 3 must be selected as the LEDPA.	The alternatives included in the Final EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. For more information regarding development of alternatives and screening please see Master Response 4. The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Chapter 3 of the FEIR/EIS for detail on the alternative selection process.
1802	248	The 404, 408 and 401 permit processes will require the BDCP to implement the Least Environmentally Damaging Project Alternative (LEDPA) even if that is a different alternative than the Proposed Project. The EIR/EIS does not support the information needs of the 401, 408 or 404 permitting process because it does not identify the LEDPA alternative. As pointed out in previous comments, according to the draft analysis the No Action or Alt 3 must be selected as the LEDPA. The EIR/EIS must be revised to include a LEDPA analysis, or the U.S. Army Corps of Engineers and/or EPA must produce a subsequent EIS to support this required analysis.	Please see response to comment 247 within this comment letter, above. Please also see Master Response 28 and Master Response 5 for more information regarding operational scenarios and compliance with ESA respectively. For more information regarding permitting please see Master Response 45.
1802	249	According to the draft analysis Alternative 3 passed the alternatives development screening process and therefore has been qualified by the BDCP as sufficiently meeting the purpose and needs identified for the project. According to the BDCP EIR/EIS impact summary table in the executive summary, alternative 3 has significantly less impacts than the Proposed Project and other project alternatives. According to the draft analysis since Alternative 3 meets the project objectives (otherwise it would not have been included as an alternative in the EIR/EIS for full analysis) and alternative 3 has the least environmental impacts of the alternatives considered, then alternative 3 must be the Least Environmentally Damaging Alternative (LEDPA). If the EIR/EIS is approved by the lead, responsible and coordinating agencies and the project moves forward to seek permits for construction and operations, then the Environmental Protection Agency and U.S. Army Corps of Engineers can only issue permits on the LEDPA	The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on operations under the new preferred alternative. Please see Master Response 28 and Master Response 5 for more information regarding operational scenarios and compliance with ESA respectively.

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		alternative (alternative 3).	
1802	250	According to the draft analysis since Alt 3 met the screening criteria and reasonably met the purpose and need for the project and would be Least Environmentally Damaging Project Alternative (LEDPA) in comparison to the Proposed Project, the BDCP alternatives development process should have considered capacities lower than alternative 3 that would still meet reasonably the project purposes. Since the LEDPA is the lowest capacity alternative evaluated, the BDCP needs to analyze increments of capacity lower than alternative 3 so that the alternative that still reasonably meets the project purpose and need that is the true LEDPA is included for analysis in the EIR/EIS document. Without a full analysis of an alternative that has a lower capacity that turns out to have higher impacts than the other alternative capacities, the EIR/EIS is clearly deficient. The BDCP should have also provided rationale and disclosed what the lowest capacity would be that would qualify as reasonably meeting the project purpose and needs.	For more information regarding alternatives to the proposed project please see Master Response 4. For more information regarding purpose and need of the proposed project please see Master Response 3.
1802	251	The BDCP only analyzed one type and size of intake for the alternatives which contained north delta diversions. The BDCP EIR/EIS document is deficient because it did not consider permutations of the alternatives that evaluated alternative key components of the project. The impacts of in-river and on-bank intakes are different for different species and the EIR/EIS failed to evaluate those permutations of the alternatives. Alternative different sizes of intakes were also not evaluated. All of the north of delta intake alternatives utilized 3,000 cfs on-bank intakes. The larger size intakes have different affects for different species than smaller intakes. The BDCP alternatives should have included permutations of more smaller intakes than just the 3,000 cfs intakes. If two alternatives that were otherwise identical, save for the intake type and size, had been analyzed, then the impacts and benefits of these fundamental design components of the proposed conveyance could have been appropriately considered, analyzed, isolated and characterized, evaluated and disclosed. Without analysis and disclosure of these critical proposed project design features, the BDCP [COMMENT CUT OFF]	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 For more information regarding development of alternatives and screening please see Master Response 4. For more information regarding the physical components of each alternative please see Chapter 3 of the FEIR/EIS. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.
1802	252	The through delta conveyance alternative and dual (north and south delta) operations did not include a full range of south delta modification options. An EIR is required to include an in- depth discussion of those alternatives identified as at least potentially feasible. (Preservation Action Council v. City of San Jose (2006) 141 Cal.App.4th 1336,1350-1351; Citizens of Goleta Valley v. Bd. of Supervisors (1990) 52 Cal.3d 553, 569.) Designs for an isolated Clifton Court Forebay have been discussed many times by DWR and through the CALFED project, but these concepts discussed in the BDCP scoping process were not provided adequate consideration for inclusion in BDCP alternatives. Isolation of Clifton Court Forebay would reduce the magnitude of impacts on fisheries from south delta operations. Following is a description of an isolated Clifton Court Forebay facility that have been previously discussed and proposed. Move the trash racks of the intake at Clifton Court to outside of the Clifton Court operable gate. The trash racks will intercept debris coming in with the diversion water and serve as a behavioral deterrent to the fish to stay in the main channel as much as possible. Behind the trash racks would be a fish screen designed to keep larger size fish out of the isolated facility. This initial screen outside of Clifton Court Forebay should only pass smelt and juvenile salmonids. This screen would	15 alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. 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 For more information regarding development of alternatives and screening please see Master Response 4.

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		significantly reduce the exposure of juvenile salmonids and delta smelt to predation. The Clifton Court Forebay would be segmented by a new levee that would draw water from the outside channel di [SENTENCE CUT OFF] In order to achieve appropriate sweeping velocities at the criteria screen if the SWP was diverting 3,000 cfs, that the salvage pumps would be pulling and recycling 10,000 cfs. The fish salvage screens would need to be redesigned and larger to deal with the larger flows and fish handling, storage and release operations would need to be revamped as has been previously recommended in many previous meetings, projects and communications. Predation would be further reduced in the salvage process because captured juvenile salmonids and smelt would not be stored, shipped and released with predator sized fish. The 10,000 cfs that was screened and fish free would be discharged into the portion of the Clifton Court Forebay that is on the other side of the new conveyance channel. The discharged water re-enters the new conveyance channel through debris and fish screens that are installed in the north and east side of the conveyance channel levee. This recirculates the screened water through the conveyance channel and keeps all of the non-conveyance part of Clifton Court fish free. The recycled water also speeds the transit of the juvenile fish and smelt down the c [COMMENT CUT OFF]	
1802	253	The BDCP did not provide sufficient justification for the proposed conveyance facilities locations. Facilities location rationale and supporting documentation must provide rationale for why a facility that is condemning private lands must be cited in one location over another - this documentation and rationale has not been adequately done for the intake citing or canals/pipelines. Even a cursory review of the BDCP proposed north delta intake locations shows that historic buildings (e.g. Rosebud Mansion) and recreation areas (Merritt Landing) are directly affected by intake locations that could easily be shifted to avoid these impacts. Without sufficient justification for the location of the facilities and their lack of investigated alternatives to avoid and minimize impacts, the BDCP project should not be granted public condemnation of private properties.	Please refer to response to comment 252 within this comment letter, above.
1802	254	The BDCP EIR/EIS document says, "The intake locations listed represent those locations selected for the analysis of each BDCP alternative. Based on the results of an October 2011 workshop on the Phased Construction of North Delta Intake Facilities (see Appendix 3F, Intake Location Analysis), different combinations of intakes could be constructed under these alternatives. Once an alternative is selected as part of the final BDCP, a decision regarding intake locations will be made. " If different intakes are selected from the configuration that was analyzed in the EIS/EIR, then the document will need to prove that the tidal interactions and localized hydraulic affects are the same or less than what was analyzed or the models and analysis will have to be rerun so that the effects of the project are fully and appropriately disclosed. If the BDCP does select different intake locations or combinations of locations, or types and/or sizes of intakes that the configuration analyzed in the draft EIR/EIS, this will be a material change in the project that will require recirculation of the document for another public draft review.	The quoted text is taken from a footnote that is relevant to Alternatives 3, 7, and 8 only. For the majority of alternatives the intake locations are based on the Alternative selected. Please refer to Chapter 3 for more information on each of the alternatives analyzed in the Final EIR/EIS. If an alternative were ultimately selected that could result in additional impacts outside of the effects analyzed in this FEIR/EIS, supplemental environmental review may be required.
1802	255	The facility footprint of disturbance and other impacts (i.e. air quality) were not scaled to the various sizes of conveyance.	Each alternative is analyzed based on the Alternative's characteristics including the foot print of the proposed alternative and the actions included. Please refer to Chapter 3 in the Final EIR/EIS for a detailed description the Alternatives. In addition, effects on individual resources are addressed for each alternative in

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		The BDCP EIR/EIS impact analyses does not make clear the difference in magnitude of impacts from the various size/scale of facilities that are associated with different conveyance capacities and different conveyance designs. As an example, the footprint of disturbance for a 3,000 cfs set of tunnels is clearly smaller in magnitude than the footprint of disturbance for a 15,000 cfs tunnel. In the respective impact analyses, the magnitude of the difference in the impacts from the differing project footprint and operations was not adequately characterized and disclosed. The magnitude of these impacts is essential to characterize to correctly identify the Least Environmentally Damaging Project Alternative. As an example, both a 15,000 cfs and 3,000 cfs tunnel may both have Less-Than-Significant impacts to a resource, yet the project has not disclosed or properly characterized that in absolute magnitude the 3,000 cfs facility would have half of the impact on that resource as the 15,000 cfs facility. The BDCP impact analyses should be rewritten to more fully disclose the magnitude of impacts on the resources in comparison to each other in addition to the No Action and No Project.	their respective resource chapters, see Chapters 5-30 in the Final EIR/EIS. Each resource chapter in the Final EIR/EIS also includes a summary table of the impacts which compares in tabular format the magnitude of impacts across alternatives. Therefore, a reader can see that while two alternatives may have the same conclusion, how those conclusions may still differ in magnitude.
1802	256	The Central Valley Project Improvement Act (CVPIA) included an analysis of the amount of water that is required to be delivered to protect health and human safety. The BDCP failed to consider this water delivery amount as a benchmark water delivery quantity to determine reliability. When evaluating the proposed project, alternatives and no action scenarios of the BDCP, the EIR/EIS failed to include a critical impact criteria, which is, "How often does the project or alternatives fail to meet water deliveries to protect human health and safety?" This is the most fundamental criteria for reliability of the project and yet the EIR/EIS failed to analyze it.	The CALSIM II model delivered water to senior water rights holders, including in-Delta water users. However, the No Action Alternative and Alternatives 4H1, 4H2, 4H3, 4H4; 5; 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under Existing Conditions (shown in Tables 5-5 and 5-8). Similarly, Alternatives 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under the No Action Alternative (shown in Tables 5-6 and 5-9). It is assumed that water users would need to implement separate methods to reduce water demands or provide alternative water supplies in drier years, such as those methods currently used during droughts. It is important to note that the BDCP is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, storage, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage (as described in Section 1.C.3 of Appendix 1C, Demand Management Measures).
1802	257	Many types of project diversion operations were discussed in scoping and the project description development, including "Sip vs. Gulp", distributed intakes, and in-delta storage (e.g. Sacramento Deep Water Ship Channel). Steering Committee meetings included presentations on Sip vs. Gulp seasonal diversion operations (presentations and comments made by Jason Peltier and others) for the proposed project operations development and there were EIR/EIS scoping comments which addressed Sip vs. Gulp operations. A seasonal "gulp" operational strategy is important to the viability of the downstream storage alternative. Distributed intakes (north, south, east, central and west intake locations) and in-delta storage were also discussed during EIR/EIS alternatives scoping meetings. None of these alternatives concepts were addressed in the alternatives screening and development process and none of these concepts were represented in any of the alternatives analyzed in the EIR/EIS. The BDCP dismissed these alternative concepts without due consideration or application of consistent or defensible screening criteria. The BDCP must revisit these concepts that were submitted during the public scoping process, give them due consideration and full analysis as alternatives or components of alternatives in the EIR/EIS.	Please see Master Response 4 regarding the development of alternatives, including intake locations, and why an alternative focused on creating additional storage, either in the Delta or elsewhere, was not included in the proposed project.
1802	258	The BDCP will not fulfill their commitment to "restore 19,150 acres of tidal natural communities by year 10 of the project" (CM4). The EIR/EIS says that habitat restorations that occur after the near-term will be analyzed at a programmatic level of detail and will be subject to more detailed analysis in subsequent	As previously noted, Alternative 4A is the new preferred alternative and includes substantially fewer acres of habitat that would be restored/enhanced. Please refer to response to comment #1 within this comment letter regarding the change in direction under the new preferred alternative. Please refer to Master Response 5 for more information on the proposed implementation schedule under BDCP.

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		environmental document(s). No specific timeframe for these subsequent environmental documents is provided in the EIR/EIS. CM4 lacks detailed designs (necessary for surface water flood channel capacity analysis and flood risk assessment, aesthetics - see related comments); footprint of disturbance (necessary for terrestrial species, fish stranding and agricultural impacts - see related comments); operational plans (necessary for operations modeling, water supply impacts, water quality impacts, agricultural impacts - see related comments); Maintenance plans (dredging impacts on water quality and fisheries habitat); water rights (evaporation, transpiration and groundwater recharge consumption) have not been secured or the process to secure them defined and analyzed (necessary for water rights impacts - see related comments); the change in beneficial uses of water of those water rights has not been identified or evaluated (necessary for water rights and water supply impacts - see rela [SENTENCE CUT OFF] Given the BDCP process to date (7+ years and the project just released the first public draft), it would be exceedingly unlikely that the BDCP could complete a subsequent document in less than 5 years after the BDCP project was approved. Then there would be another two years of detailed design, contracting, permitting, etc. Allow at least 2 years for construction as there are seasonal constraints to construction of these CMs (e.g. smelt, Chinook salmon, sturgeon avoidance and minimization measures only allow in water construction periods from about May through August and terrestrial Greater Sandhill crane presence prohibits work during other times of the year). This means the earliest construction could be completed on CM4 using a subsequent environmental document would be in year 10 after BDCP approval. Note that the commitment of the BDCP is that the 19,150 acres would be "restored" by year 10 (the plan does not say "implemented by year 10"). Tidal natural communities, such as described in CM4, do not magically start to provide habitat values just because water was added to a parcel of land. Water quality needs time to come into equilibrium, plant co [COMMENT CUT OFF]	
1802	259	There are not different versions of conservation measures for different objectives. E.g. Prospect Island could be designed as foraging/food production rearing habitat for salmonids or for delta smelt. These two different habitat objectives and resulting habitat designs are incompatible and very different in terms of water depth, substrate, water quality (e.g. turbidity), sediment sink vs. source, location and size of levee breaches, intertidal hydraulic exchange volumes, etc. The BDCP has not defined which habitat restorations will be designed to benefit which species (or any specific habitat restoration plans at all), so an evaluation of project impacts and the level of contribution to conservation of species is impossible and therefore the BDCP EIR/EIS document is deficient.	Substantially fewer acres of habitat would be restored/enhanced under the new preferred alternative, Alternative 4A. However regarding the acres of habitat restoration that will occur to mitigate for project impacts, there are specific expectations identified in the Incidental Take Permit application for timing, magnitude and characteristics of restoration. Exact locations and design details cannot be identified in an ITP, for if an identified location could not be restored, or the agencies determined it was not an appropriate site after issuance of the take permit, the project proponents could not implement the conditions of the permit; flexibility is needed as restoration progresses, to identify the best locations and design for restoration as new and best science is developed.
1802	260	Natural resource agencies do not have funding identified or authorization for the habitat restoration component of the project costs. The habitat restorations are the majority contributor to the conservation of the species that would justify the take permits that are the objective of the project and allow the SWP to operate. The beneficiaries of the project, the SWP water contractors, should have to pay for the habitat restoration project, not the general public through the public trust resource agencies.	As previously noted, Alternative 4A would implement substantially less habitat restoration than Alternative 4. Please refer to Chapter 3, Description of Alternatives for more detail. Please also see Master Response 5 regarding costs and funding.
1802	261	The conveyance does not reduce take of species or restore habitat, therefore it should not	Please refer to Master Response 5 regarding the conservation relevance of CM1 and for details on BDCP

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		be classified as a conservation measure. Since different entities are funding habitat restoration from the conveyance construction and operations, then the habitat restoration should be considered a separate project from the conveyance. If the conveyance does not demonstrate a net beneficial impact in an environmental analysis of that project component by itself, then the project should have to pay for the appropriate mitigations and habitat restorations such that it justifies the desired take permits. Those mitigations and habitat restorations to achieve a condition that is permitable by the agencies should be paid for solely by the proponents and beneficiaries of the project.	costs and funding.
1802	262	The BDCP has not proposed any different combinations and sequences of habitat restoration or analyzed and disclosed any evaluations conducted which demonstrate that the habitat restoration-related impact analysis would be representative of any impacts of project implementation other than exactly the scenario analyzed in the proposed project and alternatives. Since the BDCP did not propose or analyze any permutations of the development, sequence and combinations of habitat restorations, then permits can only be issued on exactly the scenario that was analyzed in the EIR/EIS. Any BDCP habitat restoration implementation deviation from the scenario analyzed in the EIR/EIS would then fall outside of the boundaries defined in the analysis and therefore would be outside of the coverage of the permit that was based on that analysis.	Please refer to response to comment 259 within this comment letter, above.
1802	263	If the BDCP wants a programmatic-level of analysis flexibility to implement the aquatic habitat restorations in a variety of timing, combination and designs, then they need to do a series of sensitivity analyses sufficient to "book end" the range of effects and disclose those in this document. The BDCP has not done the sensitivity analyses that would be required to defensibly define the book end worst case scenarios, so there should be not be a programmatic level of flexibility given to the BDCP in their implementation. Further, the interactions of the habitat restorations and their undefined location, magnitude, design characteristics and implementation timing and combinations directly affect water quality and therefore CVP/SWP operations. Without knowing how, when or where the aquatic habitat restorations are, there cannot be a project level analysis of the propose project operations so construction permits for the construction of the conveyance should not be issued based on the analyses in the draft EIR/EIS document. If these analyses are revised and a sensitivity analysis of the habitat restorations is conducted, then this would be a material change in the document that would warrant recirculation.	For more information regarding project and program level analysis please see Master Response 2.
1802	264	"Habitat restoration, creation, enhancement, and management activities. These activities include all actions that may be undertaken to implement the physical habitat conservation measures. These activities include all actions that may be undertaken to implement the physical habitat conservation measures." The lack of specificity of activities covered under this action is unfunctional and cannot be reasonably analyzed even at a programmatic level without greater specificity. The EIR/EIS must add a list of the specific actions to be covered and include those in the analysis and disclosure of impacts.	For more information regarding project and program level analysis please see Master Response 2. Discussions of the main environmental attributes affecting individual covered species are provided in Appendix 2.A of the 2013 Public Draft. Effects of the proposed water conveyance and associated restoration activities on general resource areas are discussed in Ch. 4 of the RDEIR/SDEIS. Resource areas are addressed separately under sections for each of the new project Alternatives, including surface water, groundwater, water quality, fish and aquatic resources, terrestrial biological resources, agricultural resources, air quality and greenhouse gases, public health, and others. Where impacts are determined to be significant, environmental commitments will be implemented to avoid and/or offset these effects, where possible.

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1802	265	The 75940 Federal Register / Vol. 78, No. 240 / Friday, December 13, 2013 states that, "Reclamation may also make decisions regarding... implementing habitat restoration and monitoring actions proposed by the BDCP that are consistent with Reclamation's regulatory requirements, programs, authorities, and appropriations. This Federal Notice statement unclear and implies that the actions Reclamation may take may or may not be the same as the BDCP." The Purpose and Need and alternatives of the EIR/EIS does not address potential variations in the level of Reclamation's participation in the habitat restorations.	Reclamation's action in relation to the proposed project or alternatives would be to adjust CVP operations in the Delta to accommodate new conveyance facility operations and/or flow requirements, in coordination with SWP operations for the current preferred project, Alternative 4A. Alternative 4A includes substantially less habitat protection and restoration than Alternative 4 and Reclamation's proposed action only includes operational changes. The 2015 RDEIR/SDIES provides clarification about Reclamation's participation and potential funding in Appendix A, Chapter 1.
1802	266	Does BDCP EIR/EIS document says, "lands acquired for restoration or enhancement in the south Delta would not be located alongside corridors designated for water supply." What is the rationale for this exclusion? Is it due concern that adjacent inundated habitat restorations would compromise the structural integrity of the through delta conveyance levees? If so, then what about the other delta levees that would be affected by aquatic habitat restorations? The document fails to disclose the implications of this habitat restoration land acquisition and geographic distribution constraint.	The description of Alternative 9, in Chapter 3, Description of Alternatives indicates that habitat restoration included under Conservation Measures 3-11 would not be located adjacent to the proposed water supply corridors to ensure that the biological benefits associated with tidal aquatic and channel margin habitat restoration supports the biological goals and objectives. The description of Alternative 9 also indicates that the location of habitat restoration is not known and is evaluated at a program level of detail consistent with other BDCP alternatives. Please also refer to Master Response 2 regarding project level versus program level analyses in the EIR/EIS.
1802	267	Yolo Bypass conservation measure diversion operations and inundation were not defined sufficiently such that they could be incorporated in modeling and the surface water impact analyses. The BDCP lack of definition of Yolo Bypass conservation flow rules for how much, when and under what conditions supplemental inundating flows would be released by the BDCP into the bypass. Without the conservation details on how much, when, for how long and under what conditions bypass flows would be augmented, there is not sufficient detail to include this CM in modeling (water supply, surface water and water quality impacts) or in land use impact analysis (agriculture and recreation). Yolo bypass operations were not defined sufficient to include in CALSIM modeling assumptions and CALSIM II has an inadequate analytical output temporal resolution to be of sufficient detail to evaluate the impacts of Yolo Bypass diversion flows. Timing, duration and magnitude of BDCP Yolo Bypass inundation flows are required in order for impacts on agriculture need to be defined enough to evaluate the magnitude, frequency, duration and geographic extent of impacts. Until the BDCP provides the detailed operating rules for the Yolo Bypass conservation measure inundation operations, the BDCP EIR/EIS impact analysis will remain incomplete and deficient with undisclosed im [COMMENT CUT OFF]	Habitat restoration, including additional flows in the Yolo Bypass, are only considered in a programmatic manner in the Draft BDCP EIR/EIS. Specific analyses, including hydraulic modeling to evaluate project-specific flow patterns and water quality changes, would need to be considered in subsequent environmental documentation and permit processes, as described in Section 1.6 of Chapter 1, Introduction, of the Draft BDCP EIR/EIS. The CALSIM II model included flows into Yolo Bypass as a placeholder under the action alternatives until subsequent environmental analyses are completed prior to implementation of Conservation Measure 2.
1802	268	All of the BDCP proposed near-term habitat restoration conservation measure actions are actually existing CVP/SWP obligations from the current National Marine Fisheries Service and FWS Operational Criteria and Plan Biological Opinion Reasonable and Prudent Alternatives (OCAP BO RPAs). The OCAP BO RPAs for 8,000 acres of intertidal and 17,000 acres of flood plain should not be identified as contributory to species conservation as they are part of the baseline. Since all of the BDCP near-term conservation measures are fulfillment of existing obligations of the CVP/SWP, these actions cannot be considered to contribute to species conservation as compared to the No Action condition. Once the environmental analysis separates the fulfillment of existing obligations from new actions that actually have the potential to contribute to species conservation it becomes clear that the BDCP project does not actually start contributing to species conservation for a number of years. I would be more specific	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). For the BDCP and the action alternatives included in the 2013 Draft EIR/EIS, certain elements of the Biological Opinions Reasonable and Prudent Alternatives (RPAs) were assumed to be included with the Proposed Project. Habitat elements of the RPAs were included with the Proposed Project as logically being implemented as part of the comprehensive HCP/NCCP for the Delta that is proposed as the BDCP. With the introduction and analysis of the new Preferred Alternative 4A, as well as other non-HCP alternatives 2D and 5A, in the 2015 RDEIR/SDEIS, these assumptions were changed with respect to habitat elements of the RPAs. The new subalternatives do not include the RPA habitat components since the BDCP is not included with these subalternatives. For more information regarding existing conditions, no action alternative, no project alternative, and cumulative impact conditions please see Appendix 3D of the FEIR/EIS. Also see Table B-1 of RDEIR/SDEIS Appendix B for a summary of the different assumptions for Alternative 4 and 4A.

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		in my comment, but the BDCP has not even committed to a detailed timeline of when the next increments of habitat restoration after the near-term would occur in which these first actions contributing towards conservation would occur nor the type, quantity, location or even target species that are supposed to benefit from these undefined actions. It is clear that the BDCP intends that these restoration actions that would be the first real contributions to conserva [COMMENT CUT OFF]	For more information regarding Environmental Baselines, including No Action Alternative, please see Master Response 1.
1802	269	The BDCP incorporation of the Solano County Cache Slough diversions as part of the project description creates a growth inducing impact. The BDCP EIR/EIS fails to identify and disclose this impact of the proposed project. - also see related comments under Growth Inducement.	The Cache Slough Diversion (North Bay Aqueduct) is part of the existing conditions and is not therefore growth inducing. Only the small increase in NBA exports as a fraction of SWP exports is growth inducing, and this increased water supply to the SF Bay Region is included in the Growth Inducement Chapter 30 analysis. Operation and maintenance of the proposed North Bay Aqueduct Alternate Intake Project would not be included as a part of Alternatives 4A, 2D, and 5A; therefore, impacts from operating this proposed facility are not considered in the analysis of these alternatives.
1802	270	Many of the BDCP proposed project other stressors conservation measures are actually dependent upon third parties outside of BDCP's control for the CM implementation, administration and success. The BDCP's proposed project contributions to conservation for these other stressor measures are reliant upon other agencies to implement them. Even the very existence of these third party agencies responsible for implementing these other stressor CMs is uncertain in a 50 year timeframe and the BDCP has no power to even influence if the implementing agencies will exist in 50 years. Additionally, the BDCP has no control over the quality or completeness of implementation of these conservation measures by other agencies and agents. BDCP does not have any assurances or management measures to ensure that funding provided by BDCP to implement these programs will actually be spent on implementing these programs in a manner or scope as promised by the BDCP. Examples of some of the other stressor conservation measures which rely upon third parties for their success include: Egeria removal, changes to striped bass stocking, fish screens on surface water diversions in the delta, predator fish removal, changes to fishing rules, changes to enforcement of current laws to reduce poaching and over limits, integrated pest management education, no spray zone en [COMMENT CUT OFF]	Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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.
1802	271	At least one of the proposed project other stressor conservation measures is illegal. It is not legal under California fish and Game code to issue fishing bounties to remove predator species. DWR explored this conservation measure in its Oroville Facilities Federal Energy Regulatory Commission Relicensing and it is well documented that this type of program is not legal. Additionally, most if not all published literature on programs to remove predators have proven unsuccessful at reducing predation rates and monitoring efforts to quantify the success of predation reduction programs have all been inadequate to provide any statistically defensible reduction in predation rates.	This comment addresses details of Conservation Measures associated with Alternative 4 (known also as the BDCP). Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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.
1802	272	Some of the CMs proposed by the BDCP are outside of the jurisdiction of the project to implement. BDCP proposed modification of Fremont Weir and Sacramento Weir are outside of their jurisdiction as these facilities are owned, operated and maintained by the U.S. Army Corps of Engineers (USACE). The BDCP has provided no proof that they have received permission from the USACE for any modification of these facilities. Lisbon Weir is owned and	This comment addresses details of Conservation Measures associated with Alternative 4 (known also as the BDCP). Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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.

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		operated by a private water district, so the BDCP has no jurisdiction to implement actions to modify these facilities either. Unless the USACE provides a letter of concurrence and agreement with the BDCP for these BDCP proposed modifications, the agencies utilizing the EIR/EIS document to support decisions making should discount any potential contribution to conservation these CMs were purported to contribute.	
1802	273	The Other Stressor conservation measures are not described in sufficient detail to allow appropriate environmental analysis to support permitting. As an example, the program for Egeria removal does not describe the time of year, location, equipment used, methods, practices, operational guidelines or any real substance as to how the program will be implemented. Without knowing how, where and when the invasive aquatic weed removal program will operate, it is not possible to identify, characterize, quantify or disclose the types of impacts that would occur from implementing the program. Listed Giant Garter Snake and salmonids could easily be picked up and killed or significantly disturbed or disrupted as a consequence of this program. This killing and disturbance is "take" that would need to be evaluated and disclosed. The BDCP EIR/EIS document is incomplete and deficient for not completing the detailed analysis of this impact. The BDCP needs to complete this analysis and propose measures to avoid, minimize and mitigate the significant impacts that could occur with the implementation of this program.	The text of BDCP Section 3.4.13 (CM13) describes all points of the aquatic weed control program noted by commenter and its potential effects upon covered species are described in BDCP Chapter 5.
1802	274	Methylation of Mercury from BDCP proposed aquatic habitat restorations has not been adequately evaluated in the EIR/EIS. Cache Creek is one of the largest if not the largest source for Mercury contamination in the delta. The BDCP has proposed several large scale aquatic habitat restoration programs that are downstream of this large and ongoing Mercury contamination source, including Calhoun Cut, Liberty Island, Little Holland Tract, Prospect Island, Egbert Tract, Hastings Island, Ryer Island, Grand Island, Decker Island, Three Mile Slough, and others. Aquatic habitat restoration conditions can convert mercury into methylated mercury which is much more readily assimilated into the food chain and bioaccumulated. The BDCP aquatic habitat restoration conditions have not been described in sufficient detail to determine at what rate the methylation of mercury would occur and the BDCP has failed to identify, characterize, quantify or disclose this significant impact. The BDCP EIR/EIS needs to provide greater detail on the aquatic habitat restoration water depths, water turnover rates, dissolved oxygen conditions, mercury deposition and mobilization rates and methylization rates. Further, the BDCP has failed to propose avoidance, minimization and mitigation measures to address this significa [COMMENT CUT OFF]	As discussed under Impact WQ-14 for Alternatives 1 through 9, tidal and other restoration actions proposed under the Draft EIR/EIS alternatives, including restoration within the Yolo Bypass and Cache Slough (Conservation Measures 2, 3, 4, and 5), have the potential to increase methylmercury bioaccumulation in biota in the restored habitat. Therefore, increases in mercury methylation in the habitat restoration areas is possible but uncertain depending on the specific restoration design implemented at a particular location. Increased methylmercury due to the restoration areas would constitute an additional loading of methylmercury to the Delta, independent of effects of the hydrodynamics associated with the restoration areas. As described in Section 3.6.2 of Chapter 3, Description of Alternatives, descriptions of the restoration actions in CM2 through CM5 in the Draft EIR/EIS include general locations; and potential physical modifications and construction efforts necessary to implement habitat conservation–related activities. These descriptions include enough detail to support program-level impact analyses related to habitat and land use conversions. While general locations are provided, specific locations for these conservation actions 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 efforts. As appropriate, project-level implementation of the conservation actions would be subject to additional environmental review. The Draft EIR/EIS does include mitigation measures where appropriate that would be considered in the additional environmental reviews (see Master Response 2, Project Level versus Program Level). To reduce the effects of methylmercury from restored wetlands, project-specific mercury management plans for restoration actions would need to be developed under ongoing programs and Conservation Measure 12 to incorporate relevant approaches recommended in Phase 1 Methylmercury TMDL control studies and other studies, such as: (1) Characterizing mercury, methylmercury, organic carbon, iron, and sulfate concentrations to better inform restoration design; (2) Sequestering methylmercury at restoration sites using low intensity chemical dosing techniques; (3) Minimizing microbial methylation associated with anoxic conditions by reducing the amount of organic material at a restoration site; (4) Designing restoration sites to enhance photo degeneration that converts methylmercury into a biologically

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			unavailable, inorganic form of mercury; (5) Remediating restoration site soils with iron to reduce methylation in sulfide rich soils; and (6) Considering capping mercury laden sediments, where possible to reduce methylation potential. Because of the uncertainties associated with site-specific estimates of methylmercury concentrations and the uncertainties in source modeling and tissue modeling, the effectiveness of methylmercury management would need to be evaluated separately for each restoration effort, as part of design and implementation. Because of this uncertainty and the known potential for methylmercury creation in the Delta the potential effect of increasing methylmercury concentrations related to restoration, including restoration within the Yolo Bypass under CM2–CM22 was considered adverse.
1802	275	Avoidance and minimization (CM22) is not a Conservation Measure. Avoidance and minimization measures are NEPA and CEQA requirements for the EIS and EIR. Avoidance and minimization measures are not contributions to recovery and should not be credited as such.	The document has been revised to treat avoidance and minimization measures as a separate component of the conservation strategy.
1802	276	Appendix 1B, page 1, inset box "South of Delta Water Storage Need Not Be Addressed in BDCP EIR/EIS. For many reasons, increased water storage is neither a legally required component of the BDCP nor a project that must be addressed in the cumulative impact analyses for the EIR/EIS for the BDCP. Increased storage is neither: (1) an aspect of the BDCP itself; (2) a "probable future project" within the meaning of CEQA, (3) a "reasonably foreseeable future action" within the meaning of NEPA, (4) a future phase of the BDCP project within the meaning of either CEQA or NEPA; nor (5) an EIR or EIS alternative to the proposed BDCP. As a result, such additional storage need not be included in the mandatory cumulative impact analysis for the EIR/EIS or in any section focused on alternatives." This is such a strong declarative paragraph that is prominently highlighted from the BDCP EIR/EIS and yet several parts of this statement are boldly biased and positional. The quote says, "for many reasons" and then goes on to identify none of them. Increased storage is not part of the applicants proposed BDCP project, but it was identified in the EIR/EIS scoping as an alternative to meet the project needs and objectives. The statement declares that storage is not an EIR/EIS alternative and yet the alternatives development chapter never addresses the public scoping submitted alternative of water storage. Water storage would have easily passed the screening criteria if it had been evaluated and it should have been an alternative that was fully analyzed in the EIR/EIS - see preceding related comments.	For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Developing new water supplies and including new storage is not part of either DWR's fundamental purpose or project objectives or Reclamation's purpose and need for the proposed project, which are focused on fixing problems with the current conveyance system for the State Water Project (SWP) rather than expanding the system with new storage facilities. In light of these project purposes and objectives, additional water storage was eliminated from consideration in the BDCP EIR/S and RDEIR/SDEIS through the alternatives development and screening process, discussed in DEIR/EIS Appendix 3A, Identification of Water Conveyance Alternatives. Although the proposed project would be part of an overall statewide water system of which new storage could someday also be a part, Alternative 4A and the other action alternatives would be stand-alone projects that demonstrate independent utility, just as future storage projects would demonstrate. Appendix 1B, Water Storage, of the FEIR/EIS, describes the potential for additional water storage. Nothing in either CEQA or NEPA precludes agencies such as DWR and Reclamation from pursuing and studying the proposed project separately from possible future conveyance facilities that could someday embody an expanded SWP system or become part of an expanded CVP system. Please also see Master Response 37 (Storage) regarding water storage, Master Response 4 (Alternatives Development) regarding the development of alternatives and Master Response 6 (Demand Management in BDCP) for information on Demand Management.
1802	277	Appendix 1B, page 12, line 11 "Additional internal preliminary studies by DWR in 2010 considered the potential benefits of expanding north of Delta surface storage and expanding groundwater storage south of the Delta in combination with new Delta conveyance. Using theoretical planning assumptions that reflect essentially unlimited groundwater storage capacity (5 MAF), south of Delta water deliveries could be improved by about 100 TAF per year over deliveries with only new Delta conveyance and a 1.8 MAF Sites Reservoir. Based on preliminary BCDP modeling, the addition of 1 MAF of new south of Delta storage (surrogate for surface storage, groundwater storage, or re-management opportunities) could increase Delta water exports by approximately 150 TAF per year." The BDCP document identifies here that studies have been done that demonstrate that the project needs and objectives identified in the BDCP EIR/EIS are better met by combining	Please see Response to Comment 22110.

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		upstream and downstream storage with a BDCP conveyance. This is clear evidence that water storage, both upstream and downstream of the delta should be considered as part of the solution to the needs and objectives identified for the BDCP project. The BDCP should not have arbitrarily and capriciously dismissed water storage concepts from consideration in the alternatives development in the EIR/EIS.	
1802	278	3A-5, line 18 "New Storage To Improve Delta Flow, with the focus on changing the timing of flows to benefit all use." CALFED identified that new storage could be the solution to improved flows in the delta. Improved flows can be used to benefit water supply and environmental quality for the fish species of concern. The new storage identified by CALFED addresses most if not all of the purpose and need and project objectives identified by the BDCP. The BDCP EIR/EIS process failed to give this identified project alternative due consideration and evaluation. What was the rationale for dismissing this option? A rationale consistent with NEPA and CEQA scoping is not disclosed in the EIR/EIS that I can find. See related comments on Appendix 1B regarding the fact that the arguments made there are not compliant with NEPA and CEQA requirements and guidance.	Please see Response to Comment No. 22110.
1802	279	3A-11, line 22 The EIR/EIS claims that tunnels were identified as a conveyance option in comments received in scoping. The BDCDP must disclose what comments identified the use of tunnels as a conveyance. We do not believe that tunnels were identified in the public scoping process, so the BDCP is misrepresenting where this conveyance option was identified.	Please refer to Master Response 4 for more information regarding development of alternatives and screening.
1802	280	3A-12, line 28 "Initial Screening Conveyance Alternative C4. Through Delta Conveyance with Fish Screens at Clifton Court Forebay" This list omits the concepts of distributed intake screens in the central, west and east delta. It is also missing the Sacramento Deep Water Ship Channel use as a part of the conveyance. Why were criteria fish screens identified here and in the CALFED process not carried forward as a component of some of the dual conveyance alternatives? I can find no rationale consistent with NEPA and CEQA requirements and guidance for dismissing this alternative component from further consideration. The EIR/EIS should revise their alternatives screening process and alternatives to consider those alternative components that were dismissed from further consideration without sufficient and consistently applied supporting rationale that are compliant with NEPA and CEQA requirements.	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. Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in 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. For more information regarding development of alternatives and screening please see Master Response 4.
1802	281	3A-11, line 28 "several of the alternatives considered in the initial screening of conveyance alternatives were specifically identified through the scoping process, including the following alternatives. Initial Screening Conveyance Alternative A1. Dual Conveyance with a Tunnel between North Delta Intakes and the SWP and CVP Pumping Plants, and Continued Use of Existing South Delta Intakes." Where is the documentation of the source of the scoping suggestion for consideration of the tunnels as a conveyance? A search of the Scoping Report revealed no comments suggesting a tunnel as a conveyance even remotely resembling the Proposed Project. The tunnel as a conveyance was not identified in the Notice of Intent or Notice of Preparation, was it identified during the public scoping period? Who suggested it? If the source	For information regarding scoping and development of alternatives and screening please see Chapter 3 of the FEIR/EIS and Master Response 4. For more information on public notification and involvement, please refer to Master Response 40.

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		documentation for the tunnel conveyance concept that was adopted as the Proposed Project is completely missing from the scoping process then it is not hard to see why other major concepts that were submitted during scoping such as the Sacramento Deep Water Ship Channel and upstream and/or downstream storage were not documented or given due consideration consistent with NEPA and CEQA requirements. The key documentation for the alternatives is missing so the BDCP EIR/s should be rescoped - see related comments on the numerous deficiencies of the public noticing and the NOI and NOP.	
1802	282	3A-12, line 37 "The requirements of the Water Code Section 85320 from the 2009 Delta Reform Act." This important second screening criteria identified is not explained. What aspects of the identified document were used and how were they used? Where is the citation so the reader can find this reference?	The criteria as presented in Section 85320 from the 2009 Delta Reform Act were used as a screening criteria for the entire range of alternatives to be evaluated in detail in the EIR/EIS. If the range of alternatives identified through the alternatives screening process could not fully comply with the Delta Reform Act criteria, additional alternatives could have been identified. However, it was determined that the range of alternatives to be evaluated in detail in the EIR/EIS did comply with the criteria in the Delta Reform Act related to the consideration of the BDCP alternatives.
1802	283	3A-14, line 10 "To improve the ecosystem of the Delta by: Providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species." Again, the constraint of the "planning area" is referenced, but not justified or supported with rationale of any kind. See related comments on lack of supporting rationale provided by the EIR/EIS for the definition and constraint of the "planning area". If one of the core objectives of the project is to improve habitat conditions for covered species, then it is counterproductive to limit where those beneficial actions can occur with an arbitrary and unsupported geographic boundary. No alternative component should have been dismissed from further consideration based on the extent of the "planning area" if it met other reasoned criteria. The use of the planning area as a screening criteria is predecisional. Any concepts that were dismissed from the alternatives screening process for the fact that they were located in whole or in part outside of the planning area should be restored to consideration and fully analyzed in the EIR/EIS document. The BDCP inconsistently applied the planning area as a screening criteria as it did include some project actions that transcend their arbitrarily defined planning area boundary, e.g. Grizzly Slough habitat restoration, Fremont Weir modifications, tra [COMMENT CUT OFF]	The words “BDCP Planning Area” were included in the screening criteria as part of the CEQA Project Objectives presented in Chapter 2 of the 2013 Draft EIR/EIS. However, as shown in Tables 3A-1 and 3A-12, none of the alternatives that were eliminated from detailed analyses were eliminated due to the constraint of being outside of the BDCP Planning Area. The only alternative identified as not being consistent with the screening criteria identified as “Could the potential alternative provide for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species?” The alternative that was considered to not being consistent with this criteria was the “Initial Screening Conveyance Alternative C3– Through Delta Conveyance with West Delta Salinity Barrier” because the West Delta Salinity Barrier would result in a freshwater body in the western Delta that would not support the covered species identified for the BDCP, including the listed delta smelt and salmonid species.
1802	284	3A-14, line 33 "When there are a very large number of potential alternatives, a reasonable number of alternatives covering the full spectrum of reasonable alternatives can be identified for detailed analyses in the NEPA document." This is a correct statement, but this is not what the BDCP EIR/EIS did in the formulation of the alternatives. As stated in other comments, the alternatives analyzed in the EIR/EIS were evaluations of different conveyance routes but with very little substantive change on all of the other project components such as intake type, intake locations, restoration options, other stressor actions, etc. The BDCP EIR/EIS alternatives need to be reformulated to provide real different alternatives - upstream and/or downstream storage combined with criteria screens in the south delta, distributed intakes, intakes in other river reaches, other intake types, other types and combinations of habitat restoration, other types and combinations of other stressor actions. The BDCP alternatives provided in the current draft EIR/EIS provide none of these meaningfully different alternatives. The BDCP EIR/EIS should be rescoped and reanalyzed to include the full spectrum (as Department of the Interior EIS scoping requires) of these meaningfully different alternatives.	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. 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. 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. Finally, 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 or EIR/EIS.

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1802	285	3A-17, line 4 "the following first level screening criteria. Could the potential alternative provide for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species? Could the potential alternative protect, restore, and enhance certain aquatic, riparian, and associated terrestrial natural communities and ecosystems? Could the potential alternative reduce the adverse effects on certain listed species of diverting water by relocating the intakes of the SWP and CVP? Could the potential alternative 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?" Here are the first level screening criteria for the development and selection of a water conveyance option from the EIR/EIS. First, the planning area is mistakenly identified as a part of the criteria - see related comments. Second, the document identifies that the answers to these questions may not be known until there is an analysis more full than conducted in the screening process. In these cases, in order to be thorough and not arbitrary and capricious, the concepts that cannot be reliably and defensibly concluded to not meet this criteria should be carried forward to the next level of screening for further consideration or to full analysis in the EIR/EIS. The tunnel water conveyance concept obviously got this benefit of a doubt treatment as it was forwarded for full analysis in the EIR/EIS even though at the screening stage of analysis these questions could not be answered. The full analysis of the tunnel water conveyance, Alt 4 the Proposed Project, in the EIR/EIS determined that the CM-1 the conveyance itself, did not contribute to species conservation and the EIR/EIS's assessment on the improvement in water supplies was "no determination". No determination in this case means that even [SENTENCE CUT OFF] Other conveyance options such as upstream and/or downstream storage combined with real fish criteria screens in the South Delta (and the associated ability to change operations to avoid pumping while fish species of concern were present) obviously would be more likely to meet these criteria than the tunnel water conveyance option. Distributed intakes in the west central and east delta provide operational flexibility to avoid diverting water from location where fish species of concern are present. Similarly, use of the Sacramento Deep Water Ship Channel as a portion of the conveyance with the associated water storage in the channel and intakes upstream of the geographic range of the delta smelt would also better meet these criteria than the tunnel water conveyance option. Each of these other conveyance alternatives should have been carried forward for full analysis in the EIR/EIS based on these screening criteria.	15 alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the FEIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the 2013 Public Draft 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. 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. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4. For more information regarding purpose and need please see Master Response 3.
1802	286	3A-17, line 4 The criteria are in conflict with each other and embed artificial and unsupported constraints on how the project objectives and needs are met. The important objective of the project is the first one, to conserve the proposed covered species. The third criteria is not an objective, it is an arbitrary and predecisional constraint that is in conflict with the first criteria. The third criteria is a question that is the same in concept as the first criteria but with an artificial constraint embedded in it. Since the objective clearly is to conserve the species, we should not constrain or use as a criteria something that limits the ways to achieve the primary objective. This screening criteria should be dropped and any alternative water conveyance concepts that were dropped	As previously noted, the Preferred Alternative is now Alternative 4A. For further responses to comments on the BDCP, please see Master Response 5 (BDCP). Alternative 4A, as well as Alternatives 2D and 54A, were developed in response to public and agency input and do not include an HCP/NCCP component. Notwithstanding the addition of these alternatives in the RDEIR/EIS, the alternatives included in the Final EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. Please see Master Response 4 for more information regarding alternatives development and screening.

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		based on the third criteria should be restored to further consideration or full analysis in the EIR/EIS document.	
1802	287	3A-18, line 5 The second level screening criteria included: "Would the potential alternative avoid or substantially lessen any of the expected significant environmental effects of the "proposed project"? and "Would the potential alternative "address one or more significant issues" related to the proposed action?" Consideration of other conveyance options such as upstream and/or downstream storage combined with real fish criteria screens in the South Delta (and the associated ability to change operations to avoid pumping while fish species of concern were present) would be likely to avoid and or lessen impacts as compared to the proposed project/action. Distributed intakes in the west central and east delta could provide operational flexibility to avoid diverting water from location where fish species of concern are present would be likely to avoid and or lessen impacts as compared to the proposed project/action. Similarly, use of the Sacramento Deep Water Ship Channel as a portion of the conveyance with the associated water storage in the channel and intakes upstream of the geographic range of the delta smelt could also better meet these criteria than the tunnel water conveyance option would be likely to avoid and or lessen impacts as compared to the proposed project/action. Not only could each of these other water conveyance options be likely to have lower impacts than the proposed project water conveyance, one of these options, if carried forward to full analysis in the EIR/EIS c [SENTENCE CUT OFF] The alternative water conveyance concepts included in the preceding comment were dropped from the BDCP EIR/EIS alternatives screening process without supporting rationale and justification because the project applicant did not desire these solutions. Page 3A- 18, line 30 correctly states that NEPA requires consideration of alternatives based on practicality and feasibility criteria, not based on desirability from the standpoint of the applicant. The BDCP EIR/EIS included appendix 1B Water Storage in which it spends 14 pages explaining why the BDCP did not have to consider water storage as a component of the solutions to address the needs and objectives identified for the project - see related comments on this appendix. I will reiterate here that I have never read anything so positional, biased and shamefully crafted to a desired outcome in an EIR or EIS as appendix 1B. 1B page 1 line 7 states, "While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the BDCP. This is because the BDCP, as a proposed habitat conservation plan and natural community conservation plan, does not, and need not, [COMMENT CUT OFF]	Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) 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. 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 (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. As explained previously, screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the 2013 Public Draft 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. Also, as noted in the text quoted by the commenter, while water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the 2013 Public Draft EIR/EIS, describes the potential for additional water storage. Please see Master Response 4 regarding the development of alternatives. Please see Master Response 6 for information on Demand Management. Please see Master Response 37 regarding water storage.
1802	288	The BDCP's proposed project includes changes to reservoir operations and flows in the tributaries downstream from the terminal dams in combination with CM1. The BDCP's alteration of reservoir operations as part of CM1 sets a precedent that project actions are not limited to the "Plan Area". Since the BDCP has inconsistently applied the constraint of not considering alternatives or alternative components outside of the "Plan Area", the BDCP must include for full analysis and consideration in the EIR/EIS all alternative concepts that were excluded from consideration, in whole or in part, because they fell outside of the plan area.	As described in Chapter 5 and Appendix 5A of the EIR/EIS, the operational criteria for the reservoirs located upstream or in the Delta were consistent for the Existing Conditions, No Action Alternative, and all action alternatives. However, surface water storage and elevation in the SWP and CVP reservoirs and flows in the rivers downstream of the SWP and CVP reservoirs would be different for some circumstances under the action alternatives as compared to the Existing Conditions and No Action Alternative, as presented in Appendix 5A, Section C.

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1802	289	3A-18, line 5 The screening criteria relies upon comparing an option against the proposed project and proposed action. At the time of the alternatives screening, there was no proposed project or proposed action identified so how could they be used as a criteria. The Proposed Project was selected so late in the process that it is Alternative #4 in the document instead of alternative 1 as it should have been if the proposed project had been identified earlier.	The term "proposed project" is used in quotes and is related to the identification of proposed alternatives/actions developed from the first level of screening in accordance with the definition of a "project" in Section 21065 of the California Public Resources Code, Division 13 (CEQA Guidelines), and the definition of "proposed action" and "alternative" in the 40 Code of Federal Register parts 1500–1508.
1802	290	3A-18, line 30 "Under NEPA, an EIS must rigorously explore and objectively evaluate all reasonable alternatives. Reasonable alternatives include those that are practical or feasible from the technical or economic standpoint and using common sense, rather than just desirability from the standpoint of the applicant." Based on strong positional and biased content in Appendix 1B - see related comments - it is clear the applicant did not desire water storage as a project alternative. From the lack of documentation of the treatment of the water storage concepts submitted in the public scoping process it is clear that this potential project option was never given due consideration because the application did not desire that outcome. The BDCP EIR/EIS clearly is not compliant with the NEPA EIS requirement to consider all reasonable alternatives and to not exclude alternatives based only on the desirability of an alternative from the standpoint of the applicant.	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 refer to Master Response 3 regarding the purpose and need of the project, and Master Response 4 regarding the development of alternatives. While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the FEIR/EIS, describes the potential for additional water storage. Please see Master Response 6 for information on Demand Management. Please see Master Response 37 regarding water storage.
1802	291	3A-18, line 30 The third level of screening includes evaluation of practicality and feasibility of potential alternatives. Water storage, distributed intakes, criteria south delta fish screens, Sacramento Deep Water Ship Channel as a component of the conveyance all pass the test of practical and feasible for environmental, technical, legal and economic standpoints as compared to the challenges presented by the tunnel conveyance. In other words, these concepts would all likely have less environmental impacts, less legal challenges, less technical challenges, be more accepted by the local communities and be less expensive than the Proposed Project tunnel water conveyance. By passing this final set of criteria, all of these concepts should have been advanced to be combined into alternatives for full analysis in the EIR/EIS.	Please refer to responses to comments 287-291 within this comment letter, above.
1802	292	3A-20, line 8 3A-12, line 37 says that the requirements of the Water Code Section 85320 from the 2009 Delta Reform Act are a screening criteria. The Delta Reform Act is not a screening criteria. It is a list of items the legislation mandates will be included for analysis in the BDCP EIR/EIS and is not a list of requirements that any other concepts for consideration as alternatives must meet in order for them to be included in an alternative. This is a list of minimum alternatives that must be considered, not a list of maximum alternatives to be considered.	The criteria as presented in Section 85320 from the 2009 Delta Reform Act were used as a screening criteria for the entire range of alternatives to be evaluated in detail in the EIR/EIS. As described in Appendix 3A, nothing in the Delta Reform Act suggests any intention to modify or repudiate general CEQA case law principles governing the formulation of a range of alternatives or to impair state agencies' ultimate discretion to take final actions consistent with their underlying statutory functions and other legal commitments, except to the extent that the policy prescriptions in the Delta Reform Act must be honored for incorporation into the Delta Plan. Therefore, the Delta Reform criteria were considered as another measure of the range of alternatives to be evaluated in detail in the EIR/EIS. If the range of alternatives identified through the alternatives screening process could not fully comply with the Delta Reform Act criteria, additional alternatives could have been identified. However, it was determined that the range of alternatives to be evaluated in detail in the EIR/EIS did comply with the criteria in the Delta Reform Act related to the consideration of the BDCP alternatives.
1802	293	3A-24, line 24 The State Water Board, as a CEQA responsible agency for the BDCP required specific alternatives to be included in the scope of the BDCP EIR/EIS analysis. "Does the	Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no

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		range of alternatives include an alternative with long- term changes to the State Water Resources Control Board Bay-Delta Plan without new conveyance facilities?" The EIR/EIS did not contain an alternative that did not include new conveyance facilities. It is clear from the text that the water board was not referring to the No Action alternative without new conveyance facilities but was referring to a project alternative that was to be included that did not include new conveyance facilities. The Through Delta conveyance alternative should not count as satisfying this request as there are new facilities (gates, armored levees, bypasses, etc.) associated with this alternative. The BDCP should be responsive to the CEQA responsible agencies request and include an alternative that does not include new conveyance. The previously identified additional upstream and/or downstream storage would meet the water boards request.	longer includes an HCP. Please refer to responses to comments 287-291 within this comment letter, above.
1802	294	3A-24, line 32 The State Water Board, as a CEQA responsible agency for the BDCP required specific alternatives to be included in the scope of the BDCP EIR/EIS analysis. "Does the range of alternatives reflect the coequal goals of the Delta Reform Act of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem?" The BDCP EIR/EIS impact assessment WS-2: Change in SWP and CVP deliveries impact call was "No Determination" for both NEPA and CEQA for all project alternatives including the No Action and Proposed Project alternative 4. This means that the EIR/EIS was unable to decide if the project delivered a water supply benefit or not. If there is not a benefit to water supply in any of the alternatives as the EIR/EIS indicates, then the BDCP EIR/EIS has not met the water boards requirement to consider an alternative that provides a more reliable water supply. The BDCP EIR/EIS should develop and analyze an alternative that does provide a benefit to water supply reliability, revise the EIR/EIS document and recirculate the draft document for public comment.	Impact WS-2 is assessing the changes in water deliveries, which as reflected in the impact conclusion, are projected to be about the same as the average annual amount diverted in the last 20 years under a fully-implemented Alternative 4A. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Refer to Master Response 26 (Area of Origin). Please see Master Response 4 for more information regarding alternatives development. For more information regarding purpose and need please see Master Response 3.
1802	295	3A-24, line 32 The State Water Board, as a CEQA responsible agency for the BDCP required specific alternatives to be included in the scope of the BDCP EIR/EIS analysis. "Does the range of alternatives include an alternative that would contribute to reducing reliance on the Delta in meeting California's future water needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency? The BDCP alternatives do not include any provisions for reducing reliance upon the delta for meeting water needs. The BDCP EIR/EIS should develop and analyze an alternative that does reduce reliance upon the delta as a water supply, revise the EIR/EIS document and recirculate the draft document for public comment.	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. 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.

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1802	296	3A-24, line 38 "The Lead Agencies have determined that, if the answers to any of these questions are "No," an additional alternative should be included or an alternative should be modified to support a "Yes" answer." The preceding three comments show that the answer was "no" at least 3 times, so the BDCP EIR/EIS needs to develop additional alternatives. By not having these alternatives, the project will not have "Alternatives responding to the requests from the State Water Board, the Delta Stewardship Council, and Environmental Protection Agency will likely form low-impact "bookends." The low impact bookend project alternatives are important as the alternative that meets the project needs and has the least environmentally damaging project alternative (LEDPA) must be adopted by the U.S. Army Corps of Engineers and EPA for approval in their permitting process. By the BDCP omitting these bookend alternatives, the EIR/EIS is denying the opportunity to meet the project needs and achieve the lowest environmental impacts while meeting the project objectives. The current BDCP exclusion of these other alternatives is in direct conflict with the concepts and requirements of LEDPA.	Fifteen alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the FEIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. 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. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4. For more information regarding Environmental Commitments please see Appendix 3B of the FEIR/EIS.
1802	297	3A.6 The initial screening did not address a number of conveyance alternatives identified earlier in this chapter, including storage No storage alternatives were considered in combination with through delta or other conveyance alternatives. These were never even considered for screening according to this Appendix 3 documentation.	While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the 2013 Public Draft EIR/EIS, describes the potential for additional water storage. Please see Master Response 4 regarding the development of alternatives. Please see Master Response 6 for information on Demand Management. Please see Master Response 37 regarding water storage.
1802	298	3A.6, line 12 A number of the conveyance alternatives identify tunnel options. Unlike all the other conveyance alternatives, the tunnels are never described as to where this conveyance concept originated or any other background. The BDCP must provide disclosure of the source of the tunnel alternative conveyance and background on its development and previous investigations.	A description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4.
1802	299	3A.6 The tunnel conveyance was not proposed by the BDCP HCP/NCCP until the public scoping process for the EIR/EIS had been completed. The HCP/NCCP is free to propose any project concept they want, but the EIR/EIS may not propose project alternatives that did not come from the public scoping process or were not introduced into the public record prior to the closing of the public scoping period. The BDCP has produced no evidence that the tunnel conveyance option was identified in the public record or scoping prior to the closing of the public scoping period for the ERI/S, so the EIR/EIS may not include any tunnel conveyance alternatives except the one proposed by the BDCP HCP/NCCP.	Please refer to response to comment 298 within this comment letter, above.
1802	300	3A -48, line 28 "The presentation also stated that there was a potential for delta smelt to enter the conveyance facility by passing through the lock." The potential for smelt to become entrained in the locks during operation is exaggerated. If the lower end of the locks exposed to water that potentially have smelt in them are kept closed at all times except when a ship is entering or exiting the locks on the south end, the	The commenter lists assumptions related to the behavior of delta smelt. Investigations in recent years have indicated that delta smelt occur year-round in the Cache Slough subregion, including Cache Slough, Liberty Island, and the Sacramento Deep Water Ship Channel (Baxter et al. 2010; Sommer et al. 2011) see Chapter 11 Alternative 4A Fish and Aquatic Resources. Please see comment number (1802:303). Please see Master Response 4 regarding Alternative Development.

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		only opportunity for smelt to enter would be when a ship is entering or exiting the lock. This would be a noisy and turbulent area that the smelt would tend to avoid. Water used to fill the locks during transfers would be from smelt free upstream water as the Stockton Deep Water Ship Canal would always be at a higher stage elevation than the part of the channel downstream of the locks. This assessment also misses the concept that if a smelt were to become entrained in the locks that there would be a 50% chance that the smelt would exit the same way they came in so 50% of the straying smelt would rescue themselves from the entrainment. This BDCP assessment also misses the fact that the intakes that are associated with this conveyance option are upstream of all known smelt distribution, so there would be no take of smelt associated with the intake operations or structures. All other conveyance options do have take associated [COMMENT CUT OFF]	
1802	301	3A -48, line 33 "The presentation also stated that the Deep Water Ship Channel would require construction because the facility (1) does not meet the seismic criteria for the Isolated Conveyance Facility, (2) was not designed to withstand the 200-year return flood and associated inundation, and (3) was not designed to withstand sea level rise that could occur over the next 100 years, and because levees may require improvement to store the additional water at higher elevations than existing flows." The BDCP should have done its own independent review of the viability of the Sacramento Deep Water Ship Channel (SDWSC) as a conveyance. Let's address each of the points the EIR/EIS cites. First, the SDWSC levees are over 50 meters wide. Even though it was not built to the latest seismic standards, a retrofit with slurry walls to get it to code would be less expensive and a much lower environmental impact than other conveyance options that were advanced for further consideration, e.g. compared to the eastern alignment surface canal (initial screening alternative B2), the retrofit of the SDWSC would be cheaper and have less environmental impacts. Second, the SDWSC would be an isolated facility, so would not be subject to flood flows. The existing CVP/SWP facilities that would be used as part of the conveyance in all of the alternatives would also not meet 200 year flood events without damage. Third, the Locke's at the South end of the SDWSC will protect it from sea-level rise. So out of the three reasons given by the BDCP for dismissing this alternative from further consideration, none of these reasons stand up to scrutiny and this concept should not have bee [COMMENT CUT OFF]	Please see Master Response 4 regarding Alternative Development. Please see the Final EIR/EIS Appendix 3A Results of Initial Screening of Conveyance Alternatives regarding Alternative B5. The Final EIR/EIS states that the Deep Water Ship Channel would require reconstruction and the specifics of that reconstruction are not mentioned. However, Alternative B5 was ultimately eliminated from further consideration because of how it could adversely affect delta smelt and navigation along a federal navigation corridor. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis.
1802	302	3A - 48, line 39 "The April 15, 2009 presentation included results from the 2006, 2007, and 2008 delta smelt surveys. The results showed the presence of over 700 delta smelt/10,000 cubic meters along the lower Deep Water Ship Channel near the potential locations of the new ship lock and intake. The information in the presentation included results of an analysis that showed that the number of delta smelt observed was generally less than 5% of the delta smelt observed in the western Delta." We have worked with this data and the BDCP representation is extremely misleading from the facts. The smelt collects were almost entirely in the Cache Slough and Liberty Island areas and only 3 fish collected were from the Stockton Deep Water Ship Canal that would be in the area potentially affected by the SDWSC operation as a water conveyance. The BDCP must correct this gross misrepresentation of the survey data as it relates to the viability of this conveyance alternative and restore this option to full consideration in the EIR/EIS.	The information in this comment is consistent with the information presented in April 15, 2009 presentation which included a copy of a December 17, 2008 letter from Ted Sommer that represented that the majority of the delta smelt observations were located in the Cache Slough area downstream of the confluence with the Sacramento Deep Water Ship Channel. The information presented in the CDFW letter as included April 15, 2009 presentation summarized that “Substantially altering the DWSC could have huge hydrodynamic effects that would radiate throughout the delta, the primary habitat for delta smelt.” Therefore, this information was considered in the alternatives screening process. Please see Master Response 4 regarding Alternative Development. The Proposed Project has been developed with the goals of minimizing and avoiding incidental take of listed species to the maximum extent practicable. Chapter 11, Fish and Aquatic Resources, and Chapter 12, Terrestrial Biological Resources, EIR/EIS, describe effects of the proposed project and several alternatives on fish and wildlife species in the Plan Area.
1802	303	3A - 49, line 1 "This alternative was 1 eliminated from further evaluation because it could	Please see Master Response 4 regarding Alternative Development. Please see Chapter 11 Alternative 4A Fish

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		adversely affect delta smelt and navigation along a federal navigation corridor." The preceding 3 comments make it clear that this conveyance alternative may have lower delta smelt impact than any other conveyance option considered in the full analysis. Other conveyance options were carried forward that had larger potential adverse impacts to delta smelt, e.g. through delta. All the other conveyance alternatives that have north delta intakes also adversely affect navigation, so this is not a consistent rationale as a basis to eliminate the Stockton Deep Water Ship Canal as a conveyance option.	and Aquatic Resources For impacts to delta smelt under Alternative 4A. Impacts to delta smelt. These impacts are mostly concerning water quality issues such as turbidity, noise, and temporary habitat loss. Under Alternative B5 delta smelt could lose access to areas they have been using within the Deep Water Ship Channel. The Delta Smelt would probably not be able to enter the Delta during seasonal migration patterns through periodic openings of the lock (see 3A.7 Results of Initial Screening of Conveyance Alternatives.)
1802	304	3A - 49, line 8 "If the intake were located near the Port of West Sacramento, a single, large intake would be constructed at one location along the Sacramento River, which could result in localized impacts on aquatic resources and navigation, and could require modification of the locks at the Port of West Sacramento." This cannot be part of the rationale for excluding this conveyance from further consideration. One large intake is obviously stupid and unviable and was not included in any alternative that went forward in the screening process. Multiple intakes were discussed in context with this conveyance option including integrating intakes into modified and improved facilities at Fremont and Sacramento Weirs and at the existing Stockton Deep Water Ship Canal locks at West Sacramento.	Please see Master Response 4 regarding Alternative Development. Alternative B5 was not further evaluated due to localized impacts on aquatic resources and navigation. The Commenter agrees that this Alternative should not have been perused. Use of the Deep Water Ship Channel was ultimately eliminated from further evaluation because it could adversely affect delta smelt navigation along a federal navigation corridor, the Deep water Ship Channel would require reconstruction, and ship transit times could be delayed. Alternative B6 (isolated conveyance with a tunnel between the Sacramento River near Fremont Weir and the SWP and CVP) was eliminated from further evaluation because it would increase the extent of disturbance to habitat along the conveyance and it would be drastically more expensive to construct. Please see 3A.7 Results of Initial Screening of Conveyance Alternatives.
1802	305	3A - 50, line 35 "Through Delta Conveyance with Fish Screens at Clifton Court Forebay. This alternative was eliminated from further evaluation because initial results of recent studies, including information included in the recent National Marine Fisheries Service 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." OK, so there was some support for a phased approach of improving fish survival at Clifton Court Forebay. This information does not preclude consideration of this as an alternative for full consideration nor does it mean that the alternative could not have been phased.	Please see Master Response 4 for more information regarding Alternative Development. Modular screening strategies have not been eliminated as a possibility for future action, but actions pursued should be cost-effective and alternatives should provide increase abundance in fish populations and supporting habitat. The initial screening Conveyance Alternative C4 was eliminated from further evaluation because studies indicated it would be difficult to find a location which would provide sweeping velocities to reduce fish entrainment. The screen would also need to be more than a mile in length which would expose fish excessively to the screens. For updated information regarding this please see 3A.7 Results of Initial Screening of Conveyance Alternatives.
1802	306	3A - 51, line 3 "These studies have indicated that it is difficult to find a location at the Clifton Court Forebay site for a single location that would provide appropriate sweeping velocities to reduce the entrainment of fish in accordance with USFWS and NMFS fish screen operations criteria or guidance." See related comments on descriptions of Clifton Court Fish Screen Facilities that would meet screen operations criteria. It is possible to have compliant screens, so this is not a suitable reason to dismiss this alternative either. This alternative would have been much more viable if it was combined with upstream in-delta and/or downstream storage which would have allowed emphasis on diversion operations during winter periods in which endangered fish species were less exposed which would further improve fish protections at the south delta diversions.	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 (Appendix 5B Section 3.B.3.3). The south Delta export facilities are located on dead-end channels and require 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 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

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			efficiencies, consistent with the 2009 biological opinion of the SWP/CVP. For more information regarding development of alternatives and water demand management please see Master Response 4 and 6, respectively. For more information regarding new water storage please see Master Response 37.
1802	307	3A - 51, line 3 None of the EIR/EIS provided any rationale to eliminate this option from further consideration. See preceding two comments. The BDCP provided lots of additional information other than these two points, but no more rationale regarding this options dismissal.	Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the 2013 Public Draft 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.
1802	308	3A.9 Conveyance operations The BDCP EIR/EIS fails to identify sip vs. gulp intake operations that were identified in Steering Committee meetings and in the EIR/EIS public scoping comments - see related comments.	The amount of water DWR can pump from the new north Delta facilities is set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors. Operations for the proposed project would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR must maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area. The intake fish screens drive the overall size of the intake structure on the riverbank, and have been numbered and sized to permit water to flow through the screens within a predetermined flow regime set by California Department of Fish and Wildlife and NMFS fish screen criteria (BDCP Appendix 5B Section 3.B.3.3). Please also see Master Response 28 which discusses operational criteria including water intake.
1802	309	3A.9.6 The BDCP considered different conveyance capacities, but did not consider any different intake sizes or designs. The BDCP only considered on bank intakes that were 3,000 cfs in capacity. 3000 cfs is at the extreme end of the size for intakes that have any relevant precedence for use in the Sacramento River system. The BDCP did not conduct or present any due diligence regarding the use of smaller intake sizes that could have given fish a shorter duration of exposure to screen operations. The BDCP did not provide any rationale for all of the alternatives having on-bank instead of some of the alternatives including in-river intakes so the effects of that potential alternative component could be assessed. The BDCP EIR/EIS alternatives only included intakes at a single set of locations with no inclusion of alternative locations or combinations of locations. As an example, it would have been good to have an alternative that had intakes that are below the important Sacramento Tributary confluences with Sutter and Steamboat Sloughs. Intakes downstream of these confluences would have had the opportunity for juvenile salmonids to emigrate through these sloughs and avoid exposure to the intakes. The BDCP must include alternatives that incorporate different intake sizes, different intake types a [COMMENT CUT OFF]	The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on Proposed Project operations. Please also see Master Response 28 and 25 for more information regarding operational scenarios and compliance with ESA respectively, and Master Response 4 which provides additional information on alternatives development
1802	310	3A.10.6.3 Decision Tree	The preferred alternative, 4A, does not include a decision tree. Instead, it includes specific operating criteria

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		This is not a decision tree. A decision tree has defined criteria for clear "yes/no" answers with clear actions or directives in response to the binary yes/no decisions. There are no decisions in the description of the tree nor any decision criteria or response actions described. This cannot be implemented as described, modeled or operated to, it is a farce. The BDCP must provide real criteria, decisions and responses in a binary decision format or it must delete this non-decision non-tree "decision tree" from the EIR/EIS.	that have been fully evaluated in the EIR/EIS. Please see Master Response 44 for more information regarding the Decision Tree and why it is only under Alternative 4.
1802	311	3A-81, line 21 "Although there is much merit in this Portfolio- Based Proposal, the entire portfolio, viewed as a package, does not qualify as an EIR/EIS alternative for the BDCP, as its scope is far greater than can be achieved through a Delta- focused HCP/NCCP." As identified in previous and other comments, the focus on the delta as the only geographic area that can be included or considered in addressing the identified BDCP purpose and needs and objectives is arbitrary, capricious, without merit and predecisional. See related comments on chapter 2. The BDCP must not drop the Portfolio Based proposal solely on the fact that necessary actions to meet the project objectives would occur outside of the delta. The BDCP must give this alternative full consideration in the revised EIR/EIS.	For more information regarding the proposed project being pre-decisional please see Master Response 8. For information on project alternatives, please see Master Response 4.
1802	312	3A-81, line 33 "Similarly, "[d]enveloping new water storage south of the delta" (see January 16, 2013, press release) is also beyond the scope of an HCP/NCCP focused on the Delta. DWR agrees that such new storage should be part of an overall water supply program for California in coming decades, as is made clear in Appendix 1B, Water Storage; but DWR's support for such supply augmentation cannot transform the BDCP from an incidental take permit focused on the Delta into a water plan for all users of Delta water." New storage south of the delta may be outside of the scope of the HCP/NCCP, but it is not outside the range of reasonable alternatives that address the majority of the stated purpose and need of the project in chapter 2 of the EIR/EIS. The EIR/EIS statement is incorrect as additional downstream (and/or upstream) storage would allow delta operations to be altered such that they would avoid many of the current CVP/SWP operational conflicts with environmental resources (fisheries, water quality and water supply). We have a number of comments which address the fact that storage does meet project needs and should not be eliminated from further consideration and full analysis in the EIR/EIS just because the action would occur outside of a predecisionally defined geographic area.	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, Draft EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/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 EIR/EIS. While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the 2013 Public Draft EIR/EIS, describes the potential for additional water storage. 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 EIR/EIS.
1802	313	3A-85, line 20 "Similar to the Portfolio-Based Proposal, Congressman Garamendi's Water Plan would also (1) require changes in the manner in which local and regional water managers use their supplies, (2) involve unfunded levee improvements that are unrelated to restoration of the Delta ecosystem, and (3) include new storage projects outside of the Delta that are beyond the scope of the BDCP. As with the Portfolio-Based Proposal, the Congressman's Water Plan is also akin to a statewide water plan that would treat California as a single water planning unit and include steps about how to increase water use efficiency and water supplies throughout the entire state. Although these steps are highly meritorious, they are outside the scope of an HCP/NCCP for the Delta." Let's break down these objections to this proposed alternative. 1) The BDCP can provide funding, training and technical assistance in the service area to achieve this component. It	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. For more information regarding piecemealing and segmentation please see Master Response 8. 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

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		does not have to construct any facilities or change the operating independence of the service area entities. 2) Levees are part of the conveyance for the dual operations of the south delta diversions so they are a part of conveyance. Plus, levee improvements are great opportunities to incorporate habitat restorations, e.g. setback levee floodplain, large wood debris jams, riparian vegetation plantings for cover and forage. 3) The delta as a confined area of potential project action is arbitrary and unsupportable - see related comments. The proposal description has no components which match the accusation that the proposal is for a statewide water plan, see #1 above. Again, the delta is an artificial, predecisional constraint put into the purpose and need that should not have been used as an alternative screening criteria.	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. For more information regarding piecemealing and segmentation please see Master Response 8. 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. For more information on levee stability and seismic risk please see Master Response 16. For the proposed construction of levee modifications, materials excavated from the tunnels and other conveyance facility footprints would be used as fill material to the greatest extent feasible. Depending on the final construction schedule of individual construction facilities, fill materials will also have to be imported from other sources. For more information regarding purpose and need of the proposed project please see Master Response 3.
1802	314	3A-85, line 30 BDCP comparison of the Garamendi proposal with Alt B5. We have already deconstructed and refuted the BDCP dismissal of Alt B5 in earlier comments in this section, so all of those same comments apply here. None of these BDCP arguments to dismiss this alternative are valid and this alternative should be included in the EIR/EIS for full analysis. If components of the proposal are truly unacceptable, then those should be dropped from the proposal, with supporting sound rationale, and then the surviving components of this alternative must be analyzed.	Please see Master Response 4. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS, 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. Please see Master Response 4 for more information regarding alternatives development and screening. 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.
1802	315	3B Where is the commitment to fund and implement the deconstruction of the BDCP at the end of the 50 year project period? The BDCP cannot just assume that the project permits will be renewed at the end of the proposed 50 year project period. The BDCP must make provisions, financially and in management actions to decommission and remove the project features at the end of the project period. Otherwise if the project is not renewed, the public will be stuck with the cost of decommissioning, removing or maintaining the facilities and project features, e.g. levee maintenance, security, etc. in perpetuity.	Please see Master Response 5 regarding Cost. And please see Master Response 45 in regards to Permitting.
1802	316	3B-1, line 19 "...they will not be restated in the impact analysis for each resource chapter but instead will be incorporated by reference." The impacts of the environmental commitments, and there are lots of them, are not included in the impact assessments of the individual affected resources categories, but	Please see Master Response 5 for a discussion on Conservation Measures and Master Response 9 for Cumulative Impact Analysis. 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.2 Environmental Commitments, AMMs, and CMs of the RDEIR/SDEIS.

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		instead are buried here, deep in an unrelated appendix. These impacts were not appropriately assimilated into the impact calls of the respective resource categories and were not consistently referenced to this section.	
1802	317	3B-1, line 21 "The BDCP 21 proponents will see to it that these measures will be implemented as appropriate,..." This is not at all reassuring and provides no substantive assurance of compliance, especially since DWR will be running the facilities (according to the EIR/EIS, and DWR is only one of the 50 odd project proponents. How do the project proponents propose to ensure this happens when they do not have operational control over the project? Who determines what is appropriate and by what criteria. These must be disclosed.	Please see Master Response 28 Operational Criteria. Please see the Final EIR/EIS 3.B 1 Effectiveness of Environmental Commitments for a discussion on project proponents and the implementation of Environmental Commitments.
1802	318	3B-2 "Table 3B-1. Summary of Environmental Commitments" This table is not at all useful to the reader. Are we supposed to go back to each chapter and find each of these and do our own catalog of what each of these are? The presentation of this information is purposely difficult to use and does not meet the standard of making information accessible or understandable and that is in violation of NEPA and CEQA requirements.	The table provides a summary of how environmental commitments would be employed to address potential impacts. Although the table is lengthy, it is precise and is intended to provide the sort of catalogue that the commenter seeks. The sections that follow the table describe each environmental commitment in detail. The Lead Agencies have presented information in Appendix 3B regarding environmental commitments as clearly as possible. Please see Master Response 38, Length of the Environmental Document for a discussion on information being difficult.
1802	319	3B-6, line 4 "Detailed subsurface investigations will be performed at the locations of the water conveyance alignment and facility locations and at material borrow areas." If the conveyance was described and analyzed at a project-level of detail then these studies would have been completed already. The findings of this work will make profound differences in the environmental impacts that the BDCP EIR/EIS has not evaluated or disclosed in this document. A simple example is that for an unstable area, the BDCP would have to relocate the facility or perhaps use a much larger foundation (which changes the volume of cement used, equipment used, number of hours of equipment used, etc.).	For more information regarding project and program level analysis please see Master Response 2. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.
1802	320	3B-6, line 18 "The geotechnical investigation will also include a small scale environmental screening to assess the presence or absence of dissolved gases that will help guide the tunnel ventilation design and disposal considerations for excavated materials and tunnel cuttings." This is saying that the tunnel access port locations may change from what has been analyzed in the EIR/EIS and that the BDCP might at this point, finally have some understanding of how and where the tunnel muck would be disposed. This is another example of how the conveyance is not described, evaluated, mitigated or disclosed at a project-level of detail. These are all material changes to the document and will require recirculation for public comment when they are added. The BDCP must not be awarded take or construction-related permits based on the currently deficient and incomplete project impact assessment.	For more information regarding project and program level analysis please see Master Response 32. Under Alternative 4 and 4A (the proposed project), the revised estimates of Reusable Tunnel Material (RTM) can be found in the recirculated documents in Table 3C-1 "Construction Assumptions for Water Conveyance Facilities" starting on page 3C-40 of Appendix 3C in Appendix A, which details the revised estimates for RTM storage acreage, volume, and potential reuses. Mapbook figures M3-4 and M14-7 show potential RTM storage locations. Final locations for storage of RTM would be selected based on guidelines presented in Appendix 3B Environmental Commitments, section 3B.2.18 "Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM), and Dredged Material" starting on page 3B-50, also in Appendix A. For more information regarding Reusable Tunnel Material please see Master Response 12. Please see Master Response 46 regarding Recirculation/Scoping.
1802	321	3B-6, line 23 "The locations of borings and other test locations will be based on a review of available geologic data to identify data gaps in the conveyance alignment and on the locations of critical facilities such as hydraulic structures and tunnels." This data is available, and yet the BDCP has not yet utilized it. Where is this available data and why has the BDCP not disclosed it or utilized it in this EIR/EIS? An EIR/EIS is required	Geotechnical investigations will build on information previously gathered in geotechnical data reports (California Department of Water Resources 2010a, 2010b, 2011, 2013) and conceptual engineering reports (California Department of Water Resources, April 2015). Information to be gathered will consider common industry standards including the American Society of Civil Engineers Minimum Design Loads for Buildings and Other Structures, American Society of Testing of Materials, Division of Safety of Dams, California Department of Transportation, California Department of Water Resources, California Building Code (CBC), and USACE

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		by NEPA and CEQA to utilize the best available information. From this quote it is obvious that the EIR/EIS fails to do that.	Design and Construction of Levees. Please see 3.B.2.1 Geotechnical studies.
1802	322	3B-7, line 14 "Localized settlement could occur during construction of BDCP water conveyance facilities. In particular, settlement above tunnels could occur in response to removal of earth materials at the tunnel face, convergence of voids created around the tunnel excavation, and stress redistribution around the excavated tunnel." This is exactly why the delta residents and communities are so concerned about the Tunnel Boring Machine and levee stability. TBMs have been documented to cause levee failures, e.g. the Cargill Salt pond levee failure by the SFPUC TBM - see related comments. The BDCP describes several factors that can contribute to surface settling with the TBM. All of these could result in the TBM caused levee failure in the delta. The BDCP does not even know what kind of TBM it will use, see following comment, so the EIR/EIS does not even provide any assurance that the pressurized TBM that reportedly reduces some of these risks will be used. These are unacceptable risks to human health and property and the BDCP provides no assurances of how it will avoid, minimize or mitigate these risks and significant impacts.	Please see Master Response 22 for Mitigation information. An Earth Pressure Balanced TBM will be used along with a well-planned ground stabilization program to mitigate for potential ground settlement which will be monitored during construction. There will be specific monitoring at sensitive features such as levees to ensure that tunneling and traffic induced settlements remain at specific limits. These requirements shall be consistent with common industry standards such as those found in the Regulatory Setting section of Chapter 9, Geology and Seismicity. Also please see 3.B.2.1.2 Settlement Monitoring and Response Program.
1802	323	3B-7, line 17 "The magnitude and extent of ground settlement depends on the excavated diameter of the tunnel, the amount of ground cover above the tunnel, excavation methods, workmanship, details of tunnel construction, and the geotechnical properties of the ground." The BDCP has provided no information on how these risk factors will be managed in the Tunnel Boring Machine process. The EIR/EIS is deficient in this regard and this material information must be provided.	Please see Final EIR/EIS 3.B.2.1.2 Settlement Monitoring and Response Program for more information regarding localized settlement during tunneling and other construction activities. Environmental review is typically conducted based on plans not 100% complete, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction.
1802	324	3B-7, line 22 "Based on the preliminary data regarding Delta ground conditions, it is assumed that an earth pressure balancing Tunnel Boring Machine will be used for all tunneling." This is a big assumption. A project-level analysis would already know and disclose and evaluate the specific make and model of machine used.	For more information regarding project and program level analysis please see Master Response 2. An Earth Pressure Balanced TBM will be implemented should geotechnical reports indicate high settlement risk in certain areas. Please see 3B.2.1.2 Settlement Monitoring and Response Program.
1802	325	3B-7, line 27 Additionally, should geotechnical reports indicate that settlement is likely in certain areas, pre-excavation grouting will be performed ahead of the Tunnel Boring Machine to fill voids and stabilize ground prior to mining." These grouting areas would be additional areas of surface disturbance and impacts that have not been identified, evaluated, disclosed or mitigated in this EIR/EIS document.	Pre-excavation grouting performance ahead of Tunnel Boring Machines is not mentioned in the Draft EIR/EIS Appendix 3B.
1802	326	3B-7, line 33 "A settlement monitoring program will be implemented on sensitive features--including levees, structures, facilities, pipelines, and utilities as required, to ensure that tunneling- induced settlement is controlled within acceptable limits." The BDCP EIR/EIS has not disclosed what "acceptable limits" are for subsidence and structural disruption of levees. The answer should be "zero tolerance", but the BDCP fails to disclose what their limit of levee disruption is. The BDCP must describe, evaluate, disclose and mitigate whatever "tolerance" they have for subsiding delta levees and other land use	Please see 3B.4.28 AMM28 Geotechnical Studies. Appropriate geotechnical investigations will be conducted to identify the types of soil avoidance or soil stabilization measures that should be implemented to ensure that the facilities are constructed to withstand subsidence and settlement and to conform to applicable state and federal standards. For additional information regarding Cumulative impacts, please see Master Response 9.

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		and infrastructure.	
1802	327	3B-16, line 6 "the BDCP proponents will ensure the preparation and implementation of erosion and sediment control plans to control short-term and long-term erosion and sedimentation effects and to restore soils and vegetation in areas affected by construction activities following construction." These plans must be developed as part of the proposed project, not as an afterthought at some future undisclosed date. The methods of control have environmental impacts and they must be disclosed and mitigated. Further, the most important management aspect of this plan will be avoidance of areas prone to significant problems or sensitive receptor sites. If the BDCP implements these avoidance components of this plan correctly, it will change or modify the proposed locations of these activities, sometimes to locations that are not currently evaluated, disclosed or mitigated by the current BDCP EIR/EIS document.	Implementation of all of the mitigation measures, environmental commitments, and AMM's for the preferred CEQA and NEPA alternative (Alternative 4A) is presented in the MMRP, which presents, how and by whom all measures to reduce significant environmental impacts would occur. Measures in this Final EIR/EIS and the MMRP to the extent needed to determine whether the mitigation measure is feasible and are capable of reducing significant environmental impacts.
1802	328	3B-26, line 20 "...facility operation noise levels at nearby residential land uses do not exceed 50 Leq during daytime hours (7:00 a.m. to 10:00 p.m.) and 45 dBA Leq during nighttime hours (10 p.m. to 7 a.m.)." Rural area noise levels are reportedly 30 dBA. 45dBA is 267% louder than that level. That is a significant impact.	Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies. The project uses a 5 dB increase threshold for traffic noise (including realigned roadways), which was revised from the Draft EIR/EIS. However, this increase is applicable only where existing noise levels exceed 60 dBA Leq. The 40 dBA existing ambient is used to characterize rural setting for many locations within the project area. The goal of mitigation is to reduce levels to below the thresholds of 60 dBA daytime/ 50 dBA nighttime. Note that although noise levels of up to 60 dBA would still be significantly higher than the existing level of 40 dBA, a noise level of 60 dBA Ldn (equivalent to threshold of 60 dBA daytime/50 dBA nighttime) would be considered "normally acceptable" under State General Plan guidelines.
1802	329	3B-34, line 39 "...the BDCP proponents will develop site- specific plans for the beneficial reuse of these materials…: Here is another example of a conveyance measure action that is not at a project-level of detail in its description, evaluate, disclosure or mitigation.	Please see Master Response 2 Project Level vs. Program Level. And please see Master Response 12 for Reusable Tunnel Material.
1802	330	3B-36, line 30 "Should Reusable Tunnel Material decant liquid constituents exceed discharge limits, these tunneling byproducts will be treated to comply with National Pollutant Discharge Elimination System permit requirements." This would require water treatment facilities that the BDCP has not described, disclosed, evaluated or mitigated.	Please see 3B.4.3 AMM3 Stormwater Pollution Prevention Plan. The implementation office is committed to prepare and implement the SWPP. The SWPPPs will include all the necessary state requirements regarding construction-generated stormwater collection, detention, treatment, and discharge that will be in place throughout the construction period.
1802	331	3B-36, line 36 "In such instances, (anticipated to apply to less than 1% each of excavated spoils, Reusable Tunnel Material [or, 270,000 cubic yards], and dredged material), the material will be disposed of at a site approved for disposal of such material." The BDCP has absolutely no supporting evidence for this incredibly optimistic estimate of materials volumes that may be contaminated. It is equally likely, based on the lack of information and disclosure of the tunnel muck chemical characteristics along the conveyance route, that 50% of the material could require class 1 disposal. This volume of trucking to Kettleman City dump would have significant air quality impacts and would be enough to severely impact the available capacity at the dump. The BDCP EIR/EIS did not	Please see Master Response 12 regarding Reuseable Tunnel Material (RTM). Chemical characterization of the laboratory reusable tunnel material samples showed no indications that RTM would require handling as hazardous waste material, and that RTM would meet conditions acceptable for unrestricted land uses. Accordingly, the EIR/EIS assumes no RTM would require special shipping or disposal at the Kettleman landfill. The process for determining disposal, storage, and reuse of RTM is described in Appendix 3B, Environmental Commitments (Section 3B.1.19) of the Draft EIR/EIS. Final disposal of RTM, if moved, would be subject to all emissions control strategies outlined in Appendix 3B, Environmental Commitments. Please refer to Chapter 31 for additional information.

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		evaluate the impacts of disposal of even its unsupported and ridiculously optimistic estimate of 1% alone a more realistic figure as described.	
1802	332	3B-37, line 4 "The BDCP proponents will ensure the preparation and implementation of a pre- dredge sampling and analysis plan (SAP) to be developed and submitted by the contractors as part of the water plan required per standard DWR contract specifications Section 01570." Seeing as the BDCP is seeking construction related permits for the project, these samples must be taken from the specific dredging locations proposed by the BDCP. If the locations are not specific enough to sample or the samples have not been taken, then the construction (dredging) permits must not be issued.	Prior to construction of the proposed project, the EIR/EIS must be certified and adopted by the implementing agencies, and permits must be obtained. Please see Master Response 45 regarding permitting.
1802	333	3B-38, line 8 "Prior to construction, draining, and chemical characterization of spoil, Reusable Tunnel Material, and dredged material, the BDCP proponents shall identify sites for reusing such materials…" The BDCP is saying it does not know where the tunnel muck would be reused. Moving the materials to a location from their storage areas will have air quality and traffic impacts that have not been evaluated, disclosed or mitigated by the BDCP EIR/EIS (let alone at a project-level of detail).	Please see Master Response 22 for mitigation, Master Response 12 for Reusable Tunnel Material, and Master Response 2 for Project Level vs. Program Level.
1802	334	3B-39, line 24 "Depending on which combination of these approaches is selected, implementation of material reuse plans could create environmental impacts requiring site-specific analysis under CEQA and/or NEPA. Many of these activities would require trucks or barges to gather and haul materials from one section of the Plan Area to another. For instance, reuse of material in the implementation of tidal habitat associated with CM4 could require material to be transported to locations in the West Delta ROA (including Sherman and Twitchel Islands) or the Cosumnes/Mokelumne ROA (including Glannvale Tract and McCormack- Williamson Tract), among other areas." Yes, the tunnel muck disposal, which is an integral part of constructing the conveyance is not analyzed at a project-level of detail and would require subsequent environment analysis. Exactly our point, see preceding comment. The subsequent analysis of impacts that are integral to a project is called piece-mealing and it is in violation of both NEPA and CEQA regulations.	The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. Please see Master Response 8 regarding Piecemealing, Master Response 12, Reusable Tunnel Material, and Master Response 2 for information regarding Project Level Vs. Program Level.
1802	335	3B-39, line 34 "While reuse locations near to the spoil or Reusable Tunnel Material areas would be preferred, such activity would require use of local roadways, which could lead to short-term effects on traffic, noise levels, and air quality. Similarly, earthwork and grading activities to restore sites to preconstruction conditions and to apply the materials consistent with their reuse could create noise and effects on air quality during the implementation of reuse plans." Exactly, see the two preceding comments.	Please see comment response 1802:336.
1802	336	3B-39, line 39 "Additionally, materials placed near levees could affect drainage and/or irrigation infrastructure." Exactly, see related comments.	While there are potential effects of RTM reuse, DWR and construction contractors would design and operate the reuse projects to minimize and avoid environmental impacts. In addition, RTM reuse could also result in beneficial effects associated with flood protection and response, habitat creation, and depth to groundwater in areas where the ground level is raised.

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1802	337	3B-40, line 24 "BDCP proponents will retain a qualified water quality specialist, wildlife, or fisheries biologist with expertise in selenium management to develop a comprehensive Selenium Monitoring and Management Plan (SMMP)." The BDCP should have already done this as these mitigation plans will almost certainly have their own impacts which have to be disclosed as part of the project.	The level of information provided in the EIR/EIS is adequate for Environmental Analysis. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis. And please see Master Response 22 regarding Mitigation.
1802	338	3B-41, line 1 "Minimizing bioavailable selenium concentrations associated with anoxic or near- anoxic conditions by reducing the amount of organic material at a restoration site…" This is disturbing that the author is not aware that most of the habitat restorations proposed by the BDCP are on the highest organic matter soils there are, peat soils.	Applicable selenium objectives in the affected environment are summarized in Table 8-54, and selected benchmarks for assessment of selenium in whole-body fish, bird eggs, and fish fillets are presented in Table 8-55 in Appendix A Chapter 8 Water Quality of the RDEIR/SDEIS. For more information regarding updated selenium analysis please see Section 8.3.1.7 Constituent-Specific Considerations Use in the Assessment in Appendix A Chapter 8 of the RDEIR/SDEIS.
1802	339	3B-42, line 6 "Such a comparison shall identify the extent, if any, to which the impacts of proposed conservation projects may extend onto lands that were not considered in the BDCP EIR/EIS because they were outside these theoretical impact areas." If this does happen, then the permits that were issued on the basis of this EIR/EIS are invalid as the implementation of the BDCP would fall outside of the envelope of environmental coverage and disclosure provided by this document. This again would be piece-mealing which is in violation of both NEPA and CEQA regulations.	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. For more information regarding piecemealing and segmentation please see Master Response 8. And please see Master Response 45 for more information regarding Permitting.
1802	340	3B-42, line 30 "This commitment shall apply specifically to those purveyors affected by significant increases in bromide, electrical conductivity, chloride, and DOC concentrations such that the purveyors will bear increased financial costs in order to continue to treat or otherwise supply water to acceptable standards. The assistance provided by the BDCP proponents is intended to fully offset any increased treatment or delivery costs attributable to CM1, or for DOC attributable to CM2-22 and may take the form of financial contributions, technical contributions, or partnerships. Assistance for construction and/or operation of facilities or the procurement of replacement sources shall be limited to reasonable, cost-effective solutions developed with input from the BDCP proponents. It is anticipated that such solutions would be devised by the affected purveyors in consultation with BDCP proponents after thorough investigation and the completion of environmental review." CM2-22 degrade water quality more than just Dissolved Organic Carbon. Through evaporation in the aquatic habitat areas, increased Electrical Conductivity, chlorides, bromides, and other chemical residues are concentrated. The BDCP must not only pay for the costs of water treatment (which the delta ag water purveyors do not currently do with their current water quality even though it is degraded and impacted from the current on permitted CVP/SWP operations) but also for the costs of any water quality impacts associated with ag discharge water quality and compliance costs thereof. Reasonable is a very subjective word that is incorrect here. The requirements for mitigation are for what is "feasible". Considering the cost of the facilities and habitat restoration and the value of the water being delivered by the project over a 50 year period of time, it is reasonable that the BDCP should be able to spend 25% as much as that total value on mitigating the significant water quality impacts to the senior water rights holders and users of the delta. The BDCP is proposing that the impacted parties pay to develop the plan to mitigate the impacts the BDCP has precipitated. The BDCP must develop and put forw [COMMENT CUT OFF]	Please see Master Response 5 regarding Conservation Measures and Cost of the BDCP and the current Preferred Alternative (Alternative 4A). And please see Master Response 22 in regards to Mitigation.

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1802	341	3B-43, line 3 "Assistance shall not extend to investments needed solely or substantially to address adverse water quality effects due to any of the following: sea level rise and/or changed precipitation patterns attributable to climate change;..." This explains why no operational changes were made in the No Action in response to climate change and they were in the Proposed Project and alternatives - see related comments. Climate change impacts, because no common sense responses to it with existing agreements and policies - see related MBK modeling analysis comments, overshadow the impacts of the Proposed Project and alternatives. Because the No Action was not equally treated in terms of response to climate change, most of the impacts from the Proposed Project are attributed to climate change. In this way, the BDCP can stack the deck so they don't have to pay for these BDCP impacts on delta water quality on the senior water rights holders and users. Again, the No Action must be revised to include reasonable responses to anticipated climate change affects that are within the agreed upon policies and practices of the CVP/SWP.	Please see Master Response 19 regarding Climate Change. The modeling results for the future No Action Alternative indicate that water levels may continue to change as climate change occurs within the Delta. See Appendix 5A, Section C, CALSIM II and DSM2 Modeling Results, EIR/EIS and RDEIR/SDEIS, for more information. The anticipated hydrologic changes due to climate change (increased temperatures and more years of critical dryness, increased water temperatures, changes in precipitation and runoff patterns, sea level rise, and tidal variations) will constrain and challenge future water management practices across the state, with or without the proposed project. The state is addressing climate change through strategies and a decision-making framework as outlined in the California Climate Adaptation Strategy and Adaptation Planning Guide. However, no single project and indeed none of the project alternatives would be able to completely counteract all of the impacts of climate change. Please see Master Response 30.
1802	342	3B-43, line 11, 3B-43, line 33, 3B-44, line 16, "3B.2.1.1 Chloride and Electrical Conductivity The following are concepts that affected purveyors could consider to address adverse effects of increased chloride concentrations and electrical conductivity..." "3B.2.1.2 Bromide" "3B.2.1.3 Dissolved Organic Carbon" We have provided many additional more feasible and practical mitigation measures in our comments under water quality, water supply, land use and agriculture sections - see related comments.	Please see Master Response 22 for more information regarding Mitigation.
1802	343	3C Table 1 These are all very generalized descriptions. These ranges of locations and facilities sizes are not project-level detail.	For more information regarding project and program level analysis please see Master Response 2.
1802	344	3C-7 "22,090 cy concrete, 1,700 kips of reinforcing bar." This is very precise for a site that has not been defined and that the requisite geotechnical work has not been done on. This estimate will be wrong and all of the impact analyses that were based on it will be wrong as a consequence. There are many examples on this table and this entire appendix of false precision of information without any of the requisite work being done to support it. Some examples include: cement and rebar volumes, Reusable Tunnel Material volumes, earth moving volumes, haul volumes, haul distances,	“22,090 cy concrete, 1,700 kips of reinforcing bar” as stated by the commenter is from Table 3C-1. Construction Assumptions for Water Conveyance Facilities. The information stated by the commenter is part of the Key Construction Information or Assumptions section. The Lead Agencies will coordinate planning, engineering, design and construction, operation, and maintenance phases of the alternative with the appropriate agencies.
1802	345	3C-11 "Projected solid waste excavation (not dredge material) from conveyance pipelines to be disposed of in landfills is estimated at 0.1%." The preceding disclosure in appendix 3B said it was 1% and now here it is 0.1%. Obviously both are wrong and unsupported (see related comment), but they are definitely in direct conflict with each other. Even the difference between these exceedingly optimistic unsupported estimates have significantly different magnitude impacts. One or both of these are wrong and therefore so is the disclosure of related impacts.	Appendix 3C states projected solid waste from intake excavation (not dredged material) to be disposed of in landfills is estimated at 0.1% and Appendix 3B is referring to RTM deemed unsuitable for reuse, and the requirements for unsuitable RTM is expected to apply to less than 1% of the total volume excavated. For more information regarding RTM please see Master Response 12.
1802	346	3C Table 7 "Final locations for storage of spoils, Reusable Tunnel Material, and dredged material would be selected..." They do not know where the storage locations are so all of the information regarding	The final locations for storage spoils, RTM, and dredged material would be selected based on the guidelines presented in Appendix 3B, Environmental Commitments. Please see Master Response 2, Project Level vs. Program Level and Master Response 12 for more information regarding Reusable Tunnel Material (RTM).

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		equipment usage, air quality, traffic and other impacts is incorrect, invalid and not at a project-level of detail for analysis, disclosure and mitigation.	
1802	347	3C Table 20 "Intake 2 Same as Pipeline/Tunnel Alignment (see Table 3C-9) Intake 3 Same as Pipeline/Tunnel Alignment (see Table 3C-9) Intake 5 Same as Pipeline/Tunnel Alignment (see Table 3C-9) Pumping Plant 2 Same as Pipeline/Tunnel Alignment (see Table 3C-9) Pumping Plant 3 Same as Pipeline/Tunnel Alignment (see Table 3C-9) Pumping Plant 5 Same as Pipeline/Tunnel Alignment (see Table 3C-9) Pipelines Same as Pipeline/Tunnel Alignment (see Tables 3C-12 and 3C-13)" The BDCP has gone out of its way to make sure the information is as confusing and inaccessible as possible. This reference to other sections goes on and on to the point this table is unusable. At lease this one provided a reference when many other instances in the main document failed to point to their supporting details in appendixes.	For more information regarding the document's length and complexity please see Master Response 38.
1802	348	3 E-8 Table 3E-1. Principal Active Crustal Fault Locations and Seismicity Characteristics in the Delta Region These faults are closer in proximity to and higher risk factors for the current CVP/SWP canals and downstream storage at San Luis Reservoir than they are proven to be for the delta levees. The BDCP proposed no actions to improve the reliability of the existing CVP/SWP facilities from earthquake damage which is in conflict one of the primary purposes cited in chapter 2 for the project. The BDCP must propose actions to protect these other more vulnerable parts of the CVP/SWP delivery system. If there is a big quake and delta water quality is impaired from a levee break, it will not matter if the rest of the CVP/SWP delivery system downstream of the delta is also out of commission from the lack of implementation of actions to improve the integrity and reliability of this part of the system - see related comments.	Please see Master Response 16 for more information regarding Seismic Issues. Applicable design specifications and standards would ensure that the impacts related to risks such as ground movement and structural failure will not jeopardize the integrity of the levees, conveyance facilities, and other features constructed for this project. Other environmental commitments, such as such design codes, guidelines, and standards, such as the California Building Code and resource agency and professional engineering specifications, and the Division of Safety of Dams Guidelines for Use of the Consequence Hazard Matrix and Selection of Ground Motion Parameters, DWR's Division of Flood Management FloodSAFE Urban Levee Design Criteria, and USACE's Engineering and Design—Earthquake Design and Evaluation for Civil Works Projects would also be implemented to help reduce the severity of these impacts to a less-than-significant level. (3B.2.1.2 Settlement Monitoring and Response Program).
1802	349	3 E-10, line 18 "Such structures are potentially capable of producing ground manifestations during offsets (e.g., subsurface shear zones and/or surface bulging), with the previously described Midland Fault, for example, exhibiting an anomalous relief feature of between 6.6 and 9.8 feet along the trace of this fault near the base of an associated peat layer (DWR 2009c, 2009d)." The BDCP EIR/EIS does not disclose the design elements incorporated into the tunnel or canal options that would protect them from this type of event. The document is saying we should be worried about the levees for this and that the water supply must be protected from this, but does not say how the proposed water conveyances are protected from this or provide any analysis that these are safer than the current levee conveyances.	Project plans have not advanced yet to the point where engineering and design work are complete. Environmental review is typically conducted based on less complete plans, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Appendix 6A in the FEIR/EIS for potential seismic impacts to the water conveyance facilities during construction and operations of the proposed project. See Commitment AMM29, Design Standards and Building Codes, described in BDCP Appendix 3.C. and see 3B.2.2 Conform with Applicable Design Standards and building codes.
1802	350	3 E-10, line 33 "Potential seismic ground shaking in the Delta area has been evaluated using standard and modified Probabilistic Seismic Hazard Analyses (PSHAs)." The BDCP should have done this analysis on the entire CVP/SWP system to address the	Please see Appendix 3B.2.1 Geotechnical Studies for information. These investigations will build on information previously gathered in geotechnical data reports (California Department of Water Resources 2010a, 2010b, 2011, 2013) and conceptual engineering reports (California Department of Water Resources, April 16 2015). Information to be gathered will consider common industry standards including the American

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		stated project purpose to improve water supply reliability, specifically from earthquakes. Instead the BDCP artificially and without supporting rationale, limited this investigation to the plan area in the delta - see related comments on the incorrect geographic constraint on potential project actions.	Society of Civil Engineers Minimum Design Loads for Buildings and Other Structures, American Society of Testing of Materials, Division of Safety of Dams, California Department of Transportation, California Department of Water Resources, California Building Code (CBC), and USACE Design and Construction of Levees. The spacing of soil boring and test locations likely will average about 1,000 feet along proposed canal and tunnel alignments and approximately 100 to 200 feet at intakes, pumping plants, forebays, siphons, and other hydraulic structures. It is beyond the scope of the project to perform subsurface evaluations on the entire delta.
1802	351	3 E-12, line 1 "Liquefaction and related effects are influenced by ground motion intensity and shaking duration." This is another reason for concern for the use of the Tunnel Boring Machines under the delta levees. They provide a source of intense and prolonged vibration exposure to the levees that increase the risk of levee liquefaction just like the BDCP claims an earthquake could. This risk is especially elevated during times when water levels are high and levees are saturated. The BDCP can minimize the risk of the TBMs causing levee failures by only operating at low flow tributary conditions - see related comments.	Please see Master Response 23, other stressors. The work to be performed will include a subsurface investigation program to provide information required to support the design and construction of the water conveyance facilities. Geotechnical investigations will be conducted to characterize existing soils and to select appropriate foundation types, lateral supports, and stabilization methods that shall be implemented to ensure that the facilities are constructed to withstand design loads and to abide by applicable state and federal regulations (Appendix 3B.2.1 Geotechnical Studies for information regarding liquefaction of Delta soils.)
1802	352	3 E-13, line 7 "None of these failures is attributable to seismic events, but Delta levees have not experienced the greatest potential seismic shaking at their current size and configuration." Correct, there is no documentation of a delta levee failure occurring from an earthquake. The vast majority of delta levees were constructed prior to 1906, so the BDCP statement that the delta levees have not experienced a major quake is incorrect and misleading.	Please see Master Response 16 for more information regarding Seismic Issues.
1802	353	3 E-13, line 15 "The epicenter of the 1989 Loma Prieta earthquake (magnitude 6.9) occurred approximately 80 miles from the center of the Delta." Yes, this quake did not damage delta levees, but it did damage the California Aqueduct by causing additional leaks in the reach in the Tracy Hills. This is why the BDCP must be looking to the other existing CVP/SWP infrastructure for earthquake vulnerability and not just the delta levees.	The proposed project does not modify the California Aqueduct pumping plants. Water would still be pumped over the Tehachapi Mountains. Please see Master Response 16, Seismic Issues for more information.
1802	354	3 E-14, line 31 "Liquefiable Material in the Levee Fill" The BDCP correctly identifies that levees were mostly constructed from the adjacent local materials and that these materials are generally not well geotechnically suited for levee construction. Then the BDCP goes ahead and proposes that much of the tunnel muck local materials can be reused to build levees (after soil conditioning agents that deflocculate the soil structure to make it flowable have been added). The flowable quality that makes the tunnel muck easier to handle also would make it more prone to liquefaction under saturated conditions. This is extremely flawed and conflicting logic from the BDCP.	Please see Appendix 3B, FEIR/EIS, for more information on the potential re use of Reusable Tunnel Material (RTM) and sediment. The feasibility to reuse RTM will depend upon the suitability of the material for each purpose based on testing of relevant properties. Any modifications to levees using RTM and/or sediment would have to comply with applicable levee design, improvement, and maintenance standards and requirements, including those of the USACE and CVFPB. Please see Master Response 12, Reusable Tunnel Material.
1802	355	3 E-15, line 10 -18 Delta levees showed no damage in these simulations. The BDCP must apply these same models and scenarios to the rest of the CVP/SWP water delivery infrastructure and see how it fairs. If the BDCP is worried about a 23% chance of a levee failure in a 1906 event, they should be focused on the damage that would certainly occur to their current canals.	Please see Master Response 16, Seismic Issues. The level of information provided in the EIR/EIS is adequate for Environmental Analysis. The Lead Agencies 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 Final EIR/EIS. Please see Master Response 2 regarding the level of detail provided in the EIR/EIS Analysis. For construction assumptions Please refer to the Final EIR/EIS, 3C.

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1802	356	3 E-15, line 37 "Levees composed of liquefiable fill are likely to undergo extensive damage as a result of a moderate to large earthquake in the region." This conclusionary statement is in direct contradiction to the preceding BDCP EIR/EIS text. There is no support In this text for that conclusion.	Please see the DRMS report, referenced in the preceding text in Appendix 3E.For more information on levee stability and seismic risk please see Master Response 16, Seismic Issues.
1802	357	3F-2, line 17 "… the Fish Facilities Technical Team was directed by the Conveyance Workgroup to focus on a reach of the Sacramento River between the City of Sacramento and Walnut Grove for locating fish screen intake facilities." This was a predecisional geographic constraint placed on this early investigation that precluded other alternative concepts and locations from consideration. As an example, this precluded the FFTT consideration of locations above Sacramento that could have been diversions for a Western Conveyance that used the Yolo Bypass and Sacramento Deep Water Ship Channel for conveyance. There was no rationale for this artificial geographic constraint provided by the BDCP and therefore all of the work done on intake locations was predecisional. Consideration of intakes above Sacramento has several very favorable characteristics which were not considered, 1) it is upstream of the known geographic range of the smelt so the screens so the smelt would have had the ultimate protection level, avoidance, 2) screens could have been designed and operated to the less operationally constraining salmonid screen criteria (and not to the smelt criteria), 3) the American River salmonid and sturgeon populations would also have been spared exposure to these fish screens, and 4) this location is above the tidal fluctuation zone so intake operations would not have to ramp up [COMMENT CUT OFF]	The Draft EIR/EIS in Chapter 3 (section 3.2) and Appendix 3A thoroughly explain the process used to develop the alternatives, and explain why certain potential alternatives were considered but ultimately rejected by the Lead Agencies. Please see Master Response 4, Alternative Development.
1802	358	3F-2, line 24 The intake size recommendations of the Fish Facilities Technical Team varied considerably from the single size facility the BDCP analyzed in their alternatives. Three of the 4 recommendations were for 1,500cfs intake facilities and yet the BDCP only analyzed intakes of one size for all of the alternatives, 3,000cfs. This single size fits all approach of the BDCP to intake size non-alternatives fails to meet the test of a reasonable range of alternatives. One size for all alternatives is not a range. The BDCP must revise the alternatives to provide a reasonable range of alternative intake sizes.	Please see Master Response 3 for information on the purpose and need for the proposed project. The Draft EIR/EIS consider 15 action alternatives, with the RDEIR/SDEIS proposing an additional three, which meet all or most of the project objectives and project purposes set forth in the statement of purpose and need. For instance, the alternatives range from the construction of one 3,000 cfs intake to five such intake facilities, representing a range of north Delta conveyance capacities from 3,000 cfs to 15,000 cfs For more information regarding alternatives to the proposed project please see Master Response 4.
1802	359	3F-3, line 5 "Intakes should be located as far north as possible to minimize encroachment on delta smelt habitat. This approach also improves sweeping velocities at intakes as a result of muted tidal backwater effects." Exactly, see comment on 3F-2, line 17. This is why the intake location alternatives are fundamentally flawed. The Fish Facilities Technical Team said it was a "key conclusion" for intakes to be located above the distribution range of the smelt, but were precluded from exploring and developing these concepts by the predecisional of the BDCP on a constrained geographic range of consideration.	Please see Master Response 4 regarding Alternative Development. FFTT identified several key conclusions regarding intake locations including that the intakes should be located as far north as possible to minimize encroachment on Delta Smelt habitat not that the intakes must be located above the distribution range of smelt (appendix 3F)
1802	360	3F-3, footnote "Although intake locations were recommended to be as far north as possible they must also be sufficiently downstream from the Sacramento Regional County Sanitation District discharge for water quality considerations and also south of the confluence of the Sacramento and American Rivers for flow considerations." Intake location #1 is less than a mile downstream of the SRCSD so this consideration was obviously discarded. It is true that Folsom releases contribute to the total flows for bypass	Appendix 3F presents some of the consideration made in siting proposed north delta intake facilities. Intakes locations near the American River were not evaluated in detail in the EIR/EIS because of flow considerations, location above the SRCSD outfall and the increased distance required for a tunnel or canal from this location. Please also refer to the alternatives screening analysis in Appendix 3A. Please see Master Response 4, Alternative Development.

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		criteria etc, but that does not preclude the consideration of intakes located above that confluence, especially since a reasonable range of alternatives would have had intake locations both upstream and downstream of that confluence. The intake operational effects of intake locations above and below the confluence with the American River should have been evaluated rather than predecisionally dismissed as they were.	
1802	361	3F-5, line 3 "Individual points of diversion should be limited to 3,000 cfs based on Fish Facilities Technical Team and Value Planning study results." The FFTT report says no such thing. It mostly recommended intakes of 1,500cfs size. Neither study directed that only 3,000cfs intake sizes should be considered in developing a reasonable range of alternatives.	Reference to 3,000 cfs has been deleted from this appendix.
1802	362	3F-7, line 3 "...tidal influence of downstream intake locations could result in multiple exposures to the same intake with tidal reverse flows." This is true of all of the intake locations considered. Intake locations north of Sacramento would not have had this flaw - see related comments. We did not see the fish impact discussions do any quantitative analysis of multiple exposures to the fish screens the reverse tidal flows described in the BDCP quote. This is a serious omission of the impact analysis.	Please see Master Response 9 regarding Cumulative Impact Analysis. Appendix 3F which is referenced by the commenter states that increased effects of tidal conditions on river hydrodynamics near intake sites 6 & 7 reduced downstream velocity under flood tide conditions that could contribute to increased duration of exposure or multiple exposures to intakes. The proposed project uses three intakes including 2, 3, and 5.
1802	363	3F-7, line 4 "...intakes located downstream of the sloughs and thus deeper into the tidally influenced reaches of the Delta could result in reduced water quality for diversions..." This is an erroneous assumption and is not a valid rationale to dismiss these intake locations. By the time water quality was impaired from tidal influence in this reach of the river, several water quality operational constraints farther downstream, e.g. Emmaton, would shut down diversion operations anyway.	The comment is correct that water quality at intakes downstream of the confluence of the Sacramento River with Steamboat and Sutter Sloughs would have similar or less salinity than at the Sacramento River at Emmaton. The primary reason for not locating the intakes downstream of the confluence of the Sacramento River with Steamboat and Sutter Sloughs was due to potential impacts to Delta Smelt and Longfin Smelt, as described in Appendix 3F, Intake Location Analysis, and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1.
1802	364	3F-7, line 7 "...there is a potential for reduced water diversions due to diversion operation sweeping velocity constraints from increased tidal influence of the farther downstream intake locations." This is true, but it seems a reasonable trade off that should have been considered in exchange for 30% of the fish to not be exposed to 40% of the intakes. The straight math says that is a 12% reduction in fish exposure to intakes. That is not an insubstantial gain in the best kind of fish protection, avoidance. This is certainly a large enough biological benefit to have merited full consideration in a reasonable range of alternatives even if there was the potential (unquantified) reduction in intake operating efficiency.	As described further in the Appendix 3F that the commenter cites, there were additional considerations related to the potential for effects on other fishes, including the smelts, as well as on repeated exposure in areas of greater tidal influence. For these reasons, the intake locations below Sutter/Steamboat sloughs were considered less suitable. Note that these considerations were for 5 intakes; the preferred alternative (Alternative 4A, California WaterFix) includes 3 intakes.
1802	365	3F-7, line 32 "...including the elimination of one particular site due to prohibitive existing features and conditions." The BDCP failed to disclose which one and for what specific conditions. If the BDCP had disclosed that, then the public would be able to evaluate and comment on if the BDCP proposed locations also had those same conditions or not. The revised EIR/EIS must disclose this information.	Appendix 3F-7 refers to the information that was provided to the Steering Committee in July of 2010. The presentation that includes the intake locations the commenter mentions can be found online at www.BayDeltaCOnservationPlan.com under archived meeting materials. Chapter 3 of the EIR/EIS describes in detail the three levels of screening criteria that were applied to all proposed alternatives in order to arrive at the 15 action alternatives analyzed in the EIR/EIS. CEQA and NEPA require a reasonable range of alternatives be developed in order to provide decision-makers with the information they need to reach a conclusion. Alternatives that were considered were determined to be unsuitable were not carried forward for additional analysis. Alternatives that were screened out do not need not be included in the EIR/EIS per CEQA and NEPA guidelines. Additional explanation regarding why the

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			proposed project and its alternatives meet CEQA and NEPA requirements for a reasonable range of alternatives is provided in Master Response 4.
1802	366	3F-8, line 1 "Locating two intakes downstream would also lengthen the distance the intakes are spread along the Sacramento River, providing increased refuge areas between structures..." This is another good reason that an alternative with downstream intakes should have been considered. The BCDP failed to provide a reasonable range of intake location alternatives that include configurations that allowed for more fish resting time and refuge between intake locations. The comparative analysis would have provided some quantification of the benefits to fish survival rates of the additional resting times between fish screen exposures, but the artificially constrained range of alternatives prohibited this outcome of the alternatives analysis.	Please see Master Response 3 regarding the project purpose and need, and the siting of the intakes. Please see Master Response 4 for Alternative Development. Intakes downstream of Steamboat slough were considered please see comments responses (1802:378, 373, and 369).
1802	367	3F-9, line 29 "...the DWR engineering team obtained bathymetric data for the entire river reach and began evaluating the proposed site locations for appropriate river geometry,..." The BDCP had bathymetry available, but did not use it to do 2D or 3D modeling of water velocities at the intake screen face to determine approach and sweeping velocities. The BDCP used this data and modeling to compare between intake types, but not the operations required at each intake site to ensure compliance with fish screen operating criteria. This is a significant failure by the BDCP to utilize the readily available information and to apply the best available science. All recently approved fish screen construction projects have conducted this kind of modeling and analysis in their environmental reviews. the BDCP must not be issued take or construction related permits for the intakes due to the failure to use generally accepted and best available science level of analysis.	Please see Master Response 30 regarding Modeling and Appendix 5A BDCP/California WaterFix FEIR/FEIS Modeling Technical Appendix. The proposed project's facilities, including water intakes and pumping plants, would be operated in accordance with permits issued by, U.S. Fish and Wildlife Service, National Marine Fisheries Service, State Department of Fish and Wildlife, and the State Water Resources Control Board, among other agencies. The proposed project would be permitted to operate with regulatory protections, including river water levels and flow, which would be determined based upon how much water is actually available in the system, the presence of threatened fish species, and water quality standards.
1802	368	3F-9, line 26 -10, line 9 These rationale are all very supportive of consideration of intakes being located downstream of the confluence of Steamboat Slough. By the BDCP's own documentation, these intake locations should have been included in the evaluation of a reasonable range of intake location alternatives.	Intake Locations at downstream of Steamboat Slough were considered. Please see comment number 1802:373 and Master Response 4 regarding Alternatives Development.
1802	369	3F-12, line 5 "Locate intakes downstream of the town of Freeport due to public scoping comments received in March 2009 citing construction impacts in an overly constrained conveyance corridor, historic building conflicts, and the precedent set by the Freeport Regional Water Project EIR indicating that intakes in the Pocket area would produce significant impacts." These rationale do not preclude consideration of intake locations above Sacramento, but these locations were not considered.	A total of 17 locations along the Sacramento River between Freeport and Steamboat Slough were considered. The sites were evaluated using maps, bathymetry data, river cross-sections, and water surface elevations at the 99% exceedance level. After the evaluation two preferred combinations of five intake locations were selected. One set of five was located on the east bank of the river and north of Courland, and a second set allowed for intakes on the east or west bank. (3F.8 Reconvening the Fish Facilities Technical Team)
1802	370	3F-13, line 4 "Sites on or just below an outside bend in the river are preferable. It is anticipated that these sites will be deeper, have higher sweeping flow velocities, and be less subject to sedimentation." This location preference is contrary to the results from the U.S. Army Corps of Engineers' Clarksburg Bend river cross-section fish distribution study. The BDCP did not need to speculate that the depth might be deeper or shallower inside or outside of bends because it had the river bathymetry data available. The BDCP did not need to speculate on	The commenter states the U.S. Army Corps of Engineer's Clarksburg Bend River Cross-Section fish distribution study is contrary to the site preferences indicated in 3F.8 Reconvening the Fish Facilities Technical Team. However, the information in the USACE study is not contradictory. It is stated in the study that there are deep areas on the outside of bends and it further states that there are lower velocities near the inside of bends. This discussion was in regards to fish holding behavior in the vicinity of Clarksburg bend. Please see Master response 30 for more information regarding Modeling. In addition, please see Evaluation of DHCCP Proposed Intake Locations report to the DWR Division of Engineering for more information

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		sweeping velocities and sedimentation if they had used the best available science of 3D modeling of water velocities at the proposed intake locations. The BDCP failed to provide sound rationale for this location preference which is contrary to the best available published literature and failed to utilize the best available science. The BDCP must revisit the intake location selection process without this unnecessary and incorrect locational bias.	regarding the Bathymetry study.
1802	371	3F-13, line 17 "However, the proposed operational criteria under development by the Delta Habitat Conservation and Conveyance Program would have these lower intakes operating only during relatively high flow periods, and they would be required to shut down any time sweeping velocities were not meeting the minimum deemed to be safe for juvenile salmonids and adult delta smelt." This says the operational criteria for intake operations in tidal influenced sweeping velocities were not developed. Obviously they must be developed, evaluated, disclosed and mitigated. Intake operations have talked a lot about bypass flow requirements but there has been no section or evaluation on how intakes would be operated to comply with fish screen criteria for approach and sweeping velocities in an intertidal zone subject to slack and reverse flows. Obviously these operations make a difference in how much water can be diverted during tidal cycles, but we can find no description, analysis or disclosure discussion on the topic of how these were integrated into the CVP/SWP operations modeling and affects analysis. A north delta intake operations model must be developed and integrated into the CALSIM modeling as a feedback loop, just like all of the other CVP/SWP facilities have their own operating model feedback loops - see related comments.	The DSM2 model incorporated sweeping velocities and limitations which was used in coordinated manner with CALSIM II modeling to limit diversions related to the sweeping velocities at the fish screen, as described in Section A.5.3 of Appendix 5A, Section A, Modeling Methodologies. It is anticipated that further development of sweeping velocities will be determined during detailed design and permitting activities by the NMFS, USFWS, and DFW. Please see Master Response 30 regarding Modeling and Master Response 22 regarding Mitigation.
1802	372	3F-13, line 23 "The interface between the fish screen facility and the river bottom will need to be evaluated to minimize impacts to sturgeon." Yes, that must be evaluated. When is that going to happen? Certainly it must before take and construction permits can be issued.	The Fish Facilities Technical Team had concerns that green sturgeon at all intakes regardless of their location relative to the sloughs and regardless of their operations may face higher predation due to the presence of the structures alone. It was recommended to evaluate the interface between the fish screen facility and the river bottom to minimize the impacts. (Final EIR/EIS 3F.9 Reconvening the Fish Facilities Technical Team) Environmental review is typically conducted based on less complete plans, because complete engineering and design work is not required for impact assessment, and most lead agencies are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. Please see Master Response 3 for further information regarding the level of detail provided in the EIR/EIS Analysis.
1802	373	3F-13, line 25 "The Fish Facilities Technical Team agreed that more information was needed to determine the potential effects for each of the covered species from placing structures below the sloughs, and recommended that the EIR/EIS evaluate the option to site intakes below Steamboat and Sutter Sloughs." Why was this recommendation of the expert team disregarded and a reasonable range of alternative intake locations provided in the EIR/EIS?	Particle studies indicate Intake options at the southern end of Steamboat and Sutter Slough may have a higher probability of Delta smelt abundance, and potential impacts on natural flow and tidal influences (Final EIR/EIS 3F.4 Value planning study team) Please see Master Response 4, Alternatives Development.
1802	374	3F-14, line 23 "(NMFS) proposed phased construction of the intakes to reduce uncertainty surrounding the impacts of simultaneous construction." This is reasonable. It is just like an air quality standard that must be adhered to during construction. The constraint is on how much you can do at a time and still protect the resources. NMFS is just correctly identifying that the project should only be allowed a certain rate of take as a limit. Cost and schedule cannot be a consideration in whether or not to comply with a limitation on the rate of take when it comes to jeopardy of endangered species. The BDCP must comply with NMFS request for phased intake construction to	Since the time of the Draft EIR/EIS, a new preferred alternative (Alternative 4A) has been proposed that would pursue ESA compliance through Section 7 versus an HCP/NCCP. Currently, a phased intake approach is not assumed in this EIR/EIS to indicate the maximum impacts from intake facilities and avoid segmenting the impact analysis. It is possible that a phased intake approach could result from the Biological Assessment process. For more information regarding construction assumptions for the proposed project please see Appendix 3C of the EIR/EIS. Please see Master Response 29 regarding the Endangered Species Act.

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		manage the rate of take or NMFS and FWS should not issue the take permits.	
1802	375	3F-14, line 35 "The EIR/EIS evaluates construction of all intakes regardless of phasing in order to support the total impact in the analysis." If the BDCP may potentially construct as a phased implementation then the analysis must be of a phased implementation. The timing, duration and combination of impacts make a difference on the effects on the resources. As an example, the construction of all intakes at once has a greater impact during a shorter period resulting in more mortality of single cohorts. A phased construction would have lower impacts on an individual cohort, but impact more cohorts. It is possible, and should be evaluated, that the phased construction would end up genetically selecting fish based on their behavior and susceptibility to construction related take such that it could genetically modify the population over time. These impacts were not considered or included in the BDCP impact analysis, not disclosed and not mitigated. Analyzing the impact of simultaneous construction therefore does not provide impact coverage or disclosure for a phased construction implementation.	The EIR/EIS analyzes the construction impacts as occurring at once because that analysis identifies the greatest impact over the project area. Phasing the construction allows for species, aquatic or terrestrial, to move away from project disturbance and find refugia to a greater extent than if all construction occurs at once. The analysis, thus, is the most conservative in identifying the greatest impact, and a phased approach would have a lesser impact. There is no research that suggests that a phased approach to construction would impact more individuals, or that a phased approach would be any more likely to genetically alter the population, sub-population or of any species. Because the EIR/EIS uses for analysis the greatest potential impact, it provides the greatest mitigation for all likely scenarios.
1802	376	3F-15, line 17 "...salmonids emigrating along the main stem Sacramento River would encounter some or all of the intakes proposed for construction, unless they travel downstream through the Yolo Bypass or Sutter and Steamboat Sloughs." The BDCP also discussed the possibility of reconnecting the head end of Elk Slough as a restored distributary, in part to provide fish an opportunity to avoid exposure to the intake screens. Where is the disclosure of that information and what was the undisclosed rationale for not including this as a conservation or mitigation measure?	In regards to Salmonid exposure to intakes, shorter screen lengths have been desirable to reduce the exposure time for fish swimming past the front of a screen. All intake locations would be located at least one mile apart as recommended by the FFTT to 21 provide rests or breaks for fish passing multiple screens (Appendix 3F Intake Location Analysis). Please see Master Response 22 regarding Mitigation in relation to intakes.
1802	377	3F-15, line 19 "Shorter screen lengths have been desirable to reduce the exposure time for fish swimming past the front of a screen." This is why the BDCP should have included the alternative for smaller fish screens rather than all of the alternatives being a single large intake size. The BDCP must redo their intake alternatives to provide a reasonable range of sizes and analyze those in an alternative.	The document evaluates 15 action alternatives and 3 new subalternatives in the Draft EIR/EIS and RDEIR/SDEIS, respectively, that meet all or most of the project objectives and project purposes set forth in the statement of purpose and need. For instance, the alternatives range from the construction of one 3,000 cfs intake to five such intake facilities, representing a range of north Delta conveyance capacities from 3,000 cfs to 15,000 cfs. The operational rules also include varying requirements for Delta outflow and river flows in the south Delta. Please see Appendix 3F Intake Location Analysis for information on the effects of the proposed intakes. 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 PD EIR/S 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. For more information regarding alternatives to the proposed project please see Master Response 4.
1802	378	3F-15, line 22 "Potential intake locations upstream of Scribner's bend were eliminated from consideration, due to the concern of proximity to a wastewater treatment plant located a few miles upstream." This is yet another argument for considering intakes upstream of Sacramento as they would avoid the sewage outfall entirely rather than just having a thoroughly mixed outfall where the current proposed BDCP intakes are located. For this and all the previously identified superior site characteristics, the BDCP must include intake locations upstream of	There has been a preference to locate sites as far north of the Sacramento River to reduce the area of overlap between delta smelt and direct exposure to the intake screens. However, salmonids emigrating along the mainstem Sacramento River would encounter some or all of the intakes proposed for construction, unless they travel downstream through the Yolo Bypass or Sutter and Steamboat Sloughs (see 3F-15 for the Final EIR/EIS).

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		Sacramento to have a reasonable range of intake locations.	
1802	379	3F-15, line 38 "There is also a natural gas field nearby that will need to be further examined in the process." This is the EIR/EIS so now would have been the time to investigate, evaluate, disclose and mitigate. From this quote it is obvious that the EIR/EIS fails to do that for these resources and therefore is deficient.	Please see Section 26.3.4.2 in Chapter 26 of the FEIR/EIS for an evaluation on potential effects to natural gas wells due to implementation of the preferred alternative, 4A. Also, see Table 26-4 for details on natural gas wells that could be affected by the project alternatives. As described in Section 26.3.4.2, because no natural gas wells would occur in the construction footprint there would not be any loss in active natural gas wells or change in the availability of natural gas production under Alternative 4A.
1802	380	3F-16, line 40 "...overall benefits are small (0% to 6% increase in overall survival)." First, these survival increases are in direct conflict with information presented on this exact topic earlier in this appendix. Second, even a 6% increase in survival is not a small benefit for an endangered species that is on a population trend trajectory to extinction. The ESA requires that all feasible measures to protect the species are implemented down to the last member of the species. These benefits are clearly worth the effort and must be a component of the approved plan or it will be in conflict with the ESA.	The comparison that the commenter cites was in relation to the comparison of intakes 1-5 versus intakes 1,2,3,6, and 7, and pertained to juvenile Chinook salmon. As discussed in Appendix 3.F, there are other considerations for intake location, e.g., potential effects on smelts. Please see Master Response 29 for more information regarding the Environmental Species Act.
1802	381	3H-1, line 17 "...the Sacramento River facilities would be operated considering tidal variations…" These tidal operations of the intakes are never described, disclosed, evaluated or mitigated in the EIR/EIS. This is an omission of a critical component of the operational description and does not meet the standard of a project-level description or analysis.	Operations would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition please see Mitigation Measure WQ-5: Avoid, Minimize, or offset, as feasible, adverse water quality conditions in the DEIR/EIS and Master Response 22 for a discussion about Mitigation Measures.
1802	382	3H-2, line 37 "Sub-surface explorations are planned to evaluate the foundation soils and also to determine the suitability of using on-site materials for embankment construction." Without this information, earthmoving volumetrics cannot be calculated and their impacts not evaluated, disclosed or mitigated. Without this information, this is not a project-level analysis and cannot be issued take or construction permits.	As discussed in the 2013 Public Draft EIR/EIS Chapter 9, Geology and Seismicity, Impact GEO-5, pile driving and other heavy equipment operations would cause vibrations that could initiate liquefaction and associated ground movements in places where soil and groundwater conditions are present to allow such movements to occur. Also described are the codes and standards that would be adhered to with respect to pile driving and the measures that would be implemented to minimize the potential for construction-induced liquefaction and other ground movements. Additionally, if the proposed project makes any modification to a levee that is part of the federal flood control system, the proposed lead agencies must secure approval from USACE through the Section 408 permitting process. For additional information regarding seismic issues, please see Master Response 16.
1802	383	3I-14, line 3 "...Water Code section 85320, subdivision (b)(2)(D), of the Delta Reform Act requires that, to be 3 eligible for incorporation into the Delta Plan, the BDCP EIR/EIS comply with the California Environmental Quality Act (Pub. Resources Code, [Section] 21000 et seq.) (CEQA),..." The EIR/EIS is not CEQA compliant as it was predecisional (see related comments), biased (see related comments), did not include a reasonable range of alternatives (see related comments), used a No Action baseline in substitution for the No Project (which is different than the NA) (see related comments) and proposed to piece-meal the environmental affects by having integral parts of the project subject to subsequent environmental analysis (not just the habitat restorations either) (see related comments). All of these are in violation of CEQA and the EIR/EIS is not a CEQA compliant document.	Please see Master Response 8 for a discussion on how the lead agencies analyzed the project as a whole. See Master Response 4 for more information regarding Alternatives Development. Please see Chapter 4 of the Final EIR/EIS, Approach to Environmental Analysis, Section 4.2.1.2, Definition of Study Area.
1802	384	3I-18, line 6 "...including a comprehensive review and analysis of "the resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by	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

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		earthquake or flood or other natural disaster." The existing CVP/SWP pumping facilities and aqueducts are part of the delta conveyance. Without these facilities delta flows cannot be conveyed. The BDCP did not evaluate earthquake risks to these facilities or include any project alternative components to address these risks. The BDCP EIR/EIS clearly fails to meet this regulatory requirement and is therefore not eligible to be incorporated into the delta plan or receive state funding.	protection policies or programs. For more information on levee stability and seismic risk please see Master Response 16. Please see comment number (1802:385) for Delta Plan response.
1802	385	3I-22, line 16 "Water Code section 85320, subdivision (b)(2)(G) requires the BDCP to comprehensively review and 16 analyze the "The potential effects of each Delta conveyance alternative on Delta water quality." The BDCP water quality analysis is deficient in many aspects - see related comments. Due to these deficiencies, the BDCP does not comply with this requirement and is not eligible to be incorporated into the delta plan or to receive state funding.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. The Delta Plan is currently the subject of litigation which has arisen since the issuance of the 2015 RDEIR/SDEIR and which could affect the legal requirements and/or implementation of the Delta Plan. Thus, the status of the Delta Plan and the Council's consistency certification process remain unclear during the pendency of the litigation, including appeals. The proponents of the proposed project intend to fully comply with the Delta Reform Act, to monitor the Delta Plan litigation and future Delta Plan amendments, and to consider filing a certification of consistency at the appropriate time. Refer to Master Response 31, Appendix 3I and Appendix 3J of the Final EIR/EIS.
1803	1	The Environmental Water Caucus (EWC) has prepared and now submits additional comments on the above-referenced Bay Delta Conservation Plan documents to supplement the remarks we supplied to you previously on June 11, 2014. We continue to oppose the Bay Delta Conservation Plan.	Please refer to response to the EWC's Letter 543-1. 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.
1803	2	The Bay Delta Conservation Plan seeks to revive a version of the failed Environmental Water Account of the CalFED-era. This is unacceptable. That program sought to purchase "environmental water" to benefit listed fish species in the Delta, but instead presided over the Pelagic Organism Decline that has put Delta ecosystems on the brink of collapse.	This comment addresses Alternative 4 (known also as the 2013 BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. For detailed responses on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5.
1803	3	Additional documentation that increased cross-Delta water transfers are a central purpose of the Twin Tunnels project and must be analyzed in the EIR/EIS.	Please see Master Response 3, Purpose and Need and Master Response 43, Water Transfers.
1803	4	[The] BDCP's weak formulation of "rough proportionality" fails to comply with a plain reading of the term's meaning in the absence of established criteria for evaluating the appropriate relationship between water project impacts and water project mitigations.	This comment addresses Alternative 4 (known also as the 2013 BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. For detailed responses on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5.
1803	5	Numerous inadequacies in the BDCP EIR/EIS are identified in our [the Environmental Water Caucus'] June 11th comments and these comments submitted today. The Draft EIR/EIS on the Bay Delta Conservation Plan should be revised and recirculated. We said on June 11th and we reiterate here that BDCP is a bad deal for California and an even worse deal for the Delta. Fish and people need both habitat and flows to recover and restore the Delta to good health. BDCP will accomplish neither for the people of the Delta nor the people of California.	With respect to other comments received from individuals representing the Environmental Water Caucus, refer to the responses associated with Letter Nos. 503, 851, 1105, and 2438.The issues raised by the commenters address the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/EIS documentation.
1803	6	We [the Environmental Water Caucus] believe the Bay Delta Conservation Plan is fundamentally flawed because it has incorporated the North Delta diversion intakes and tunnels project erroneously as a "conservation measure" that will demonstrably fail, as the Plan's own Effects Analysis shows, to conserve the species and resources its BDCP	The commenter's opposition to the BDCP project is noted. 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.

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		Applicants claim the project will benefit.	
1803	7	The BDCP fails utterly to uphold federal principles of environmental justice that are to be implemented under not only the National Environmental Policy Act of 1969, but also federal and state civil rights law. BDCP's failure to provide adequate public outreach and key documents translated into other languages describing the process, the project, and its impacts on the Delta and environmental justice communities in several translations is an egregious failure of the Applicants' public outreach plan, and consequently a civil rights violation. The BDCP Applicants have yet to indicate how they intend to rectify this error in the conduct of its entire BDCP planning process.	Please refer to Section 28.3 of Chapter 28, Environmental Justice, which describes the outreach and noticing activities that occurred to reach environmental justice communities. These activities were consistent with EO 12898 and the obligations described under Section 28.4, Regulatory Setting, of this chapter, including Reclamation's NEPA guidance in the Draft NEPA Handbook requirements. Public outreach documents are available in six languages (in addition to English), on the website, located at: http://baydeltaconservationplan.com/2015PublicReview/2015PublicReviewInformationalMaterials/2015_Multi-Lingual.aspx. Additionally, project proponents have provided translators at public scoping meetings; the BDCP Website in Spanish; and a multi-lingual information hotline for project information in English, Spanish, Tagalog, Vietnamese, or Chinese (Mandarin).
1803	8	The BDCP is premised on a flawed ecological hypothesis that habitat restoration can substitute for flow and appreciably contribute to the survival and recovery of listed species. Our comments demonstrate, using BDCP data, that this hypothesis is very likely to fail for inadequate scientific disclosure and analysis, lack of management experience, and a lack of funding for adaptive management.	Please refer to response to comment 1803-6.
1803	9	The Tunnels project is to be operated in general independently of the biological goals and objectives of BDCP and will be regulated primarily through real-time operational actions performed by unaccountable scientific and engineering professionals -- a kind of BDCP "priesthood." Neither the Plan nor the EIR/EIS provide a role for regulation by the State Water Resources Control Board, but merely assumes it will have water right permit authorization to operate once constructed.	The proposed water operations described in CM1 are not independent of the biological goals and objectives. The biological goals and objectives for fish are to be met, in part, through the operational criteria and real-time operations of the water conveyance facility. Please see Master Response 33 for a discussion of the adaptive management and monitoring program and its decision-making process. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A.
1803	10	The Tunnels project will reduce lower Sacramento River inflows, decrease water quality (with increased salinity and other constituents), increase residence times of water in ways that will contribute to toxic conditions stemming from disturbed mercury and selenium sediments and deposits as well as poor hydrologic conditions that will facilitate bioavailability of these toxins.	The mercury assessment in the Draft EIR/EIS and updated selenium assessment in the RDEIR/SDEIS address the potential for increased bioavailability of these metals, and mitigation is identified for significant impacts to reduce the severity of the effect.
1803	11	The Tunnels project will subject listed resident and migratory fish species to grave dangers at the North Delta intakes in addition to the ongoing dangers at the South Delta export pumps. This is due to untried and untested fish screen technology, and poor scientific understanding of both flow conditions and fish movement decisions within their Delta habitat, which could redistribute entrainment problems from the Old and Middle River corridors to the lower Sacramento River reach above and below the North Delta intakes. This would increase, not decrease, the potential for extinction of these species, particularly of delta smelt and longfin smelt, by increasing not only the number of locations where state/federal diversions occur from two to five but would increase the capacity diversion rate from the current 6,680 cubic feet per second (cfs) most of the time to over 9,000 cfs. The Tunnels project is therefore not a conservation measure and detracts dramatically from the overall potential for success of the rest of the BDCP conservation strategy.	CM1 of the proposed BDCP project is considered a conservation measure as it provides for operational flexibility that will improve real time operations benefitting protected species.
1803	12	The "underlying purpose" of the Tunnels project and the BDCP are concealed from the public. Its purpose is not only to increase water supply reliability of contractual water commitments within the state and federal projects, but also to increase the potential size and activity of California's cross-Delta water transfers market -- that is, using groundwater substitution transfers from sellers of surface water in the Sacramento Valley across the Delta (facilitated by the Tunnels project) to south of Delta water buyers. BDCP's failure to	For more information regarding purpose and need of the proposed project please see Master Response 3. The Proposed Project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which hydrological conditions result in availability of sufficient water and ecological objectives are fully satisfied. It is projected that water deliveries from the federal and state water projects under the Proposed Project would be roughly the same to average annual amount of water that would be

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		disclose this purpose is thoroughly improper under both NEPA and CEQA. The EIR/EIS strongly implies that in below normal years the Tunnels project will see less usage, but this is unlikely. It would be a highly inefficient plan for using such an expensive capital facility. Instead, the Tunnels are more likely to be used to accommodate state and federal projects' contractual demand in the wet/above normal years AND supplemental water transfer demand in below normal/dry/drought years. This will keep the Tunnels in frequent and even constant use. The EIR/EIS fails completely to address these likely impacts of the Tunnels project.	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. 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. For additional information regarding cumulative impacts analysis, please see Master Response 9.
1803	13	The BDCP is contrary to numerous laws, including the Delta Reform Act of 2009, Public Trust Doctrine, the California Natural Communities Conservation Planning Act, the federal Endangered Species Act, water quality control and protection laws, and the California Constitution's ban on wasteful and unreasonable methods of diversion and use of water.	Please refer to response to comment 1803-6.
1803	14	The EIR/EIS's deficiencies flow from these [issues with water quality and quantity and with impacts on fish] and other more detailed problems with the Plan, the execution of the EIR/EIS's 30,000+ pages, and the absence of any analysis whatsoever of the Draft Implementing Agreement in the EIR/EIS.	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). Implementing agreements are a requirement under the California Natural Community Conservation Planning Act (NCCPA), and are routinely executed under the ESA Section 10 (HCP) permitting process. Since the current proposed project is no longer a NCCP or HCP, an implementing agreement was not released with the RDEIR/SDEIS or final EIR for the project. For more information regarding analyses done for impacts on water quality and fish please see Chapters 8 and 11 of the FEIR/EIS, respectively. Additionally, with regards to water quality, please see Master Response 14. For more information regarding the document length please see Master Response 38.
1803	15	Water Transfers and the Supplemental Adaptive Management Fund: The BDCP would bring back the failed Environmental Water Account, a failed CalFED program that enabled key brokers of state water to game the system, buying water at low cost from the state or other willing sellers ostensibly to benefit fish with increased Delta flow, then selling the same water at high prices to others once it was exported from the Delta. The pot of money for this BDCP program would be called the "Supplemental Adaptive Management Fund." Its purpose would be to purchase water from willing sellers for instream flows in the event that BDCP's habitat restoration hypotheses fail. This money would come largely from taxpayers who would in effect be charged for the state and federal government's own failure to enforce public trust protections. As we commented to BDCP previously, the Plan and its EIR/EIS failed to disclose to the public and decision makers the underlying purpose of the Twin Tunnels project to increase	See Master Response 43, about water transfers. Regarding the project's purpose and need please see Master Response 3. The State Water Resources Control Board (the Board) is charged with the comprehensive planning and allocation of water resources in California. Any change in purpose, place of use, or point of diversion requires approval by the Board. DWR will seek to obtain the Board's approval for the proposed project through the permit process. Water rights permits carefully spell out the amounts, conditions, and construction timetables for proposed water projects. Before the Board issues a permit, it must take into account all prior rights and the availability of water in the basin. The Board considers, too, the flows needed to preserve in-stream uses such as recreation and fish and wildlife habitat. DWR, as the permit applicant, will follow the process set forth in the Board's regulations, which includes environmental review, public notice, and a hearing process to address objections.

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		the capacity of Delta Conveyance to support cross-Delta water transfers.	
1803	16	The EIR/EIS improperly fails to disclose cumulative impacts of the proposed Twin Tunnels project when taken together with well-known and long-planned water storage projects throughout California, and water transfer plans and programs that are closely related past, present, and reasonably foreseeable future projects. Most importantly, storage projects BDCP omits from the EIR/EIS include the raising of Shasta Dam, Sites Reservoir and Temperance Flat on the upper San Joaquin River above Friant Dam and Millerton Lake.	The potential reservoir storage projects described in this comment are considered in the cumulative impact analysis in the 2013 Draft EIR/EIS and the Partially Recirculated Draft EIR/Supplemental Draft EIS. For more information regarding alternatives development and demand management please see Master Responses 4 and 6. With regards to water storage, please see Master Response 37.
1803	17	In continuing our review of BDCP documents, we find that the Draft IA reveals at Section 10.3.7.3, "The Supplemental Adaptive Management Fund," which is further described in BDCP's conservation strategy in Chapter 3.4.23. This section of the Plan appears well hidden and innocuously placed in a section entitled "Resources to Support Adaptive Management." Here BDCP summarizes the Applicants' strategies for "making adaptive management changes to the conservation strategy" which include the following general approaches: - Changing approaches to the implementation of the conservation measures. - Shifting resources from less effective to more effective conservation measures. - Adding new conservation measures. - Revising biological objectives. - Utilizing the Supplemental Adaptive Management Fund (Section 3.4.23.5). Every five years, BDCP states that "water facility operating criteria will be comprehensively reevaluated as part of the program-level assessment conducted by the Implementation Office..." Should changes to the Twin Tunnels operating criteria be adopted, "the resources to implement such changes will be drawn from the following sources and in the order of priority": 1. Interannual adjustments in operations. [Footnote 5: "Under this approach, adjustments would be water-neutral. A number of water management tools, such as use of available stored reservoir or groundwater, source shifting, and borrowed water allocable to SWP or CVP water contractors, would be used to allow for these adjustments to occur." Ibid, p. 3.4-355, lines 15-18.] 2. Sharing of water supply improvements (on a 50-50 basis between the SWP and the CVP). [Footnote 6: "Adaptive management changes to CM1 may result in increased water supplies for SWP/CVP purposes beyond prior annual or long-term projections. If this occurs, the additional water supply will be divided equally between the SWP/CVP water contract deliveries and the conservation strategy through supplemental flows or other approaches designed to enhance aquatic conditions." Ibid, p. 3.4-356, lines 2-5.] 3. Funding shifts to the most effective conservation measures. [Footnote 7: "Conservation measures that have been funded and implemented properly and, nonetheless, are not achieving their intended outcomes may be considered less than effective and not worth continuing to implement (or continuing at a reduced effort)....This approach could be used to support adaptive management changes not only to CM1 but to any of the conservation measures." Ibid, lines 10-12, 15-16.]	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 30.

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		4. Enhanced environmental flows. [Footnote 8: "Through the implementation of various strategies such as water use efficiency programs, reservoir reoperations, water system improvements, and other incentive-based measures, BDCP participants may realize additional yields or otherwise acquire from voluntary sellers long-term access to water for the purposes of, among other things, enhancing environmental conditions in the Delta and improving water supply reliability. Water used for environmental enhancement could be used to augment outflow established through the decision-tree process, as reflected in CM1, for the benefit of longfin smelt or delta smelt or south Delta operating criteria." If not needed for either smelt species, these enhanced environmental flows could be used to benefit other covered species or other adaptive changes to CM1, or "to serve other environmental purposes." Ibid, lines 20-29.] 5. Supplemental Adaptive Management Fund. [Footnote 9: "In the event that the resources necessary to support an adaptive management change cannot be secured through any of the foregoing approaches, funding to accommodate the change will be available from the Supplemental Adaptive Management Fund. This fund will be at least $450 million, will be used to support adaptive management changes to CM1, as well as to other conservation measures, determined to be necessary during Plan implementation." Ibid, lines 31-36.] In other words, we seem to have here BDCP's "plan B" for Delta outflow. In our June 11th comments, we summarized a presentation to the Delta Independent Science Board by water operations modeler Walter Bourez of MBK Engineers on January 17, 2014. In that presentation -- and in a subsequent report we incorporate by reference to these comments [Footnote 10: EWC June 11th BDCP Comment Letter, see pp. 65, 67-68. MBK Engineers and Daniel Steiner, Report on Review of Bay Delta Conservation Program Modeling, funded by Contra Costa Water District, East Bay Municipal Utility District, Friant Water Authority, Northern California Water Association, North Delta Water Agency, San Joaquin River Exchange Contractors Water Authority, San Joaquin Tributaries Authority, and Tehama Colusa Canal Authority. Hereafter cited as Review of BDCP Modeling.] -- Mr. Bourez stated that for the High Outflow Scenario of BDCP, the state and federal projects would not have enough water in their reservoirs to meet spring outflow while also providing sufficient water for diversions at the North Delta Intakes. BDCP modeling apparently assumes that the outflows will not be met by reducing exports (as application of the Public Trust Doctrine would require), but by releasing water from Lake Oroville in the State Water Project. This would result in state and federal water contractors getting "less water than they would otherwise get without BDCP." [Footnote 11: Review of BDCP Modeling, p., 16.] However, according to the 1986 Coordinated Operation Agreement between DWR and the Bureau, responsibility for meeting Delta outflow would be shared, and therefore Lake Oroville's "water debt" would be repaid. [Footnote 12: Ibid. "If the increases in outflow were met based on COA, there would likely be reductions in Shasta and Folsom storage that would likely cause adverse environmental impacts, which have not been modeled in the BDCP EIR/EIS."] BDCP anticipates using water transfers, as we pointed out in our June 11th letter, to provide a source of water for the Delta outflows needed in the High Outflow Scenario, but, states MBK Engineers, "...this approach is unrealistic. During most of the spring, when BDCP proposes that Delta outflow be increased, agricultural water users are not irrigating. This means that there is not sufficient transfer water available to meet the increased Delta outflow requirements without releasing stored water from the reservoirs." [Footnote 13: Ibid.]	

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		If the conservation measures as a whole are not working to repair damage done to the Delta and its listed species or to meet Delta outflow obligations called for in the High Outflow Scenario, Chapter 3.4.23 of BDCP says it will take actions to improve conditions. If items 1 through 4 above fail, use of the Supplemental Adaptive Management funds from this program would, in theory, only be authorized once reallocation of existing BDCP funds to the failing Plan element failed to improve conditions for covered species (but especially listed fish species) in the Delta. Such adaptive management changes could include: - Acquiring supplemental flows - More natural community restoration - Other actions, or - A combination of approaches. At least $450 million would be placed in this account by "the Authorized Entities, the State of California, and the United States." [Footnote 14: BDCP, op. cit., p. 3.4-356.] To access these funds, BDCP sets up a series of actions to be taken or determinations to be made before use of the Supplemental Adaptive Management Fund. [Footnote 15] While there are a number of steps required for the Implementation Office to access these funds, it is likely that they would be realized early and quickly, hastening the BDCP Applicants' use of the supplemental funds. Given the problems MBK Engineers has identified just with the High Outflow Scenario's lack of water for meeting Delta outflow targets, it should be pretty easy for BDCP to hurdle these criteria to access the Supplemental Adaptive Management Fund. There is also a great deal of murk and potential mischief associated with BDCP's "plan B." Creation and management of this Fund raise many questions, depending in part on the success or the failure of BDCP's conservation strategy and adaptive management processes. What happens to the funds if they are not needed? How will the funds be reabsorbed by their original contributors and by what decision process will it be determined that they are no longer needed? BDCP at Section 3.4.23 does not consider this logical possibility. By its silence on this matter, it would seem that BDCP is implying failure is inevitable, that it will need and intend to use the funds set aside in the Supplemental Adaptive Management Fund. [Footnote 15: Ibid, p. 3.4-357, lines 9-22. These actions or determinations would include: - Periodic review of biological objectives shows they are unlikely to be achieved by the existing conservation measure(s). - Biological objective(s) have been assess and adjustments made in an attempt to achieve the objectives. - Lack of progress toward the biological objective(s) is related to or caused by BDCP covered activities or conservation measures. - Adjustments to one or more conservation measures (e.g., more flow, and/or changes in habitat restoration targets or locations) are likely to address the problem.	

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		- "To the extent appropriate," existing BDCP assets have been reallocated to support "adequate changes" to conservation measures. And - "Measures that do not affect water supply, if any, have been implemented."]	
1803	18	What happens if the funds [from the Supplemental Adaptive Management Fund] are used but become depleted? The Bay Delta Conservation Plan, in section 3.4.23 does not consider this possibility. How will responsibility among the BDCP Applicants be allocated so that replenishment of this fund is equitably handled? Does the fund as described in the BDCP become the upper limit because of the ESA regulatory policy of No Surprises?	This comment pertains to the funding and operations of the Adaptive Management Team and the adaptive management program, which is specific to the BDCP alternatives and would only be relevant if one of the BDCP alternatives with those elements were ultimately chosen and approved for the project. Furthermore, these issues do not raise CEQA or NEPA issues.
1803	19	A pot of funds [from the Supplemental Adaptive Management Fund] worth at least $450 million (and maybe more since it would have to be invested and not simply sit idle!) is a large target for abuse and corrupt management. If the Supplemental Adaptive Management Fund "confirms the need to use the fund" the BDCP Implementation Office "would initiate actions to deploy the money available" to fund the adaptive management change(s). Neither BDCP nor the Draft IA describes where this pot of money would reside and thus who would manage access to it. Would it be deposited with a state agency? An escrow account held by some neutral third party? If held in a state account elsewhere, what would prevent the State of California from plundering these funds as had certain state employees at the State Department of Parks and Recreation abused idle funds set aside for park system management in recent years? How would the funds be kept off limits from a state legislature or Governor's office seeking to balance a budget and finding otherwise unused funds seemingly available for closing the gap on a budget deficit?	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). The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1803	20	BDCP fails to disclose in its EIR/EIS's cumulative impacts analysis that the proposed Sites Reservoir would seek to increase water supply reliability "especially during dry years." [Footnote 16: CalFED Surface Storage Investigations Progress Report, November 2010, p. 3-4. Accessible online 14 July 2014 at http://www.dwr.water.ca.gov/storage/docs/Progress%20Report%202010/a_Full%20Report_Surface%20Storage%20Progress%20Report.pdf.] Sites has objectives that parallel BDCP's: water supply reliability, improve conditions for anadromous fish and other aquatic species, and to improve drinking and environmental water quality. Among the "opportunities" that Sites is intended to take advantage of is "accomplishing...emergency water objectives." [Footnote 17: Ibid, p. 3-5 to 3-6. Emphasis added.] This phrase is a euphemism for water project operator actions like drought water banks, meeting "supplemental demand" beyond annual contractual water allocations, water transfers, and establishing a pool of water in Sites Reservoir from which purchases could provide what BDCP calls "enhanced environmental flows" using funds, potentially, from a "Supplemental Adaptive Management Fund."	Please refer to Master Response 9 regarding the cumulative impact analysis. As noted in Section 5 of the RDEIS/SDEIS, Revisions to the Cumulative Impact Analysis, the Sites Reservoir was among the projects considered in the context of evaluating cumulative impacts. With regards to water storage, please see Master Response 37.
1803	21	The most likely reason for conservation measures failing to recover listed species under BDCP is the continual lack of sufficient flowing water to and through the Delta. We document that deficiency in our [the Environmental Water Caucus'] June 11th comments. Therefore, the most likely purpose of the supplemental adaptive management funds will be to purchase water from "voluntary sellers." This is where the proposed fund appears to us to resemble CalFED's Environmental Water Account, which was operated in an uneven manner at best between 2000 and 2007, and with unimpressive benefit to listed species. [Footnote 19] During this same period, the "Pelagic Organism Decline" was identified and measured by scientists studying the Delta. [Footnote 20] By 2008 one review of EWA	Please see response to comment 1803-17 and 1803-18.

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		concluded in 2008 that, The EWA was successful in reducing uncertainty in water supply; however, its contribution to the recovery of listed fishes was unclear. We estimated the effectiveness of the EWA to be modest, increasing the survival of winter-run Chinook salmon by 0-6% (dependent on prescreen mortality), adult delta smelt by 0-1%, and juvenile delta smelt by 2-4%. Allocating EWA water for a single life stage of one species could provide larger gains in survival. An optimally allocated EWA of equal size to the median of the first 5 years increase abundance of juvenile delta smelt up to 7 percent in the springs of dry years... If the program is to be held accountable for quantitative increases in fish populations, it will be necessary to integrate scientific, possibly experimental, approaches. [Footnote 21] From 2000 to 2007, the "environmental water account" was set up and spent nearly $200 million in public funds as Delta and anadromous fish species populations crashed and the State Water Project over-pumped the Delta, creating huge profits for private landowners. [Footnote 22] Such intended recovery programs always run the risk of focusing on program implementation at the expense of actually achieving recovery of the listed species. The actual need for instream purchases for legitimate environmental purposes is limited, and that significant funding through BDCP or a water bond is not necessary, certainly not for the Delta. Instead, the Public Trust Doctrine and the California constitutional prohibition against waste and unreasonable use and method of diversion of water must be enforced to supply water necessary for public trust resources. BDCP's proposed fund would corrupt the Public Trust Doctrine to benefit BDCP Applicants. Inclusion of the Supplemental Adaptive Management Fund makes clear that if BDCP is issued incidental take permits with 50-year terms, then for the next 50 years, BDCP Applicants offer in the Supplemental Adaptive Management Fund a way for protection of the public trust to be paid for, rather than enforced on the state and federal water agencies and their contractors, since they would have no other source of water. This is a scam. In one definition of a scam, the scammer gets the victim to pay for something the victim already owns. BDCP's preferred method to this point appears to be to use wishes and prayers that $450 million is enough funds for the public to pay for public trust protection of public trust resources that government already has the fiduciary duty to protect for the public. [Footnote 23] [Footnote 19: Mike Taugher, "Harvest of Cash: Kern County agency buys public water low, sells high," Contra Costa Times. August 8, 2009. Accessible online 13 July 2014 at http://www.contracostatimes.com/ci_10152127.] [Footnote 20: The idea of the Environmental Water Account originated in the late 1990s during the CalFED Bay Delta Program. It was implemented under the CalFED Record of Decision. It was to provide a buffer for endangered fish species by acquiring water that would be immediately available for fish protection while long-term arrangements were made between fishery agencies and water project operators, according to the Bay Institute's first review of EWA in 2001. The EWA was a "supply of water and water management tools" managed by the three fishery agencies (NMFS, USFWS, and CDFG) to modify water project operations to reduce impacts on fishes in the Delta and improve instream and Delta habitat conditions.]	

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		[Footnote 21: Larry R. Brown, Wim Kimmerer, and Randall Brown, "Managing Water to Protect Fish: A Review of California's Environmental Water Account, 2001-2005," Environmental Management 43(2008): 357-368. Emphasis added. See also the Bay Institute's two reports on the EWA accessible online at http://thebayinstitute.blob.core.windows.net/assets/EWA2002.pdf and http://thebayinstitute.blob.core.windows.net/assets/EWA01-4.pdf.] [Footnote 22: Mike Taugher, "Pumping water and cash from the Delta," Contra Costa Times, May 23, 2009. Accessible online 14 July 2014 at http://www.revivethesanjoaquin.org/content/pumping-water-and-cash-delta.] [Footnote 23: National Audubon Society et al v. Superior Court of Alpine County, 658 P.2d 709 (Cal 1983). Also known as the California Supreme Court's "Mono Lake Decision."]	
1803	22	In our [the Environmental Water Caucus'] June 11th comment letter, we showed that BDCP's underlying purpose includes creation of additional cross-Delta water transfer capacity for California's water market. How much of the "supplemental demand" analyzed in the BDCP EIR/EIS is strictly for water supply demand, and how much would include water purchases for "enhanced environmental flows"? How much water for enhanced environmental flows could be purchased with $450 million, and how long would that fund last? Is $450 million enough to sustain EEF water purchases for 50 years? We doubt it. Purchases could not exceed on average $9 million per year for that duration. If water prices in the market average $500 per acre-foot [Footnote 24], the Supplemental Adaptive Management Fund could buy no more than an average of 18,000 acre-feet per year, a pittance for assisting listed fish with restorative flows in and through the Delta. If the Implementing Office purchased more than that amount of water continually, the fund would get depleted that much sooner. If these funds are used for other non-water purchases, then even less water would be obtainable through the fund. Does this $450 million, or whatever amount is committed to the Supplemental Adaptive Management Fund at the time the Draft IA is executed and the incidental take permits are issued, represent the upper bound of the application of the No Surprises policy in federal ESA regulations? [Footnote 24: An acre-foot is about 326,000 gallons, or the amount of water that covers one acre of land to a depth of one foot. $500 per acre-foot may seem high, but it is actually a conservatively suggested price assumption to illustrate the paltry sum suggested by BDCP for the Supplemental Adaptive Management Fund. Metropolitan Water District of Southern California charges its member agencies in excess of $800 per acre-foot in 2014 for imported water through their contracts. MWD's current rates are accessible online 14 July 2014 at http:// www.mwdh2o.com/mwdh2o/pages/finance/finance_03.html.]	The Commenter raises no specific environmental issue pertinent to the 2015 RDEIR/SDEIS or the 2013 DEIR/DEIS. However, please refer to Master Response 43, Water Transfers, and Master Response 5, BDCP funding.
1803	23	Would the Supplemental Adaptive Management Fund resources compete with market-based water transfers sought for meeting water contractor supplemental demands? BDCP's water transfer analysis indicates that on average supplemental water transfer activity in its 600,000 acre-feet and 1 million acre-feet supplemental demand scenarios would range between 275,000 to 408,000 acre-feet. Water transfers at a price of $500 per acre-foot would cost $137.5 million to $204 million per year. To compete with the water transfer market, the supplemental adaptive management fund would have to have at least $13.75 to $20.4 billion to be sustained over the life of the 50-year term of the incidental take permits. This of course assumes the Supplemental Adaptive Management Fund would be needed at some level every year that the Twin Tunnels and the rest of BDCP are in	The adaptive management program for the new proposed project, California WaterFix is described in detail in Chapter 3, Description of Alternatives as well as Master Response 33.

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		operation. Many smaller and more rural water districts in the San Joaquin Valley and southern California have complained in the past about the high cost of transferred water. Our point with this analysis is that neither BDCP, its EIR/EIS, nor its Draft Implementing Agreement address whether the Supplemental Adaptive Management Fund is sufficiently capitalized. Our questions are intended to elicit more careful study about the Fund's scope, purposes, and operation. While the Environmental Water Caucus does not think this fund would be adequately capitalized at this level, BDCP provides no analysis to justify the "at least $450 million" starting amount for the Fund, nor is any quantitative or qualitative sensitivity analysis performed to estimate the likelihood that the Fund will be adequately capitalized. In fact, this whole line of reasoning about how much money would be enough for the Supplemental Adaptive Management Fund gets us closer to what is truly needed for the Delta: a study of the real benefits and costs of ecosystem services that instream flows provide into and through the Delta and to the people and ecosystems of California. If the real cost of providing Enhanced Environmental Flows through the Supplemental Adaptive Management Fund that would actually help listed fish species in the Delta survive and recover was known, it is likely to prove cheaper to Californians to enforce the public trust doctrine and the state's constitutional ban on waste and unreasonable use and method of diversion of water in the Delta instead of subsidizing the public trust scam contemplated through the auspices of BDCP. The savings to BDCP Applicants could then be reinvested in water supply actions other than BDCP that would actually comply with the Delta Reform Act of 2009, particularly California Water Code Section 85021. The fishery agencies need to do an economic analysis of the value of the public trust resources at stake in the issuance of 50-year incidental take permits in order to decide whether $450 million will be enough to purchase water over that period of time so that BDCP's goals and objectives might be met. Without such an analysis, the fishery agencies will be unable to make required statutory findings that the Bay Delta Conservation Plan contains neither adequate funding assurances nor adequate ecological assurances that its conservation strategy will contribute appreciably to the survival and recovery of listed species in the Plan Area.	
1803	24	Use of the SWP Property Tax Levy and Water Transfers: As the Environmental Water Caucus (EWC) indicated in our comments in Section IV of our June 11th comments on BDCP, it is likely the Twin Tunnels project of "Conservation Measure 1" is too expensive for agricultural water agencies to afford, especially if capital construction and operating costs are all loaded onto water rates paid by their customers. From public records of BDCP analyses our members have obtained in recent months from the Metropolitan Water District of Southern California and the Kern County Water Agency, we are learning that the state water contractors are considering ways of addressing their desire to obtain as many contractors' participation in BDCP while making it as affordable as possible. Two methods have emerged that water contractors hope will fill BDCP's financing gap: use of the State Water Project property tax levy (which predates Proposition 13 property tax limitations) and water transfers. A State Water Project property tax levy is at the heart of their deliberations Santa Clara Valley Water District staff reported to their board of directors that Article 34 of the District's	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.

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		State Water Project contract obligates the District to levy a tax upon all property in the District not exempt from taxation if other funding sources are insufficient. This decision rests within the discretion of the Board. In addition, section 11652 of the Water Code provides that districts with water contracts "shall whenever necessary, levy upon all property in the state agency not exempt from taxation, a tax or assessment sufficient to provide all payments under the contract..." [Footnote 27] ... The State Water Project Tax is an "override tax", which means that it is a tax in excess of the one-percent cap imposed by Proposition 13 to pay for voter-approved indebtedness. ...The State Water Project tax is restricted to paying for State Water Project contractual obligations and cannot be used for any other purpose. The District states that currently there are not sufficient other funding sources to pay its SWP costs. The District's report also mentions other State Water Project contractors that rely on the tax. Several rely on the tax levy for 100 percent of their agency's contractual obligations (Antelope Valley East Kern Water Agency, Coachella Valley Water District, San Bernardino Valley Municipal Water District, and Castaic Lake Water Agency. Other agencies rely on the tax levy to pay for less than 100 percent of their agency's SWP contractual obligations, including Metropolitan Water District of Southern California (8 to 10 percent), Kern County Water Agency (10 to 14 percent), Mojave Water Agency (84 percent), and Zone 7 Water Agency (in the Livermore-Amador Valley area of eastern Alameda County, 50 percent). [Footnote 28] The Santa Clara Valley Water District estimates that its tax levy under BDCP will increase from $36 per year to $60 per year by Fiscal Year 2023-24 for the average single family residence (assuming an average valuation of $500,000). This is a 66 percent increase. (It also may underestimate the average value of single family homes in the District's jurisdiction.) The District's report suggests that about one-third of its share of Twin Tunnels costs would be paid for by relying on the State Water Project tax. This would of course reduce the Twin Tunnels financing burden the District may otherwise impose on water rate increases charged to its various retailing customers throughout Silicon Valley. [Footnote 29] This tax increase could be accomplished without a vote of the District's 1.8 million customers. Coachella Valley Water District (which uses the SWP tax levy for 100 percent of its SWP financing) projected in December 2013 that Twin Tunnels costs will quadruple its SWP property tax levy from $0.10/$100 of assessed valuation to $0.42/$100. On a $500,000 property valuation in that district, this would increase the SWP tax levy bill from $500 per year to $2,100, a fourfold increase. CVWD's total annual fixed charge for the Twin Tunnels project would nearly double, from $29.6 million per year to $50.7 million, a 71 percent increase. [Footnote 30] One State Water Contractors' presentation from November 2013 describes three principal cost allocation alternatives for state water contractors: one based on Table A allocations "with management provisions"; one that depends on contractors' level of participation providing for "variable capacity amount for level of participation"; and one that examined alternative water supply sliding scales, called the "hybrid approach." This presentation recommends the Table A "with management provisions" method which would provide contractors the opportunity to use short- term and long-term agreements to "maintain flexibility," "respond annually to needs," and "could sell additional DHCCP supply to other	

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		SWP contractors" when a contractor's supply needs are not critical. [Footnote 31] None of these cost allocation options are to be found in the Bay Delta Conservation Plan, the EIR/ EIS, or the Draft Implementing Agreement despite being under consideration as early as the fall of 2013. And neither are they any kind of finished product. They represent noodlings-about by various agencies weighing their options independently and together with the State Water Contractors to figure out if they can afford this beast of a water project. Use of the SWP tax levy by each water district hides the real cost to customers of their additional Twin Tunnels supply because it delinks the cost of Tunnels water supply from use of that supply. The EWC finds that those state water contractors authorized under state law to issue SWP tax levies as an override of the Proposition 13 one-percent rule are likely to use it to help finance Twin Tunnels construction and operation, unless their customer base and property tax payers object. This method of financing thus excises one environmental benefit of marginal cost pricing: you learn from the pricing what it costs you to add an additional unit of reliability or supply. More generally, using property taxes in addition to water rates, and even water "flipping" [Footnote 32] might finance the project, but it would greatly increase, not decrease the incentive of water contractors to import Delta water relying on the Tunnels with little regard for whether and how much imported water they need for beneficial use of water. Such a scheme reflects an unwillingness or an inability of water contractors to assess whether they really need the water they seem to want. Documents originating with Kern County Water Agency staff, provided to the Urban Bakersfield Advisory Committee, reveal this kind of scheming. "What can a Member Unit [of KCWA] do with their SWP supplies?...It is expected that many of the MUs would like to develop water management programs utilizing their SWP supplies that would help offset the costs of their participation in the Project. What programs would be permissible for MUs is an important question to be answered." Among the related questions staff noted were: "Will SWP supplies be allowed to be transferred outside of Kern County on a short term, long term or permanent basis? If allowed, what are the terms for such transfers? What role will the Agency [KCWA] play in administering and facilitating such transfers? Will Table A and Article 21 supplies be treated the same?" These questions of course have less to do with whether KCWA member units need to import surface supplies from the Delta and more to do with whether they can profit off such a delivery. Again, this is contrary to Water Code Section 85021 of the Delta Reform Act of 2009. It is a cynical approach water policy for the 21st century, but it can be prevented. We note that historically urban California was the origin, the epicenter of the 1970s property tax revolt. Raising people's property taxes to pay for a boondoggle water project like the Twin Tunnels is likely unwise, especially if the taxpayers have not been consulted and then find out later they will pay for it anyway. [Footnote 27: Santa Clara Valley Water District, Board Agenda Memo: State Water Project Tax Discussion, July 8, 2014, p. 1. Accessible online 14 July 2014 at http://cf.valleywater.org/About_Us/Board_of_directors/Board_meetings/_2014_Published_Meetings/MG54655/AS54668/AI54680/DO54795/DO_54795.pdf. This staff report also provides a historic account of how the District came to adopt its SWP tax levy.] [Footnote 28: Ibid, p. 4. Some state water contractors, like Tulare Lake Basin Water Storage District do not use the SWP tax levy to pay for its contractual obligations, according to the	

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		Santa Clara Valley Water District report.] [Footnote 29: Ibid, p. 3.] [Footnote 30: Coachella Valley Water District, Bay Delta Conservation Plan Cost Impacts, presentation to Board of Directors Meeting, December 10, 2013, slide 7, "CVWD Rate Impact of BDCP." PowerPoint presentation on file with the Environmental Water Caucus.] [Footnote 31: State Water Contractors, DHCCP SWP Cost Allocation Work Group, Management Briefing: DHCCP SWP Cost Allocation Alternatives, November 8, 2013. PowerPoint presentation on file with the Environmental Water Caucus.] [Footnote 32: By the term "water flipping" we wish to convey the idea of a contractor purchasing Twin Tunnels water (either through its Table A amount or from a cross-Delta water transfer) only to sell it subsequently at a higher price to another contractor or even beyond the SWP service area, enabling that contractor to recover the incremental cost of Tunnels water and an increment of otherwise unearned profit. KCWA report from October 23, 2013 to the Urban Bakersfield Advisory Committee, Agenda items 5b and 5c, p. 2. Emphasis added. On file with the Environmental Water Caucus.]	
1803	25	BDCP's Natural Reserve: Taking Undeserved Credit Apart from the flawed scientific hypotheses propounded by BDCP that we [the Environmental Water Caucus] identified and commented on in our June 11th comments, there is also the matter of whether sufficient lands exist in the Delta whose restoration would function to ease recovery of listed species. Establishment of BDCP's "natural reserve" -- the object of Conservation Measure 3 -- would create a system of "protected lands in the Plan Area...by acquiring lands for protection, and, in some cases, restoration. Such a system is needed to meet natural community and species habitat protection objectives..." To make this restoration omelet will require breaking some eggs, and for its impacts readers are directed to Chapter 6.1.2 of BDCP to learn about natural community loss as part of the Plan's process. The reserve system is to be constructed within the first 40 years of the 50-year term of the Incidental Take Permits for critical habitat protection and habitat connectivity, according to BDCP's Chapter 6. The reserve system at completion would contain some 153,000 acres. Of this acreage in the reserve, 69,275 acres would be acquired (it appears from Table 6-2 for protection by the reserve) while nearly 84,000 acres would be (apparently acquired and) restored. (Table 6-2 is unclear about whether restored lands are actually possessed already by BDCP Applicants or that most or all of those lands to be restored must first be acquired too. The reserve, we learn, may be partly assembled by allowing the BDCP Implementation Office to "purchase credits from" approved mitigation or conservation banks for incorporation into the reserve system. Credits used to address conservation targets must be from approved banks that include all or part of the Plan Area." This means that the BDCP Implementation Office can take credit for restoration work done by others for mitigating impacts of the Twin Tunnels Project. It also seems obvious to us from even a quick review of Table 3.4.3-1 of BDCP that little of the restoration work is intended to benefit covered fish and listed fish species described in	Please see response to comment 1803-17.

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		the table's first two pages (out of 13 total pages). Most of this table's description of habitat restoration work is devoted to benefiting terrestrial covered species. As we have pointed out, along with other commenters, the effort for tidal habitat restoration is not likely to provide sufficient export of food and nutrients to the mainly open water habitat that delta smelt and longfin smelt prefer. Nor will it be attractive to most out-migrating salmon and steelhead smolts that are headed to the Pacific Ocean. Table 3.4.3-5 provides little solace for this, despite offering "results" from other restoration efforts across central California. Many results, however, are not available, or they are presented anecdotally. No attempt is made in the BDCP analysis of Conservation Measure 3 to systematically and realistically assess what restoration projects have gone before either in the Plan Area or around it. Many in this latter table are located well beyond the BDCP Plan Area, thereby reducing their relevance to BDCP. Considerable acreages of habitat restoration has already been attempted in the Delta, with at best mixed outcomes. [Footnote 36: We incorporate by reference California Sportfishing Protection Alliance's report, An Overview of Habitat Restoration Successes and Failures in the Sacramento-San Joaquin Delta, submitted as part of CSPA's comments on the Bay Delta Conservation Plan.] We share the conclusion of EWC-member group California Sportfishing Protection Alliance that "Habitat restoration cannot be successful if it doesn't meet the flow and water quality needs of native species that evolved over millennia. The history of habitat restoration in the Delta is that it hasn't met those needs, and BDCP will not meet those needs." [Footnote 37: Ibid, p. 40.] An engineering report done for the California Department of Water Resources in 2012 casts further doubt on the prospects for BDCP habitat restoration effectiveness. The study aims to "determine the feasibility" of restoring "large areas of interconnected habitat -- on the order of 100,000 acres -- within the Delta and its watershed by 2100." The report finds that sufficient lands exist in the Delta, even allowing for sea level rise; but the effort will not be easy. 1. ...[S]ufficient lands exist to create over 100,000 acres of intertidal and associated subtidal habitat over time and include an allowance for sea level rise. However, a change in use...will be needed before its conversion can occur to contribute to conserving aquatic species. 2. Other considerations will directly affect both the quantity of land available for conversion and quality of 'to be' created intertidal and associated subtidal habitat. Key elements include: a. Proximity of existing communities and critical infrastructure in the Delta that are also within the elevation zones deemed suitable for the creation of intertidal and associated subtidal habitat. b. The extent of public lands available within the target range of elevation is less than 30,000 acres and is currently being used for other, typically non-aquatic, public purposes than for as intertidal and associated subtidal habitat. c. Environmental considerations, such as the tidal energy available and the need for spatial distribution and connectivity to existing populations will influence where effective as intertidal and associated subtidal habitat can be created. d. The footprint associated with BDCP's proposed conveyance facility, which will also utilize lands within the elevation zones deemed suitable...will also reduce the acres of land	

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		available for as [sic] intertidal and associated subtidal habitat creation. 3. Using a reasonable range of land acquisition strategies, acquiring sufficient acreage has a low probability of success within the BDCP's 50-year planning horizon. However, future changes in the real estate market conditions and/or ability to find creative land acquisition strategies, could lead to a higher probability of success. [Footnote 38: Black & Veatch Corporation, Water Division, Draft Delta Habitat Conservation & Conveyance Program: Creation of Up to 100,000 Acres of Intertidal and Associated Subtidal Habitat: Feasibility Level Assessment Based on Elevation & Land Acquisition Considerations, Technical Memorandum prepared for Department of Water Resources, Sacramento, CA, July 4, 2012, p. 3. Copy on file with the Environmental Water Caucus.] Despite this final summary point, the body of the Black & Veatch report is primarily discouraging. A majority of lands would have to be acquired from the private sector because of other competing uses for land in the Delta generally. In addition, such lands that could both be restored would also have to be assessed for their capacity to accommodate sea level rise. The Black & Veatch report found that "there are substantial challenges associated with restoring this amount of acreage." The assessment uncovered 13 additional factors that would influence the report's results, but which were not incorporated (and thereby undermining the value of the report's more upbeat conclusion #3 above). We excerpt the more salient factors here: * Find a way to increase the percent of land acquisitions where agreement is reached at a rate greater than 35 percent of the time, especially in the early years of BDCP. * "Change the definition of "subtidal" to allow increased water depth to be considered suitable. This would allow lands that have experienced greater subsidence to be considered suitable." Changing that definition, however, would likely reduce the ecological effectiveness of lands acquired for restoration, or force greater cost on restoration projects for having to fill in lands to create sufficient depth to substrate (or other habitat values) for successful subtidal habitat restoration. * Do more small restoration actions (smaller than 800 acres assumed in the report), allowing for greater ease of acquisition of incremental sites. * Choose water conveyance options that require less, rather than more, land acquisition, which would compete with acquisitions for habitat restoration. * "Waiting until an 'optimum shape' [for suitable habitat restoration] can be achieved further reduces the probability of success." In other words, the shape of a parcel of land for restoration matters, especially when the restoration goal might be for riparian corridor restoration, where linear river frontage is essential. * "It is likely that restoration in Suisun Marsh could reduce the tidal energy budget available to create meaningful intertidal habitat in the southern and Northern most areas of the Delta." * Even acquiring already-restored lands for protection might still involve conversion if the goal of the acquisition is different from the habitat value originally created.	

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		* "Locating restoration areas farthest from known invasive species populations...minimizing the suitability of new habitats for invasives, and controlling harmful invasive species around and within restoration areas, is essential to success." * "Escalating land prices greater than the return on other investments will reduce the amount of acres that can be acquired for the dollar invested. There are a number of 'drivers' that make this event a plausible outcome." [Footnote 39: Ibid, pp. 31-33.] The Black & Veatch report modeled the acquisition process as best it could and found additional challenges. First, sellers would have to be highly motivated to make the restoration plan work. Second, significant "(greater than 50%)" use of public lands would be needed "in order to obtain sufficient acreage from the private sector," but only 30,000 acres of suitable land is currently publicly owned. Third, adding restoration-functional assumptions to the model "would further reduce the amount of intertidal and associated subtidal habitat than could be created to increase it." Finally, their research found that: The larger parcels tend to be associated with more seasonal crops and less development. They also tend to be closer or bordering tidally-influenced waterways and/or floodplains. Larger parcels are also expected to result in fewer real estate transactions needed to obtain a sizable restoration project similar to the size of the proposed Dutch Slough restoration project. [Footnote 40: Ibid, p. 29.] This means that Delta landowners have leverage over the restoration process. And any time the BDCP Implementation Office might overpay for a parcel for intertidal or subtidal habitat creation and protection, that inflated value would get capitalized into the next transaction. The land market logic at work is similar to the challenges faced any time government attempts to purchase right of way for an infrastructure project, like a freeway or a rail project. BDCP makes no attempt in its 10,000 pages to analyze or address this problem. These huge uncertainties over the ability of the BDCP Implementation Office to assemble the reserve system of Conservation Measure 3 call into question the ecological assurances marketed in BDCP documents. They fail federal Endangered Species Act and state Natural Communities Conservation Planning Act requirements for ecological assurances that the habitat conservation plan will not appreciably reduce the likelihood of survival and recovery of listed species. The BDCP application for incidental take permits should be rejected by the fishery agencies. We will evaluate in Section III concerning the Draft Implementing Agreement whether BDCP as planned passes the Natural Community Conservation Planning Act's "rough proportionality" test between project development and project mitigation.	
1803	26	Delta Exports, Water Transfers, and Cumulative Impacts: In our June 11th comments, the Environmental Water Caucus maintained that the EIR/EIS was inadequate in part because an important purpose of the Twin Tunnels Project of Conservation Measure 1 in BDCP went unacknowledged. This is the purpose of increasing the conveyance capacity through the Delta for water transfers. We recognize that the BDCP Applicants do not ignore this purpose, but it is discounted as "speculative." The result is that the EIR/EIS setting and impacts analyses of most chapters ignore the context and potential impacts of water transfers.	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 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

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		Water transfers have been occurring in recent years. [Footnote 42] They are therefore not speculative. Water quality and groundwater impacts were ignored in BDCP documents, and that the true underlying purpose and need for BDCP is "not only to increase diversions for Delta export from the North Delta Intake diversions in wet and above normal years, but also to increase the supply reliability of cross- Delta water transfers (i.e., from north of Delta to south of Delta locations) in drier and drought years." We also pointed out that, among other ways in which BDCP is legally contrary to the Delta Reform Act of 2009, that BDCP would increase, not reduce, reliance on the Delta for imported water supplies as required by the Water Code Section 85021. There we cite information from BDCP sources that "the Twin Tunnels is to expand California's cross-Delta water transfer market. This transfer activity will occur typically in years when State Water Project contractual allocations are 50 percent or lower, and Central Valley Project contractual allocations are 40 percent or lower." [Footnote 42: Ibid., pp. 197-198. Many cross-Delta water transfers are among those that are subjects of petitions for transfer and temporary urgency changes to water rights filed with the State Water Board. Such petition activity dates back to 2003 in the State Water Board's online records. Accessible online 28 July 2014 at http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/ index.shtml. They have been enabled by statute since the late 1980s.]	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. Also see Master Response 43, Water Transfers and Master Response 26, Area of Origin.
1803	27	Appendix 5B of the EIR/EIS addresses "Responses to Reduced South of Delta Water Supplies." Consistent with the rest of the EIR/EIS, Appendix 5B fails to analyze the BDCP Applicants' need to expand their reliance on Delta imports as part of their present and future supplies. They interpret their need, as described elsewhere in this letter, as that of reducing reliance on south Delta exports. This line of reasoning flagrantly disregards the plain meaning of California Water Code Section 85021. Appendix 5B describes potential responses by export service area water agencies to reductions in Delta deliveries (i.e., their Delta imports) in the event of reductions from earthquake, flooding, and regulatory action. We [the Environmental Water Caucus] commented in our June 11th comments that the BDCP Applicants tend to moan, groan, bluster, and hand-wave about the effects of regulation on their water supplies while simultaneously failing to do the necessary demand analysis to support their claims that additional water supply reliability are needed for the SWP and CVP.45 Appendix 5B continues this ironic behavior by state, federal, and local government agencies complaining about government regulation and judicial fiat. The 2009 SWP Delivery Reliability Report...differed from those prepared in 2003, 2005, and 2007 because it included revised estimates of reductions to SWP delivery reliability due to future climate changes and sea level rise and also due to restricted operations to comply with the USFWS and NMFS Biological Opinions (reductions due to prior legislative and regulatory actions already were accounted for in the 2003 and subsequent reports)....The 2009 report showed a continuing decrease in the ability of the SWP to deliver water and concluded that for current conditions, a substantial factor for these reductions is the restrictive operational requirements contained in the federal Biological Opinions. [Footnote 46: BDCP EIR/EIS, Appendix 5B, Responses to Reduced South of Delta Water Supplies, p. 5B-5, lines 6-17.] Of the poor beleaguered Central Valley Project, this appendix complains: ...CVP operations have been affected by various legislative, regulatory and judicial decisions. These include the CVPIA, Bay-Delta Plan, D-1485, and D-1641. In the 2006 Westside	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. As described in Appendix 5B, Responses to Reduced South of Delta Water Supplies, the appendix discusses potential outcomes for SWP and CVP water contractors located south of the Delta if the SWP and CVP water deliveries are reduced due to one of several reasons, including regulatory requirements, conveyance damage due to earthquakes, or climate change and sea level rise. Although these scenarios are described as methods of reduced Delta exports, the EIR/EIS recognizes that reduction in reliability on Delta water supplies described in the Delta Reform Act includes many other approaches. The proposed project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, storage, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage (as described in Section 1.C.3 of Appendix 1C, Demand Management Measures). It is assumed that the State and local agencies will invest in future water supplies to replace reduced surface water and groundwater supplies and to meet future growth, as described in Chapter 30, Growth Inducement and Other Indirect Effects. As described in the response to comment 1803-61, it is recognized that the State Water Resources Control Board is preparing an update to the Bay-Delta Water Quality Control Plan which is considering reasonable protection of beneficial uses, including municipal and industrial uses, agricultural uses, and environmental uses. One of the alternatives considered by the State Water Resources Control Board included proportional tributary contributions of flow to the Delta to meet water quality objectives. Following completion of the updated Bay-Delta Water Quality Control Plan, SWP and CVP operations would need to be reviewed to determine if the operations continued to comply with the new regulations. The portion of the comment related to water transfers priorities being less than SWP and CVP water contracts is consistent with information presented in the EIR/EIS and current policies.

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		Integrated Water Resources Plan, [San Luis Delta Mendota Water Authority] estimated that these legislative and regulatory actions, in addition to state and federal ESA provisions, had resulted in an approximately 30 percent reduction of their long-term average delivery allocation. Previously, Westside agricultural contractors had received 100 percent of their CVP contracted supply in almost every year since deliveries to the region began in June 1951, except during severe drought conditions [citation]. The 30 percent reduction estimate does not include the effects of the 2008 USFWS delta smelt Biological Opinion and 2009 NMFS salmonid Biological Opinion. The assumed additional effects of those opinions to CVP agricultural allocations could be assumed to be similar to the estimated additional reduction to the SWP contractors (approximately 15 percent). [Footnote 47: Ibid., p. 5B-5, lines 35-39, and p. 5B-6, lines 1-7.] This is un-self-conscious whining by government agencies about government regulation because it fails to place the reasons for their water supply reductions in context. California water rights case law guarantees water rights for beneficial uses only to reasonable levels of diversion and use. It is unreasonable (in the senses of both fairness and rationality) to divert water for human use beyond the capacity of ecosystem--related beneficial uses to continue to survive. Where the SWP, CVP and their contractors have been on the wrong side of court decisions and regulatory actions it is because their use or method of use of water was found through weight of evidence to be unreasonable: for example, their export actions were jeopardizing the continued existence of listed fish species including delta smelt and winter-run and spring-run Chinook salmon. These regulatory actions were and are neither arbitrary nor capricious. These regulatory actions are at least minimally protecting other beneficial uses at least minimally consistent with the Public Trust Doctrine, the state and federal endangered species acts, and the state's constitutional reasonable use doctrine. Yet BDCP Applicants tell tall tales about government regulation that fail to put their own illegal actions into a more complete context. After briefly describing the State Water Board's deliberations, BDCP Applicants state that Although neither the BDCP scoping comments nor the report on Delta Flow objectives represents a specific action, if the BDCP process fails, the SWRCB may act to further reduce exports of Delta water supplies via the Delta flow objectives or revisions to the Bay--Delta Plan. [Footnote 48: p. 5B-9, lines 19-21.] At a minimum no one knows how the State Water Board will rule on Delta water quality objectives and flow criteria -- whether or not BDCP fails. [Footnote 49: Were this the case, the EWC anticipates that DWR, the Bureau, and the water contractors would put intense pressure on the State Water Board not to regulate reductions in Delta exports through its water quality control planning authority.] If nothing else, it is an argument for the State Water Board to have acted first, to have led the whole process by setting water quality objectives that will help restore and recover the Delta. This would have given BDCP Applicants targets to aim for. The Applicants have nonetheless charged forward, preferring instead to set the State Water Board's agenda and skew its policy narrative toward a government-bashing vendetta against regulatory reductions of Delta water exports. This complaint in Appendix 5B, however, comes in the context of analyzing responses of export service area water agencies to reductions in Delta export supplies. BDCP notes that	

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		for urban water agencies "the potential for water to be transferred from areas that are north of the Delta to areas south of the Delta could decline sharply in some years. Such water transfers might no longer be feasible in some cases." [Footnote 50: Ibid, p. 5B-19, lines 33-35.] For agricultural water agencies, the picture is different, but transfers are hardly out of the question. While they do resort to water transfers now, ...given the historic costs of transferred water, likely competition from urban agencies and infrastructure limitations [e.g., a lack of Delta conveyance capacity?], the potential for transfers between agricultural suppliers is assumed to be low. Moreover, all agricultural agencies that use Delta exports will be subject to similar limitations. While there have been some transfers among agricultural water agencies based on the willingness of farmers in the service areas to fallow land and not utilize the water which would otherwise be allocated to irrigate the land, that does not represent a viable long-run source of supply. The Westlands Water District estimates that fallowed land will increase from approximately 55,000 acres in 2006 to 125,000 acres in 2020, due to reductions in water supplies as a result of the reallocation of water supplies and other regulatory restrictions [citation]. [Footnote 51: Ibid, p. 5B-22, lines 35-43.] No reason for Westlands Water District's fallowing is provided in Appendix 5B. These vague allusions to dire times ahead are belied later in the same appendix when it seems there will be stiff competition for conveyance capacity in the future: ...[T]here is competition for conveyance capacity [in the existing Delta conveyance system of south Delta export pumps] between project water supplies [i.e., contractual allocations] and water transfers. However, project water has priority and thus, the conveyance of water transfers becomes uncertain. The impacts on water transfers have been in general in tandem with the impacts on CVP and SWP water supplies. [Footnote 52: Ibid, p. 5B-35, lines 35-39] This narrative from Appendix 5B confirms our analysis in our June 11th comments that BDCP Applicants, who are among the most active users of cross-Delta water transfers in California, that they see contractual allocations ("project water supplies") in a zero-sum relationship ("have been...in tandem") with cross-Delta water transfers (which they call "supplemental demand" in Appendix 5C and 5D, and in Appendix 5B refer to as simply "water transfers").	
1803	28	Section 5B.4 of Appendix 5B addresses "environmental effects of potential responses on reduced south of Delta water exports. Here in Section 5B.4.4 can be found the outline of the scope of water transfer impacts that should have been analyzed in the BDCP EIR/EIS to deal with the cross-Delta water transfers purpose of the Twin Tunnels project of BDCP. We believe BDCP Applicants intend this roster of horribles to represent conditions that would occur in the absence of the Twin Tunnels in Appendix 5B and Delta exports reduced by regulatory action. But we note that Chapter 30 states: Because California law (specifically Water Code section 1810) requires DWR to make excess conveyance capacity for bona fide water transferors, provided that certain environmental, water supply, and economic effects can be avoided, DWR could not preclude the use of available capacity in the new north Delta conveyance facilities for transfers where the appropriate findings can be made. Thus, should additional transfers occur as a result of capacity at the new facilities, the construction of such new facilities would be a factor in the facilitation of transfers. [Footnote 53: Chapter 30, Growth Inducement and Other Indirect	See Master Response 43, Water Transfers.

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		Effects, p. 30-123, lines 23-28.] Adding the Twin Tunnels to the facilities of the state and federal water projects would increase conveyance capacity, particularly in below normal, dry and drought years. We have already pointed this out in our June 11th comments. This acknowledgement in Chapter 30 points up the importance of revising the EIR/EIS to include this purpose among those already cited for BDCP, and then recirculating all the BDCP documents together, including the Draft Implementing Agreement: Provide the conveyance capacity and cross--Delta water market transfers are very likely to follow. DWR has to allow use of any excess capacity. As we showed in our June 11th comments, this capacity would not likely be seasonally limited as water transfers subject to the Biological Opinions are now. The roster of horribles (by which we mean unconsidered but reasonably expected impacts) would include: * Increased greenhouse [gas] emissions (GHG), which are substantial, from the export of water to southern California. * Additional energy consumption and GHG emissions from pumping of groundwater for irrigation that would otherwise be supplied by mostly gravity-flowing surface water. * Falling water table caused by the enhanced groundwater pumping for water transfers will require additional energy consumption and GHG emissions. This is the incremental energy and GHG emissions caused by pumping not related to water transfers. * Depletion of surface water caused by stream recharge of groundwater in response to the additional groundwater pumping for water transfers. The magnitude of this impact depends on the location of the wells from surface water, the aquifer being tapped, the water year type proceeding [sic, probably means "preceding"], during, and following the transfer.... * Groundwater pumping that occurs in smaller watersheds and near important fishery rearing streams can deplete these small streams of flow. Although, these depletions may be small, these streams may already be deficient in flows to support the native fisheries and the incremental loss of flows may be biologically significant. * Potential impacts on the threatened giant garter snake which uses flooded rice land as important habitat. The impacts have not been documented but potentially the giant garter snake could be harmed by reduced habitat, additional expenditure of energy relocating to suitable habitat, enhanced predation in relocating to alternative habitat, and reduced fecundity. * Potential impacts of fallowing or changing crop type fields that provide wildlife habitat for other species, including Swainson's hawks, and Greater Sandhill cranes. * Potential impacts on economies of water transfer source areas due to reduced crop production and economic output. * Potential impacts due to loss of topsoil of the water transfer source area due to fallowed or non-irrigated land. [Footnote 56: BDCP EIR/EIS, Appendix 5B, Responses to Reduced South of Delta Water Supplies, p. 5B-36, lines 10-36.] These are each important environmental impacts to be expected from adding cross-Delta	

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		conveyance capacity to the state and federal water projects to increase water transfer activity. All have been ignored throughout the 30,000+ pages of the BDCP EIR/EIS. We have already commented that discussion of such impacts are missing from the EIR/EIS and render it at present completely inadequate. The EIR/EIS should be revised to correct this deficiency and then recirculated.	
1803	29	Then comes BDCP Applicants' understatement that, "Growth-inducing impacts from water transfers would be minimal if the project is implemented as proposed. This is primarily due to the higher cost of transfer water." The higher cost of transfer water gets us back to the ability and willingness of agricultural water contractors to sell water obtained via the Twin Tunnels to bidders elsewhere in the state and federal Delta exports service areas. They will be able and willing to seek sellers north of the Delta provided they can re-sell such supplies for a higher price that would cover what they paid to north-of-Delta water sellers. The Twin Tunnels gives them the conveyance capacity to do that. The hope of having water transfer rules in place to facilitate resales south of the Delta also helps explain these contractors' great interest in constructing the Temperance Flat reservoir above Millerton Lake on the upper San Joaquin River and in raising San Luis Dam to increase the capacity of San Luis Reservoir. If the Twin Tunnels capacity increases Delta export yields (that is, more water in wet years as well as more water transfers in drier years), the agricultural water agencies would need some place(s) to put contractual water they don't use (but could re-sell) and cross-Delta water transfer supplies that they could obtain for resale any time of year (such as Article 21 surplus deliveries from the Delta, which are supposed to increase according to BDCP EIR/EIS's water supply chapter. And the profit margin from water transfer resales would help agricultural water contractors afford the Twin Tunnels. This water marketing scheme would augment the subsidy provided by urban property tax payers who would subsidize the urban water agencies for these resales from agricultural water contractors. By having somewhere to store transferable water, the San Joaquin Valley agricultural water contractors, like Kern County Water Agency (and their numerous member units) and Westlands Water District, can expand their roles as brokers of water sales during dry years for the urban water districts in their midst: Santa Clara Valley Water District, Zone 7 Water Agency, and Metropolitan Water District. The Twin Tunnels thus would be an essential piece of the infrastructure (i.e., conveyance capacity) needed to make a larger cross-Delta water transfer market possible, together with: - Expanded Shasta Reservoir, - Sites Reservoir north of the Delta, - Expanded San Luis Reservoir, - Temperance Flat reservoir, and - Liberal water transfer rules (in the economic sense of "let a free water market work") in place (both north and south of the Delta) within both the state and federal water projects. This water market transfer system would primarily benefit the San Joaquin Valley and	The comments address in part the ability of willing buyers and sellers to agree on the pricing of water transfers and the ability of the proposed project facilities to move that water. The water transfers appendices of the EIS/EIR (5C and 5D) address the history and potential sources of transfer water. The events of 2014 (high demand and high prices for transfer water, $500 per acre-foot from sellers upstream of the Delta and higher south of the Delta) indicate that the demand for water and ability to pay is substantial. The availability of storage south of the Delta can constrain Delta exports under some circumstances, but a number of agencies in Kern County have continued to expand groundwater banking opportunities and urban agencies in southern California, especially MWDSC with Diamond Valley Reservoir and a banking program in Lake Mead, have expanded their storage capabilities in recent years, and future exports are unlikely to be constrained by lack of storage downstream of the Delta. Temperance Flat Reservoir, cited by the commenter, is not being planned in a manner that could allow direct storage of water exported from the Delta, although an expansion of San Luis Reservoir would provide a relatively small added increment of such storage. Please refer to the Final EIR/EIS Chapter 1, Appendix 1B. The use of the proposed conveyance facilities to move transfer water, rather than routing that water through the Delta to the export pumps, would depend on the operational rules for the facilities, including the need for Delta inflow and outflow to meet water quality and outflow standards. Transfer water in excess of those needs could potentially be moved through the facilities. The potential impacts of water transfers on the Sacramento Valley would need to be analyzed for each such transfer as described in Chapter 5 of the EIS/EIR. With regards to water transfers, please see Master Response 43.

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		southern California water agencies. Only senior water rights holders of the Sacramento Valley who would be willing to strike deals with these other agencies would benefit in the north State. Their decisions would put intense economic and ecological pressure on the Sacramento Valley, impacts of which were only hinted at in Appendix 5B of the EIR/EIS, and which are ignored in the larger EIR/EIS.	
1803	30	In our June 11th comments, the Environmental Water Caucus (EWC) found that BDCP's cumulative impact analysis is deficient because it omits many storage, restoration, and levee remediation and improvement studies and plans that are reasonably well-known and foreseeable. To this we add that the EIR/EIS is deficient because it fails to include the Twin Tunnels' purpose of expanding cross-Delta conveyance capacity which would in turn benefit the urban and agricultural contractors who participate in California's cross-Delta water transfers market, and fails to include the cumulative role of proposed Sites, Shasta and San Luis expansion, and Temperance Flat reservoir projects in evaluating cumulative impacts of the Twin Tunnels project.	Please see Master Response 9 regarding the cumulative impact analysis. 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.
1803	31	We [the Environmental Water Caucus] have also commented on the absence of a credible water transfer modeling effort in BDCP's EIR/ EIS. The BDCP Applicants that such modeling would be "speculative," but this is misleading. BDCP reproduces water transfer market data from 1995 to 2010 in Appendix 5D of the EIR/EIS, data which could easily provide the foundation for a plausibly reasonable analysis, given all the other modeling work done by BDCP for climate change, contractual water supply operations, and more.	Please see Master Response 43, Water Transfers
1803	32	We [the Environmental Water Caucus] incorporate here the water quality comments of the California Sportfishing Protection Alliance, which provides BDCP with extensive comments on Chapter 8 of the EIR/EIS addressing water quality issues. We also take note of recent research on selenium fate in the Bay-Delta estuary by a team of researchers led by the United States Geological Survey. [Footnote 60: A.R. Stewart, S.N. Luoma, K.A. Elrick, J.L. Carter, M. van der Wegen, "Influence of estuarine processes on spatiotemporal variation in bioavailable selenium," Marine Ecology Progress Series 492: 41-56, 2013. This note is intended to supplement our June 11th comments. This research tracked selenium bioavailability in northern San Francisco Bay (which for most scientists includes the Bay-Delta estuary encompassing the Plan Area of BDCP) between May 1995 and February 2012, particularly in the invasive clam species, Potamocorbula amurensis. The researchers found that proximity to Carquinez Strait had a significant impact on Se concentrations in the clams. They found spatial differences among clams at different locations in this region depending on proximity to oil refineries downstream at Martinez, Benicia, Rodeo and San Pablo Bay. But the differences could not be accounted for simply by residence time of water. The researchers found that: The discrepancies between the model and the observations raise the possibility of additional sources of enriched Se [selenium] that is bioavailable in the northern estuary. The most likely sources would be occasional inputs from the San Joaquin River. The San Joaquin River historically provided ~20% of the estuarine flow. In not receives agriculture irrigation drainage elevated in Se and has total dissolved Se concentrations...nearly 10 to 50 times that of the Sacramento River [citation]. However, the influence on the bay of the Se-enriched inflows from the San Joaquin River remains unclear because (1) direct inflows from the San Joaquin River to the bay are mostly limited to high-flow months, since net flows during the summer and fall are almost always negative	Please refer to Master Response 14 on the topic of water quality and, in particular, selenium.

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		because of water diversions [citation]; and (2) the delta that lies between the San Joaquin River and the bay is probably a sink for Se removal, but the magnitude of that removal remains uncertain [citation]. These factors suggest that if inputs from the San Joaquin River have a detectable influence on Se bioavailability in the bay, it would be temporally complex and unlikely to explain the seasonal patterns of fluctuation in Se concentrations....[A]spects of the long-term patterns of change in fall and spring Se concentrations could be influenced by aperiodic inputs from the San Joaquin River, superimposed on the dominant effects of inflows in diluting Se bioavailability in high-flow years and allowing greater overall bioaccumulation in low-flow years. If inflows of San Joaquin River to the bay were to increase (e.g., under some of the water management scenarios being proposed for the future), it seems feasible that this source of contamination could become more important. The researchers concluded that Processes other than just dilution could affect inflow-linked seasonal or interannual fluctuations in Potamocorbula amurensis. Although tidal currents in the estuary are strong, most models suggest that longer residence times are likely as inflows recede in the summer and fall. Longer residence times would allow greater transformation of dissolved Se to particulate Se (via phytoplankton uptake) without, necessarily, large changes in Se concentrations in the total particulate mass [citation]. This could create a larger pool of bioavailable Se during the fall season, in particular. This effect could superimpose temporal variability upon the spatial pattern, but the lack of spatial correlation with existing indicators of nutritional sources and quality show that it did not drive the spatial pattern. Further, the fact that monthly chl a [chlorophyll a] concentrations were significantly correlated to monthly clam Se concentrations without incorporating a lag suggests that phytoplankton biomass did not have an effect on seasonal clam Se, but rather that variations in both chl a and Se concentrations were coincident with changes in freshwater inflow. We reiterate from our June 11th comments that BDCP errs in assuming decreasing selenium loads during the 50-year term of the incidental take permits.	
1803	33	Energy Impacts EIR/EIS Chapter 21, Energy, presents an opaque analysis of the energy context of the Twin Tunnels project and its impacts. It gets the reader immediately off on the wrong foot in its first sentence, which states: "The section describes potential effects to these energy resources from construction and operation of the action alternatives in the study area (the area in which impacts may occur)." [Footnote 65: BDCP, Chapter 21, Energy, p. 21-1, lines 4-5.] Which section? Which energy resources? What study area? The Chapter's opening sentence presages much mystery to come. Moreover, this section points readers back to Chapter 3 (some several thousand pages earlier) to six pages and a separate map book if one wishes to receive a description of how the Twin Tunnels project, or any other BDCP alternative would have electrical power delivered. [Footnote 66: BDCP, Chapter 3, pp. 3-107 to 3-112; Figure M3-4 consisting of an index and 15 figures.] As well, Chapter 21 warns that "the ever changing regulatory environment that the SWP and CVP projects operate under is a challenge for planning tools, such as CalSIM-II. Energy calculations based on CalSIM II represent a reasonable, though overstated, scenario based on historic monthly flows and reservoir storage." We are never told how the degree to which energy calculations are overstated in the EIR/ EIS. [Footnote	Text has been revised in Line 4 of page 21-1 in Chapter 21 to clarify what resource is being evaluated in Chapter 21. As indicated in Chapter 21, the CALSIM model (version II) is used to characterize additional pumping and delta export energy requirements for the action alternatives and indicates that CALSIM tends to overstate power assumptions. Section 21.1.3.1 indicates "CALSIM-II outputs tend to overstate, rather than understate, actual power consumption, and thus analysis tends to err on the side of overstating impacts." Section 21.1.3.1 further provides the variability in flows and storage based on CALSIM modeled results.

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		67: BDCP, Chapter 21, p. 21-2, lines 1-3]	
1803	34	We noticed in Figure 21-1 that for 2010 SWP power resources included 13 percent contribution from Reid Gardner No. 4, a coal-fired power plant in northern Arizona of which DWR is part owner. Figure 21-2, showing DWR's 2020 forecasted power resources shows no contribution from Reid Gardner Nov. 4 at all, but the narrative of this section provides no explanation as to what happens to this resource. What happens to DWR's relationship with Reid Gardner No. 4?	Since 1979, DWR has held a partial interest in Unit #4 of the Reid Gardner Power Station. However, DWR ceased receiving electricity from the power station in July 2013. Accordingly, Reid Gardner No. 4 was part of the SWP power portfolio in 2010, but will not be part of future resource plans or power supplies. A statement has been added to Chapter 21, Energy, to explain why Reid Gardner is not shown as part of the power mix in Figure 21-2.
1803	35	Basic energy context is missing from Chapter 21: how much energy use now occurs by SWP and CVP systems? What have the historic trends in energy usage been, and where is the largest energy consumption in each system occurring and why? Tables 21-1 through 21-6 get a little ways down the road of answering these questions, but figures mapping each system and tables showing facility energy usage and generation (to the extent there are dual use facilities) would be helpful. Tables depicting monthly decile distributions of energy head, flow, and generation prove to be of little assistance to readers and decision-makers trying to understand how the SWP and CVP use energy, where, and under what conditions. Tables 21-7 et al and 21-8 et al are of little help in conveying the meaning we ask for here. They obfuscate rather than inform readers of this chapter.	As indicated in Chapter 21, Energy, the pumping energy requirements are directly linked to the SWP and CVP exports and the monthly water supply deliveries to the various SWP and CVP contractors. Table 21-2 summarizes existing pumping capacity and associated energy factors for CVP pumping, while Table 21-3 summarizes existing total SWP pump load. In addition, Table 21-11 summarizes annual energy consumption associated with existing conditions based on installed SWP and CVP capacity in 2010.
1803	36	In Section 21.1.3.2, we find mention again of how "the energy calculations...presented in this chapter represent a reasonable, though overstated, assessment of actual energy requirements for the BDCP alternatives." Please explain this mysterious statement, and explain why "overstatement" is not somehow corrected or bracketed to give readers and decision-makers some sense of what the actual reasonable range of such calculations might be. And to which calculations does this statement apply? Energy generation? Energy usage? Transmission? All of the above?	Please refer to comment 1803-33. Please refer to Chapter 21, specifically Impact ENG-1, which describes impacts associated with energy use for temporary construction activities, and Impact ENG-2, which describes impacts associated with energy use for pumping and conveyance, for a description and evaluation of energy impacts evaluated.
1803	37	Energy impact criteria of significance are omitted, or go unrecognized for their significance in enabling proper assessment of energy impacts of the Twin Tunnels project and its cumulative effects. The only plausibly available criterion reported in Section 21.2, Regulatory Setting, appears to be the CEQA Guidelines, where the evaluative criterion of "avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy" is quoted. [Footnote 68: Ibid, p. 21-25, line 13, from Appendix F, Energy Conservation, of the CEQA Guidelines.] As in Chapter 31 (see below our comments on the Environmentally Superior Alternative), here too BDCP Applicants choose to interpret the CEQA Guidelines only very narrowly. They ignore the fact that the State Water Project is a net user (consumer) of energy to move water from Lake Oroville across the Delta, up to the head of the California Aqueduct; lifting it into San Luis Reservoir; lifting it again at Dos Amigos Pumping Plant; and lifting it again up and over the Tehachapi Range to southern California. And this is a large net consumption of energy, on average over 7,200 gigawatt hours per year in 2010. This is forecasted by BDCP Applicants to increase by 2020 to 7,900 gigawatt hours. While the BDCP Applicants do not state that CEQA is silent on the question of energy efficiency, they construe this as meaning merely that all aspects of construction and operation of the Twin Tunnels project would be as energy efficient as possible. [Footnote 69: Specific areas where the EIR/EIS's energy analysis exhibits this narrow interpretation of the CEQA Guidelines are found at p. 21-41, lines 11-12 and lines 17-18; and at p. 21-50, lines 13-17 and 24-25.]	The lead agencies have established thresholds of significance against which energy impacts have been evaluated consistent with the requirements outlined in Section 15064.7 and Appendix F of the CEQA Guidelines. As indicated in Chapter 21, the project would incorporate measures, such as including off-peak pumping and use of gravity, to maximize efficient use of energy. Because the project alternatives would result in additional SWP energy demands in excess of 15 gigawatt hours per year, required consultation with DWR's SWP Power and Risk Office has occurred, and modifications to the Renewable Energy Procurement Plan (REPP) to accommodate the project alternatives have been identified to ensure that covered activities do not conflict with DWR's ability to achieve the GHG reductions outlined in their climate action plan (CAP). These modifications to the REPP detail the additional gigawatts of renewable electricity that DWR expects to purchase each year during the 40-year period (2011 to 2050) to meet their GHG emissions reduction goals that are outlined in their CAP. Consequently, additional energy required by the action alternatives would be required to include renewable energy so as to meet goals outlined in their REPP and CAP. Language has been added to Impact ENG-2 to clarify. Please see Master Response 19 for additional information on the procurement of renewable energy.

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		The prior question of whether the project itself is possibly itself an inefficient, wasteful and unnecessary consumption of energy" is never considered, let alone justified with overriding considerations. To do such an evaluation means doing the hard but important work for decision- makers of assessing whether the water that this expenditure of energy would make possible (via both construction and operation) would be a reasonable use and method of diversion of water; whether supplies of water needed to meet future demand in the current Delta export service areas could be met with alternative methods of water supply; whether the project complies with the Water Code Section 85021 requirement that regions importing water supplies from the Delta must reduce their reliance on Delta supplies; whether the public trust resources affected by the diversion of project water would be protected or not. In other words, criteria from beyond CEQA Guidelines could and should be applied to the question of whether the Twin Tunnels project represents an inefficient, wasteful and unnecessary consumption of energy. The EIR/EIS is deficient from this lack of analysis. It should be revised and recirculated.	
1803	38	We note too that the energy analysis in Chapter 21 fails to incorporate any analysis of the likelihood that water transfers would increase during drier years when hydroelectric power is less available. The same unwillingness to apply BDCP's abundant modeling capability is on display in this passage: In the event that Delta water deliveries could not meet south of Delta water supply, alternative water sources for south of the Delta service areas could be accessed to supplement deliveries [i.e., cross-Delta water transfers]. New south of Delta surface water storage, groundwater pumping, and desalination plants could provide some of the necessary supplies and would create additional energy demands. While it is important to acknowledge this possibility, it is difficult to quantify and analyze the variety of supplemental water sources in a meaningful way. The uncertainty around additional water supplies would need to be addressed and analyzed on a case by case basis as they become feasible alternatives. [Footnote 70: Ibid, p. 21-36, lines 1-7.] Someone within the project management structure of the EIR/EIS should have apprised the author of Chapter 21 of the analyses and likelihood of water transfers discussed in EIR/EIS appendices 5B, 5C, and 5D. Simply plugging in to CalSIM II the supplemental demand figures contained in Appendix 5D in particular should have enabled the EIR/EIS to report what the potential energy impact of delivering water at least across the Delta would be. More water transfers are not speculative should the Twin Tunnels be constructed and operated. They are likely.	The analysis of water transfers in Appendix 5D was included to indicate the potential for future water transfers from north of Delta water districts to south of Delta water districts. The energy used to pump these water transfers to south of Delta locations is fully described in 21.1.3.2 CVP and SWP Energy Use for Water Pumping, and the additional energy needed to pump these water transfers into the project facilities (alternatives) are described in 21.3.1.2 Operation. The energy effects from any future increase in water transfers that might be possible with the action alternatives can, therefore, be calculated in the same way that the energy effects of the action alternatives were calculated.
1803	39	Finally, we appreciate that the BDCP Applicants conclude in Chapter 21 that "the cumulative effects on energy use are adverse because many of the other projects would also increase energy use in the three BDCP regions. [Footnote 71: Ibid, p. 21-59, lines 33-35.] We note that this qualitative conclusion should be quantitatively increased by the fact that the BDCP Applicants have inappropriately and improperly omitted from their cumulative impacts projects list major and reasonably foreseeable new reservoir projects (i.e., Sites and Temperance Flat) and reservoir expansion projects (i.e., Shasta and San Luis Reservoir) at least some of which would result in cumulative increases in energy usage to move water through the state and federal water projects. For all these reasons relating to energy, the EIR/EIS is inadequate as a result, and needs to be revised and recirculated.	As cited by the commenter, Chapter 21, Energy, identifies cumulative effects on energy use as being adverse when considered in connection with the combined effect of projects listed in Appendix 3D, Defining Existing Conditions, the No Action/No Project, and Cumulative Impacts Conditions. Appendix 3D lists programs, projects, and policies that are considered in the cumulative impact analysis. While it is infeasible to list every project in Appendix 3D, the Shasta and San Luis Reservoir projects are included in Table 3D-A. It should also be noted that while reservoir projects could result in increased energy usage to move water through the state, these projects could also lead to increased renewable energy production.
1803	40	Environmentally Superior Alternative	Please see Master Response 4 for a discussion of the alternatives development and evaluation.

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		The EIR/EIS in Chapter 31 declines to determine an environmental superior alternative from among the BDCP alternatives. BDCP blames CEQA for this, stating: Unlike many other environmental laws, CEQA does not treat any category of environmental effect as being more important than any other category. Thus, the process for reaching an overall determination under CEQA as to the environmental superiority of a particular alternative action requires the balancing of different sets of environmental benefits and impacts against each other. There is no clear direction under CEQA for how to engage in such balancing to identify an environmental superior alternative in a draft EIR. [Footnote 72] The BDCP Applicants do not look hard enough for criteria to evaluate environmental superiority. This is important precisely because BDCP Applicants reject the possibility that the No Project Alternative (or in BDCP's case, the No Action Alternative) would be the environmentally superior alternative. [Footnote 73] BDCP's rejection is unfounded. It is based on a truncated and improperly described set of purposes and needs for the Twin Tunnels project; its habitat restoration plans are based on flawed hypotheses for habitat replacing flow for listed fish species; its habitat restoration strategy is premised in large part on taking credit for restoration sites and projects that other parties have already undertaken; and the supposed environmental benefits of the BDCP are premised on "reduced reliance on the south Delta pumps" [Footnote 74] while soft-peddling the introduction of new hydrodynamic nightmares created by the north Delta intakes. Increased flexibility of diversion options for the state and federal water projects does not and will not equate to environmental superior performance of the action alternatives over the No Action Alternative. [Footnote 72: BDCP, Chapter 31, Other CEQA/NEPA Required Sections, Section 31.3, CEQA Environmentally Superior Alternative, p. 31-4, lines 33-38.] [Footnote 73: Ibid, p. 31-5, lines 5-6. "...[T]he BDCP No Project Alternative (described in this document as the No Action Alternative) is not the environmentally superior alternative, as compared to the action alternatives."] [Footnote 74: We note that "reducing reliance on south Delta pumps" is a BDCP criterion that has no basis in law or regulation. California Water Code Section 85021 requires importers to reduce their reliance on Delta exports, and does not specify the location from whence those exports are or would be taken. This is the kind of conceptual sleight of hand BDCP employs to characterize the Twin Tunnels project and BDCP as somehow complying with the Delta Reform Act and justify the Twin Tunnels project as a "conservation measure" under the federal ESA and the state NCCPA.]	
1803	41	BDCP argues in Chapter 31 that the No Action Alternative would continue the supposed vulnerability of the state and federal water projects to seismic disruption from levee failures and to the creeping effects of climate change and sea level rise. The action alternatives, claims BDCP, would make the state and federal water systems less vulnerable to both of these long-term effects. But it is significant that BDCP does not argue that this makes any of the action alternatives somehow an environmentally superior alternative. The Applicants cannot reasonably make such a claim and have it stand up to scrutiny. For instance, the action alternatives would increase the seismic and sea-level rise vulnerability of the Delta over and above the condition of the No Action Alternative because it would reduce the policy incentive among	Please see Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements, Chapter 2, FEIR/EIS, for the BDCP/CWF purpose and need, and Appendix 6A Sections 6A.2 and 6A.3 for discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF. 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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		state water officials to protect the Delta. Resources invested in BDCP action alternatives would divert essential resources away from protection of Delta islands and the Delta economy and ecosystems over the long term. Our point is not to speculate about future levee repair and sea-level rise adaptation budgets, but that some of the future public finding resources not spent on BDCP could be readily spent on Delta levee-setback restoration and levee-raising projects without any Twin Tunnels development. Such projects could expand habitat without creating hydrodynamic nightmares in the north Delta, and would help protect south Delta exports from the Banks and Jones pumping plants.	
1803	42	BDCP Applicants shrug their collective shoulders and say in Section 31.3 of the EIR/EIS, "how could we possibly decide such a complicated question as the environmentally superior alternative when there are so many alternatives, so many variables, and it's all so complex!" As is their preferred tendency, the Applicants construe its obligations to make this finding of an environmentally superior alternative as narrowly as they possibly can, by looking only to CEQA for criteria on which to judge this requirement and finding none. CEQA compliance however does not depend solely on finding the criteria solely within that law's terms, but on the whole array of laws with which the BDCP must comply. Evaluative criteria abound elsewhere than CEQA, in laws that also apply to BDCP. The EIR/EIS's discussion of the environmentally superior alternative fails utterly to take into account the NCCPA's requirement of "rough proportionality" between project development and project impact mitigation; of the Delta Reform Act's requirement to balance co-equal goals; of the requirement in Water Code Section 85320 to account for flows regimes needed to restore Delta fisheries (when such regimes were provided by the State Water Board pursuant to Water Code Section 85086 in 2010 with its Delta Flow Criteria Report); and the ESA's requirement to provide ecological assurances that the BDCP and its Twin Tunnels project would improve the likelihood that listed species could survive and recover. The EWC finds that the No Action Alternative is the environmentally superior alternative in BDCP. When the No Action Alternative is considered environmentally superior, CEQA requires that the BDCP Applicants "shall also identify an environmentally superior alternative among the other alternatives." [Footnote 75: Ibid, p. 31-4, lines 20-21; and CEQA Guidelines Section 15126.6(e)(2).] We ask of the BDCP Applicants: Applying the law-based criteria we offer in the previous paragraph, what would be the environmentally superior alternative that the BDCP Applicants would choose from among the action alternatives? In the meantime, because discussion of the environmental superior alternative is woefully deficient, the Draft EIR/EIS is inadequate and must be revised and recirculated.	Please see Master Response 4 for a discussion of the alternatives development and evaluation. Alternative 4A is now the preferred alternative and has been developed based on public and agency input.
1803	43	Summary of Significant and Unavoidable Adverse Impacts: Continuing a lengthy track record of ineptitude at summarizing BDCP EIR/EIS content, Section 31.4, Summary of Significant and Unavoidable Adverse Impacts, fails to provide a full and complete summary of significant, unavoidable and adverse impacts. Table 31-1 omits all of the numerous adverse impacts to fish and aquatic species, terrestrial species, and many of the water quality impacts identified in the EIR/EIS's Executive Summary, Table ES-9. The differences between these two summary tables should be reconciled as part of a	Table 31-1 in Chapter 31, Other CEQA/NEPA Required Sections accurately reflects the significant and unavoidable impacts of Alternative 4A, which is the CEQA and NEPA preferred alternative.

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		revised and recirculated Draft EIR/EIS.	
1803	44	The Environmental Water Caucus has made numerous substantive comments in its June 11th comments on the Bay Delta Conservation Plan and its Environmental Impact Report/Environmental Impact Statement (EIR/EIS) that directly relate to the Implementing Agreement and its relationship to BDCP documents. Suffice it to say that to the extent that the Implementing Agreement would execute a flawed habitat conservation plan, it would merely reproduce the same deficiencies and failures we have already identified in our comments here and in our June 11th comments. We have read through the Draft Implementing Agreement for BDCP released Friday, May 30th, and compared it with the July 2013 Draft of the IA.	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). Implementing agreements are a requirement under the California Natural Community Conservation Planning Act (NCCPA), and are routinely executed under the ESA Section 10 (HCP) permitting process. Since the current proposed project is no longer a NCCP or HCP, an implementing agreement was not released with the RDEIR/SDEIS or final EIR for the project. The comment otherwise does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1803	45	Statutory Findings: Section 4.0 [of the Draft IA] addresses the statutory finding issues for the Fishery agencies. Mr. Ren Lohoefner has stated that the FWS and NMFS section 4.1 on their findings is still in negotiation. CDFW director Charlton Bonham indicated (perhaps overconfidently) there would only be slight wording changes to Section 4.2 where CDFW's findings are provided. Again, it appears that the substance for the findings apparently must wait until the stage of incidental take permit issuance, and public review of the findings will be attenuated at best; the BDCP Applicants prefer to skirt the ESA's requirements that an adequate NEPA review shall have been conducted as part of a completed habitat conservation planning application package in advance of the incidental take permits.	Please see response to comment 1803-44.
1803	46	"The Implementing Agreement Controls" BDCP: Section 6 of the Draft IA incorporates BDCP "and each of its provisions" into the Draft IA, and further clarifies that, wherever possible, the terms of this Agreement and the terms of the BDCP shall be interpreted to be supplementary to each other; provided further, in the event of a direct conflict between the terms of this Agreement and the BDCP, the terms of this Agreement shall control. This language renders the BDCP EIR/EIS immediately inadequate and subject to revision and recirculation in order to comply with the National Environmental Policy Act and the California Environmental Quality Act. The EIR/EIS, while containing merest mentions of the Implementing Agreement fails to analyze its impact. Now that the Draft IA is said to "control" with respect to interpreting BDCP terms, the EIR/EIS is additionally inadequate by failing to analyze for and identify any potential conflicts between BDCP and its Draft IA so that the public and decision makers are made aware of any such differences.	Please see response to comment 1803-44.
1803	47	Covered Actions and Take Authorizations: Take authorizations will apparently be described in Section 8.0 [of the Draft IA], and covered activities in Section 9.0. But Mr. Lohoefner of USFWS announced in late May 2014 that the take numbers would not be considered until the stage of issuing incidental take permits. This appears to us to violate CEQA, NEPA, and sensible habitat conservation planning practices that incorporate adequate public review.	Please see response to comment 1803-44.

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1803	48	Legally Required Findings: There appears in Section 8 [of the Draft IA] language about the legally required findings that justify issuance of incidental take permits from the fishery agencies to BDCP, but this section needs parenthetical clarification. Currently, this language reads as prejudicial assertions that are not based in the reality of profoundly flawed BDCP documents. We have already commented on numerous ways in which statutory ESA findings cannot be met with the documents on BDCP now at hand. There should be a "Note to Readers" that clarifies the language holds the place of findings that remain to be written, since it is clear to our review that these "findings" do not represent a fact-based evaluation of BDCP and its EIR/EIS.	Please see response to comment 1803-44.
1803	49	Decision Tree: The decision tree process discussion (Section 10 of the Draft IA) is expanded over last summer's Draft IA. Unfortunately it contains language stating "the parties agree that a key area of scientific uncertainty concerns the volume of Delta Outflow...necessary to advance the biological goals and objectives for both delta smelt and longfin smelt." As discussed in our [the Environmental Water Caucus'] June 11th comments on the Bay Delta Conservation Plan and its EIR/EIS, the source of this "key area of scientific uncertainty" appears to be the BDCP Applicants themselves. Scientists with the US Fish and Wildlife Service, the National Marine Fisheries Service and the State Water Resources Control Board have issued findings and determinations in recent years that more Delta outflow, more Delta inflow, and flows that mimic the timing and variability of the natural hydrograph of the Delta's Central Valley watershed are vital to recovery of listed fish species in the Delta. [Footnote 80: See the BDCP comments of California Water Impact Network, California Sportfishing Protection Alliance, and AquAlliance, incorporated into these comments by reference. Relevant scientific studies include the State Water Board's 2010 Delta flow criteria report, the 2009 NMFS salmonid Biological Opinion, the 2008 USFWS delta smelt Biological Opinion, the 2010 CDFW biological objectives and flow criteria report, and the 2009 NMFS salmonid recovery plan.] Moreover, as we observed in Section I of this letter, even BDCP seems to expect its hypotheses may not be supported once they are implemented. Under issuance of the incidental take permits BDCP we understand that would start tunnels operation with the high outflow scenario approach to protect delta smelt. The HOS is considered precautionary (though in reality they are but a fraction of flows called for in the State Water Board's 2010 Delta flow criteria). If the scientific experiments done under the Decision Tree process indicate cause for relaxing the outflow criteria, then the Draft IA allows that on page 25. They will test the habitat over flow hypothesis for 10 years "using the best available scientific information." One new item appears to be that there will be a four-step process for the decision tree: hypothesis design, implementation of a science plan to test the hypotheses, completion of a peer-reviewed report that interprets results from the science plan's tests, and delivery of the report to the Authorized Entity Group and the Permit Oversight Group for decision. So, with the Decision Tree affecting the two smelt species, we get a test of the governance structure of BDCP and adaptive management's relationship to it. Any change to Delta outflows resulting from the Decision Tree process will require neither plan nor incidental take permit amendments. The spectrum of Delta outflow, the Draft IA argues, is spanned by the BDCP Plan document, although the exact pages the Draft IA relies	Please see response to comment 1803-44.

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		on are not specified. Relationship of Decision Tree process to other covered fish, Section 10.2.1.5: "the outflow needs of these species [including salmon and sturgeon] will also be investigated as part of the scientific research and analysis that will be conducted prior to the new conveyance system becoming operational." (p. 27). But nothing so comparatively rigorous as the Decision Tree process is provided in the Draft IA for these other species. Not all listed species issues are created equal in the eyes of BDCP and its Draft IA. How will BDCP equalize this disparity in treatment for salmonids and sturgeon relative to the smelts, especially if the fishery agencies find themselves listing more Delta fish species in the next five decades?	
1803	50	Real-Time Operations: Institutionalizing the Inability to Act: Their "real-time operations" (RTO) section [of the Draft IA] specifies that the RTO group will consist of fishery agency, Bureau and DWR representatives (one each for a total of five members). They must make decisions by consensus on real-time adjustments. This is an extremely high bar for real-time exercising of professional judgment; it prejudicially precludes meaningful action that might benefit covered and listed fish species. The real-time rules provide for "no net loss to exports," the water management (i.e., supply reliability) mantra of the water contractors, DWR and the Bureau during the CALFED Bay-Delta planning process of the late 1990s. The consensus requirement means essentially that the water project operators (Bureau and DWR) have veto power over major RTO adjustments, even though the fishery agencies outnumber the water project operators 3 to 2 on the RTO team. "Appeals" of the lack of consensus are handled by moving it up to the regional directors of all the agencies, and it appears consensus among them is required. It will be difficult if not impossible to get consensus on some action that could protect a 2-inch fish. This represents a BDCP governing process victory for the water project operators and their contractors, of course.	Please see response to comment 1803-44.
1803	51	No Net Loss to Exports Through Adaptive Management: The principle of No Net Loss to Exports is alive and well in the Adaptive Management section of the Draft IA as well. On p. 37, top, the Draft IA states that changes to Conservation Measure 1 (i.e., the Tunnels project) adopted through the adaptive management process "shall be drawn from the following sources, to the extent available, and in the order of priority set out below: "o Adjusting operations on an inter-annual basis. o Sharing resources derived from water supply improvements. o Re-allocating resources from less effective Conservation Measures. o Drawing funds from the Supplemental Adaptive Management Fund." See our comments above in Section I of these supplemental EWC (Environmental Water Caucus) comments concerning the Supplemental Adaptive Management Fund. It appears that the Draft IA merely reproduces much of this section's language from BDCP Chapter 3.4.23, and therefore its egregious corruption of the Public Trust Doctrine as well as its likely undercapitalization of the Fund. As we point out above in Section I of this letter, these sources are all contained within the	Please see response to comment 1803-44.

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		scope and sphere of the Bay Delta Conservation Plan (e.g., in Chapter 8), bounded by the No Surprises assurances that alterations to conservation measures and biological goals and objectives will not require further infusions of land, water or money to enable BDCP to achieve biological goals and objectives. They represent zero-sum means of addressing changes to CM 1 that are fully contained within the Plan and within water supply parameters. After the smelts' Decision Tree process has run its decade-long course, how much adaptive management research funds will be left over for other pressing research needs? We are concerned that the decision tree process would "suck all the oxygen out of the room" of adaptive management funding. The final decision tree authority is ostensibly given to the fishery agencies (all three, state and federal) but the "final decision about criteria...[gets] implemented when the conveyance facilities become operational" subject to "real-time operations" (see below), and the bureaucratic review process BDCP establishes to thwart effectiveness on behalf of fish and minimize sudden and substantial changes to water exports. This is an area where the fishery agencies effectively contract away their power and authority under ESA Section 10 (and parallel consequence for CDFW, in our view).	
1803	52	Redirecting BDCP Impacts to Upstream Senior Water Rights Holders: Adaptive Management (Section 10.3) [of the Draft IA] appears to be handled much the way the plan calls for -- this section makes direct reference to BDCP chapter sections as the basis for AM actions and process. For example, the IA makes clear that the Decision Tree process (Section 10.2.1) will be handled through the Plan's processes for adaptive management and monitoring. Anything beyond what's in the Plan when the ink dries on the Draft IA and the incidental take permits, the Authorized Entities will be off the hook from going beyond what is in the Plan -- unless for some unforeseeable reason the Authorized Entities would consent to providing any water, money, or land to improve conditions for the habitat conservation plan. The Draft IA continues BDCP's behavior of failing to acknowledge explicitly and openly that the Tunnels project will likely fail to perform as advertised as a supposed "conservation measure" and that public funds will likely be needed to buy water to bail out its activities and operations in the North Delta. This likely failure will put more pressure on the State Water Board to follow through on its tentative plans to require proportional contributions of flow from upstream reservoirs on major Delta watershed tributaries in the Sierra foothills. The Draft IA states, "In the event that additional outflow was determined to be necessary [for the Delta], supplemental water may be acquired from voluntary sellers." We find this sentence disconcerting. This supplemental water purchase fund (for that is what it really is) appears to be one of the few instances where BDCP has equipped itself with a "Plan B" in the event of some kind of failure. We ask, what then is "Plan C" in BDCP if there are either no voluntary sellers, or the supplemental adaptive management (i.e., "water purchase") fund runs out of money? It could be an illegal redirection of project impacts if this circumstance led the State Water Board to require such proportional flows from the major tributaries to benefit a pair of junior water right holders (the State Water Project and the federal Central Valley Project). Such an action by the Board would fly in the face of California's reliance on the legal doctrines of prior appropriation and of reasonable use and method of diversion of water. For the Board to decide this way would serve unjustly to impose provision of Delta inflows on senior upstream water right holders, thereby	Please see response to comment 1803-44.

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		benefiting junior State Water Project and Central Valley Project contractors. This would be a perversion of California water rights doctrine. Nonetheless, there is precedent by which the State Water Board has acted to protect Delta outflows, which suggests this scenario for redirected water supply impacts on the Sierra foothills communities is not merely imaginary. In Water Rights Decision 1622, and again in Water Rights Decision 1641, the State Water Board has required the Bureau to guarantee flows from its New Melones Reservoir on the Stanislaus River in Tuolumne County for the purpose of meeting water quality objectives in the Delta. Senior water rights were not abridged in the process. [Footnote 82: Those rights belong to Oakdale Irrigation District and South San Joaquin Irrigation District.] The chronic water quality objective violations we cited in our June 11th letter strongly suggest that the Board has already not required enough of such flows from the state and federal projects who are junior in priority to meet the Board's objectives for the Delta. [Footnote 83: Nor was our analysis in the June 11th letter intended to suggest that more releases from New Melones is the solution to the water quality objective violations.] The danger in the future could be that the State Water Board might reach upstream to adjust the rights of seniors to provide additional flow without requiring the same or more of the state and federal water projects first. Due in part to endangered fish species concerns and water quality concerns, the State Water Board is already considering proportional flow requirements to meet Delta water quality objectives as it proceeds to develop its next Bay-Delta water quality control plan. Its 2010 Delta Flow Criteria Report, required by the Delta Reform Act of 2009, also recommended for aggregate Delta inflows amounting to 75 percent of unimpaired flow from the Sacramento River and 60 percent of unimpaired flow from the San Joaquin River to the Delta. [Footnote 84: State Water Resources Control Board, Developing Flow Criteria for the Sacramento--San Joaquin Delta Ecosystem, prepared pursuant to the Sacramento-San Joaquin Delta Reform Act of 2009, August 2010, 178 pages. Accessible online at http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/final_rpt.shtml.]	
1803	53	Absence of Nexus Between Tunnels Financing and Operations: BDCP ostensibly is a Twin Tunnels water conveyance project wrapped in a habitat restoration plan. But the Draft IA (as the controlling document in the panoply of BDCP verbiage) is careful to sever that nexus, enabling a completed project to function unfettered by accountability to its supposed mitigations. The Draft IA's funding section (Section 13.0) is at least populated with words now, compared with the July 2013 draft. But the words say little more than what we already know from Chapter 8 of BDCP. The language used in the Agreement is intended to support what's in Chapter 8. We agree here with the San Diego County Water Authority that the draft BDCP economic and financial analysis provides nothing more than what was on offer back in 2012 when the Authority wrote to BDCP about financing problems and contractual step-up provisions. We agree, too, that there needs to be more such analysis that is credible. As of January 28, 2014, the State Water Contractors acknowledged no clear consensus on cost allocation and financing of BDCP among state and federal water contractors. [Footnote 86: Letter from Terry Erlewine, General Manager, State Water Contractors, and the general managers of Coachella Valley Water District, Kern County Water Agency, Alameda County Water District, Alameda County Zone 7 Water Agency, Mojave Water Agency, Santa Clara Valley Water District, San Bernardino Valley Municipal Water District, and the Metropolitan Water District of Southern California, to	Please see response to comment 1803-44.

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		Mark Cowin, Director of the California Department of Water Resources, January 28, 2014. Copy on file with the Environmental Water Caucus.] So there remains no clear path to financing the Twin Tunnels project of Conservation Measure 1. Parties acknowledge that [adequate funding assurances required to implement an HCP and/or an NCCP] such assurances do not require that all necessary funds be secured at the time of permit issuance, but rather establish that such funding is reasonably certain to occur during the course of Plan implementation. The Parties acknowledge that the sources of funding identified in the Plan, including bonds for infrastructure, have historically proven to be reliable means by which public projects may be funded. The Parties agree that the assessment of funding requirements for the BDCP, the viability of the sources identified for such funding, and the commitments made by the Parties in the Plan and this Agreement provide an adequate basis for a finding by the State and federal Fish and Wildlife Agencies that sufficient assurances of funding have been provided pursuant to the ESA and the NCCPA. These passages from Section 13.0 essentially endorse "faith-based funding" for BDCP despite the fact that nothing in the draft IA or in other BDCP documents specifies how that funding will be secured, now and in the uncertain future. Specific questions remaining to be answered include: How many and which of the state and federal water contractors will make enforceable commitments to pay? What, exactly, will they pay for? By when will those commitments be made (by a calendar date, or some kind of performance milestone with regard to project planning)? What remedies will be applied should contractors default on their enforceable commitments? How will costs to be funded by the contractors be allocated among the contractors, and when will this become publicly known? In their May 30th comments on BDCP, the San Diego County Water Authority noted that "Firm commitments to ensure state and federal funding for CM 2-22 are lacking....The uncertainty that voters and Congress would approve the water bonds and federal appropriation, respectively, leads to the question as to whether, and how much, the contractors will be expected to help pay for the costs to obtain the envisioned water supply benefits. If the public funding envisioned does not materialize will the contractors be expected to fund these costs? If funding is unavailable for restoration, would CM1 operations be changed from those presented in the BDCP?" [Footnote 89: Letter of Maureen A. Stapleton, General Manager, San Diego County Water Authority, to Ryan Wulff, National Marine Fisheries Service, Re: Draft EIR/EIS for the Proposed Bay Delta Conservation Plan, Alameda, Contra Costa, Sacramento, Solano, and Yolo counties, May 30, 2014, p. 13.	

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		Hereafter, SDCWA Comment Letter.] These are our questions too. The EWC believes that the Draft IA contains the answer to San Diego's last question above: there would be no impact on Twin Tunnels operation should no or insufficient public funding for CMs 2 through 22 occur. The draft Implementing Agreement provides language that appears intended to preserve operation of the Twin Tunnels under unspecified rules whether or not state and federal incidental take permits or Reclamation's Section 7 take statement are valid: In the event of a shortfall in State or federal funding, a Fish and Wildlife Agency(ies) shall not suspend or revoke the State and/or Federal Permits or invalidate Reclamation's take statement if the shortfall in funding is determined to be likely to have no more than a minimal effect on the capacity of the Plan to advance the biological goals and objectives. [Footnote 90: Draft IA, Section 13.2, Inadequate Funding, p. 47.] Actions that may be considered to address such shortfalls include adjusting the scope of the Plan in proportion to the public funding shortfall. [Footnote 91: Ibid, p. 48.] While this last quote does not preclude shutting down the Tunnels if incidental take permits are revoked, it strongly implies through the term "in proportion" that the Tunnels project operations would be immune from considerations of what to do about funding shortfalls. Exactly what is the nexus of funding loss and operational curtailment to be enforced by the Draft IA in the phrase "if the shortfall in funding is determined to be likely to have no more than a minimal effect on the capacity of the Plan to advance the biological goals and objectives"? In short, what threshold does BDCP propose be considered "minimal" in this context? And what would be the proportional relationship, what fraction, what ratio would be applied for purposes of adjusting BDCP's plan scope to fit the budget? No criteria for addressing this threshold issue are provided in the Draft IA. The Draft IA is the exact document where such criteria should be found for effective project implementation.	
1803	54	No state or federal funds apply to construction or operation of the Tunnels in CM1 of BDCP's funding plan (it's all to be paid for by the state and federal water contractors), but they apply instead to the habitat restoration and "other stressor" conservation measures. Thus, there would be no functional legal nexus between, nor accountability of the performance of the Tunnels to, funding shortfalls in applicable to other elements or measures of BDCP. Do other HCPs have this lack of nexus between the developer's financing of the project and the project's mitigation funding? Where that nexus is actually invested by the developer, there is some rationale for limiting regulatory risk to developers. But that nexus is absent in BDCP. The BDCP Applicants (developers) pay less than 15 percent of the mitigation cost, an amount insufficient to give them incentive to make the whole plan really work and justify the "No Surprises" benefit of "regulatory stability." The fishery agencies approve the incidental take permits and the water project operators and contractors are free from habitat restoration responsibilities. Imagine: an HCP without the H (for habitat) or the C (for conservation): that is too great a risk for the California public with BDCP. The challenges for achieving reserve system assembly of Conservation Measure 3, along with this lack of a nexus between project development and project mitigation funding, compound BDCP's inability to meet the test in the NCCPA of providing "rough proportionality" between project development and project mitigation of impacts. The State Natural Communities Conservation Planning Act states in pertinent part, that the	Please see response to comment 1803-44.

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		California Department of Fish and Wildlife shall include a provision requiring notification to the plan participant of a specified period of time to cure any default prior to suspension or revocation of the permit in whole or in part. These terms and conditions shall address, but are not limited to, provisions specifying the actions the department shall take under all of the following circumstances: A. If the plan participant fails to provide adequate funding. B. If the plan participant fails to maintain the rough proportionality between impacts on habitat or covered species and conservation measures. C. If the plan participant adopts, amends, or approves any plan or project without the concurrence of the wildlife agencies that is inconsistent with the objectives and requirements of the approved plan. D. If the level of take exceeds that authorized by the permit. [Footnote 93: California Fish and Game Code Section 2820(b).] Thus, rough proportionality is important to whether the project is meeting its mitigation obligations and therefore meeting its permit compliance obligations. The law also states, "Measurements to determine if mitigation and conservation measures are being implemented roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan." [Footnote 94: California Fish and Game Code Section 2805(f)(3)(C). This provision is part of making annual progress reports on the Plan's monitoring program.] Despite this "rough proportionality" criterion in the NCCPA, there is no definition in law about what this means. BDCP tacitly recognizes that this "rough proportionality" requirement means that project phasing must be aligned with project mitigation efforts. But a reasonably direct reading of BDCP's schedule of actions reveals that no such alignment is planned. BDCP is misleading when Chapter 6 states: Although most of these conservation measures [CM 2 and CM13 through CM21] are intended to contribute to the conservation of the covered species, their implementation schedule provides for their implementation concurrent with or prior to the effects associated with the construction and operation of the water conveyance facility. In this respect, the implementation schedule is consistent with the rough proportionality standard and ESA requirements. [Footnote 95: BDCP, Chapter 6, Plan Implementation, p. 6-11, lines 1-5.] These conservation measures largely deal with "stressor" issues, and yes, most of them would occur within the first 10 years of BDCP implementation. But the reserve system, represented by conservation measures 3 through 10, would take place according to the schedule in Table 6-2. BDCP's schedule of development and restoration/reserve system assembly is on its face unbalanced. It may be construed as "roughly proportional" in only the grossest and most elastic manner. The Plan schedules development of 100 percent of the entire Twin Tunnels water project in the first 10 years of the Plan's timeline. A total of 153,000 acres is anticipated to be assembled into BDCP's reserve system. Just 24,395 acres are scheduled for acquisition/protection and only 19,960 acres (comprised of seasonally inundated floodplain, channel margin enhancement, and riparian natural communities)	

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		would be targeted for tidal habitat acquisition/restoration during the first 10 years. Nontidal habitat restoration would account for another 850 acres in the first 10 years. In other words, while 100 percent of the water project is completed in 10 years, just 14 percent of the aquatic habitat lands slated for aquatic tidal restoration will be acquired; and it must be remembered that acquisition does not equate with actual successful restoration outcomes. The acquisition/protection lands are largely upland habitat, managed wetlands, or cultivated lands to be converted to habitat of some unspecified type. This is a rough proportionality of about one massive water project to one-seventh (1/7th) of a mitigation plan over 10 years, half of which would come from what is already done in the Delta (and therefore does not represent newly restored habitat). Unfortunately, the NCCPA is silent on what is meant by the supposed "standard" of "rough proportionality." Is it like pornography, where one might know it when one sees it? Exactly what is the interpretation of the BDCP Applicants of "rough proportionality" and how do they see it exhibited in the relationship between development of the Twin Tunnels and the habitat restoration efforts called for in CM3 through CM10? Rough proportionality for CM3 will be measured by comparing actual preservation of natural communities, as measured from the date of recordation of fee title or conservation easement, against the permanent impacts to each natural community... CM4 through CM10 require restoration of natural communities that provide habitat. For these conservation measures, rough proportionality will be determined through a comparison of the amount of natural communities constructed (i.e., restoration is counted toward the requirement once construction is completed) with the permanent impacts on the same species habitat....For the purposes of compliance with the rough proportionality standards, the pace of conservation measure implementation may not fall behind the pace of covered activity impacts by more than 10 percent. We object to this interpretation of rough proportionality. First, successful restoration is assumed by BDCP to commence with the constructed completion of the redesigned habitat. However, successful restoration is determined not by meeting operational or construction schedule milestones but through monitoring of the site or waterway to see whether listed and covered species actually benefit from the site in the near and long terms. Are delta smelt or longfin smelt using the site for any part of their life histories? Are steelhead smolts taking a moment on their way to the ocean to rear, rest, or feed? Do these species grow in abundance year after year? Etc. Second, while BDCP applies this "standard" of rough proportionality to BDCP actions, it does not itself apply the standard to the schedules it purveys in Tables 6-1, 6-2, 6-3, and 6-4. This is somewhat understandable, since the standard BDCP invokes offers no rationale for relating measurement units of a Twin Tunnel project with those of acres of habitat acquired or restored. And besides, none of these measures would provide any sense of whether actual success with project mitigation was occurring as a result of the actions taken. "...[T]he pace of conservation measure implementation may not fall behind the pace of covered activity impacts by more than 10 percent." Ten percent of what, exactly?	
1803	55	Assurances and Protections: In Section 14.0 [of the Draft IA], most of this section has been revised somewhat from the July 2013 draft. Most of the edits appear to be technical in nature. Some add clarifying language that FWS or NMFS has the burden of demonstrating that unforeseen	Please see response to comment 1803-44.

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		circumstances exist (i.e., requiring some kind of change to the BDCP) using the best scientific and commercial data available. Others simplify language describing the factors that go into determining the effects of unforeseen circumstances. One important new section addresses the event that a Fishery Agency makes findings of an unforeseen circumstance: If a Fish and Wildlife Agency finds that an Unforeseen Circumstance has occurred with regard to a Covered Species and that additional measures are required for the Covered Species as a result, during the period necessary to determine the nature, scope and location of any additional measures, the Permittees will avoid causing an appreciable reduction in the likelihood of survival and recovery of the affected species. The Permittees will not be responsible for implementing any additional measures unless the Permittees consent to do so. [Footnote 99: Draft IA, Section 14.4.2.1, p. 53.] Of course this is entirely consistent with the No Surprises regulations implementing ESA Section 10. No Surprises gives veto power to the Permittees over actions to protect species facing jeopardy with BDCP in place. We cannot imagine a more perfect policy for the group of "Authorized Entities" that comprise the "Permittees" in this instance. One problem with this wording, however, is that it leaves unclear what threshold of action the Permittees will employ to "avoid causing an appreciable reduction" in jeopardy risk for covered species. What, exactly, does "appreciable" mean here? Will the fishery agencies through the Permit Oversight Group have a say in choosing that threshold if it is not specified in BDCP before the incidental take permits are issued? What threshold of reduction becomes "appreciable"? It is also ambiguous whether the Fishery Agencies have a role in determining how and what action would be appropriate to "avoid causing an appreciable reduction." Finally, it is unclear with this wording whether once an unforeseen circumstance has occurred the Permittees have the right to consent to any action to "avoid causing an appreciable reduction" even before they have the right to consent to any additional measures? Could "avoiding causing an appreciable reduction" be the trigger they seek to reject an "additional measure" to be implemented by the Permittees?	
1803	56	Implementing Structure: In Section 15.0 [of the Draft IA], much of this section is retained with minor edits from the July 2013 draft, but substantial new language has been introduced in sections 15.3.3 and 15.8.2. Section 15.3.3 has new and vague language indicating that the Authorized Entity Group meetings will make gestures in the direction of being publicly accessible through noticing and web postings announcing BDCP meetings through the BDCP web site. [Footnote 100] "On a periodic basis, the [AEG] will hold meetings that are open to the public. The [AEG] will institute procedures with respect to public notice of and access to these meetings and to any public meetings it holds with the Permit Oversight Group." This is ambiguous as to whether the AEG will itself hold public meetings, or whether the only public meetings it holds are those where "appeals" are to be jointly decided with the Permit Oversight Group. They say they'll give a minimum 10 days public notice prior to "such meetings." Which meetings? "The meetings will be held at locations within the City of Sacramento or the legal Delta." Which meetings, all of them or just joint meetings with POG? The Environmental	Please see response to comment 1803-44.

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		Water Caucus believes that the final Bay Delta Conservation Plan, Chapter 7, should clearly delineate the state and federal statutes relevant to the activities of AEG and POG meetings as well as those of the Adaptive Management Team. [Footnote 100 San Diego County Water Authority, the largest member customer of the Metropolitan Water District, is keenly concerned about BDCP implementation of public meetings. "...the BDCP is silent with respect to the requirements under California's open meeting and records laws, the Federal Advisory Committee Act, the California Public Records Act and the Federal Freedom of Information Act (FOIA), and the applicability of those statutes to the activities and undertakings of the Adaptive Management Team. The Final BDCP should clearly delineate the state and federal statutes relevant to the activities of the Adaptive Management Team." SDCWA Comment Letter, p. 9.]	
1803	57	Section 15.8.2 [of the Draft IA] deals with the review process for resolving disputes between the Authorized Entity Group and the Permit Oversight Group over "implementation matters." Any member of either group may challenge a "final decision by the entity with decision-making authority" (for which Table 7-1 of BDCP is indispensable for navigating -- within 14 days of the announcement of a tentative decision "by the entity with decision-making authority." The process that ensues maps out as this timeline -- 14 days within which to challenge, plus 14 days for the "parties" to form a three-person expert review panel, followed by 30 days from the notice of dispute ("request," that is, resulting from the first 14 day period) to "submit rebuttals or responses." Submittal of the responses/rebuttals triggers a 60-day period at the end of which the expert panel publishes a written "non-binding recommendation" by a panel majority (2 to 1) which will include a statement explaining the basis for the recommendation. If the panel fails to present its recommendation within that time frame, "the entity with decision making authority may make its final decision." Otherwise, within 30 days of the panel's non-binding recommendation, the entity with decision- making authority "shall consider those recommendations as well as any other relevant information concerning the issue at hand and convey its final decision regarding the matter to" the AEG and the POG. Section 15.8.3 subsequently states "the recommendations of the panel are not intended to be given special deference by a reviewing court relative to the expert judgment of the agency making final decision." The Soviets specialized in such theatrics: they were called show trials. Here, scientists would function as window-dressing. From beginning to end a challenged decision triggers a 28 + 30 + 60 day process = about 120 days or four months' delay in a decision that involves a dispute. Sounds more than a bit bureaucratic, apart from the vetoes available to the AEG, and the adherence to the politicians, rather than the scientists of the state and federal bureaucracies. We agree with San Joaquin County's comment that this process is certainly "cumbersome."	Please see response to comment 1803-44.
1803	58	Water Operations Plan: In Annual Delta Water Operations Plan, Section 17.2.2 [of the Draft IA], new language describes the contents of this plan. The plan is to address operational priorities for fish and water supplies, expected operations (including consideration of real-time operational adjustments), monitoring, data collection, research efforts and potential adaptive management actions associated with water operations, and "the potential need for the	Please see response to comment 1803-44.

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		Supplemental Resources Fund to assist in achieving the overall goals of the BDCP for the coming year due to anticipated operating conditions." [Footnote 101: Draft IA, p. 72. We assume "Supplemental Resources Fund" is an older name for the Supplemental Adaptive Management Fund. See our comments on this fund in Section I of this letter.] The content of the operations plan must be found by the POG to be consistent with the BDCP. If it is not, then the review process that can go as high as cabinet secretaries is invoked; again, this too is highly cumbersome, and delay in such matters always works to the advantage of status quo water operations and south of Delta export deliveries -- whose beneficiaries are the BDCP Applicants..	
1803	59	Specific [Lack of] Obligations: The Draft IA released on May 30th has new sections (Sections 20.1.3, 20.1.4, and 20.1.5) concerning the "re-initiation of consultation on integrated Biological Opinions", re-initiation of consultation on other CVP/SWP related Biological Opinions and the process for reviewing the Reclamation Section 7 BA and BOs prepared during "re-initiation of consultation on the foregoing BOs." How will these re-initiation provisions of the Draft IA interact with "No Surprises" requirements in ESA regulations applied to BDCP? In addition, Section 20.1.6 states that "if critical habitat is designated within the BDCP Plan Area subsequent to issuance of the permits, no compensation, mitigation, or minimization measures will be required of the Permittees as a result of the designation." This means that the act of designating new critical habitat would not apply, would be meaningless during BDCP incidental take permits' 50-year term. We believe this extent of applying the No Surprises regulations is legally contrary to the purpose of the federal Endangered Species Act, which is to recover listed species to sustainable levels of abundance. Authorized Entity Group under No Surprises: Membership carries privileges. Further No Surprises language is evident in Section 20.1.7 (p. 77) on "future recovery plans for Covered Species." Here the Parties agree that: Recovery plans cannot require any additional land or financial compensation or otherwise diminish the take authorization for Covered Species granted to the Authorized Entities pursuant to the Federal Permits or the Integrated Biological Opinion." (Integrated Biological Opinion is defined in Section 3.32, p. 8.) Sections 20.1.8 and 20.1.9 (p. 77) are NEPA-related, and 20.1.9 says "to the maximum extent possible...USFWS and NMFS shall rely on and use relevant portions of the EIS and NEPA findings when conducting future environmental review of Covered Activities and Associated Federal Actions." There is similar language in 20.2.1.2 (p. 78) for CDFW to use the CEQA findings in the EIS/ EIR when conducting future environmental review of covered activities. In the current state of the EIR/EIS, however, these Draft IA provisions, if challenged in court, would likely be invalidated. The BDCP and its IA and incidental take permits substitute for lake and streambed alteration permits under state law. Section 20.2.2 (p. 78) has CDFW agreeing that these documents together "shall be deemed to provide an equivalent level of protection for wildlife, habitat,	Please see response to comment 1803-44.

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		or other biological resources as the measures that would otherwise be required or recommended to address the impacts of Covered Activities on Covered Species pursuant to" Fish & Game Code sections 1600-1616. As with the CEQA/NEPA documents, such a finding is at best premature.	
1803	60	Remedies and Compliance All new material is added to Section 22.0 [of the Draft IA], dealing with force majeure (acts of God) mainly. Section 22 lays out the cumbersome elevation process for resolving disputes, and for determining whether incidental take permits may be suspended or revoked at both state and federal levels. The size of the Tunnels project (both in its physical size as well as the extent to which it reaches into state and federal governing authorities) and its BDCP go far beyond the scope of the policy, planning, and implementation tools that are provided by both Section 10 of the federal Endangered Species Act and the California Natural Communities Conservation Planning Act. It is a complete legal, technological, and governance mismatch, a round peg attempting to fit into a square hole. Other means must be found for the projects to comply with endangered species laws and habitat conservation planning.	Please see response to comment 1803-44.
1804	1	Neither time nor resources permit detailed comments pertinent to the contents of the 20,000-page draft BDCP and draft EIR/EIS, to do so could be construed as giving the report and the premise upon which it is being promoted a relative degree of credence; that is not the case. Rather, Patrick Porgans and Associates (P/A) and Planetary Solutionaries (PS) focus is on the "BIG Picture" to address the concept of the plan and the historical track-record of government's repetitive deception as to the "real cost" of water projects, and its failures to protect the Sacramento-San Joaquin Delta and the San Francisco Bay Estuary over the course of the last century, and for its success in the destruction of other invaluable Delta estuaries. Therefore, we commence by referencing BDCP's lead-off quotations, which are the embodiment of a myriad of false assurances preface upon preconceived misconceptions espoused by the very government entities responsible for the existing and deplorable conditions of the Bay-Delta Estuary. Anyone with even the slightest clue of what has been going on within that ecosystem knows that history has shown, and public records attest, the Bay-Delta Estuary has been the victim of a litany of government broken promises, which have led to ecological collapse. Albeit, to place any level of confidence in the consortium of federal and state agencies, bureaus, boards, or commission, engaged in the train-wreck-in-the making Delta Vision, would be delusionary. "The BDCP is a comprehensive conservation strategy aimed at protecting dozens of species of fish and wildlife, while permitting the reliable operation of California's two biggest water delivery projects. Why BDCP? - Securing California Water Supplies - Restoring the Sacramento-San Joaquin Delta Ecosystem - Addressing Climate Change - Planning for the Future"	Please note that Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. The concerns for the Delta ecosystem described in this comment are consistent with conditions described in Chapter 1, Introduction, and Chapter 2, Project Objectives and Purpose and Need, in the BDCP EIR/EIS. See Master Response 3 for additional information on the proposed project purpose and need. However, as described in these chapters, the BDCP was developed to address portions of these issues associated with operation of the SWP and CVP Delta facilities. The proposed project is one component, among many, of the California Water Action Plan. The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/. By establishing a point of water diversion in the north Delta the proposed project is designed to improve native fish migratory patterns while securing reliable water deliveries. Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California's water resources.

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		[Footnote 1: http://www.baydeltaconservationplan.com/Home.aspx] Comment: State and federal officials have had more than a half-of-century, and expended tens-of-billions of public funds in a failed attempt to protect and restore the Bay-Delta Estuary and to ensure the reliability of the State's water supply. 1957 - The California Water Plan. "California is presently faced with problems of a highly critical nature -- the need for further control, protection, conservation and distribution of her most vital resource -- water ... Unless corrective action is taken -- and taken immediately -- the consequences may be disastrous." [Footnote 2: Department of Water Resources, The California Water Plan, Bulletin No. 3, Foreword, May 1957, p. v.] Source: Department of Water Resources. 2009 - Gov. Schwarzenegger, "California's Water: A Crisis We Can't Afford to Ignore." However, as I have already said, when a crisis is at its worst the opportunity to reform it is at is greatest and this is why we had a good shot this time, Association of California Water Agencies." [Footnote 3: Office of the Governor, Governor's Remark Regarding Water Conservation & Rebuilding CA's Water System, Guest Speaker At the California Association of California Water Agencies, 12 Dec 2009, p. 2-4.] 2010 - Fifty-three years and an estimated $50 billion later -- "Right now we have the most unreliable water system we ever had in California ..." [Footnote 4: Testimony of Lester A. Snow, Director, California Department of Water Resources, Presented to Little Hoover Commission, Hearing on State Water Governance, 25 June 2009, p. 4.] Source: Lester Snow, Director, Department of Water Resources. 2012 - Gov. Jerry Brown's comment on the BDCP "I want to get "s**t done. [Footnote 5: http://blogs.kqed.org/climatewatch/2012/07/25/combatants-in-new-ca-water-war-dig-in/] Comment: More aptly stated; the BDCP is a comprehensive strategy which if implemented would be the final coup de gras for the last largest remaining ecosystem of its nature on the West Coast of the Americas. Keeping in mind, its predecessor, the Colorado River Delta fell prey to "Manifest Destiny," which included expansion of the West and the Bureau of Reclamation's conquest and damming of the Colorado River Basin and in so doing destroy one of the largest Delta estuaries in the world.	
1804	2	Comment: The "management and operation" of two of the California's largest water projects, the State Water Project (SWP) and the federal Central Valley Project (CVP), are the primary factors contributing to the precipitous decline and demise of anadromous and pelagic species dependent on the ecological sustainability of the San Francisco Bay and Sacramento-San Joaquin Delta Estuary. [Footnote 7: Patrick Porgans & Associates, Salmon Collapse, Natural Phenomenon and/or a Government-Induced Disaster, 2009.] Collectively, the California Department of Water Resources (DWR) delegated with the "responsibility" to operate and manage the SWP, the federal Bureau of Reclamation "responsible" for the operation of the CVP, and the State Water Resources Control Board (SWRCB), entrusted with the authority for permitting the use of the distribution of SWP and CVP water are at fault for California's government-induced water crisis effecting the Bay-Delta Estuary. [Footnote 8: Patrick Porgans & Associates, White Paper, Cracking California's Water Code, "Water Crisis" Government-Induced Management Fiasco, 2010.]	See response to comment 1804-1. See also Master Response 5 for additional discussion of the BDCP effects analysis and funding.

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		The BDCP is an extenuation of the underfinanced and contractually overcommitted SWP, which was sold to the public in 1960 as a project that "would pay-for-itself"; i.e., the recipients of the water and power would pay. [Footnote 9: Patrick Porgans, Principal, Red-Tape Abatement, State of the State Water Project, Report No. 1, Who's Financing It? Is It Paying for Itself? 1980.] Patrick Porgans Associates (P/A) completed a series of fact-finding reports, forensic accounting of the SWP financing and repayment obligations, which served as the basis for a series of Senate hearings [Footnote 10: Patrick Porgans, Regulatory Specialist, State of the State Water Project, Supply, Demand, Financing and Management, Prepared for the California Senate Committee on Agriculture and Water Resources, (pro bono) 1994.] that substantiated the fact that the SWP has not, nor will it ever pay for itself as promised. [Footnote 11: Patrick Porgans, Red-Tape Abatement, State of the State Water Project, Taped-Recorded and Transcribed Interviews with Mr. Donald Sandison, Comptroller, California Department of Water Resources, 26 March 1982 and 23 April 1982.] Furthermore, the facts revealed that although DWR officials and Governor Edmund "Pat" Brown, Sr. assured the public the SWP would cost $1.75 billion that was never true, which former Governor Ronald Reagan acknowledge during his term in office. [Footnote 12: California Senate Committee on Agriculture and Water Resources, State Water Project Financing: Progress Report to the Legislature, 1958, Regular Session, Report No. 2.] The capital cost on the SWP has exceeded $6.5 billion, and there is still about $350 million in outstanding debt on the initial $1.75 billion. Although there is no definitive amount as to what it will cost to "complete" the SWP, estimates exceed $50 billion (includes principal and interest). Then, as is now, the government misinformed the public of the real cost of the SWP. (Refer to Attachment A [ATT 1] for an overview of SWP financial and contractual shortcomings that have led up to the BDCP.) Federal agencies reviewing draft for proposal to re-plumb the Sacramento-San Joaquin Delta call it 'insufficient,' and 'biased' and 'confusing.' In what would be the biggest water supply project constructed in California in half a century, the state is proposing to build a large diversion point on the Sacramento River in the north Delta and send the water through two 35-mile tunnels to aqueducts serving the San Joaquin Valley and Southern California. By adding the diversion point and restoring more than 100,000 acres of Delta habitat, the south-of-the-Delta urban and agricultural water contractors who have promised to pay for much of the project are hoping to get relief from environmental restrictions on their deliveries. The project, estimated to cost about $24 billion, must pass muster with federal fishery agencies that oversee endangered species protections for migrating salmon and the Delta's imperiled native fish. [Footnote 13: Bettina Boxall, Los Angeles Times, Federal agencies reviewing draft for proposal to re-plumb the Sacramento-San Joaquin Delta call it 'insufficient' and 'biased,' July 18, 2013.]	
1804	3	Who Will be Financially Liable for Restoration Costs, Capital and, O&M? [Footnote 14: Steve Kasower, SEACO, 11 Red Flags, http://mavensnotebook.com/wp-content/uploads/2013/12/BDCP-Eleven-Red-Flags-2.pdf] In order for BDCP to receive permits as a Habitat Conservation Plan [Footnote 15: Online: http://www.fws.gov/endangered/what-we-do/hcp-overview.html] and a Natural Communities Conservation Plan [Footnote 16: Online:	See response to comment 1804-1. For additional response regarding BDCP implementation costs and funding sources, please refer to Master Response 5.

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		http://www.dfg.ca.gov/habcon/nccp/] Federal and State laws require evidence that there is assured funding for the habitat restoration component of BDCP. BDCP is assuming that Federal and State taxpayers will pay just under $4 billion for the capital costs of purchasing and restoring upwards of 145,000 acres of land. [Footnote 17: Costs are cited from The Brattle Group, Employment Impacts for Proposed bay Delta Water Conveyance facility and Habitat Restoration, February 22,2013, Table 3-1, page 18, online: http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Employment_Impacts_for_Proposed_BDCP_2-26-13.sflb.ashx] Department of Water Resources Director Cowin described the estimated cost of the BDCP plan as $24.5 billion, of which $14.5 billion would be for conveyance (the tunnels). The remaining costs are for habitat and operations and maintenance costs, Cowin said. [Footnote 18: IBID. Heather Hacking, MediaNews Group, Final chapters of Bay Delta Conservation Plan Released, 5/31/2013, online: http://www.redbluffdailynews.com/ci_23361038/final-chapters-bay-delta-conservation-plan-released] Comment: An estimated $6.5 billion has been spent on Delta and Delta-related habitat and wetlands improvements, and $500 million expended on buying water for fish! Those expenditures were primarily from the issuance of General Obligation Bonds sales, which are repaid with interest from the heretofore State's deficit-ridden General Fund. In addition, vast expenditures of public funds were used in government's failed attempt to double anadromous fish populations that migrate through the Bay-Delta Estuary. Fish populations are worst now than at any other time in history. Expending another $10 billion on habitat improvement and taking 145,000 acres of Delta land out of production is unjustifiable. It is estimated that government already has more than 100,000 acres of Delta lands in its possession. SWP and CVP will benefit from the acquisition of those lands, as it will free up hundreds-of-thousands of acre-feet of water when those lands are no longer irrigated. The 35-mile twin tunnels are essentially a prototype of the Mono-Lake-North-Sacramento-Valley-siphon system capable of re-routing up to 9000 cubic feet per second from the Sacramento River flow placing the central and southern portions of the Delta to even greater risk of salt water intrusion. In the latest episode in the sordid saga of the Bay Delta Conservation Plan "BDCP" to build the peripheral tunnels, two environmental groups revealed on June 20 [2014] that even an economist hired by BDCP officials won't sign off on the controversial project. Dr. David Sunding, an economist on the faculty of the University of California-Berkeley and a principal with The Brattle Group, said at the recent Continuing Legal Education Water Law Conference in San Diego that "given the financial uncertainties if he were a water agency, he would not sign off" on the BDCP, according to a news release "The recently released statements and documents from BDCP on the costs, and who will pay, are more of the same disingenuous statements that they have been making throughout the life of the project," said Barbara Barrigan-Parrilla, executive director of Restore the Delta (RTD). "These unsubstantiated claims show how desperate BDCP officials are to greenwash this project for the public. Documents from public record requests, and statements from their own officials and water agency officials, reveal that the project will be closer to $67 billion in today's dollars, before cost over-runs."	

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		Independent University of the Pacific economist Dr. Jeff Michael concludes that the average water ratepayer will end up paying between $40 and $80 per person per year. [Footnote 19: Dan Bacher, http://www.calitics.com/diary/15526/even-bdcphired-economist-wouldnt-sign-off-on-browns-tunnel-plan 6/22/2104.]	
1804	4	ATT 1: Attachment A: Excerpts from Patrick Porgans & Associates White Paper: Cracking California's Water Code	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. See response to comment 1804-1.
1804	5	[From ATT 1:] Today's water crisis got started 50 years ago, in the form of a General Obligation (GO) bond measure, authorizing the funding and construction of the California State Water Project (SWP). Unfortunately, the SWP, which was made possible by an ingenious funding scheme, has three major flaws: (1) officials willfully and knowingly misinformed the public of its true costs, [Footnote i] (2) contracted out more water than it could provide (in certain water-year types), [Footnote ii] paper water, and (3) it was sold under the false pretense that it would cost $1.75 billion and would pay-for-itself. [Footnote iii] It never has. [Footnote iv] in order to stabilize default by SWP agricultural contractors, and to keep the SWP solvent DWR and the contractors devised the 1994 Monterey agreement, which, among other ingenious schemes, established a trust fund that sets aside $10 million a year, beginning in 1997, from the earned interest off of California water fund (obtained from the sale of publicly owned tideland oil reserves and general fund allocations), and hundreds of millions of dollars of this same money will be distributed to SWP urban contractors to do what they want with this money. The Monterey agreement increased the reliability of existing water supplies; providing strong financial management for the SWP; and increased water management flexibility; proving more tools for local water agencies to maximize use of existing facilities. [Footnote v] (Refer to page 59, Monterey Agreement Another Backdoor Agreement in the Era of Transparency Composed Behind Closed Doors.) Appendix I, Exhibits 11, 12, 13 and 14. Government Water Projects at the Crux of California's "Water Crisis" Inundating the State in an Era of Bonded Indebtedness: Ironically, the SWP remains at the epicenter of the "crisis" that continues to cost Californians tens-of-billions of dollars of debt from the sale of GO Bond funds -- bailouts. Since its inception, the SWP has been inundated with a series of unrelenting crises and the subject of decades of Legislative hearings in failed attempts to reconcile its inherent shortcomings. As early as 1963 DWR recognized the SWP was going to be short of funds and resorted to issuing millions in revenue bonds. 1967: Governor Reagan's Water Task Force reported SWP had a $300 million to $600 million deficiency. [Footnote vi] [A-1 E15] 1970: DWR appeals to Legislature for passage of Proposition 7; claimed that if it fail to pass it would cause the shutdown of SWP construction, causing a financial disaster. [Footnote vii] [A-1 E7 and 16] 1985: DWR reports agricultural contractors may not be able to pay their bills. [Footnote viii] [A-1 E17]	The comment does not provide a specific comment on the 2013 BDCP or the 2013 Draft EIR/EIS. See response to comment 1804-1. Please see Master Response 5 regarding the adequacy of the funding strategy for the purpose of the regulatory authorizations under the federal ESA and state NCCP Act.

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		1991: DWR exhausted SWP reserve funds to buy water to keep agricultural contractors solvent. [Footnote ix] [A-I, E18.] 1993: DWR resorted to Legislature to pass urgency law to keep SWP financially afloat, issues $150 million in commercial paper notes, via Goldman Sachs, to buy water. [Footnote x] [A-I, E19.] 2000 through 2006: more than $19.6 billion in GO water and water-related bonds were approved, [Footnote xi] [A-I, E20.] a significant portion had been used to keep the SWP afloat - Déjà vu. The interest payments on those GO bonds cost taxpayers another $10 billion. In November 2014 voters may be asked to approve yet another $11 billion GO bond Act bailout, being promoted under the guise it will ensure the State's water supply reliability, shore up its aging infrastructure, and restore the Bay-Delta Estuary. However, according to the Governor and other officials, those funds are only a "down Payment" or leverage for yet another $30 to $40 billion to "move forward" with other components of the project! [Footnote xii] [A-I, E21.] "Every time we've had a problem in the financing of the State Water Project, we've tried to take action to solve the problem, ..." [Footnote xiii] [A-I, E22.] It is apparent that if this bailout cycle is not reconciled, it will continue to add to the State's ever-increasing debt load, depletion of General Fund revenues, increase cost for State's borrowing, adversely effecting its credit rating, which was cut to the lowest of all 50 states, [Footnote xiv] [A-I, E23.] and jeopardized the Golden State's once promising economic prosperity as eighth-biggest economy [Footnote xv] in the world. [Footnote xvi] [A-I, E24 and25.] Because of California's persistent fiscal problem, bond rating agencies assigned it the lowest rating; a few notches above junk bonds. [Footnote xvii] i: Porgans & Associates source data on the history of the California State Water Project, 1981.. ii: DWR, Management of the California State Water Project, Bulletin 132-05, Dec. Executive Summary, 2006, xxix. iii: Rita Schmidt Sudman, Western Water, State Water Project Cost Sharing, November/December 1983, pp. 4, 5, and 6. iv: Department of Water Resources, California State Water Project, Volume 1, History, Planning, and Early Progress, Bulletin Number 200, November 1974, p. 25. v: Department of Water Resources, Bulletin 132-02, Management of the California State Water Project, Monterey Agreement, Jan 2004, Chapter 9, p. 107. vi: California Senate Committee on Water Resources, State Water Project Financing, Progress Report to the Legislature, 1968, Regular Session, Report No. 2, p. 42. vii: DWR, California State Water Project, Bulletin 132-71, June 1971, p. 3. viii DWR, Management of the California State Water Project, Bulletin 132-86, p. 52.* ix DWR, Management of the California State Water Project, Bulletin 132-92, Appendix A, June 30, 1992, Financial Report, November 1992, p. 17.	

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		x: Goldman-Sachs, Commercial Paper Annual Memorandum, $150,000,000, State of California, Department of Water Resources, Water Revenue Commercial Paper Notes, Series 1, Note Counsel, Orrick, Herrington & Sutcliffe, San Francisco, California, Co-Financial Consultants, Lehman Brothers, New York, New York, Whitefield Inc., Paulsbo, Washington, Issuing and Paying Agent, Bank of America National Trust Company, New York, New York, State Water Project data prepared by California Department of Water Resources, 23 June 1993, p. 2. xi: Legislative Analyst's Office, California's Water: An LAO Primer, Chapter 4, How Do We Finance Water Projects, Oct 2008. xii: Office of the Governor, Governor's Remark Regarding Water Conservation & Rebuilding CA's Water System, Guest Speaker At the California Association of California Water Agencies, 12 Dec 2009, p. 2-4. xiii: Patrick Porgans' Taped-recorded and Transcribed Interviews with Mr. Donald Sandison, Controller, California Department of Water Resources, 26 March 1982 and 23 April 1982. xiv: The Los Angeles Times, California's credit rating cut to lowest of all 50 states, Money & Company, 2 Feb. 2009, http://latimesblog.latimes.com/money_co/2009/02/California-cred.html xv: San Francisco, Reuters, Update 2-California looks into banks' role in underwriting, CDS, 30 March 2010. www.reuters.com/article/idUSN3015057220100330?type=markeysNews xvi: FACTS ON POLICY: The California Economy, Hoover Inst. Stanford University, December 16, 2008 xvii: San Francisco, Reuters, Update 2-California looks into banks' role in underwriting, CDS, 30 March 2010. www.reuters.com/article/idUSN3015057220100330?type=markeysNews	
1805	1	The UCRC [Upper Colorado River Commission] is aware that the Metropolitan Water District of Southern California (MWD) has relied heavily upon water resources from the Bay Delta as well as the Colorado River as critical components of its water supply portfolio. Shortages and drought in the Bay Delta supply require MWD to rely more heavily upon its Colorado River allocation. The Colorado River has also been experiencing serious long- term drought with the last 14 years being the driest in more than 100 years of record. Any action or circumstance that causes depletion of lower basin storage in Lake Mead may also cause depletion of storage in Lake Powel in the upper basin and increases the risk of shortage. These synergistic effects of Lake Mead in the lower basin and Lake Powel in the upper basin occur because the 2007Interim Guidelines require coordination of reservoir operations based upon trigger elevations in both reservoirs.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS and information in this comment is consistent with information in Appendix 30B, Water Contractor Profiles, in the Final EIR/EIS.
1805	2	The UCRC [Upper Colorado River Commission] supports the development of a workable plan in California to address the needs and concerns of the many stakeholders while providing a reliable and sustainable supply of water. The continuing drought in California and the Colorado River Basin as well as the interconnected nature of these basins makes it imperative that timely and appropriate decisions be made now.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1807	1	ATT1: North-of-the-Delta Offstream Storage Preliminary Administrative Draft Environmental	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

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		Impact Report. See BDCP1738	already addressed in the comment referencing the attachment or the Final EIR/EIS.
1808	1	The BDCP Tunnel Plan is threatening to ruin my retirement home and way of life. Discovery Bay is a community of 14,000 homes with 3,000 of them waterfront including docks and boats in the back yard with a similar love of the Delta, water-based recreation and the Delta's scenic beauty. In addition to the waterfront homes, there is a large marina with many dry-dock water ski and wakeboard boats and berths for many larger houseboats and powerboats owned by people in Silicon Valley and other nearby areas for weekend enjoyment. The marina and water-front businesses account for most of our communities' economic basis. Waterfront lots are about $200K more than non-waterfront lots and all lots in Discovery Bay are quite a bit more expensive than surrounding communities. This is because of our unique water-based activities and focus. Besides the economic impact is the daily one. The Discovery Bay waterfront lots are small. The "backyard" is a small deck and our boat docks. Our "swimming pool" is the Delta. My family - husband, children and grandchildren and pets - enjoy the summers swimming and playing in the Delta. My husband does daily laps around our bay. It is extremely important to me and the rest of the citizens of Discovery Bay that the water quality is healthy and safe for our family, particularly our grand babies.	This comment letter is in part a form letter that has been submitted by many commenters. To locate the response to the form letter portion of the comment, please refer to the index of commenters in Chapter 4 of Volume II of the Final EIR/EIS, and cross reference the Form Master letter number shown there with the index of Form Masters also provided in Chapter 4 of Volume II of the Final EIR/EIS. The text below responds to the specific substantive portions of the comment letter that were submitted by the commenter. Please refer to Chapter 15, Recreation, regarding specific impacts to recreational activities and locations. Please see Master Response 24 for more information regarding the Delta as a Place.
1808	2	The first act (I was aware of) of non-transparency - My husband and I were anchored out at Mildred Island August 2009 when some bass fishermen came up to our boat passing out flyers about a "Two-Gates Fish Protection Project" - A project to, unbelievably, install gates (dams) in two waterways in the South Delta. One gates, the Old River Gate, would block the only navigable waterway without a 24x7 bridge between Discovery Bay and the rest of the Delta. It's hours of operation were ridiculous (5 minutes every 6 hours) and would have totally destroyed the ability to maintain large boats at our marina or back yards. This project was being rushed through under the guise of being an environmental project (as noted by it's name) whereas on the BDCP maps the same two gates were labeled "salinity gates" to keep salt from going into the pumps when the pumping was increased way beyond the legal limits based on salinity restrictions. There was no public notice or hearing, no plans for following NEPA/CEQA or EIR planned according to the U.S. Bureau of Reclamation when we finally convinced them they needed to hold an informational meeting at Discovery Bay in October. (The gates were originally scheduled for installation in September but once we were able to alert officials and representatives about the project, Congressman Jerry McNerney and others got involved and helped slow the project down). Only due to grassroots organizing, public comment letters/outcry and finally a real scientific analysis that said the gates were as likely to kill fish as protect them, were we able to get the project put on-hold. The "2-Gates" project was originally proposed and written by a representative from the Metropolitan Water District. That project is representative of how various Delta projects including the BDCP, are being proposed and steamrolled without proper public input or consideration.	The Two Gates Fish Protection Project is unrelated to the BDCP or California WaterFix. The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1808	3	The BDCP Project has been proposed and pushed in closed-door meetings which, from the start, excluded my representatives, all Northern California representatives who represent the people the project will most affect. BDCP Meetings were one-way and did not incorporate citizen or Northern California input - These meetings "claim" to demonstrate transparency. They are held in Sacramento (or some workshops have been held in LA more recently to convince the Southern California	For information pertaining to how the BDCP/California WaterFix has been developed in an open and transparent manner and the public outreach conducted, please refer to Master Responses 40 and 41. For information pertaining to how comments have been considered and responded to, please refer to Master Response 42.

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		citizens they need the water from the tunnels. We have requested multiple times that meetings be held closer to the largest in-Delta community which will be affected by these tunnels, Discovery Bay, yet no meetings were held there (at least none with Jerry Meral or other true BDCP meetings). At those meetings in Sacramento, we attended and provided comments. Yet comments were rarely included in the BDCP process and when changes were made, such as the most recent re-routing, it did nothing to alleviate the concerns of those in the South Delta. "In-Delta" Meetings - These were a farce. The BDCP proponents claimed to satisfy the need for transparency they would hold "In-Delta" meetings. Instead of holding one in Discovery Bay at our Elementary Gym which can hold the hundreds of attendees that attended the "2-Gates" U.S. Bureau of Reclamation meeting or attend every water-related Town Hall meeting that is held, they chose a small, tight venue of the Brentwood Library. Even though small, it was the best attended "In-Delta" meeting. However it was totally useless. The DWR consultants who were in attendance were uninformed about the real issues, did not take adequate notes, promised to reply to questions via email but never did. Not one attendee I have asked received one reply to their comments. Instead a BDCP webpage titled "Your Questions Answered" was posted but did not include our primary questions but was rather a propaganda mechanism to try to market the tunnels.	
1808	4	When we learned about the "Two-Gates Fish Protection Project" and the disruption to our way of life that would have caused, I was sick with anguish. Then along came the BDCP/Tunnel project that would bring years of construction nightmare to our community and result in continued water degradation in our backyards. Since then we have been studying and following the BDCP Project Plans. When Jerry Brown ran for Governor, I was relieved because I was sure he was so smart and wise he would clearly see the faulty logic in the Delta Tunnels and reverse the trend. I also thought he was above being swayed by high-powered, multi-billionaires but now see they run this state. It has been very disappointing to learn the influence of high-powered corporate agribusiness owners like Stewart Resnick and powerful water contractors like Westlands Water District and Metropolitan Water District have on the process.	Since 2006, the proposed 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. The project has been initiated and carried forward by two Governors acting on a mandate from the voters of the State as a whole and not as a result of corporations. The issue of corporations is beyond the scope of the proposed project as the Lead Agencies do not have local land use/zoning authority. No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. Please also refer to Master Response 24 which addresses impacts of the project on the Delta as a Place.
1808	5	Comment on the BDCP Project - Influence of Agriculture. There needs to be a trade-off on the amount of agriculture the state can support versus available water. Currently there are no limits on the type of crops or amount that can be grown in the state. There is a rush to convert line crops to the more profitable almonds and other water-thirsty and year-round trees. Especially on the West Side, this trend cannot be sustained. Meanwhile the line crops (which are the perishables that are needed on Californians tables) are being removed in favor of almonds that can be shipped world-wide, especially to Asia. This trend does not take into consideration the need of the state nor the available water. The crops need to be reduced, particularly the Westside where lands are laced with Selenium and no drainage available.	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 refer to Master Response 34 regarding the potential uses of water delivered via BDCP proposed conveyance facilities.
1808	6	Comment on the BDCP Project - Groundwater. One of the huge issues with the current plan is in times of drought, since there is no limit on water-intensive trees that are planted in the Central Valley, when there is a true drought, like this year, when even with the tunnels there would be nothing to export, when at the high-mark trees are planted, during drought the groundwater is depleted. The BDCP Plan need to include provisions for ground water monitoring and limits.	Recent adoption of the Sustainable Groundwater Management Act will implement groundwater monitoring programs and require implementation of groundwater sustainability plans throughout California.

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1808	7	Comments on the BDCP Project - Allocation of Water - This year, when Folsom Reservoir is at an all-time low and the citizens of Sacramento need to ration; when Delta farmers are unable to pump from the Delta due to low water levels. This year the two LA lakes, Pyramid and Castaic, both filled from Delta water, have been at all-time record highs. In addition, in August, the Kern Water Bank (owned in part by Corporate farmer Stewart Resnick) was at 88 percent. Kern water bank holds 4 times the amount of water as Hetch-Hetchy. Yet is privately owned and operated. CBS News reported that Stewart Resnick's pomegranate fields were being watered while San Luis Obispo was near empty. Yet the agencies who made this huge mistake in water reallocation are planned to be in charge of the Delta Tunnels. In addition the water contractors have veto rights at each step of the "Adaptive Management" plan to not allow environmentalists and Delta farmers to object to more water being pumped to the south. This entire plan is atrocious and needs to be revised to move operation out of the hands of the current agencies, out of the influence of the giant corporate farmers like Stewart Resnick and into the hands of Northern California legislators who can insure there is sufficient water for those with senior water rights. The state needs a plan to move to regional self-sufficiency. The current plan of adaptive management and use of water does not meet the guidelines set forth by the Legislature in the Delta Reform Act of 2009.	The action alternatives would only export water allocated to the SWP and CVP under existing water rights, as limited by hydrologic conditions and regulatory requirements issued by the State and federal agencies. The alternatives, including the No Action Alternative, 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, as described in Chapter 2, Project Objectives and Purpose and Need. DWR and Reclamation are responsible to deliver up to the full contract amounts in accordance with their authorizations for the SWP and CVP, respectively. The BDCP/California WaterFix is not a comprehensive, statewide water plan, but is instead aimed at addressing many complex and long-standing issues related to the operations of the SWP and CVP in the Delta. The proposed project anticipates 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). The proposed project was prepared in a manner to comply with the 2009 Delta Reform Act, as described in Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act, of the Final EIR/EIS.
1808	8	Comments on the BDCP Project - Adaptive Management - The current Adaptive Management plan has water contractors at each step with veto rights. This means that any objection by Fish & Game or any other agency can be vetoed all the way to the Governor or the Secretary of State. Thus any issues could take years to resolve. Meanwhile fish die. The current plan of adaptive management and use of water does not meet the guidelines set forth by the Legislature in the Delta Reform Act of 2009. BDCP Plan - Regional Self Sufficiency Comments on the BDCP Plan - The state needs a plan to move to regional self-sufficiency. The current plan of adaptive management and use of water does not meet the guidelines set forth by the Legislature in the Delta Reform Act of 2009.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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.
1808	9	BDCP EIR - Kern Water Bank Chapter 7, page 21 says that the two major groundwater banking programs in Kern County are the Kern Water Bank operated by the Kern Water Bank Authority and the Semitropic Groundwater Bank, operated by the Semitropic Water Storage District (Semitropic WSD). More than 30,000 acres of groundwater recharge ponds are estimated to exist in the Kern County Subbasin area. The total groundwater banking capacity in the region is estimated at 1.5 million acre feet per year, with maximum annual recovery estimated at 900,000 acre-feet (Kern County Water Agency 2011:2-30). The long-term storage potential of the Kern County Subbasin is estimated at 8 MAF (Association of Groundwater Agencies 2000:2). Failure to provide adequate public information - why are these "estimates". What is the actual reported amount of water transferred into and out of the Kern Water Bank and Semitropic? Why do these underground water banks which are controlled in part (or primarily) by public interests not under public control? No additional Delta water should be	The Existing Conditions, No Action Alternative, and all of the alternatives assume the continued use of surface water and groundwater storage facilities by local agencies. The Kern Water Bank and Semitropic Water Storage District groundwater bank are only two of numerous groundwater banks in areas that use SWP and CVP water supplies. The proposed project would not change the operational criteria for surface water or groundwater storage facilities, including the Kern Water Bank which is owned and operated by the Kern Water Bank Authority that includes agencies located in Kern County, as discussed in Section 7.1.13 of Chapter 7, Groundwater, of the EIR/EIS.

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		pumped into either of these water banks until real controls, monitoring and public interest are taken into account. The legislature reported several years ago that one farmer made $77 million in one year from water transfers from the water bank to private developers. If this is not now illegal, it needs to be made illegal. This is a key part of the State of California's water infrastructure and private ownership/control is totally incomprehensible!	
1808	10	BDCP EIR - lack of protection for waterfowl The BDCP EIR lists the waterfowl protected yet gives no information about why species with similar habitat and vulnerability to protected species were not protected. The decision seems arbitrary plus limiting when more species will be affected and at risk. In particular, the Lesser Sandhill Crane's coverage was not updated after the BDCP Tunnel route was changed to go through a Crane protected reserve. Appendix 1.A - NOT COVERED: Lesser sandhill crane (although greater sandhill crane is covered and new BDCP tunnel construction goes through the Lesser and Greater Sandhill Crane reserve. The EIR was not updated after the re-routing to protect the lesser sandhill cranes. Others not covered: Peregrine Falcon, Prairie Falcon, Bald Eagle, Golden Eagle, Osprey, various hawks. These are not included even though they are on the CDFW Watch List and the plan says they are occasionally observed foraging in the Plan Area, mostly during the winter. Potential effects are limited to temporary displacement from foraging areas during covered activities) Others not covered: Cackling Goose, Canadian Geese, Tule white-fronted Goose - Winters in the Yolo Basin and various locations in the Delta and could be affected by restoration activities. Others not covered: Snowy egret and Great egret and Great blue heron --- "no"??? Snowy egret rookeries are considered sensitive colonial breeding sites for this species and are thus included on the California Department of Fish and Wildlife Special Animals list. No reason is provided why they would not be included in the list. Also the Cormorant, western grebe. The Great Blue Heron is a very special bird and needs to be protected by the BDCP EIR.	The commenter seems to be referring to Appendix 1A in the BDCP which provides the list of species considered for coverage under the BDCP and the rationale for their inclusion or exclusion as covered species under the BDCP. The evaluation process used four criteria to determine which special-status species would be proposed for coverage under the BDCP which are listed in Chapter 1 of the BDCP. Although not covered by the BDCP, the Draft EIR/EIS includes analysis of additional avian species including the lesser sandhill crane, golden eagle, osprey, ferruginous hawk, cormorant, great blue heron, snowy egret, great egret and black-crowned night heron. Impacts on shorebirds and waterfowl are described in the Draft EIR/EIS under “Shorebirds and Waterfowl.” For Alternative 4, this section begins on page 12-2559.
1808	11	BDCP EIR Comment/Issue: The BDCP EIR states that there is a risk of cancer to one residence. Upon further research/communication with BDCP representatives I have learned this residence is south of Clifton Court Forebay on the Byron Highway (HWY 4). Near that area is also a marina, Rivers End. Why if a residence may need to be relocated due to construction exhaust is the marina that is nearby not also at risk? Also, are we assured that other construction emissions will not affect communities nearby. Discovery Bay is also on Highway 4 in Byron. (We are a "subdivision" of Byron). Our junior high is located on Byron Highway. The EIR does not adequately identify the risks and areas of concerns due to construction.	In the DEIR/EIS analysis, BAAQMD’s cancer risk threshold was exceeded at one sensitive receptor located near the southern portion of the Alternative 4 alignment along Byron Highway. This receptor is located in close proximity to the canal work area, and the calculated risk was primarily driven by the emissions at this nearby source. In the RDEIR/SDEIS, although overall mass emissions for Alternative 4 increased, the construction emissions associated with canal components decreased. Because the risk at this receptor was mainly influenced by the construction emissions at the nearby canal component, the decrease in canal construction emissions resulted in a decrease in calculated health risk below BAAQMD’s cancer risk threshold. Accordingly, relocation of the receptor is no longer required. The HRA included in the DEIR/EIS and RDEIR/SDEIS is consistent with state and local guidance and utilizes conservative exposure-response assumptions to ensure health risks are not understated. Potential exposure of all receptors within the zone of influence for construction emissions were evaluated relative to adopted health risk thresholds. Please refer to Appendix 22C, Health Risk Assessment, for additional details

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			and specific modeling results for each receptor. 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.
1808	12	Comments on the BDCP EIR/EIS - Alternatives The EIR/EIS fails to do an adequate (or even a valid) job analyzing the alternative routes for the tunnels. To keep with the requirements laid out in the Delta Plan, the goal of any project is to protect the "Delta as a Place", recognize the importance of agriculture in the Delta, boating and recreation, and the unique scenic beauty of the Delta. Recognize the need to protect the fish and fowl. The alternative that is the very worse in meeting that goal is any through-Delta alternative. If you were going to protect Yosemite, would you blast a hole through the middle of the canyon? Yet that is the proposal before us. To disrupt, destroy, rip apart the waterways the Delta Plan states are to be preserved. To bring in barges, pile drivers, build docks, bring in trucks along the fragile levee walls, and thousands of construction workers into the quite scenic waterways. To severely impact and halt recreation and boating in the South Delta. To tear up scenic highways like 160. To block farm roads stopping farmers from delivering their produce to market. To build tunnels and place construction sites on many Delta farm islands, removing from production fertile farmland. To remove significant acreage of fertile farmland permanently from production as mitigation/habitat areas. Yet none of that is analyzed in the EIR/EIS Alternatives. In fact, removal of farmland is proposed as a positive, even though these habitat areas are not proven to improve fish population (as reported by the Independent Science Board). The new planned path even goes through a Sand Hill Crane sensitive habitat area. Why would anyone pick a construction path through the area the Delta Plan says to protect? Obviously, the path of construction should go near where that construction will not impact the Delta. A potential path along I-5, for example. Then the muck could be used to expand the highway. Any path except through the Delta itself should have such advantages that in a valid EIR/EIS it would be selected. Obviously the selection criteria had nothing to do with the environment or the Delta but only with cost. This is outrageous !!!!!!!!!!	Please see Master Response 24 regarding impacts to the Delta. In 2009, the Delta Reform Act (SBX7 1) was passed by the Legislature to establish the overall water policy for the state of California. SBX7 1 has many provisions and elements. Among the many elements is the requirement that the DSC develop a comprehensive management plan for the Delta, called the "Delta Plan." The legislation's requirements for the proposed project are in Water Code Section 85320). This section of the law defines the requirements the BDCP must meet to be considered for inclusion in the DSC's Delta Plan. Those requirements do not assign the BDCP specific duties relating to the Delta Reform Act's "Delta as an evolving place" language. The purpose of the EIR/EIS is to analyze the impacts of the alternatives on the environment under the legal framework of NEPA and CEQA. The analysis covers 26 resource areas within the plan area. Although "Delta as a Place" is not a specific topic area, the DEIR/EIS nonetheless addresses many of the concerns raised by the DSC's staff by virtue of the analysis required under CEQA and NEPA. The impacts from construction activities, for example, are discussed across all the resource chapters. The other issues raised are covered in specific chapters such as "Groundwater" (Chapter 7), "Agricultural Resources" (Chapter 14), "Recreation" (Chapter 15) and "Cultural Resources" (Chapter 18). For more information regarding impacts and their associated mitigation measures, please see each resource area in the FEIR/EIS. Please see Master Response 17 regarding impacts on the Greater Sandhill Crane. Please note that the new preferred alternative, California WaterFix, has been modified to reduce impacts on Greater Sandhill Crane, including changing the alignment. For a complete description of all the avoidance and minimization measures relating to the Greater Sandhill Crane see AMM20 in Section 3.C.2.20. For more information regarding Environmental Commitments please see Appendix 3B of the FEIR/EIS. For more information regarding the proposed project's compliance with the Delta Reform Act, please see Master Response 31. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.
1808	13	Project Plan Comments (the problem and solution simplified in a story even children can understand) (attached a children's book). This is a comment about the BDCP Project Plan and why it is trying to solve a problem without recognizing what the real problem is. The real problem is that the expansion of farming on the westside has reached unsustainable levels. In addition, the westside farms leech selenium and other harmful chemicals. There is also insufficient drainage for those lands. Those damaged lands need to be retired and the number of trees in the Central Valley cut back to a sustainable level. The attached [not attached—sent separately as letter BDCP1637] children's book explains in simple terms how greed got us to where we are today with the Delta crisis and what could be done to solve the problem for both the	In its efforts to achieve the co-equal goals of water supply reliability and ecosystem restoration, the BDCP seeks to protect dozens of species of fish and wildlife in the Delta while also securing reliable water deliveries for two-thirds of California. Please refer to Master Response 3 for additional information regarding the purpose and need behind the proposed BDCP. 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 refer to Master Response 34 regarding the potential uses of water delivered via BDCP proposed conveyance facilities.

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		farmers and the fish if only Jerry Brown were as wise as the wise king in the story.	
1809	1	Regarding the Bay Delta Conservation Plan with the Central Valley Project and State Water Project water diversion tunnels, please extend public comment to allow our comments to be heard when there is a proper financing commitment, so we can ensure proper care of the delicate Delta ecosystem will be addressed.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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.
1809	2	Please address whether any further diversion of fresh water from the Delta would put our wild Delta marshlands at risk by too much saline saturation. How will the added salinity affect the Delta's natural flora and fauna? Please address whether the additional saline in the Delta resulting from the fresh water diversion tunnels would create an attractive nuisance for more seals, whales, and other salt water animals (potentially sharks) to travel into Delta areas and compete for food with the animals indigenous to the Delta ecosystem and create potential dangers to the water sport enthusiasts?	The water quality assessment of the diversion of Sacramento River water under the project alternatives addresses effects on salinity-related parameters in the Delta, including electrical conductivity (EC) and compliance with related agricultural and fish and wildlife objectives in the Bay-Delta Water Quality Control Plan and degradation relative to these uses in Impact WQ-11 in Chapter 8, Water Quality. Where significant impacts to agricultural and fish and wildlife beneficial uses would occur due to the alternative, as opposed to other forces including climate change and sea level rise, mitigation to lessen those impacts is provided. Changes in Delta salinity levels associated with project diversions are not expected to result in any attractive nuisance for seals, whales or other salt water animals because the change in salinity associated with facility operations is too small to have a measurable effect on these species' habitat.
1809	3	Regarding the implementation structure of the water diversion tunnels, beyond the agencies who move water and contractors who buy it, how is the governing body handling environmental concerns for the delicate Delta ecosystem and its animals that are endangered or at risk of being endangered by allowing 50-year plan "take" permits? What provisions are in place to truly protect the Delta species? What protection measures are addressed to make sure the Chinook salmon have cool enough water flow to encourage their natural progression to spawning streams? What protection measures are addressed to make sure they are not sucked into the tunnel intakes valves and killed or displaced?	See response to comment 1809-1 regarding the BDCP.
1809	4	How are the projected and large scale conservation strategy funds secured when California is struggling financially to fortify and maintain its levee systems from collapsing during winter floods and threatening lives and homes? How is a diversion of funds justified?	Please see Master Response 5 regarding the adequacy of the 2013 BDCP funding strategy and its role supporting endangered species permitting, not financing.
1809	5	Please address if the proposed Tidal Mudflats are a result of less fresh water, so we are left with mud? Please address if the increase of 26,754 acres of tidal perennial aquatic natural community in the Plan Area is a result of salt water migrating to those 26,754 acres creating the tidal perennial aquatic natural community and displacing the fresh water ecosystem that is currently residing in those same acres.	The main process that leads to the increase in the extent of tidal mudflat over the next 50 years in the Suisun Region is sea level rise. The increase in mean tidal height is converting tidal wetland habitat to tidal mudflat habitat. See response to comment 1809-1 regarding the BDCP.

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1809	6	Please address whether the proposed composition of the Adaptive Management Team should be expanded and better balanced to meet the coequal goals of water supply reliability and ecosystem restoration and maintenance.	See response to comment 1809-1 regarding the BDCP. See Master Response 33 regarding adaptive management.
1809	7	Please be sure that the EIR and the project has fully addressed the impact the water diversion tunnel project will have on the activities of water sports in the area and the businesses that rely on them.	Please refer to Chapter 16, Socioeconomics, regarding socioeconomic impacts on the Delta from the project and Chapter 15 regarding recreation impacts.
1809	8	What provisions on the water release are in place when California is in a drought? Have studies been made to ensure Southern California, already receiving a lot of our Northern California water, is under strict water retention and use guidelines? Are measures and equipment in place to conserve water? Are restrictions on frivolous water use enforced to make sure they are mindful to use it sparingly, so it can be spread out and the taxation on our Northern California Delta waterways minimized? What funding and research has been done to develop more efficient irrigation procedures?	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 agricultural and municipal/industrial water conservation, 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). See Master Response 47 regarding drought, Master Response 34 regarding beneficial use and Master Response 6 regarding demand management.
1810	1	Quality of the Science Underpinning the BDCP The long-term health of the Delta is absolutely critical to the environment and economy of the Delta region as well as to San Francisco Bay, and it remains the primary focus of my (and my constituents) interest in the BDCP. It was also very clearly important to the Legislature in 2009 when it adopted the Delta Reform Act as a means of establishing and maintaining the "co-equal goals" of protecting, restoring, and enhancing the Delta ecosystem and providing a more reliable water supply for California. (Water Code [Sections]85000, et seq.)	DWR's fundamental purpose of the proposed project is to make physical and operational improvements to the SWP system in the Delta to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A/California WaterFix, which has been developed in response to public and agency input. Alternative 4A does not include an HCP or Conservation Measures. The EIR/EIS analyzes all alternatives, including Alternative 4A. Please refer to Master Response 3 for the Purpose and Need and Master Response 28 for a discussion of the proposed project's Operational Criteria. For more information regarding the proposed project's compliance with the Delta Reform Act, refer to Master Response 31, and Appendix 3I and Appendix 3J of the Final EIR/EIS. The project objectives and purposes as outlined in Chapter 2 of the FEIR/FEIS, Purpose and Need, comply with CEQA and NEPA, and are sufficiently broad, and appropriately reflect the State of California's intention to advance the coequal goals set forth in the Sacramento-San Joaquin Delta Reform Act of 2009 by providing a more reliable water supply for California, reducing effects of the project on state and federally listed species and improving the Delta ecosystem. For more on the project's purpose and need, please see Master Response 3.
1810	2	In creating the Delta Stewardship Council as part of the 2009 Delta Reform Act, the Legislature also called for the creation of a "Delta Independent Science Board (ISB)" who are, by law, required to be "nationally or internationally prominent scientists with appropriate expertise to evaluate the broad range of scientific programs that support adaptive management of the Delta." (Water Code [Section]85280(a)(2).) And one of the key, statutory responsibilities of the Delta ISB as it relates to the BDCP is to review the draft EIR/EIS and submit its findings to the Delta Stewardship Council and the Department of Fish & Wildlife. Recently, the Delta ISB issued its report following its analysis of the BDCP and the EIR/EIS. ("Review of the Draft EIR/EIS and Draft BDCP," Delta Independent Science Board, May 15, 2014; hereafter, "Delta ISB Report".) By its own acknowledgement, the Delta ISB focused its review "on the adequacy of the science and the validity of the conclusions drawn from that science." (Delta ISB Report, Transmittal Memorandum to Randy Fiorini and Charlton	Please see responses to Comment Letter BDCP 1448 and RECIRC 2546 for a comprehensive response to comments from the Independent Scientific Review Panel. 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

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		Bonham.) What the Delta ISB found after conducting many interviews, participating in various briefings, and devoting hundreds of hours to reviewing the chapters and appendices of the BDCP and the EIR/EIS is very disconcerting to me, and should give pause to anyone concerned about the long-term health and viability of the Delta. Said the Delta ISB: "We find… that the science in this BDCP effort falls short of what the project requires." (Delta ISB Report, Transmittal Memorandum to Randy Fiorini and Charlton Bonham; emphasis added.)	Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.
1810	3	The Delta Independent Science Board summarizes some of its major concerns about the BDCP's EIR/EIS as follows: Many of the impact assessments hinge on overly optimistic expectations about the feasibility, effectiveness, or timing of the proposed conservation actions, especially habitat restoration.	Please see response to Comment 2. Responses specifically to comment by the ISB please refer to the Table of Comment letters to locate responses to ISB comments.
1810	4	The Delta Independent Science Board summarizes some of its major concerns about the BDCP's EIR/EIS as follows: The project is encumbered by uncertainties that are considered inconsistently and incompletely; modeling has not been used effectively to bracket a range of uncertainties or to explore how uncertainties may propagate.	Please see response to Comment 2 and 3 above
1810	5	The Delta Independent Science Board summarizes some of its major concerns about the BDCP's EIR/EIS as follows: The potential effects of climate change and sea-level rise on the implementation and outcomes of BDCP actions are not adequately evaluated.	The EIR/EIS evaluated the effects of climate change and sea level rise under the No Action Alternative and the Existing Conditions to describe the effects without the action alternatives. The EIR/EIS also evaluated the effects of climate change and sea level rise with the action alternatives through a comparison of conditions under Alternatives 1 through 9 and the Existing Conditions. The Draft EIR/EIS included the analysis for year 2060 conditions. The EIR/ EIS also included the analysis of several alternatives at 2025 conditions which would represent projected conditions near when the facilities would be initially operated in the early 2030s. During the preparation of the Draft EIR/EIS, a sensitivity analysis was completed, as presented in Appendix 5A, Section D.3, Climate Change Modeling, to simulate conditions under the No Action Alternative and Alternative 1 under the five climate change scenarios. The operations results from these simulations were analyzed to understand the range of uncertainty in the incremental changes that would occur with a range of climate change scenarios. The sensitivity analysis indicated that Alternative 1 results would change with climate change scenarios; however, the incremental differences between the No Action Alternative under a specific climate change scenario and Alternative 1 under the same specific climate change scenario were consistent. Because the EIR/EIS only evaluates the incremental differences, and not absolute values, between the Existing Conditions and the No Action Alternative and Alternatives 1 through 9, the incremental changes appear to be similar under a range of climate change scenarios.
1810	6	The Delta Independent Science Board summarizes some of its major concerns about the BDCP's EIR/EIS as follows: Insufficient attention is given to linkages and interactions among species, landscapes, and the proposed actions themselves.	Please see Master Response 5 for a comprehensive response to comments from the Independent Scientific Review Panel, including responses regarding uncertainty.
1810	7	The Delta Independent Science Board summarizes some of its major concerns about the BDCP's EIR/EIS as follows: The analyses largely neglect the influences of downstream effects on San Francisco Bay, levee failures, and environmental effects of increased water availability for agriculture and	Please see Section 2 of the RDEIR/SDEIS for information on the substantive EIR/EIS revisions, including analysis on downstream effects. Also, see Appendix 6A of the FEIR/EIS for information on potential impacts to flood protection under the news proposed project, Alternative 4A.

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		its environmental impacts in the San Joaquin Valley and downstream.	
1810	8	The Delta Independent Science Board summarizes some of its major concerns about the BDCP's EIR/EIS as follows: 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.	Please see response to Comment 2 and 3 above.
1810	9	The Delta Independent Science Board summarizes some of its major concerns about the BDCP's EIR/EIS as follows: Available tools of risk assessment and decision support have not been used to assess the individual and combined risks associated with BDCP actions. The presentation, despite clear writing and an abundance of information and analyses, makes it difficult to compare alternatives and evaluate the critical underlying assumptions." (Delta ISB Report, p. 3)	Please see response to Comment 2 and 3 above.
1810	10	Two very important conclusions from the Delta ISB [Independent Science Board] Report that are critical of the BDCP and the EIR/EIS must not be lost on the BDCP proponents, just as they will not be ignored by the millions of people who live and work in the Delta region: (1) expectations in the BDCP of the effectiveness of Conservation Measures to achieve various Delta ecosystem restoration are overly optimistic (Delta ISB Report, p. 5); and (2) the long-term, "adaptive management" process on which so much of the BDCP is reliant has not been fully or thoughtfully developed (Delta ISB Report, p. 9). These two topics are key to understanding Delta stakeholders' apprehension and concern about the BDCP itself, for several reasons. First, the BDCP identifies a series of "Conservation Measures" which are to be taken by the project proponents, all with a view toward achieving Delta ecosystem restoration and enhancement. Yet if those Conservation Measures fail (and the Delta ISB determined many of them to be "overly optimistic"), then the only backstop to protect the Delta against catastrophic failure is the "adaptive management" process outlined in the BDCP. The Delta ISB identified serious shortcomings of the proposed adaptive management process, including: relegation of how the process will be designed and implemented to a future "Adaptive Management Team", adequacy of scientific expertise to perform monitoring and analysis, ability of those with responsibility to timely develop and implement necessary adaptive management measures in the future, and failure to develop -- let alone identify -- contingency plans to address Conservation Measure failures. (See, Delta ISB Report, p. 8)	Please see response to Comment 2 and 3 above.
1810	11	Delta stakeholders share the concerns identified by the Delta ISB is tied to the very nature of the 50-year "No Surprises" permit term under which the BDCP water conveyance facilities would be allowed to operate. In essence, the final BDCP must serve as a "blueprint" for helping manage the Delta for the next 50 years. If the scientific experts do not have confidence that the currently identified Conservation Measures will work, and also have little confidence that the "adaptive management" process can succeed, then what assurances do Delta stakeholders have that restoring and enhancing the Delta will be achieved?	Please see response to Comment 2.

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1810	12	Delta stakeholders are concerned about the ability of the BDCP to uphold its obligations to protect, restore and enhance the Delta is rooted in the underlying governance and implementation structure of the proposed BDCP. The Delta ISB touches on some of the deficiencies of the proposed BDCP governance and implementation structure, noting that, by creating an operational structure "almost entirely within the BDCP governance organization…contrasts with a growing recognition of the need to engage a wide array of people and entities in a truly 'collaborative adaptive management'" approach. (Delta ISB Report, pp. A-20- A-21.)	Please see response to Comment 2.
1810	13	BDCP Implementation & Structure Chapters 6 and 7 of the BDCP describe the anticipated plan for implementing the BDCP throughout the 50-year "no surprises" term of the permit to operate the new water conveyance facilities. The BDCP's current implementation scheme is complicated, but in the end, fundamental authority for implementing the conservation measures intended to restore the Delta is left in the hands of the Federal and State Water Contractors. In essence, the plan would provide nearly free- reign to Water Contractors to both operate the new water export system and decide whether that system is actually working to restore the Delta. The current BDCP proposal provides limited oversight to federal and state agencies responsible for natural resources protection - and virtually no input from those of us who depend on the Delta for our livelihood. If BDCP proponents expect those of us who live and work in the Delta to "trust" the BDCP will restore and enhance the Delta ecosystem, then they should include Delta stakeholder interests within the management and implementation authorities during the 50-year life of the BDCP permit.	The implementation structure described in the 2013 public draft BDCP maintains the authorities of DWR, Reclamation, and the state and federal wildlife agencies. DWR owns and operates the State Water Project and will continue to do so under BDCP. Please also see Master Response 5 regarding the implementation structure proposed in BDCP.
1810	14	The BDCP governance and implementation structure could be significantly enhanced by providing substantive oversight and management roles to the State Water Resources Control Board (SWRCB) and the Delta Watermaster -- each of whom have important statutory authorities over actions taken within or impacting the Delta. Because the SWRCB retains independent statutory authority to establish both standards as well as permit terms that will govern future exports of water via the BDCP-enabled tunnel system, it should be included among the Adaptive Management Team. Similarly, because the Delta Watermaster is charged under the 2009 Delta Reform Act with enforcing permit terms adopted by the SWRCB, it is also appropriate to include the Delta Watermaster on the Adaptive Management Team.	Please see Master Response 5 for a discussion of the adequacy of the governance structure proposed in the 2013 public draft BDCP for the purposes of the state and federal endangered species authorizations.
1810	15	Financial Assurances Under the BDCP A review of the BDCP chapter that addresses project costs and funding sources reveals a distressing lack of transparency, and likely does not meet the minimum requirements of federal and state law. Moreover, the failure of the BDCP to identify adequate funding sources necessary to implement the HCP/NCCP seriously undermines the credibility of the entire Project.	The construction of the water delivery facilities is estimated to cost $14.9 billion, an amount that would be paid for by the state and federal water contractors who rely on Delta exports. The range of costs for water vary widely among contractors south of the Delta. Costs depend on the source of water, transport facilities, energy requirements, among other factors. For the agricultural customers of the CVP, prices range from $100 per acre-foot to more than $400 per acre-foot. The Metropolitan Water District of Southern California, which buys water from the SWP, estimates that the cost of the proposed project would translate into about $5.00 extra per household, per month in its service area. The final cost of water from the new conveyance facilities would be determined by numerous factors. A number of these significant factors, such as the project yield and allocation of costs, have yet to be determined.
1810	16	Under the federal and state Endangered Species Acts, a habitat conservation plan must contain specific information that reasonably ensures the availability of adequate funding to carry out all aspects of the HCP. (See, 16 U.S.C. [Sections]1539(a)(2)(A)(ii) and	Please see Master Response 5 regarding the adequacy of the funding chapter in the 2013 public draft BDCP. The water bond that the commenter referenced was put before voters in 2014 and passed. Although the bond did not have substantial funding to support BDCP, the passage of the bond further demonstrates that

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		1539(a)(2)(B)(iii); California Fish & Game Code [Section]2820(a)(10). See also, Nat'l Wildlife Federation v. Babbit, 128 F.Supp.2d 1274 (E.D. Cal., 2000); Southwest Center for Biological Diversity v. Bartel, 470 F.Supp.2d 1118 (S.D. Cal., 2006).) Case law interpreting the Federal Endangered Species Act on the need for ensuring adequate HCP funding has further held that the permit "applicant cannot rely on speculative future actions of others." (Southwest Center for Biological Diversity v. Bartel, supra, 470 F.Supp.2d 1118, 1155, citing, Nat'l Wildlife Federation v. Babbit, supra, 128 F.Supp. 2d 1274, 1294-95.) Turning to the BDCP, Chapter 8 refers to and relies on purely speculative funding that is to come from a Water Bond that has not even been placed before the voters of this State, let alone passed. It is well-known that the current Water Bond scheduled to be placed before the voters in November, 2014 is likely to be withdrawn, and replaced by a bond that is significantly smaller. It is at least fair to suggest that whatever Water Bond proceeds will be available for BDCP-related ecosystem restoration will also be significantly smaller. In such an instance, what, if any, are the contingency plans to ensure that the beneficiaries of the BDCP will provide additional funding to make up for this short-fall?	water bonds are not speculative funding sources.
1810	17	According to Section 8.3, funding to ensure the BDCP will be carried out is to come from three primary sources: (1) federal government funding; (2) state government funding (including purely speculative funding provided by future water bonds to be placed before the California voters); and (3) the State and Federal Water Contractors (including, for purposes of municipal water supply districts, individual ratepayers). However, the BDCP contains no financing plan and no legal assurances that any of the funds "expected" will actually materialize.	That funding chapter is not intended to be a financing plan. If an alternative is selected that includes BDCP, separate financing plans would be developed. Please also see Master Response 5.
1810	18	According to Table 8-37, the BDCP expects to receive $3.5 billion from the federal government, derived from various appropriations. However, the BDCP acknowledges that "additional federal legislation will be required to authorize the continued use of certain federal funds and to extend or broaden fund availability." (BDCP, Sec. 8.3.1, page 8-64, lines 16-18.) Relying on future acts of Congress to make-up what is expected to be approximately 14% of the entire BDCP budget is not only precarious; it fails to satisfy the "speculative future actions" test of ensuring HCP funding.	Please see response to Comment 2.
1810	19	Turning to the expected sources of state government funds for BDCP implementation, Table 8-37 indicates that Plan proponents expect approximately $4.1 billion to come from the State of California, which accounts for approximately 17% of the entire BDCP budget. Section 8.3.5 of the BDCP provides, "Funds derived from the issuance of [the 2009 Water Bond] would be used, in part, to satisfy the State's financial commitments to the BDCP." (BDCP, Sec. 8.3.5.1, page 8-84, lines 9- 11.) According to the capital cost estimates for the entire BDCP project, the Authorized Entities are relying on the not-yet passed Water Bond for approximately 10% of the entire BDCP budget. (See, Table 8-35 (Ch. 8, page 8-63) and Table 8-46 (Ch. 8, page 8-85).) According to Table 8-37, BDCP proponents assume the passage of a "Second Water Bond" sometime in the future that will provide an additional $2.2 billion dollars to fund BDCP actions.	Please see response to Comment 2.
1810	20	All totaled, the BDCP proponents expect the voters of California to pass future water bonds in the amount of $3.75 billion to fund BDCP actions -- an amount approximately equal to 25% of the entire BDCP budget. This is a staggering assumption given the highly	Please see response to Comment 2.

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		controversial nature of the BDCP project, and the current temperature of California voters who are very wary about approving any bonds that provide state money to support this project. According to Table 8-37 in Chapter 8, the remaining BDCP budget ($17 billion) is expected to be funded by the State and Federal Water Contractors. However, Section 8.3.4.4 fails to demonstrate that these funding sources are anything but speculative. According to that section, "[t]he most credible assurances of funding from the participating state and federal water contractors result from an economic benefits analysis…" and two primary conclusions derived from the economic analysis that: (1) the costs are affordable by the ratepayers, and (2) the benefits to be gained from the BDCP exceed the total cost. (BDCP, Sec. 8.3.4.4, page 8-81, lines 5-22.) There is no discussion in the BDCP of whether the State and Federal Water Contractors and their ratepayers would be willing to pay additional billions of dollars in the event that state water bond funding and/or federal appropriations do not materialize. Additionally, the BDCP analysis fails to assess the potential impacts of one (or more) State or Federal Water Contractors, or their member agencies, withdrawing or refusing to continue to participate in the Plan. Lastly, the BDCP analysis mistakenly assumes that State and Federal Water Contractors (and their ratepayers) will be willing to pay the high, long-term costs of the BDCP because of the commensurate benefits to be gained by securing water deliveries from the Delta through the newly- constructed conveyance facilities. These assumptions fail to consider -- or even acknowledge -- the very real possibility of reduced Delta water exports as a result of the State Water Resources Control Board's future Delta flow standards. This long-anticipated, major regulatory action of the State Water Board will likely not be taken until after the BDCP is approved under the currently- understood time schedule, yet will have a very significant impact on the economic viability of pursuing the BDCP project.	
1811	1	The Marin Audubon Society appreciates the opportunity to submit comments on the BDCP and its Draft Programmatic Environmental Impact Report/Environmental Impact Statement (DPEIR/EIS). This massive project with its twin tunnels and complex operating system has the clear potential to result in significant and long-term adverse impacts to the largest estuary on the west coast of our continent and the many species that depend on it, exacerbating existing adverse conditions caused by existing diversions. Although the DPEIR/EIS is lengthy, there are numerous gaps and deficiencies in the information provided, resulting in the failure to provide decision-makers with adequate information to make informed decisions on the project.	Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached. For discussion of the length of the environmental document please see Master Response 38. For additional information on impacts to biological resources see Master Response 17.

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1811	2	The BDCP has numerous flaws including: the failure to improve environmental conditions in the Delta, to conserve native species, and to reduce reliance on Delta water and the South Delta facility, all of which are required by various Plans and laws including the Endangered Species Act.	See response to comment 1811-1. The proposed project aims to stabilize water supplies, and exports could only increase under certain circumstances. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same to the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Specifically, the proposed project would enable DWR to construct and operate new conveyance facilities that improve conditions for endangered and threatened aquatic species in the Delta while at the same time improving water supply reliability, consistent with California law (see, e.g., Cal.Wat. Code, § 85001[c]). Implementing the conveyance facilities would help resolve many of the concerns with the current south Delta conveyance system, and would help reduce threats to endangered and threatened species in the Delta, including entrainment south Delta export facilities. For instance, implementing a dual conveyance system would align water operations, and their location, to better reflect natural seasonal flow patterns by creating new water diversions in the north Delta equipped with State-of-the-art fish screens, thus reducing reliance on south Delta exports during times of the year when listed aquatic species are present and most vulnerable. For more information on mitigation measures to minimize contraction and operational-related impacts to fish species, including Delta and longfin smelt, please see Chapter 11, EIR/EIS.
1811	3	The DPEIR/EIS has numerous significant flaws. The most obvious fatal flaw is the failure to accurately define the project scope to include San Francisco Bay as an area that would be impacted by the project. Another is the failure to address the potential further loss of fresh water from the estuary as a potentially significant impact. Other deficiencies include the failure to address avoidance of impacts which the CEQA Guidelines calls out as the first mitigation to be considered; inadequate identification and analysis of impacts; highly uncertain feasibility and effectiveness of the proposed mitigation measures; failure to address ongoing impacts; and inaccurate analysis and discussion of the significance of impacts.	Model results show that long-term average Delta outflow under Alternative 4 (scenarios H1 - H4 at LLT) would be similar to that under Existing Conditions and No Action Alternative, with a minor increase in flows during the winter months and a minor reduction in flows during the spring months relative to Existing Conditions due to the shift in system inflows caused by climate change, as well as increased water demand expected in the LLT. In wet water year types, this trend is more evident, while in other water year types, Delta outflow under Existing Conditions and the No Action Alternative is generally within the range of Alternative 4 H1 - H4 scenarios. For more information and specific modeling results for all Alternatives, please refer to Chapter 5, Water Supply, and Appendix 5A, BDCP/California WaterFix EIR/S Modeling Technical Appendix The incremental changes in Delta outflow under Alternative 4A compared to baseline conditions are a function of both the facility and operations assumptions, including north Delta intakes capacity of 9,000 cfs, OMR flow requirements, Fall X2 requirements, and the reduction in water supply availability due to increased north of Delta urban demands, sea level rise, and climate change (the last three assumptions, plus Fall X2 requirements, are included in both the No Action Alternative (ELT) and Alternative 4A, but not in Existing Conditions). Results for the range of changes in Delta outflow under Alternative 4A are presented in more detail in Appendix 5A, BDCP/California WaterFix EIR/S Modeling Technical Appendix. Changes in long-term average Delta outflow under Alternative 4A (ELT) as compared to the No Action Alternative (ELT) and Existing Conditions are shown in Figures 5-37 through 5-39 and Tables 5-10 through 5-12 in Chapter 5. To summarize changes in Delta outflow under Alternative 4A, late-fall and winter outflows remain similar or show minor reductions in Alternative 4A (ELT) compared to No Action Alternative (ELT) and are slightly higher relative to Existing Conditions. In the spring months, outflow would remain similar under Alternative 4A (ELT) as compared to No Action Alternative (ELT), and would be slightly reduced compared to Existing Conditions. In the fall months, outflow under Alternative 4A would increase relative to Existing Conditions, and as compared to the No Action Alternative (ELT), would be similar because of Fall X2 requirements in wet and above-normal years. Resource areas are addressed separately in the EIR/EIS under sections for each of the new project Alternatives, including surface water, groundwater, water quality, fish and aquatic resources, terrestrial biological resources, agricultural resources, air quality and greenhouse gases, and others. Where impacts are determined to be significant, environmental commitments and mitigation measures will be implemented to avoid and/or offset these effects, where possible. In cases, where it is not possible to offset those

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			significant impacts (see Chapter 31, Other CEQA/NEPA Required Sections for a complete list of significant and unavoidable impacts), that information will be provided in the Statement of Overriding Considerations and will be acted on by the decision makers with each lead agency to determine if the project should still be approved or not.
1811	4	Potential for additional loss of fresh water to the estuary Increased diversions are a real potential if the proposed North Delta tunnel facility is built. There is concern that because the North Delta facility would make it easier to divert water, it would eventually lead to even more water exported from the estuary water than anticipated and than addressed in the DPEIR/EIS. The potential for increased water export must be identified and discussed as an adverse impact, particularly on a cumulative basis. Significant adverse impacts to fish and aquatic habitats of increased diversions should be expected and should be identified and addressed in the DPEIR/EIS. Are there any measures that could avoid the potential for ongoing increases in water export over time?	As described in the Final EIR/EIS, the Proposed Project (Alternative 4A) would decrease total exports of SWP and CVP water as compared to Existing Conditions and No Action Alternative in the summer and early fall months especially in drier years; and increase exports in the wet winter months especially in wetter years when the river flows are high. As presented in Chapter 5 and Appendix 5A, Section C, of the Final EIR/EIS, the rate of total Delta export flows would be similar or lower in August through November in all water year types and in July in dry and critical dry water year types as compared to Existing Conditions and to the No Action Alternative. With respect to volume of total Delta exports, total Delta exports would be similar or lower in August through November in all water year types and in July in dry and critical dry water year types as compared to Existing Conditions and to the No Action Alternative. The model results for Alternative 4A indicate that flows and export volumes would increase in wet, above normal, and below normal years between December and March and in June and July as compared to the Existing Conditions and No Action Alternative. Export rates and volumes would not substantially change in April and May. During the September through December period in all year types and in February and March in wet and above normal year types, Delta outflow would increase under Alternative 4A as compared to Existing Conditions. However, Delta outflow under Alternative 4A would be similar or less in most conditions except in October in all water year types as compared to the No Action Alternative. The project's proposed dual conveyance facilities would allow water to be moved through the Delta when conditions permit, and allow water to be diverted from the Sacramento River in the northern Delta when conditions in the south Delta do not permit diversions from the existing State Water Project and Central Valley Project facilities. The location of the north Delta diversion facility is less vulnerable to salinity intrusion, a potential impact of sea level rise, or levee failure, in the future. By establishing an alternative diversion point for exports, a great deal of water management flexibility is added. This added flexibility would provide more options for adaptively managing the Delta so that conditions can be optimized to provide the greatest benefits across all Delta water uses and habitat conditions. In addition please see response to comment 1811-3. See also Master Response 9 for discussion of the cumulative impact analysis.
1811	5	Failure to include San Francisco/San Pablo Bays as areas of impact. The EIR/s excludes San Francisco/San Pablo Bays from the project boundaries, thereby enabling adverse impacts of the project on Bay resources to be ignored. Existing water rights, the water projects and numerous approvals of multiple diversions have allowed the piecemeal reduction of water diversions over many years, causing fresh water flows through the estuary to be a fraction of historic levels. The BDCP would be yet another project that would or could divert what appears to be small amounts of water, contributing to the cumulative fresh water loss, and hence contribute to the cumulatively significant degradation of the estuary.	See responses to comments 1811-3 and 1811-4. Please see also Final EIR/EIS Chapter 8, Water Quality and Appendix 8O, San Francisco Bay Analysis. Water quality and flow effects in the San Francisco Bay and San Pablo Bay would be primarily effected under the action alternatives by changing Delta outflow as compared to the No Action Alternative and Existing Conditions. See also Master Response 14, as it relates to water quality considerations in San Francisco Bay. See Final EIR/EIS Chapters 11 and 12 and associated appendices which address aquatic and terrestrial biological resources, respectively as well as Master Response 17.
1811	6	Fresh water flows from the Delta through San Pablo and San Francisco Bays provide numerous essential functions for the ecosystem and the species that depend on it, and are essential components of estuarine ecosystems. Fresh water flows are critical to maintaining species, maintaining water quality, and estuary functions. Ecological functions include trigger for anadromous fish migration to the Bay and ocean, transport nutrients to maintain productivity, transport larvae and juvenile fish, maintain fresh/brackish habitat for estuarine	An RDEIR/SDEIS was developed and circulated in 2015, which included 3 additional Alternatives including the new preferred alternative, 4A. New analyses for all alternatives, including 4A, pertaining to downstream effects were included in Section 11.3.5.4 of the RDEIR/SDEIS, New Impact Assessments for Restoration- and Operations-related Downstream Effects and Operations-related Contaminants (Impact AQUA-218), which concluded that the changes would not be adverse/less than significant. Section 11.3.5.2 Changed NEPA and/or CEQA Conclusions for Changed Analyses and Conclusions for Effects of Water Operations (CM1)

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		species, movement and distributing nutrients and sediments through the estuary, ensuring habitat diversity (i.e. the location of brackish marshes), and the flushing of polluta..11ts. Fresh water flows are important for many species that depend on the Bay including Dungeness crab, Bay shrimp, and California black rail and in particular pulses of fresh water are important for Chinook salmon.	included quantitative analysis of effects on Bay shrimp based on the X2-abundance relationship from Kimmerer et al. (2009). The same paper did not find a significant X2-abundance relationship for Pacific herring or northern anchovy, so there was no quantitative basis for assessment, We are unaware of quantitative relationships between Dungeness crab and freshwater inflow from the Delta; shifts in the ocean-atmosphere system appear important. Effects to northern anchovy are also being assessed in the Essential Fish Habitat analysis being undertaken. Analysis of freshwater flow effects on Chinook salmon was provided in the draft EIR/EIS, RDEIR/SEIS, e.g., assessment with the Delta Passage Model. See responses to comments 1811-3 and 1811-4. Please see also Final EIR/EIS Chapter 8, Water Quality and Appendix 8O, San Francisco Bay Analysis. See also Master Response 14, as it relates to water quality considerations in San Francisco Bay. See Final EIR/EIS Chapters 11 and 12 and associated appendices which address aquatic and terrestrial biological resources, respectively as well as Master Response 17.
1811	7	Failing to include San Francisco/San Pablo Bays in the area of impact, enables the DPEIR/EIS to avoid discussing a whole range of individual and cumulative significant adverse impacts that would occur with the current proposed project under all scenarios. To address this omission, the DPEIR/EIS should: -extend the project area to include San Francisco and San Pablo Bays -discuss the importance of and functions, as discussed above, provided by fresh water to the ecosystem. The discussion should address the value and importance of high and low flows through the estuarine system as occurs in high, normal and low rainfall years. -address how past diversions have adversely impacted the estuary and the specific functions noted above, and discuss how possible future diversions would or could further cumulatively impact the downstream segments of the estuary. As stated earlier, once tunnels are constructed, the door will be opened to diverting yet more fresh water from the system. -This impact on the Bay resources should be evaluated as potentially significant, and measures to mitigate them, including reduced fresh water flows, should be identified and recommended.	The EIR/EIS addressed environmental resources in the San Francisco Bay and San Pablo Bay that could be affected by changes associated with implementation of the action alternatives as compared to the Existing Conditions and No Action Alternative, especially in Chapter 8 and Chapter 11 of the Final EIR/EIS related to water quality and aquatic resources. Also, please refer to Master Response 9 for cumulative impacts discussion and Master Response 14, as it relates to water quality considerations in San Francisco Bay. Please see also responses to comments 1811-3 and 1811-4. The effects of Existing Conditions on water quality and biological resources are described in detail in Chapters 8 and 11 and their associated appendices in the Final EIR/EIS. It should be noted that the purposes of mitigation measures are to reduce significant adverse effects of implementation of the action alternatives as compared to the Existing Conditions. However, the purpose of the mitigation measures are not to reduce adverse effects to resources under the Existing Conditions or No Action Alternative because those effects would occur with or without the Project. Please see Master Response 23 related to other stressors.
1811	8	Availability of Fresh Water Fresh water is a finite resource while the quantities in any given year can vary significantly in our Mediterranean climate. In addition, current exports severely reduce the quantity of fresh water flowing through the estuary in all years. The current state of the estuary ecosystem, and the degraded status of the species that comprise and depend on it, demonstrate that the estuary is in extreme stress. The greatly reduced flow of fresh water through the estuary is a primary reason for the decline. The DPEIR/EIS should address whether there is actually sufficient water in the system in most years (normal and dry) to supply the water projects and existing water rights holders with their contracted amount while maintaining estuarine resources in accord with the goal of the BDCP "to restore and protect ecosystem health, water supply and water quality with a stable regulatory framework." Do the current exports from the water projects, current contractors and additional contracted amounts already exceed the available fresh water available in most years? Is there sufficient water available to provide for existing contract holders in normal and dry	The Final EIR/EIS evaluates the changes in the SWP and CVP water contract deliveries under the alternatives as compared to the Existing Conditions and the No Action Alternative within the upper limits of the contract amounts. The alternatives, including the No Action Alternative, 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 Final EIR/EIS, as described in Chapter 2, Project Objectives and Purpose and Need. DWR and Reclamation are responsible to deliver up to the full contract amounts in accordance with their authorizations for the SWP and CVP, respectively. The range of alternatives also includes alternatives which result in reductions in SWP and CVP water deliveries south of the Delta as compared to the Existing Conditions and the No Action Alternative. The No Action Alternative and Alternatives 4H1, 4H2, 4H3, 4H4; 4A (Proposed Project); 5; 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under Existing Conditions, as described in Appendix 5A, Section C, of the Final EIR/EIS. Similarly, Alternatives 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under the No Action Alternative. The Final EIR/EIS assumes that unless limited by groundwater basin adjudication requirements, groundwater pumping would increase when Delta exports are reduced as compared to the Existing Conditions and the No

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		years and achieve the BDCP's stated goal? Is the estuary water already over-allocated? There are no new sources of fresh water, only ways that people's actions can extend the limited amounts. The EIR/EIS should provide a comprehensive discussion of measures and actions that could be taken to minimize water diversions and avoid, if possible, and increased diversions, before building the massive facilities proposed by this project. The discussion should address water conservation measures and efficiency actions that could extend the limited water supply. This discussion should including statewide metering, uniform statewide limits on water use, management of groundwater, water banking, and agricultural practices such as growing crops that require less water. The DEIR should also address the adverse impacts of each of the conservation/efficiency actions. For example, taking more groundwater can cause land subsidence and collapse. What agencies would be responsible for enacting and implementing these activities? Is the BDCP in control of any of these measures? Identify regulations that would ensure the actions can and would take place? Finally, the discussion should address how much water could realistically be obtained using these actions? Is the achievable water saving sufficient to maintain the resources of the estuary? What measures can be used to ensure the conserved water stays in the estuary to benefit its species?	Action Alternative. The effects of the increased groundwater pumping are presented in Section 7.3 of Chapter 7, Groundwater, in the Final EIR/EIS. The proposed project is one component, among many, of the California Water Action Plan. The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/. By establishing a point of water diversion in the north Delta the proposed project is designed to improve native fish migratory patterns while securing reliable water deliveries. Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California's water resources. For more information about water demand management please see also Master Response 6.
1811	9	Analysis of wildlife/habitat impacts inadequate Potential adverse impacts on aquatic resources are not adequately addressed. At least six federal and state wildlife agencies have stated in their evaluations that even existing flows from the Delta are not sufficient to protect downstream aquatic resources. The DPEIR/EIS should address this central issue: that the current inadequate flows through the estuary are inadequate and what additional losses would mean to anadromous and resident fish species along with a multitude .of Bay species. It is highly unlikely that the BDCP goal "to restore and protect ecosystem health" would be achieved by the project. At best the DPEIR/EIS evaluates most impacts on fish species as having no change, however, this assessment is disputed by scientists. Discuss how the proposed project would restore and protect ecosystem health given the extensive uncertainties and failure to address all impacts.	As described in response to comment 1811-4, by establishing an alternative diversion point for exports, a great deal of water management flexibility is added. This added flexibility would provide more options for adaptively managing the Delta so that conditions can be optimized to provide the greatest benefits across all Delta water uses and habitat conditions. See Final EIR/EIS Chapters 11 and 12 and associated appendices which address aquatic and terrestrial biological resources, respectively as well as Master Response 17. Please refer to Master Response 1 for discussion of environmental baselines. Please see also Master Response 5 for discussion of the BDCP effects analysis.
1811	10	Impacts on the endangered Chinook Salmon and delta smelt are of particular concern. Some scientists predict significant adverse impacts by impingement and predation to some Chinook salmon runs with a North Delta facility. The DPEIR/EIS should discuss and evaluate the potential adverse impacts on each run of Chinook salmon and the potential for them to become extinct with any further reduction in fresh water flows. What measures, if any, would or could effectively mitigate the impact of reduced water flows on this species? The South Delta pumps would still operate with the North Delta facility, thereby causing continued destruction of species at the pumps. Would or could management of the pumps change in any way so as to modify or reduce impacts to fish at the pumps? Describe how the management would change, if there would be change, and how that is anticipated to benefit fish. It is unlikely there would be any change in the existing pump impacts if	As described in response to comment 1811-4, the proposed intakes would only be permitted to operate with regulatory protections. See responses to comments 1811-3 and 1811-4. 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 FEIR/S 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 Final EIR/EIS Chapters 11 and 12 and associated appendices which address aquatic and terrestrial biological resources, respectively as well as Master Response 17. Please refer to Master Response 1 for discussion of environmental baselines. Please see also Master Response 5 for discussion of the BDCP effects

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		management of the pumps does not change. Delta smelt are also at risk of extinction. Discuss how the project would impact delta smelt both by water diversions, habitat loss or possible gain, and continued pumping activity.	analysis.
1811	11	Further diversions would result in the movement of X2 upstream. What would movement of X2 further upstream mean to the aquatic resources dependent on those habitats? What effect would the upstream movement of X2 have on the estuary marshes, including Suisun Marsh and San Pablo Bay marshes? Which marshes would be expected to change from brackish to salt, or brackish to saline over time? What would impact would a change in marsh habitat type have on the species that depend on these marshes?	The potential for water conveyance operations to affect salinity conditions in the Delta (including Suisun Marsh) under existing conditions and future no action conditions, and with implementation of each project alternative (including conservation measures), is assessed in detail in Chapter 8, Water Quality, of the Final EIR/EIS for the salinity-related parameters chloride (Impact WQ-7) and electrical conductivity (Impact WQ-11). The modeling results confirm that EC levels in Suisun Marsh would not be substantially different from Existing Conditions or the No Action Alternative. See also master response 32 for information on project operations and salinity control.
1811	12	Adequacy, effectiveness, and feasibility of mitigation measures To be effective and adequate, mitigation measures must be feasible, i.e. able to be implemented, reduce or compensate for the adverse impact, and have reasonable certainty that the mitigations would be effective. While various state and federal plans and laws exist and are cited as assuring that various mitigation measures will occur to protect and replace resources lost or adversely impacted by the project, the permanence and effectiveness and even the certainty that these mitigations would be implemented are uncertain at best. Even if they are enacted, the likelihood that they will effectively mitigate the impacts of the project is uncertain.	The EIR/EIS presents feasible mitigation measures to reduce significant environment effects of the project alternatives. While the ultimate feasibility of mitigation measures will be determined by the lead agencies during the findings and project approval process, all of the environmental commitments, mitigation measures, avoidance and minimization measures and Alternative 4A- specific Environmental Commitments are intended to reduce the effects disclosed in the EIR/EIS. The California WaterFix Mitigation Monitoring and Reporting Program (MMRP) and a collaborative science and adaptive management program would also be implemented to ensure that measures to reduce environmental effects will be effective. Please also refer to Master Response 22, which addresses the adequacy of mitigation measures.
1811	13	Regulatory: The various state and federal plans and laws that are in place are presented as providing sufficient certainty that the management of the new facility would not be changed or so compromised so as to cause significant further species and habitat losses. It is far from certain that these laws will remain in place as they exist today and not be weakened. For example, right now there are efforts in Congress to weaken the Endangered Species Act (ESA). The DPEIR/EIS should discuss and evaluate the stability and certainty of the current regulatory system and how a weakening in the regulations would affect the management of the project. Would the project be held to original requirements or change if the regulations/laws are weakened? Unless the operation of the system along with mitigations can be relied upon to avoid, reduce or compensate for impacts, the mitigation measures cannot be considered to be effective or certain, and therefore, they must be considered significant.	The CEQA Guidelines Section 15145 states that a lead agency is not required to engage in analysis of speculative impacts. While there is always the potential for existing plans and laws to change in the future, it would be futile to conjecture as to what future conditions will be like when proposed changes are in such undeveloped stages.
1811	14	Biological: The effectiveness of the proposed habitat restorations that are proposed to mitigate the impacts of the project is highly uncertain. It is not even clear that loss of fresh water is considered an adverse impact. Wetland/habitat restoration is the primary mitigation for the adverse impacts of the project to species and habitats. Wetland habitat restoration is appropriate and suitable mitigation for wetland habitats that would be destroyed by construction of the project. One of the major potential adverse impacts of the project, however, is the cumulative loss of fresh water from the estuary due to additional diversions. This cumulative loss of fresh water will adversely impact fish and other species, as well as the habitats themselves, resulting in increased movement of X2 further up the estuary. There are no effective mitigation measures recommended for the loss of fresh water.	The loss of tidal freshwater emergent wetland natural community under preferred alternative (Alternative 4A) would be 11 acres and the loss of nontidal freshwater perennial emergent wetland would be 7 acres both of which would be mitigated according to the 2008 USACE and EPA “Mitigation Rule” and the 2015 USACE South Pacific Division issued “Regional Compensatory Mitigation and Monitoring Guidelines” with a goal of no net loss of acreages and functions. Mitigation Measure BIO-176 in the EIR/EIS commits to having impacted habitat replaced in-kind, though impacts on some habitat types such as agricultural ditches, conveyance channels, and Clifton Court Forebay, will be mitigated out-of-kind with higher functioning habitat types such as riparian wetland, marsh, and/or seasonal wetland. The impacts to freshwater marsh habitat are not substantial and the EIR/EIS has committed to mitigating these impacts in accordance with the Mitigation Rule.

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		The DEIR needs to address how further reductions in fresh water would be mitigated by the proposed habitat restoration proposals. Why and how would increased acreage of saline or brackish wetlands, in the event there would be sufficient funding to construct these mitigation wetlands, mitigate for the loss of fresh water wetlands and the loss of fresh water flows to the estuary, particularly to San Francisco/San Pablo Bay habitats? Unless it can be shown that the restoration projects would effectively and functionally compensate for the loss of fresh water throughout the estuary and related habitats and species, the restoration mitigations cannot be considered effective or adequate, and the cumulative loss of fresh water must be evaluated as a significant impact.	
1811	15	Funding: Actually whether the mitigations would be implemented at all is highly uncertain due to the lack of assurance that there would be sufficient, or any, funding to ensure implementation of the promised mitigations. Funding the habitat restoration mitigations depends primarily on the public's passing bond measures and other government funding. So not only is it uncertain that the proposed mitigation measures would actually mitigate for the adverse impacts of the project to habitats, these restorations could not even be implemented if voters reject proposed bond measures and federal funding and other sources do not materialize. There is no committed funding for the mitigation measures. The DPEIR/EIS should address the funding uncertainties and how they would affect the implementation of the project mitigations. An option should be recommended that specifies that construction of any facility would not take place until all funding is in place that would guarantee implementation of effective mitigation measures. Unless funding for the mitigations is certain, their feasibility and effectiveness must be considered highly uncertain, and the impact must be evaluated as being significant.	Please see Master Response 5 regarding the adequacy of the 2013 BDCP funding strategy and the assurances provided to fund mitigation. The 2013 Draft EIR/EIS for the BDCP assumes that all conservation measures described in Chapter 3 will be fully funded. The decision of whether funding for BDCP is adequate rests with the state and federal wildlife agencies who issue incidental take permits to the applicants, DWR and Reclamation. . It is not the role of the 2013 Draft EIR/EIS to evaluate that adequacy of funding for the conservation measures.
1811	16	On-going decision-making: A decision-tree process is proposed to address and assure that standards that will protect natural resources are implemented. Such a process has the potential for positive and negative results. It would provide for modifying management actions to benefit the estuary but also allow for decisions to be made that would have adverse impacts on estuary resources. Of particular concern, is that it appears all of the operational scenarios that are proposed to guide decisions decrease total outflows from the Delta. The DEIR/EIS should address why there is such limited range of operational scenarios and how it will be assured, using this process, that there would be adequate outflows from the Delta to sustain the estuary resources, particularly in view of the regulatory and other uncertainties noted above. For these reasons, the potential adverse impacts of the project must be considered significant.	The decision tree is no longer being proposed in the Final EIR/EIS. The Proposed Project, Alternative 4A, will include and Collaborative Science and Adaptive Management Program, in addition to operational criteria and real-time monitoring to minimize and avoid impacts to aquatic species. See Master Response 44 for discussion of the decision tree.
1811	17	Proposed life of the project The proposed lifetime of 50 years is far too long. Many major changes and uncertainties could arise within the estuary related to the further decline of its resources as well as political and economic factors that could influence decisions on water releases. The lifetime should not exceed 20 years and there should be periodic reviews during that period.	As described in response to comment 1811-1, the preferred alternative is now Alternative 4A and no longer includes an HCP, and thus no longer includes a 50 year permit term. Where the alternative does not include preparation of an HCP, ESA compliance for construction and operation of water intakes in the north Delta and associated conveyance facilities would be achieved solely through Section 7. See also Master Response 45 on permitting.
1811	18	The already degraded condition of the estuary, due in large part to the current diversions of water, should not be exacerbated by this project. The estuary's condition should be improved as called for by the BDCP. Considering the degraded state of the estuary and the	As described in response to comment 1811-1, the proposed project is Alternative 4A. Alternative 4 (BDCP) remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original HCP/NCCP. If the Lead Agencies ultimately choose the alternative implementation

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		biological and economic uncertainties discussed above, the lack of effectiveness and feasibility of the proposed mitigation measures, there is no certainty that the project would do anything but worsen environmental conditions. The BDCP should be revised to ensure the goal "to restore and protect ecosystem health" is achieved.	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.
1812	1	Surely, you jest saying that the Twin Tunnels, can be any part of a "Conservation Plan"! Is that another CONservARTIST's way of redefining "Conservation"? The twin tunnels will only conserve money into private hands, while further destroying a part of the ecosystem of the California Delta. Then as they steal more water than they were supposed to get... as they were recently found doing... It'll make it harder and more expensive to reverse the effects of creeping salt water and high pollution levels. It's a quick fix to a ridiculous problem. "Build it.. They will come"... and have to steal what they need to live there. The Delta water is already poisoned to the effect we can't drink it or eat the fish that live in it... Stealing a clean water supply from it, would only make it that much more worse! How about using all those private $ and government eminent domain $, to pay for a reusable renewable water system for the Southern 1/4 of the State??? LA already cleans used water to a higher purity that before they used it, but then they pump it out to the sea! How effing stupid is that?	The action alternatives would only export water allocated to the SWP and CVP under existing water rights, as limited by hydrologic conditions and regulatory requirements issued by the State and federal agencies. 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 agricultural and municipal/industrial water conservation, 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).
1813	1	The originator of this project has not thought through the incredible problems it will create, the many farmers it will bankrupt, the blind arrogance of a crudely devised monstrosity. One good earthquake and our $60 billion dollars are down the proverbial toilet.	This comment letter is in part a form letter that has been submitted by many commenters. To locate the response to the form letter portion of the comment, please refer to the index of commenters in Chapter 4 of Volume II of the Final EIR/EIS, and cross reference the Form Master letter number shown there with the index of Form Masters also provided in Chapter 4 of Volume II of the Final EIR/EIS. The text below responds to the specific substantive portions of the comment letter that were submitted by the commenter. 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 Master Response 41 [Transparency]). Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. See also Master Response 3 (Purpose and Need). The plan does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. Although the project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. RDEIR/SDEIS Appendix A Chapter 14, Agricultural Resources, presents Impact AG-1 and Impact AG-2 and their associated mitigation with a complete analysis of how the project will affect and mediate important farmland in the Delta that in turn would be of concern to affected farmers. Socioeconomic effects of the alternatives are described and assessed in Chapter 16, Socioeconomics, of the Draft EIR/EIS. A Draft BDCP Statewide Economic Impact Report has been published and indicates that the project would result in a substantial economic net benefit to the State. Chapter 9 of the Draft EIR/EIS and Appendix A of the RDEIR/SDEIS present the evaluation of the project in light of the geology and seismicity of the study area that concluded that the Delta tunnels can be designed to withstand anticipated seismic loads. Design-level geotechnical studies would be conducted to assess site-specific hazards and appropriate mitigation measures would be implemented. Impact GEO- 1 and GEO-7 discusses the possibility of loss or damage resulting from strong seismic activity during construction and operation of water conveyance features. For more information regarding tunnel design, see the 2013

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			Conceptual Engineering Report. Refer to Appendix 3E, Potential Seismic and Climate Change Risks to SWP/CVP Water Supplies, of the Draft EIR/EIS for discussion of potential consequences of an earthquake to exports under a No Action scenario and to Master Response 16 (Seismic Activity).
1814	1	I do restoration, and I know that you can never replace what you destroy. The only way to keep our Delta ecosystem and our salmon is not to allow any project to destroy the Delta.	This comment letter is in part a form letter that has been submitted by many commenters. To locate the response to the form letter portion of the comment, please refer to the index of commenters in Chapter 4 of Volume II of the Final EIR/EIS, and cross reference the Form Master letter number shown there with the index of Form Masters also provided in Chapter 4 of Volume II of the Final EIR/EIS. The text below responds to the specific substantive portions of the comment letter that were submitted by the commenter. Please refer to Master Response 3 regarding the purpose and need for the project. 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. No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1815	1	One more ruining move for California.	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental impact analysis provided in the EIR/EIS documentation.
1816	1	Stupid idea. Let LA build desalination plants so we can grow crops to feed the world.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Master Response 7, which describes why an alternative focused on desalination is not included in the EIR/EIS. Desalination is one strategy used in California to develop new supplies, yet it is not the primary solution for the State's water shortage due to many factors, including limited capacity and technology, high costs and energy demands, and regulatory uncertainty.
1817	1	Stop the insanity. I have friends down south and they don't even know there is a water problem. The City of Granite Bay manages to water all of it's landscaping every night. WTF.	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 agricultural and municipal/industrial water conservation, 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).
1818	1	Please find a way to protect the water supply in Folsom dam for use in cities who use this as their source of water.	The action alternatives would only export water allocated to the SWP and CVP under existing water rights, as limited by hydrologic conditions and regulatory requirements issued by the State and federal agencies. The Final EIR/EIS evaluates the changes between the action alternatives as compared to the Existing Conditions and the No Action Alternative. End of September Folsom Lake water elevations are substantially reduced under the No Action Alternative as compared to the Existing Conditions due to climate change, sea level rise, and an increase of approximately 285,000 acre-feet/year demand primarily in the American River watershed. These changes are not related to implementation of the action alternatives, and therefore, no mitigation measures are presented in the EIR/EIS for the No Action Alternative as compared to the Existing Conditions. As presented in Appendix 5A, Section C, Modeling Results, Alternatives 1, 3, 4A (Proposed Project), 4H1, 4H2, 4H4, 6, and 9 would result in higher water elevations at the end of September in Folsom Lake as compared to the No Action Alternative. Alternatives 2, 2D, 4H3, 5, 5A, 7, and 8 would result in lower end of September water elevations in Folsom Lake as compared to the No Action Alternative.

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1819	1	In recent years, both state and federal project deliveries have been repeatedly interrupted and reduced due to operational conflicts with threatened and endangered Delta species. Since 2007, it is estimated that nearly 3.5 million acre feet of water that normally would have been delivered by the SWP was lost due to these conflicts. Additionally, both projects risk complete failure given the vulnerability of the Delta levee system to catastrophic earthquake and flood events - threatening water supplies for Southern California, the Bay Area, the Central Coast and the Central Valley for many years. These risks are clearly unacceptable, and conditions are expected to worsen with climate change unless steps are taken now to mitigate these concerns.	This comment is consistent with information presented in Chapter 2, Project Objectives and Purpose and Need, in the Final EIR/EIS. Please note that the new preferred alternative is now Alternative 4A (California WaterFix) and does not involve an HCP component. However, the lead agencies maintain that the new preferred alternative continues to meet the co-equal goals of a reliable water supply and a restored Delta ecosystem to benefit all water users.
1819	2	Southern California ratepayers have been investing in the SWP for more than four decades, and have additionally invested billions of dollars in regional storage and conveyance to allow Southern California to capture water when it is plentiful and reduce demands on imported supplies during dry and critically dry years. These investments are effectively stranded if water deliveries from the SWP continue to degrade. The proposed BDCP, being developed under provisions of the state and federal endangered species protection laws, is the most promising plan developed to date to solve these challenges and resolve decades of conflicts among agricultural, urban, and environmental water users with a comprehensive solution that achieves California's co-equal goals of a reliable water supply and a restored Delta ecosystem for the benefit of all water users. The release of the public draft BDCP represents an important milestone in this eight-year stakeholder process. In exhaustive detail, the draft BDCP illustrates the complexity of the problems and the need for a comprehensive approach to resolve conflicts in the Delta through a multi-species habitat conservation plan that protects the state's water resources and infrastructure.	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.
1819	3	We are supportive of the BDCP's proposed twin-tunnel conveyance system that isolates and protects drinking water supplies and helps restore natural flow patterns in the Delta for the benefit of native species, as well as the complementary habitat restoration, water quality, and predator control measures outlined in the BDCP. We also support the plan's recognition that changing conditions in the Delta will require ongoing scientific review and real-time monitoring so the plan can effectively adapt over time to emerging science and the evolving ecosystem. The draft plan also provides an important framework for a range of operational outcomes and level of certainty necessary for a final plan to merit investment by participating public water agencies and by the state and federal governments. While key decisions remain relating to specifics on cost allocations, operations, outflow range, financing, and other issues; the current draft details a workable solution to the challenges facing California's water resources and the Delta. The proposed BDCP is the most comprehensive effort ever undertaken to address the chronic water challenges facing the state and federal water projects in a manner that is protective of the Delta environment. We remain supportive of the efforts of state and federal water contractors in the development of the BDCP and urge the state to move forward with the draft plan and focus on resolving those remaining issues needed to provide assurances that the plan will achieve California's co-equal goals of water supply reliability and ecosystem restoration in a cost-effective manner.	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. Please note that the new preferred alternative is now Alternative 4A (California WaterFix) and does not involve an HCP component. However, the lead agencies maintain that the new preferred alternative continues to meet the co-equal goals of a reliable water supply and a restored Delta ecosystem to benefit all water users.

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1820	1	There is a complete lack of transparency in the process, the reality is that taking more water away from the Delta system is in fact decimating the environment. Water should obtained by desalination plants, capture rain runoff water conservation through drip systems and not building and farming in naturally dry areas. Why are the tunnels the only answer? Money...	By establishing a point of water diversion in the north Delta and new operating criteria with the goal of improving water volume, timing, and salinity, the project is designed to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational flexibility. The proposed project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. It is projected that water deliveries from the federal and state water projects under a fully implemented project would be about the same as the average annual amount diverted in the last 20 years. Refer to Master Response 26 (Changes in Delta Exports). Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. The Lead Agencies for the proposed project have provided all public notices required by law under both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) in the preparation and publication of the 2013 Public Draft EIR/S and RDEIR/RSEIS. Additional public notice to potentially interested stakeholders, beyond what is required by law, was also provided through an extensive scoping process which included public notice and public participation, the placement of copies of the environmental documents for review at 125 libraries throughout the state and through six public comment hearings which were held throughout the Plan Area. Overall, more than 600 public meetings, working group meetings and stakeholder briefings have been held during the preparation of the proposed project's environmental documents. All of the documents, studies, administrative drafts and meeting materials – more than 3,000 documents in total, have also been posted online in an unprecedented commitment to public access and government transparency. Refer to Master Response 41 (Transparency) for more information. Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. However, nothing in the proposed project would prevent other entities from pursuing innovative approaches to desalination or other water supply solutions. Refer to Master Response 7 (Desalination), Master Response 6 (Demand Management), and Master Response 34 (Beneficial Use of Water).
1821	1	The BDCP emulates Joseph Goeebels propaganda techniques,i.e. the bigger the lie, the more likely the people will believe it. BDCP is far from a conservation plan. Rather, it is the BD Destruction Plan. Filling those two forty five foot diameter tunnels with clean fresh Sacramento River water and sending it down to southern California to quench the thirst of billionaire owned mega agribusiness is unconscionable as well as illegal. The Delta cannot be destroyed like socal water interests destroyed the Owens River and Lake. Cloaking your nefarious plan in the garb of riparian habitat restoration is equally unconscionable. California's water problems can be solved without destroying the Delta. Please do the right thing for all of California and rescind this fatally flawed and unfair plan.	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. It is important to note that the project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in agricultural and municipal/industrial water conservation, 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).
1822	1	I oppose the BDCP Project because it is too costly, doesn't make sense to irrigate a desert, subsidize a very profitable crop of almonds (which the growers can afford to get water by other means than cheap subsidized state water, has more risks than benefits for the declining fish population in the delta. At some point, we all have to live with the water we have. We have reached that point.	This comment letter is in part a form letter that has been submitted by many commenters. To locate the response to the form letter portion of the comment, please refer to the index of commenters in Chapter 4 of Volume II of the Final EIR/EIS, and cross reference the Form Master letter number shown there with the index of Form Masters also provided in Chapter 4 of Volume II of the Final EIR/EIS. The text below responds to the specific substantive portions of the comment letter that were submitted by the commenter. 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. For more information regarding purpose and need please see Chapter 2 of the FEIR/EIS and Master

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		There is no additional pizza. We are now fighting over the same pizza slices.	Response 3. For more information regarding cost please see Master Response 5. The proposed project does not make determinations regarding how water conveyed through the proposed project, California Aqueduct, Delta Mendota Canal, or other water conveyance facilities is put to a beneficial use. Contractors and their customers must make economic decisions about planting in light of the amounts of water they are likely to receive going forward.
1822	2	The proposed twin 40' diameter tunnels have little to do with habitat restoration, and should be separated from the Habitat Conservation Plan (HCP). The EIR for the tunnels should not be a HCP, and, therefore, should include all economic impacts including the impact of reduced property values and tax revenues in the 5 counties, and the impact on the local economy, both during and following construction	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. This alternative does still include some restoration in the form of Environmental Commitments, but the acreages are substantially reduced; these are described in detail in Chapter 3, Alternatives. Chapter 16 has been updated in the RDEIR/SDEIS to reflect the new preferred alternative; these updates include analyses regarding tax revenues. As described under Impact ECON-16 for Alternative 4A, effects on local government fiscal conditions during operation and maintenance Environmental Commitments 3, 4, 6-12, 15, and 16 is estimated to total $13.7 million. However, as discussed under Impact ECON-4, California Water Code, requires that entities constructing and operating a new Delta conveyance for offsetting the loss of property tax or assessment revenues. The requirement will ensure that forgone tax revenues resulting from transferring lands for private to public ownership will be fully offset and an adverse impact on local agency tax revenues would be avoided.
1822	3	The Cost / Benefits Analysis (Table 9-32) identifies a net benefit of $4.5 to $5.3 billion, given an incremental cost of $13.5 billion. There are several flaws in this analysis, including not taking into account the cost of bond interest, the cost of mitigation, which is necessary to experimentally offset the additional water take, the economic loss due to poor water quality in the south delta, and the economic loss of taking productive delta farmland out of production. The analysis uses "apples and oranges" e.g. using 60 years for the benefit, and 50 for the operating costs. The project is only 10% designed: a 37% contingency is inadequate - look at the Bay Bridge cost.	The cost of bond interest was included in the cost estimates for BDCP. See Master Response 5 for an explanation and example of how BDCP includes the cost of bond interest in its cost estimates. See Master Response 5 for an explanation of why the cost contingencies are adequate and the risk of cost overruns has been minimized. The cost of all mitigation is also included in the cost estimates for BDCP, including mitigation described in the EIR/EIS to reduce the adverse effects on water quality in some locations in the Delta. The economic analysis also takes into account the loss of agricultural income and productivity from land acquired for the construction of the water conveyance facility and for the BDCP conservation strategy (e.g., habitat restoration). 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). As a result, the Alternatives to Take analysis presented in the draft BDCP and required by Section 10 of the ESA is not applicable to the new preferred alternative, 4A.
1822	4	(This comment can be used for both the BDCP Project and the EIR) - The BDCP (Chapter 1B.1) and EIR (Table 3.1) fail to include alternatives that actually produce more water for California: Desalination, storage, and re-use. After correcting the BDCP costs noted above, the cost / acre foot exceeds $1,000, ($1,900 for urban rate payers) which equals the estimated cost of desalination. Given that pumps would no longer be necessary to transport Delta water over the Grapevine, the energy differential is even lower.	Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination and water storage) that were not carried forward for analysis in this document due to the fact that they required actions beyond the scope of the proposed project. Issues related to desalination include land use impacts, costs, and substantial energy use requirements. Advances in technology have improved feasibility of desalination and as a statewide water use planning component, it will be evaluated by water agencies on a local/regional level. Please see Master Response 7 for further information regarding desalination.
1822	5	The Authorized Entity Group, which has jurisdiction over real-time operation of the tunnels, includes the Water Contractors. The BDCP, Chapter 7.1.5.1, has deferred the actual decision-making roles to a later date. possibly to avoid comments. Water Contractors should be non-voting members with regard to the amount of water allowed in the tunnels, and pumped out of Clifton Court Forebay, to avoid "the fox guarding the hen	Please see Master Response 5 regarding the adequacy of the governance structure proposed for the 2013 public draft BDCP. The EIR/EIS analyzes all alternatives, including Alternative 4A.

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		house".	
1822	6	10% of fertile Delta cultivated farmland is proposed to be taken (Chapter 3.3.6.13.2) via eminent domain for experimental mitigation efforts, so more desert can be irrigated. This makes no sense given the additional water requirement / acre and delivery expense to irrigate the southern San Joaquin Valley.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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.
1822	7	The BDCP assumes (as part of its Benefit Analysis, Appendix 9A Sec. 9A.5) massive levee failures over the 50 year life of the Plan (2% probability / year), yet we have never had a levee failure due to earthquake in recorded history, and UCLA researchers could not cause a levee to fail with a simulated 7.0 earthquake. Levee failures have occurred due to high water runoff, a time when pumping would not be affected. Additionally, the BDCP benefit is not reduced by earthquake risk to the tunnels, which would suffer the same liquefaction. The State would be better served by strengthening the San Luis dam and the Aqueduct over the Grape Vine, both of which actually straddle earthquake faults.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. 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.
1822	8	No new water sources are identified as part of the BDCP, which makes it a waste of taxpayer/rate payer money. Instead, the State should require mandatory water conservation and re-use, and invest in new sources of water via new water storage and desalination.	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

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			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 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 water conservation. 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. 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. 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. 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 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 water conservation. For more information regarding water storage please see Master Response 37.
1822	9	Planting of future permanent crops on desert soil should be denied as part of the BDCP, and when permanent crops are plowed under, only seasonal crops should be allowed	In its efforts to achieve the co-equal goals of water supply reliability and ecosystem restoration, the BDCP seeks to protect dozens of species of fish and wildlife in the Delta while also securing reliable water deliveries for two-thirds of California. Please refer to Master Response 3 for additional information regarding the purpose and need behind the proposed BDCP. 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 refer to Master Response 34 regarding the potential uses of water delivered via BDCP proposed conveyance facilities.
1822	10	The impact of the costs to rate payers is not in the BDCP. Once they find out, support for the BDCP will dwindle.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that

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			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.
1822	11	The impact on navigation and safety in the Delta has not been adequately addressed.	Since the time of the Draft EIR/EIS additional navigation impact analyses have been added to Chapter 19, Transportation and Appendix 1F, Supplemental Information for U.S. Army Corps of Engineers has been added to this Final EIR/EIS.
1822	12	Proposed recreation mitigation does not benefit the south Delta (EIR Chapter 15).	The commenter's opinion related to the BDCP and Draft EIS is acknowledged. All mitigation measures and environmental commitments would be implemented throughout the project area, including the south Delta.
1823	1	I cannot imagine a more monstrous project for the State of California then the twin 40' tunnels to drain the Sacramento River away from it's historic path to the sea. To allow one man to buy desert property with no water for $50.00 an acre and then to take water from the men who bought fertile Delta loam for $2000.00 an acre, is a crime. We know the desert land cannot support agriculture in the long term.	The now preferred alternative, the California WaterFix Project, aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. It would not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. Such water deliveries from the federal and state water projects under a fully implemented project would be about the same as the average annual amount diverted in the last 20 years. For other points raised by the commenter, refer to the following Master Responses: Master Response 3 (Purpose and Need), Master Response 5 (Conservation Measure 1 as a CM, Overview of Restoration and Enhancement Activities), Master Response 4 (Tunnel Alternative), Master Response 34 (Beneficial Use of Water) and Master Response 35 (Southern California Water Supply).
1823	2	We know the tunnels will completely change the flora & fauna of the entire Delta by changing the salinity of it's water. The so called unintended consequences seem both intended and known.	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The water quality analysis presented in Section 4 of the RDEIR/SDEIS covers the new proposed sub-alternatives and Appendix A Chapter 8 provides a thorough analysis of important water quality constituents of concern throughout the Delta to present the potential water quality effects that could result with project implementation. The effects of BDCP or the California WaterFix on salinity conditions in the Delta are also assessed through the comprehensive analysis under each alternative of predicted changes in the specific constituents of bromide (Impacts WQ-5 & WQ-6), chloride (Impacts WQ-7 & WQ-8), and electrical conductivity (Impacts WQ-11 & WQ-12), which contribute to salinity. Regulatory water quality objectives (or guidance values) exist for these constituents for protection of agricultural water supply, municipal and industrial drinking water supply, and fish and wildlife beneficial uses. In addition to potential effects associated with the proposed project and alternatives, modeling results for the No Action Alternative indicate that, with or without BDCP, rising sea levels will bring saline tidal water further into the Delta than what occurs at present. Establishing a point of water diversion in the north Delta and establishing new operating criteria to improve water volume, timing, and salinity, along with other conservation measures, the proposed project would improve native fish migratory patterns and habitat conditions and allow for greater operational flexibility.
1823	3	Why was the will of the people of California removed from the decision making process?	Since 2006, the proposed 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.

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			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 Chapter 32, Public Involvement, Consultation, and Coordination, EIR/EIS, and Master Response 40 for additional details regarding public participation and the outreach that has been done.
1823	4	Why were the Delta representatives left completely out of the early talks and decisions?	Please refer to Chapter 32 in the EIR/EIS and Master Responses 40 and 41 for information related to outreach, transparency of the planning process and stakeholder engagement.
1823	5	I live a rocks throw from the Sacramento River. To forever alter and change this ecosystem to satisfy the greed of essentially one man is beyond my human capacity to reason.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. 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 the purpose and need of the proposed project please see Master Response 3.
1823	6	Do not build these tunnels.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1824	1	As a Delta Valley native currently living in the Los Angeles community these tunnels could not be more of a pressing issue. I understand the threat that we, as a State, face from all angles. Build the tunnels and pose the risk of destroying one of the most important ecosystems on this planet, or leave a large population of our great State's citizens at risk of going without water. I have a much more detailed stance on this topic but my answer below is short and to the point: *I am 100% against the construction of the tunnels.	No issues related to the adequacy of the environmental impact analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS were raised. The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts; as such the proposed project is intended to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. Refer to Master Response 3 (Purpose and Need).
1824	2	I have faith in the engineers behind the project, and believe we have the ability and intellect to create alternate solutions.	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.
1824	3	What I have zero faith in is the politicians and organizations behind the distribution of our states water supply.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1824	4	I would love to have more involvement in the issue outside of reducing my own usage and encouraging others to do the same. Unfortunately, the issue is so far beyond this that all I can do is choose between Northern California and Southern California.	The comment does not raise any environmental issues related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1824	5	Naturally, I choose to let the water remain in its natural resting place.	Under the range of alternatives considered in the Final 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.
1825	1	The California Groundwater Association in conjunction with all affected landowners should have a direct voice in all aspects and affects of the dewatering procedures of this project. To include: 1. The entire dewatering plan including but not limited to, drilling methods, materials to	As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Draft EIR/EIS and the BDCP/California Water Fix Partially Recirculated Draft EIR/Supplemental Draft 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 agencies. As described under Impact GW-1 in Chapter 7, Groundwater, in the Draft EIR/EIS, the impacts due to

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		be used, locations, depths, diameters, and abandonment procedures. 2. The present and future affects on existing wells. 3. The present and future affects on existing aquifers. 4. The mitigation of the present and future adverse affects on wells and aquifers.	dewatering during construction of the conveyance facilities may not be able to be fully mitigated to a level of less than significant or become not adverse because replacement water supplies may not meet the preexisting demands or planned land use demands of the affected party, including agricultural production wells. The effects of dewatering could be reduced through installation of seepage cutoff walls during dewatering. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the 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.
1826	1	BDCP is a bad idea. Peripheral Canal or twin tunnels it is still the same bad idea. Bad for the Delta and bad for Northern California. Not mention too expensive.	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 comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Refer to Master Response 36 (Peripheral Canal).
1826	2	Put the money into what makes sense...storage and conservation.	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. 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 water conservation. 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 for discussion of the scope of the proposed project and

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			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 water conservation. For more information regarding water storage please see Master Response 37.
1826	3	Tell Moonbeam he needs to be open about what he is doing. Just because his Daddy wanted it does not allow him to operate behind closed doors! Be transparent!! Do what is right for ALL of California	Please refer to Master Response 41, Transparency of BDCP Process.
1827	1	There is no possible mitigation for what you plan to do to my habitat. I want to know specifically how you plan to mitigate the fouling of my well: Trucking in water? Will it be potable? Will you ensure that there will be enough water for my family to continue its way of life, farming?	As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Final EIR/EIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route. DWR would consult with local agencies. As described under Impact GW-1 in Chapter 7, Groundwater, in the EIR/EIS, the impacts due to dewatering during construction of the conveyance facilities may not be able to be fully mitigated to a level of less than significant or become not adverse because replacement water supplies may not meet the preexisting demands or planned land use demands of the affected party, including agricultural production wells. The effects of dewatering could be reduced through installation of seepage cutoff walls during dewatering. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the Final 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.
1827	2	Will the herons, egrets, frogs, minks, coyotes, owls, otters, foxes, clams, crayfish, muskrats, possums, songbirds, hawks, and countless other species that wander my farm, have potable water, or will they die off, or migrate (to where)?	The commenter asks a specific question about the availability of potable water for wildlife that occurs on their farm. Chapter 12 of the Draft EIR/EIS addressed the effects of the BDCP and other alternatives on terrestrial biological resources throughout the Plan Area but does not provide specific analyses of individual properties and thus can't specifically address the commenter's concern. The BDCP is not, however, in general expected to affect availability of water for terrestrial species.
1827	3	GW 7 from Table 31-1 from Other CEQA/NEPA Requirements reads, "Provide an alternate source of water" as mitigation for fouling ground water. As is evident, there isn't an "alternative source of water," or why would you be putting in these tunnels? I see that the mitigation plan is vague. It is mysterious. I want to know more. I want to know all about it.	Please see response to Comment 1827-1. Alternate water sources could involve deepening wells or providing a tank and trucking water to the tank for household water use. Specific mitigation measures would be developed during the design phase when groundwater surveys would be conducted. However, impacts to groundwater considered in the EIR/EIS remain significant and unavoidable and adverse to agricultural resources even with mitigation measures.
1827	4	I want to know what you plan to do about the traffic, the ruined pavement on roads, and the danger added by tying up emergency response vehicles with construction congestion. I have personal experience with county maintained roads—the daily, constant gravel truck traffic used to build a large winery has torn up my road. The County hasn't fixed it, despite my polite requests. I want assurance that the construction vehicles will not impact my day, whether it be with traffic jams, rough road, or slowed emergency response time. How	The lead agencies acknowledge your concerns about the impacts ofproject construction traffic on local roads. Mitigation Measures TRANS-1a, 1b, 2a, and 2b seek to reduce or eliminate these impacts where possible. Where not possible, Mitigation Measures TRANS-1c and 2c seek to work with local agencies to enhance capacity and bring deficient roads up to acceptable standards prior to construction. The lead agencies will assess pavement conditions prior to construction and ensure that the roads are returned to

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		do you plan to mitigate these problems, specifically? The counties are broke. Don't expect the counties to clean up your mess.	that condition or better after construction as described in Mitigation Measure TRANS-2c.
1827	5	There is more wrong with this plan than I could address in a year, much less in a letter. What you can't mitigate, can't pay for, is the negation of generations of work, risk, and loving care of this productive land, my family's farm. My family's history, its legacy to generations that follow. You can't mitigate this loss. Know that there are witnesses to what you do.	Refer to Master Response 33 (Adaptive Management and Monitoring), Master Response 5 (Costs of Implementation, Funding Sources, Governance Structure and Implementation), Master Response 18 (Agricultural Impact Mitigation), and Master Response 24 (Delta as a Place). When required, DWR would provide compensation to property owners for economic losses due to implementation of the proposed project. Construction of 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 Draft EIR/EIS. All impacts would be minimized and mitigated to the degree feasible, as noted under each alternative in the RDEIR/SDEIS individual resource chapters and in Appendix 3B (Environmental Commitments) of the Draft EIR/EIS.
1828	1	I am opposed to this project for numerous reasons. I have lived in a Delta community for close to 30 years and have traveled most of the Delta waterways. There are too many unanswered questions to proceed with a project that will have such a huge impact on so many residents of Delta communities and the Delta wildlife.	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental impact analysis provided in the EIR/EIS documentation. The proposed project was developed to meet the rigorous standards of the federal and state ESAs, and as such the proposed project is intended to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.
1828	2	No new water sources are identified, which makes it a waste of taxpayer ratepayer money. The impact of these costs to ratepayers is not in the be the BDCP, and when they find out support for this project will dwindle.	Under the range of alternatives considered in the Draft 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.
1828	3	Another reason I am opposed is the negative impact on navigation and safety in the Delta is not been adequately addressed. For example in the plan there will be a large construction barge that will be placed in channel close to Discovery Bay, which is one of the heaviest traveled boating waterways in the Delta. This will obstruct half of this channel and will cause boats to pass very close to each other head-on. It will only be a matter of time until this causes a very serious boating accident. The cross highways in the Delta (12, 4) are increasingly seeing an increase in commuter traffic and currently see a very high number of vehicles commuter times. How is the additional heavy equipment traffic going to mix with these commuters? Who is going to fix the additional damage to the highway caused by these heavy loads? (these roads are in very bad shape in areas)	The lead agencies acknowledge your concerns about the potential impacts of construction traffic on both waterways and roadways, and the effectiveness of mitigation measures. Mitigation Measure TRANS-1a, Trans-1b and Trans -1c were developed to address several impacts, including Impact TRANS-4, Disruption of Marine Traffic during Construction. Traffic management plans are intended to comprehensively address multiple modes, including waterborne travel.
1828	4	There are so many unanswered questions and unknown costs; there needs to me more answers and explore smart alternatives before any of this moves forward.	Please see Master Response 5 for an explanation of the costs and proposed funding for BDCP. Master Response 4 describes how alternatives were selected for full analysis.
1829	1	Please do not take away the beautiful Delta. The Delta is a wonderful place for families to come together boating, fishing, hunting, and water skiing. Exploring new restaurants and marinas to escape life for a while.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. See Chapter 15, Recreation, for a description of potential impacts on recreation.
1829	2	Please do not take away the beautiful Delta. It was my father's life long dream to own a motor yacht. After he retired and refinanced his house, he was able to purchase a 37 footer and joined a local yacht club. I have never	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) 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 project aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish (refer to Master Response 3 [Purpose and Need]. No issues related to the adequacy of the environmental impact analysis in the EIR/EIS

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		seen him happier. He is a retired teacher.	documentation were raised.
1829	3	Life is so good on the Delta without breaking the bank. Please do not let the rich corporations corrupt our beautiful state and its ecosystem.	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 proposed action 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. Also, the Lead Agencies do not have local land use planning/zoning authority over the corporations mentioned by the commenter. The project proposes to stabilize water supplies, and exports could only increase under certain circumstances. Water deliveries from the federal and state water projects with the project would be about the same as the average annual amount diverted in the last 20 years, would result in the deliveries being more predictable and reliable, while restoring an ecosystem in steep decline. Please see Master Response 3 for additional information regarding the project's purpose and need. The effects of water conveyance facility construction on ecosystem function are addressed throughout Section 4.3.8 of the RDEIR/SDEIS. Additionally, discussion of the main environmental attributes affecting individual covered species is provided in Appendix 2.A of the 2013 public draft BDCP. Effects of the proposed water conveyance and associated restoration activities on general biological resource areas are discussed in Ch. 4 of the RDEIR/SDEIS. Resource areas are addressed separately under sections for each of the new project Alternatives, including surface water, groundwater, water quality, fish and aquatic resources, terrestrial biological resources, agricultural resources, air quality and greenhouse gases, and others. Where impacts are determined to be significant, environmental commitments will be implemented to avoid and/or offset these effects, where possible.
1829	4	Think about the environment, think about the families, think about all the Delta does for Northern CA., think about the right thing to do.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised.
1829	5	Please stop the tunnels!	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1830	1	I do not want the ecosystem to change.	No issues related to the adequacy of the environmental impact analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS were raised.
1831	1	I am very concerned about the vast quantities of Reusable Tunnel Material (also known as "muck") that would result from the tunnel borings, as noted in Appendix 17D and also throughout other areas of this document. It seems to me that there is a distinct possibility that there might be contaminants such as heavy metals, etc. distributed throughout this RTM. Have you any means of decontaminating this RTM, particularly if you intend to use it throughout Delta sites as levee additions and such, where it would be exposed to humans and wildlife? We certainly do not want another Kesterson, do we? If it is shown to be contaminated and should not be used for those purposes, what else will you do with it, particularly on Staten Island where the cranes nest?	As described in the Draft EIR/EIS Chapter 24, Hazards and Hazardous Materials, Section 24.3.1.3, in March 2013, a study was conducted on native soil samples collected from several sites along the tunnel footprint. These soil samples were mixed with representative soil conditioner products to mimic RTM. These mixture samples were tested to assess the geotechnical properties to determine if RTM would be suitable as structural fill; the potential toxicity; and the suitability for plant growth for both wildlife habitat and agricultural use (URS 2014) While the study consisted of a limited number of samples and tests, and does not constitute a complete evaluation of RTM, based on the results DWR concluded that RTM, following storage and drying, is suitable for strengthening Delta levees; habitat restoration; fill on subsiding Delta islands; and as structural fill for construction of conveyance facilities (URS 2014). However, the contractor would need to chemically characterize RTM and associated decant liquid prior to reuse or discharge. Consultation with governing regulatory agencies would be required to obtain the necessary approvals and permits. For more information, the report can be viewed here: http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Reusable_Tunnel_Material_Testing_Report.sflb.ashx
1831	2	As a Registered Nurse interested in Public Health, I am concerned about the possible increase in West Nile virus, which already exists in the Delta, and the possible introduction of malaria (from international travelers) through increased mosquitoes in the Yolo Bypass,	Please note that the preferred alternative is now Alternative 4A, which does not include a HCP, or enhancement of Yolo Bypass (CM2). Accordingly, there would be a lower potential for an increase in suitable mosquito habitat within the study area as a result of implementing the project under this alternative

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		when environmental work is done there and there is increased standing water. The threat of malaria is not far-fetched. There were outbreaks in California, including 1986 in San Diego County, 1984-1986 in the Sacramento Valley, and 1952 in Nevada County. In 1992 there were 251 cases reported in the State of California. Do you have plans in place to deal with the increase of mosquitoes due to effects of the Yolo Bypass environmental work, and the possibility of their being disease carriers and being a serious threat to Public Health?	because there would be less restoration/enhancement of aquatic habitat. Measures to control mosquitos would be implemented by DWR that are consistent with practices presented in the California Department of Public Health's "Best Management Practices for Mosquito Control in California". Implementation of these measures would help control mosquitoes. DWR would consult and coordinate with the mosquito vector control districts in the potentially affected counties in the study area when designing and implementing Mosquito Management Plans of which these measures would be a part. These measures are identified in Chapter 25, Public Health. Impact PH-5 addresses the potential for increase in vector-borne diseases in the study area as a result of habitat restoration/enhancement. BMPs from the guidelines outlined in Section 25.2.5.7 and detailed in Appendix 3B, Environmental Commitments, would be incorporated into the proposed project and executed to maintain proper water circulation and flooding during appropriate times of the year (e.g., fall) to prevent stagnant water and habitat for mosquitoes.
1832	1	From what I have been able to read of the EIR, I understand that the Bay Delta Conservation Plan is said to be for "The scope of the BDCP is within the Delta itself with a specific purpose to restore and protect its ecosystem health, SWP and CVP water supply, and water quality" (appendix 1A). It is astounding to me that the wording is so deceiving and misleading. This plan is a desecration to what remains of the mismanaged and mangled California Delta. The EIR claims to be a management plan, but the EIR reads between the line as a plan to siphon what water is left in the Delta and send it to agricultural interests and water districts in the central valley and southern California. I appreciate that the overview and background of the plan goes into detail into the history of the California water project, because it is an important history for Californians to understand, but if anything can be learned from the past it is what not to keep doing. This is wrong. And the EIR leaves out a conversation about the much needed infrastructure repair to other parts of the California Water Project. New piping, a reinforcement of levees in the Delta itself, and water-saving techniques in all parts of the state.	The issues raised by the commenters address the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/EIS documentation.
1832	2	This project benefits from the public's lack of education. Please consider my comment, and all the others you have received, as enough reason to not go through with this atrocious plan. All of life will pay for this. Think of your grandchildren.	The Lead Agencies respectfully disagree with the general assertion that public participation/outreach was flawed. The documentation generated by this proposed project has undergone extensive public and scientific input, discussion, and transparency, including the posting of administrative draft chapters online and providing many more opportunities for public participation than is normally required by the CEQA/NEPA processes (see Master Response 41 [Transparency]). Refer to Chapter 32 (Public Involvement, Consultation, and Coordination) in the Draft EIR/EIS and Master Response 40 (Public Outreach Adequacy). Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative (see Section 4 of the RDEIR/SDEIS). The environmental documentation and project approval will be acted on by the decision makers from each lead agency at the conclusion of the environmental planning processes for both CEQA and NEPA.
1833	1	As a resident of City of Rancho Cordova, in Sacramento County, I wish to go on record opposing the Bay Delta Conservation Plan. As a hired public servant, it is my responsibility to do whatever I can to serve my city, my region, and my state. I believe that removing even more water from the Delta than is already taken would do irreparable damage to the Delta and the future of the State of California. We are on our third year of drought, and we should have learned that there is only so much water in our state. I believe that we (the citizens of	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. 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

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		California) would be better served by spending the money from the water bond to create more reservoirs, etc. than continuing to 'spend' our water like the person who believes they still have money in their account because they still have checks. Our water account is overdrawn!	by the State and other public agencies in agricultural and municipal/industrial water conservation, 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).
1834	1	Stop the tunnels. The fragile San Francisco bay cannot take any more abuse. Lack of water means more silt. It has not recovered from the gold rush and that was 150 years ago. We do not need more mud flats.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS documentation were raised. The proposed project was developed to meet the rigorous standards of the federal and state ESAs, and as such the project is meant to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the project is designed to improve native fish migratory patterns and allow for greater operational flexibility.
1834	2	Spend the money on better irrigation practices. California has the worst irrigation system in the world. Flood the fields and it will grow?	The Lead Agencies do not have the authority to designate what water deliveries are used for or what types of agricultural practices are used. Please refer to Master Response 34 regarding the potential uses of water delivered via BDCP proposed conveyance facilities.
1834	3	Better water management, not more wasted water is what the state needs.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. It is important to note that the BDCP is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in agricultural and municipal/industrial water conservation, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage (as described in Section 1.C.3 of Appendix 1C, Demand Management Measures).
1835	1	Chapter Five assumes that D 1641 remains in effect. It would be instructive to build a table that show the effect on project yields if X2 was moved further West.	Operations in accordance with State Water Resources Control Board Decision 1641 (D-1641) represents the Existing Conditions and the continuation of existing policy and management for the No Action Alternative, including the existing requirements for X2 locations. To the extent alternatives propose additional outflow criteria that move X2 west, they have been evaluated in the EIR/EIS. It is recognized that the State Water Resources Control Board is preparing an updated to the Bay-Delta Water Quality Control Plan which is considering reasonable protection of beneficial uses, including municipal and industrial uses, agricultural uses, and environmental uses. The changes in the Water Quality Control Plan could include modifications to X2 locations. Following completion of the updated Water Quality Control Plan, SWP and CVP operations would need to comply with the new regulations.
1835	2	The Preferred Alternative places the intakes in a narrow part of the Sacramento River. Even though the intakes are to be designed similar to that used by the recent East Bay Municipal Utility District [EBMUD]/Sacramento structure, and not positioned out in the River, they will still intrude into the River and decease the cross section, putting added flood risk on those areas up river. Please study the potential impacts of this. Since the intakes are within the "tidal effect" area of the River, please study the period of time when "sweeping flows" will be insufficient along the intakes and what the resulting loss of yield would be.	This comment is regarding the Preliminary Draft EIR/EIS which was superseded by the 2013 Draft EIR/EIS. As discussed in the Preliminary Draft EIR/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. As noted in the Appendix 5A of the EIR/EIS, the north Delta diversions will be subjected to a sweeping velocity requirement. In the modeling, a 0.4 feet/second (fps) sweeping velocity requirement was assumed, and when the cross-sectional averaged instantaneous velocity downstream of each north Delta diversion intake falls below 0.4 fps, the diversion at the intake was not allowed. These operating rules would allow to minimize any increases in the reverse flows in the north Delta channels due to the operation of the north Delta diversion intakes. The range of north Delta exports that would occur assuming these and other criteria, such as north Delta bypass flows, are presented in Appendix 5A, Section C. There is no anticipated yield for the action

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			alternatives. The resultant SWP and CVP deliveries are also presented in Appendix 5A, Section C.
1835	3	The North Delta agencies have a contract protecting their water supply and ability to operate their intakes. The amount of water needed and the timing of this need to satisfy this contact are not disclosed. How much water is needed, when will it be needed and from whose account is this water being taken from. Will the 1/3 State 2/3 Federal allocation in the Coordinated Operating Agreement be applied here?	The contract referenced in this comment is between DWR and the North Delta agencies; and therefore, is considered outside of the Coordinated Operations Agreement. Water deliveries under this contract are part of the senior water rights for in-Delta water users in the CALSIM II model assumptions, and are considered to be a higher priority than SWP and CVP water contract deliveries in the model.
1835	4	The intakes are located close to the discharge of the Sacramento Regional Wastewater Treatment Plant. What is the impact to water quality and or the ability to take water during Critical Dry Years and during HIGH TIDE s?	As described in Appendix 3F, Intake Location Analysis, of the Draft EIR/EIS, proximity to the Sacramento Regional Wastewater Treatment Plant outfall was considered in selection of the intake locations. As shown in Figure C-11-6 in Appendix 5A, Section C, Modeling Results, diversions from the North Delta intakes would be minimal during critical dry years except under Alternative 6 which does not include South Delta intakes. Impacts to water quality in this reach of the Sacramento River are addressed in the "Upstream of the Delta" region for each impact discussion in Chapter 8, Water Quality.
1835	5	What are the financial impacts caused by increased levels of treatment needed to satisfy Drinking Water Regulations. Is it likely that added treatment processes will be required to address Emerging Chemicals of Concern (ECC's)and what is an approximate cost of going to Ozone Treatment to address this?	Increased water treatment is not part of the proposed project. Therefore, costs to treat water are not included in the project's financial analysis.
1835	6	Is it good public policy to locate the intake of the drinking water supply for the majority of Californians so close to a major wastewater discharger even though it might meet the minimum standards currently in effect?	As described in Appendix 3F, Intake Location Analysis, of the Final EIR/EIS, proximity to the Sacramento Regional Wastewater Treatment Plant outfall was considered in selection of the intake locations. With respect to water quality considerations related to diversions near wastewater treatment plant outfalls, these conditions occur throughout the Delta, including within areas of tidal influence near the South Delta intakes related to wastewater effluent discharges from the cities of Stockton, Manteca, and Tracy in the southern Delta. The Sacramento Regional Wastewater Treatment Plant is required to treat their water such that downstream Sacramento River water meets standards that are protective of drinking water beneficial uses.
1835	7	Work by David Vogel indicates that concentrations of non-native predator fish cluster close to diversion structures which is heightened in narrower sections of the River and within tidal effect areas. Has the impact of this on migrating fish been adequately studied? Even though migrating juvenile fish can swim well they are no match for mature predator fish.	Vogel (2011: Insights into the Problems, Progress, and Potential Solutions for Sacramento River Basin Native Anadromous Fish Restoration. Prepared for Northern California Water Association and Sacramento Valley Water Users) noted that this issue has not been well studied. To the extent that this factor occurs, it is presumably reflected in reach-scale survival estimates of acoustically tagged juvenile salmonids, which have been incorporated into analysis of the alternatives using the Delta Passage Model.
1835	8	In spite of much discussion about the imminent risk of island failure in the Central Delta, the EIR/EIS assumes that the islands remain intact and water is operated under D 1641. Operations of the project should also be evaluated assuming a single island worst case event.	Please refer to Appendix 6A for information on potential operations under a levee failure situation.
1835	9	How is it possible to continue to operate the Delta under D 1641 in light of projected ocean level rise with its increased tidal flows twice a day?	As shown in the results of the EIR/EIS modeling analysis, operation of the SWP and CVP under the No Action Alternative conditions with D-1641 requirements, climate change, and sea level rise will result in lower SWP and CVP reservoir storage at the end of September, as described in Chapter 5, Water Supply, and Chapter 6, Surface Water, because water will be released to meet Delta water quality requirements. This will result in a reduction in SWP and CVP water contract deliveries, as described in Chapter 5. The reduction in storage volume and water deliveries under the No Action Alternative as compared to the Existing Conditions are presented in Table 5-5 in Chapter 5.
1835	10	Davis, Woodland, North Bay Aqueduct, and the County of Sacramento are planning on building additional large intakes above the Project intakes and to be in operation prior to the Project completion. Have these upstream diversions been taken into account as to	The intake to serve the cities of Davis and Woodland is included in the No Action Alternative and action alternatives. The future intake related to the North Bay Aqueduct alternative intake has not been fully evaluated at this time, and is considered in the Cumulative Impact Analysis. The Sacramento River Reliability Study also was not fully evaluated, and at the time of preparation of the EIR/EIS, further studies had been

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		cumulative impacts to fish, and water quality and quantity?	suspended; therefore, it was not included in the No Action Alternative or the Cumulative Impact Analysis.
1835	11	State and Federal Water Agencies have recently requested the Water Rights Section of the State Water Board to investigate diversions in the South and Central Delta as to their right to divert during summer months under riparian or other right. Has the EIR/EIS considered the impacts of added summer month supplies?	The EIR/EIS did not analyze future water rights applications or changes to current water rights. The Existing Conditions and the No Action Alternative included continued diversion by central and south Delta water rights holders, as described in the 2008 Central Valley Project and State Water Project Operations Criteria and Plan Biological Assessment, which is incorporated into the Final EIR/EIS Chapter 5, Surface Water, and Appendix 5A, Modeling Technical Appendix, by reference.
1835	12	When the original Canal system was changed to a tunnel system the intake point was no longer necessary to be located where it is currently proposed. Has various other intake points been evaluated either on the other side of the River or below the Delta Cross Channel, or in the West Delta? Diversity of intakes may provide superior operational flexibility.	Please see Appendix 3F, Intake Location Analysis, of the Final EIR/EIS, regarding the process for selecting intake locations. As shown in Figure 3F-1, and described in the appendix, several sites north of the Sacramento Regional Wastewater Outfall were considered in earlier stages of review (Locations A, B, and C). Locations upstream of the town of Freeport were eliminated from consideration due to public scoping comments received in March 2009 citing construction impacts in an overly constrained conveyance corridor, historic building conflicts, and the precedent set by the Freeport Regional Water Project EIR, indicating that intakes in the Pocket area neighborhood would produce significant impacts. However, the Fish Facilities Technical Team also recommended that the furthest upstream intake be located downstream of where complete mixing is reported to occur with effluent discharge from the Sacramento Regional Wastewater Treatment Facility. For this reason, potential intake locations upstream of Scribner's bend were also eliminated. 15 alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4.
1835	13	This process started with a call for any and all proposals to evaluate systems that would address water, environmental, transportation, economic impacts, agriculture and other infrastructure problems during rising sea level, earthquakes, floods and other challenges. However, from early in the process the appearance has been that only one option was really being considered. Even though that option changed from a canal to a tunnel system and the alignment was altered for various reasons, little real attention was paid to any of the several other solutions put forth other than to find some flaw and discard them. If the same flaw elimination was applied to the current preferred alternative, it too would have been discarded. It appears that the current preferred alternative is the only project that can achieve the objectives of BDCP. One has to wonder how may better and less controversial options have been discarded. It remains curious to me as the one that managed to add the Western Alignment option to the EIR/EIS, that I have never been called to defend it or allowed to modified it to overcome any shortcomings it may have had.	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. 15 alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4.
1836	1	We are residents of Clarksburg. Our children attend Delta Elementary Charter School (DECS). I am very concerned of the impact of construction to the students of DECS. Pollution both physical and noise will undoubtably be detrimental to the students. The school is located just off of River Road and the sound alone of construction will make it very difficult for the students to concentrate.	Mitigation measures NOI-1a and NOI-1b are available to reduce the effects of noise during construction. The footprint of Intake #2 is located nearest to the Delta High, Clarksburg Middle, and Delta Elementary Charter schools in Clarksburg. Worst-case daytime noise levels during pile driving are indicated in the EIR/EIS. Based on the current footprint, the nearest pile driving locations for Intake #2 are located approximately 5,000 feet from the nearest school (Clarksburg Middle School). As indicated in Table 23-17, at a distance of 5,000 feet, worst-case noise levels during periods of pile driving are predicted to be about 50 dBA Leq (1hr). This assumes an average 100% utilization of pile drivers during construction, in combination

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			with other heavy equipment (mostly heavy trucks). Assuming a conservative outdoor-to-indoor attenuation rate of 20 dB for structures with closed windows, worst-case interior levels would be about 30 dBA. With windows open, the level would be about 40 dBA. The EPA, in its guidance about noise levels and public health states the following: "The principal consideration in the education environment is the prevention of interference with activities, particularly speech communication. An indoor noise level not exceeding Leq(24) of 45 dB is identified as adequate to facilitate thought and communication. Since teaching is occasionally conducted outside the classroom, an outdoor Leq(24) of 55 dB is identified as the maximum level to prevent activity interference." (EPA 1974) Given this standard, noise levels during periods of pile driving are not anticipated to interfere with indoor or outdoor classroom activities.
1836	2	Before proceeding the construction impact to the school should be assessed. A sound survey should conducted to determine noise level it will produce at the school. That information should be shared with the residents of Clarksburg, parents of students attending Delta Elementary Charter School (DECS) and staff. If necessary proposed mitigation should be shared allowing stake holders to weigh in.	Mitigation measures NOI-1a and NOI-1b are available to reduce the effects of noise during construction. The footprint of Intake #2 is located nearest to the Delta High, Clarksburg Middle, and Delta Elementary Charter schools in Clarksburg. Worst-case daytime noise levels during pile driving are indicated in the EIR/EIS. Based on the current footprint, the nearest pile driving locations for Intake #2 are located approximately 5,000 feet from the nearest school (Clarksburg Middle School). As indicated in Table 23-17, at a distance of 5,000 feet, worst-case noise levels during periods of pile driving are predicted to be about 50 dBA Leq (1hr). This assumes an average 100% utilization of pile drivers during construction, in combination with other heavy equipment (mostly heavy trucks). Assuming a conservative outdoor-to-indoor attenuation rate of 20 dB for structures with closed windows, worst-case interior levels would be about 30 dBA. With windows open, the level would be about 40 dBA. The EPA, in its guidance about noise levels and public health states the following: "The principal consideration in the education environment is the prevention of interference with activities, particularly speech communication. An indoor noise level not exceeding Leq(24) of 45 dB is identified as adequate to facilitate thought and communication. Since teaching is occasionally conducted outside the classroom, an outdoor Leq(24) of 55 dB is identified as the maximum level to prevent activity interference." (EPA 1974) Given this standard, noise levels during periods of pile driving are not anticipated to interfere with indoor or outdoor classroom activities.
1837	1	I have read the EIS/EIR as prepared in response to "Requested Take Permits for BDCP." I find the project scope, project proposal, and the subsequent EIS/EIR inadequate.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1837	2	It is my goal to show the permitting agencies that the EIR/EIS has not done an adequate job of addressing groundwater impacts on growers in areas of San Joaquin County outside the Delta. My specific reason is: Watersheds which feed the project area have been severed into parts and not treated as a whole. This negates State Training Manuals for Land Use Planning.	Under the range of alternatives considered in the Draft 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 proposed project would not impact senior water users or groundwater users outside of the Delta. Recent adoption of the Sustainable Groundwater Management Act will implement groundwater monitoring programs and require implementation of groundwater sustainability plans throughout California.
1837	3	It is my goal to show the permitting agencies that the EIR/EIS has not done an adequate job of addressing groundwater impacts on growers in areas of San Joaquin County outside the Delta. My specific reason is: Habitat Corridors, likewise, have been severed and not mitigated in adequate measure, or at all.	Please refer to Chapter 7 for details on groundwater impacts and mitigation.

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1837	4	It is my goal to show the permitting agencies that the EIR/EIS has not done an adequate job of addressing groundwater impacts on growers in areas of San Joaquin County outside the Delta. My specific reason is: My personal property - my ranch near Lodi California, will certainly be affected by the project, should construction commence. Yet the project boundary excludes my lands as any area of impact. My lands are therefore affected. I irrigate wholly by groundwater. Not only that, but groundwater is my sole option. There are no canals, or public water services, to my area. Groundwater in San Joaquin County is precious and we conserve use constantly. The BDCP Project , by transferring away water to Southern California, is exceeding likely to affect groundwater at my ranch. This is both my personal opinion and my professional opinion, after twenty years of EIS/EIR review for the State of California.	No construction of proposed water conveyance facilities would be occurring near Lodi, including diversion facilities along tributaries that flow through Lodi. Under the range of alternatives considered in the Draft 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 proposed project would not impact senior water users or groundwater users outside of the Delta. Recent adoption of the Sustainable Groundwater Management Act will implement groundwater monitoring programs and require implementation of groundwater sustainability plans throughout California.
1837	5	Again, as a fifth generation Californian living on a Family Ranch, I state that: the EIR/EIS has not done an adequate job of addressing groundwater impacts on growers in areas of San Joaquin County outside the Delta.	The study area for the EIR/EIS was limited to the areas that could either be directly or indirectly affected by implementation of the proposed project. Chapter 7 analyzes potential effects to ground water in the SWP/CVP export service areas, including the San Joaquin Hydrological Region. It is important to note that 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 agricultural and municipal/industrial water conservation, 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).
1837	6	The request "take" permits must be declined	Please note that the proposed project (Alternative 4A) no longer includes the BDCP, and therefore no longer involves a Habitat Conservation Plan or Natural Community Conservation Plan. DWR will seek authorization through the 2081 process with California Department of Wildlife (CDFW) for state listed species, and US Fish and Wildlife Service and National Marine Fisheries for federal listed species. These wildlife agencies will make the final determination as to whether the project meets issuance criteria for incidental take authorizations for these species.
1838	1	We oppose the EIS/EIR Review on the grounds that it is inaccurate.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1838	2	We believe that the EIR/EIS has not done an adequate job of addressing groundwater impacts on growers in areas of San Joaquin County outside the Delta. Our groundwater comes up via private pumps, which feed a system of valves. The nearness of our Ranching Operation is exceeding likely to be affected by the proposed project. We rely on, manage, and conserve our groundwater to run our Ranch. The proposed Project impacts groundwater, and will very likely affect our groundwater. Yet the EIS/EIR does not even show our ranch as within the Project Impact Area. We believe this is a gross oversight. The subject of aquifer and underground water movements has not been adequately reviewed in the EIR/EIS.	No construction of proposed water conveyance facilities would be occurring near Lodi, including diversion facilities along tributaries that flow through Lodi. Under the range of alternatives considered in the Draft 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 proposed project would not impact senior water users or groundwater users outside of the Delta. Recent adoption of the Sustainable Groundwater Management Act will implement groundwater monitoring programs and require implementation of groundwater sustainability plans throughout California.
1838	3	We have read the EIS/EIR as prepared in response to "Requested Take Permits for BDCP". We find the project scope, project proposal, and the subsequent EIS/EIR inadequate. The request for "take permits" must be declined.	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.

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			No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1839	1	My reasons for opposing the twin Delta Tunnels are: - will continue the de-watering of the Delta; - will contribute to the further decline of native Delta species will lead to the draining of major northern reservoirs in California such as the Trinity Reservoir; - will be an enormous financial burden on taxpayers; - will cause a cascade of environmental impacts throughout the region.	The preferred alternative is now Alternative 4A (California WaterFix Project) and no longer includes an HCP. Additionally, it would not affect upstream water rights or Table A amounts; instead, 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 the average annual amount diverted in the last 20 years with project implementation. See Master Response 26 for information on possible effects to northern California. The Draft EIR/EIS and the RDEIR/SEIS analyze the cumulative impacts of related project s with the proposed project in each of the resource chapters for each alternative to predict foreseeable occurrences. For example, the proposed project operations do not require the reoperation of Shasta, Trinity, or Folsom reservoirs or any San Joaquin River and tributaries water storage facilities. All of the existing reservoir operation criteria will be met with the same frequency as conditions without the proposed project. Note that some changes in the seasonal release patterns at Oroville would occur under the proposed project primarily related to increased spring releases and reduced summer releases. However, this change in reservoir storage release patterns does not affect long-term storage and as with the other reservoirs, does not conflict with existing applicable operational criteria. Socioeconomic effects of the alternatives are described and assessed in Chapter 16 of the Draft EIR/EIS. 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. For funding and costs, see BDCP Chapter 8, cost-benefit analysis on the project website, and Master Response 5.
1840	1	The project fails to make the case how area of origin water rights will be protected. This is another peripheral canal scam.	The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water right holders. For more information regarding changes in delta exports please see Master Response 26. For more information regarding how the proposed project differs than the peripheral canal please see Master Response 36.
1841	1	Digging in the Delta and the Sacramento River, as in other fresh inland water bodies that collect upland detritus, will release many MANY tons of methane gas, a powerful Greenhouse gas. (http://link.springer.com/article/10.1007/s00367-012-0299-6) The released gas will contribute further to our altered climate and will also impact the fish and other organisms that live in the Delta and rivers and streams.	Rivers are a primary component of the global carbon cycle and are a natural pathway for transmitting dissolved carbon throughout the watershed to the atmosphere. Active sequestration and transport of organic matter and greenhouse gases (GHG) throughout the watershed will occur independent of the project. Accordingly, it would be necessary to compare pre- and post-project GHG flux values for the watershed to determine the incremental effect of dredging on methane emissions. This type of monitoring is not feasible given the geographic scope and the fact that it would have to account for countless variables external to dredging that could affect river flow (e.g., changes in natural cycles, hydroelectric facilities). While it is not possible to accurately quantify the net impact of dredging on net GHG emissions, sampling of 59 reservoirs, natural lakes, and rivers in the western and southwestern U.S. shows that some reservoirs are GHG sinks while others have gross emissions equal to or less than natural lakes and rivers of the region. These studies suggest that net GHG emissions from affected aquatic environments are not substantial and are likely no higher than pre-dredging conditions (see Tremblay et al. 2005, GHG Emissions from Boreal Reservoirs and Natural Aquatic Ecosystems, in Environmental Science). Given this and the fact that

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			attributing minor changes in GHG flux to dredging activity would be speculative, the EIR/EIS does not quantify emissions. This is consistent with DWR Climate Action Plan and the current state of practice regarding changes in biogenetic emissions.
1841	2	There are other methods to better manage the Delta that are not so destructive and costly. And in the end, would have better outcomes of changing the economic and farming practices around the Delta. For example; rather than digging vast holes, dredging mountains of mud, and diverting water, we should stop rice farming, which has become very important to the Delta community, however, it too contributes to Chapter 3. (http://link.springer.com/article/10.1007/s00374-010-0493-5#page-1)	The issue of crops and water use is beyond the scope of the proposed project. For more information please refer to the updated draft 2013 California Water Plan's strategy for agricultural water use efficiency, which describes the use and application of scientific processes to control agricultural water delivery and use. Also, refer to Master Response 6 and Appendix 1C for further information on demand management measures, including increasing agricultural water use efficiency and conservation.
1841	3	But in the BIG PICTURE, reality. The National Oceanic and Atmospheric Administration and other governmental agencies would be absolutely vital to push other agencies, big businesses and even individuals to use alternate sources of electricity, food sources -- alternatives that do not produce so much, not just CO2 but CH3, and, most especially, to not drive oil vehicles. Digging vast holes, killing important fish and other animals in the Delta, diverting more water away from the Delta for crops in the desert (which have a high content of salt in the soils) is just a plain waste of time -- time we (California) need to change our ways (economically, socially, health). That is how we may continue to live on the West Coast ... not digging more holes. Please.	The Lead Agencies do not have land use planning authorities (such as changing local land uses and zoning ordinances or controlling what crops should be planted and where). 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 Master Response 41 [Transparency]). The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The proposed project would allow the federal and state water projects to deliver water supplies reliably in a way less harmful to fish. Refer to Master Response 3 regarding the project's purpose and need. In establishing a point of water diversion in the north Delta and establishing new operating criteria to improve water volume, timing, and salinity, along with other conservation measures, the proposed project would improve native fish migratory patterns and habitat conditions and allow for greater operational flexibility. The plan does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. Hence, the project proposes to stabilize water supplies, and exports could only increase under certain circumstances. See RDEIR/SDEIS Appendix A Chapter 14, Agricultural Resources, Impact AG-1 and Impact AG-2 and their associated mitigation for complete analysis of how the project would affect and mediate important farmland in the Delta that in turn would be of concern to affected farmers. Socioeconomic effects of the alternatives are described and assessed in Chapter 16 of the Draft EIR/EIS. 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. The environmental documentation and project approval will be acted on by the decision makers from each lead agency at the conclusion of the CEQA and NEPA processes.
1842	1	I write in opposition to the BDCP plan, EIR and EIS. I cannot fairly evaluate the project without understanding what are the firm financing commitments. These are absent as far as I can tell, so they should be procured and then fully outlined and explained in a new Plan, EIR and EIS.	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. 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 funding strategy for 2013 BDCP is outlined in Chapter 8 of the 2013 BDCP, not the 2013 Draft EIR/EIS. Please see Master Response 5 regarding the proposed project's funding strategy
1842	2	I think the cost estimates need to be completed and updated, and should include the actual financing costs, and operations and maintenance for 50 years.	The 2013 BDCP includes complete costs estimates for the construction and operation of the water conveyance facility and all of the conservation measures and monitoring that would be needed. See Master Response 5 for a discussion of how costs are reported in the 2013 BDCP and why the interest on loans is

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			accounted for in those estimates. The EIR/EIS analyzes all alternatives, including Alternative 4A. 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.
1842	3	I object that the alternatives do not consider retiring the toxic soils and drainage-impaired land in the western San Joaquin Valley and Kern County areas. The alternatives also do not adequately address the many available Conservation Measures to save water.	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. 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. 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.
1842	4	I believe that the required mitigation measures should be paid for by the water contractors, not the taxpayers.	All mitigation outlined in the 2013 BDCP would be paid for by the participating state and federal water contractors. See Table 8-41 in Chapter 8 of the 2013 BDCP. 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 also see Master Response 5 regarding the proposed project's funding strategy.
1842	5	As near as I can make out, the project will quite certainly hasten the decline of our once abundant salmon, steelhead trout, and other recreational and commercial fisheries. Habitat restoration as proposed has not been shown to be productive.	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 an overview of restoration and enhancement activities please see Master Response 5. 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).
1842	6	The documents do not adequately describe the impacts of the project on the need for more upstream storage facilities, such as raising Shasta Dam and others, and the resulting destruction of habitat and recreational and sacred sites.	While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which

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			new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the 2013 Public Draft EIR/EIS, describes the potential for additional water storage. 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 regarding the development of alternatives. Please see Master Response 6 for information on Demand Management. Please see Master Response 37 regarding water storage. Please see Chapter 15, Recreation, and Section 4.3.11 for more detail on the impacts of the proposed project on recreational opportunities and the proposed mitigation. For more information regarding cultural resources please see Master Response 20.
1842	7	I am flabbergasted that the proponents of this project have deftly maneuvered it in such a way that the voters will not have a say on whether to proceed. Let the people decide!	This comment is an opinion on decision making for the proposed project. No comments on the EIR/EIS content are presented and no additional response is necessary.
1843	1	This is the craziest idea I have heard in years. Whoever thought this up needs to get a new job. You will never be able to deliver enough water to So Cal, no matter what you do in this region. To spend 60 BILLION dollars to stop a small fish from entering the water delivery system, is crazy . Dedicate these funds to keeping the small fish out of the pumps and a desalinization system in So Cal.	No issues related to the adequacy of the environmental impact analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS were raised. DWR's fundamental purpose of the proposed project is to make physical and operational improvements to the SWP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. By establishing a point of water diversion in the north Delta and new operating criteria with the goal of improving water volume, timing, and salinity, the proposed project is designed to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational flexibility. Refer to Master Response 3 (Purpose and Need), Master Response 6 (Demand Management), Master Response 35 (Southern California Water Supply), and Master Response 7 (Desalination).
1844	1	I have been a resident in discovery bay for 12 years and have been coming the the Delta since I was 15 years old, fishing skiing and hunting. I have noticed a decline in fish, bait fish, and wild life in general. I don't think diverting huge amounts of water and displacing fresh and salt water ratio's are good for a fragile ecosystem. You can't expect wildlife and several types of fish to cease to exist so people down south can plant another 10,000,000 acres of almonds, if an area cannot support its own agriculture maybe growth has already reached its limit. Maybe they need to go on water rationing. Since I love all people I would suggest they look into better growing practices, or new ones that use new technology to work with less rather than more, drip systems, or different soil mixtures that retain moisture. Just a thought I am 2 feet from the water! And want to protect it	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The proposed project aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. Chapter 8 of the Draft EIR/EIS addresses water quality significant impacts including salinity intrusion with mitigation measures and environmental commitments designed to reduce such effects. Chapter 15 of the Draft EIR/EIS analyzes water dependent recreational activities that occur in the Delta, and impacts by such activities by the project, along with proposed mitigations. Chapters 11 and 12 assess ecological resources of the Delta as well. Additionally, refer to the following Master Responses: Master Response 3 (Purpose and Need), Master Response 26 (Changes in Delta Export), Master Response 14 (Water Quality), Master Response 35 (Southern California Water Supply), and Master Response 24 (Delta as a Place). Other proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the Draft EIR/EIS and Appendix 3A of the RDEIR/SDEIS. For a description of the process the Lead Agencies followed to develop and screen alternatives, refer to the following Master Responses: Master Response 4 (Alternatives Development, Tunnel Option), Master Response 6 (Desalination/Demand Management in BDCP), Master Response 7 (Desalination), and Master Response 37 (Storage).
1845	1	I am against the Tunnels for many reasons: preservation of the wildlife, the waterways,	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The project would allow the federal and state water projects to deliver water supplies reliably in a

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		keeping the salt water out of the estuary.	way less harmful to fish. The plan does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. For other points raised by the commenter, refer to the following Master Responses: Master Response 3 (Purpose and Need), Master Response 5 (Conservation Measure 1 as a CM, (Overview of Restoration and Enhancement Activities), Master Response 4 (Tunnel Alternative), Master Response 34(Beneficial Use of Water), and Master Response 14 (Water Quality). In addition, please refer to the RDEIR/SEIS including Sections 4, 5, and Appendix A (e.g., Chapter 6 [Surface Water], Chapter 8 [Water Quality], Chapter 11 [Fish and Aquatic Resources], and Chapter 12 [Terrestrial Biological Resources]).
1846	1	I am a concerned citizen and Delta friend! I am extremely concerned about the huge mistake that could be made regarding the Twin tunnels project. My concerns are first around the lack of proper EIR specific work, the lack of transparency around the process, as well as the way it is being shoved down the throats of the northern California residents. Also of great concern, is that of our water resources being consumed and the threatening of the environment, not to mention the severe impact on wild life, including our fisheries. In addition, our farmers and local communities will suffer directly from this ill conceived project, creating a huge negative impact to out local economies. I urge you to stop this project and look for more feasible methods of supplying water to souther California.This is borrowing from Peter to pay Paul, and in the long run has far to many down sides and does not solve our water problems in California. Get the politics out of this project and look for real long term solutions to the water shortage. Let common sense prevail, Please!	The Lead Agencies respectfully disagree about the inadequacy and lack of transparency of the documentation. On the contrary, the preparation and processing of the documentation are in compliance with state and federal environmental planning laws and regulations. For example, documentation generated by this proposed project has undergone extensive public and scientific input, discussion, and transparency, including the posting of administrative draft chapters online and providing many more opportunities for public participation than is normally required by the CEQA/NEPA processes (see Master Response 41 [Transparency]). Since 2006, the BDCP(Alternative 4) and subsequently the California WaterFix Project (Alternative 4A) have 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. Refer to Chapter 32 (Public Involvement, Consultation, and Coordination) in the 2013 Draft EIR/EIS and Master Response 40 (Public Outreach Adequacy). Fifteen alternatives and three new sub-alternatives were analyzed in the Draft EIR/EIS and the RDEIR/SDEIS, respectively. Four major alignments have been included in the environmental documentation: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Other proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the Draft EIR/EIS and Appendix 3A of the RDEIR/SDEIS. For discussion on t alternatives, refer to Master Response 4. Furthermore, the documentation associated with the BDCP was prepared to meet the rigorous standards of the federal ESA and the state NCCPA, and is intended to be environmentally beneficial to the region. The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. However, significant impacts associated with the California WaterFix Project would still be required to be avoided, minimized, or mitigated to the extent feasible. The premise of the California WaterFix is that it will provide environmental benefits while stabilizing water supplies for a large population of California residents, consistent with statutory policy as found in the Delta Reform Act of 2009 (see, e.g., California Public Resources Code, §§ 85001(c), 85002, 85004(a), 85020.) Refer to Master Response 31 (Compliance with the Delta Reform Act) for information on this topic. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, along with other conservation measures, including those requiring tens of thousands of acres of restored habitat, the project is designed to improve native fish migratory patterns and habitat conditions and allow for greater operational flexibility. The Lead Agencies also acknowledge the discussion of community character in Chapter 16 of the Draft EIR/EIS and RDEIR/SDEIS Appendix A (Socioeconomics), which identifies the unique features of the Delta and describes the potential effects on Delta communities. Chapter 14 of the Draft EIR/EIS and RDEIR/SDEIS Appendix A provide extensive evaluations of impacts and mitigations with respect to agricultural resources. As required, DWR would provide compensation to property owners for economic losses associated with implementation of the proposed BDCP (see Master Response [Placeholder DMR 46]). Socioeconomic effects of the alternatives are described and assessed in Chapter 16 of the 2013 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 information on funding and costs, see BDCP Chapter 8, cost-benefit analysis on the BDCP website, and Master Response 5 The BDCP process was initiated by former Governor Arnold Schwarzenegger, who was twice elected by a majority of California voters. The process has continued under the administration of his successor, Edmund G. Brown, Jr., who has publicly stated his tentative support first for Alternative 4 as set forth in the Draft EIR/EIS and now for Alternative 4A as described in the RDEIR/SDEIS,

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			though he has acknowledged the need to complete environmental review and to obtain additional public input prior to making any final decisions on the project. Hence, the project has been initiated and carried forward by two Governors acting on a mandate from the voters of the State as a whole. See Chapter 33 of the 2013 Public Draft BDCP for a List of Preparers.
1847	1	As a citizen of Stockton, a mother, and a budding environmentalist I am overwhelmed by the lack of transparency in this process. The BDCP/Delta tunnels plans were not held in local meetings or listed in our ballots. Your decision could dry out multiple cities and cause a further financial strain to San Joaquin county residents, whom are already struggling with crime and high unemployment rates. THIS IS NOT THE ANSWER. I will do anything I can to have the opportunity to vote and discuss this issue before the water that quenches the thirst of my family and many families, is polluted by your greed.	Since 2006, the proposed has been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings. For comments pertaining to how the BDCP/California WaterFix has been developed in an open and transparent manner, please refer to Master Response 41. Please refer to Master Response 40 for more information on adequacy of the public outreach process. Information about water supply impacts is provided in Chapters 5 and 6 of the EIR/EIS. Please see Chapter 16 of the EIR/EIS for information on Socioeconomic impacts and mitigation for these impacts.
1848	1	Specifically with regard to the placement of the tunnels in the Sacramento River upstream of Steamboat Slough, I can find no information as to how much water will be diverted from the Slough. And secondly, how will the salt water incursion from SF Bay upriver through Rio Vista and Isleton be stopped. These are major issues to the farmers along Steamboat Slough and Grand Island, as well as the other islands downstream of us who depend on a good flow of water downstream.	Changes in flows in Steamboat Slough downstream of Sutter Slough are presented in Tables C-25-1 through C-25-25 and Tables C-26-1 through C-26-25 in Appendix 5A, Section C, of the Final EIR/EIS.
1848	2	It is also unclear to me from the draft EIR what sort of inventory is being made of endangered species and where a map of same is located. What will become of them if they are not currently known?	The commenter states that it is unclear to them from the Draft EIR/EIS if an inventory is being made of endangered species. The Draft EIR/EIS does rely on prior records of species observations located in the CNDDB (records cited throughout Chapter 12 of the Draft EIR/EIS), those observations collected by DWR during various surveys in and around the conveyance alignment (see Appendix 12C of the Draft EIR/EIS), and as part of the BDCP surveys will be conducted prior to construction for several species (see AMMs in Appendix 3C of the BDCP). Maps of recorded species observations are presented in figures at the end of Chapter 12 of the Draft EIR/EIS.
1848	3	It would appear that taking no notice of these few issues (among many that others have catalogued) means that the farmers, others who use the Delta for recreation, and the waterfowl species are being written off.	The issues raised by the commenter addresses the merits of the project and do not raise any issues with the environmental analysis provided in the EIR/EIS documentation.
1848	4	I urge you to look into one of the many viable alternatives that have been suggested this past year, particular storage. For it is only better storage that will provide the additional water that is desired.	While water storage is a critically important tool for managing California's water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the FEIR/EIS, describes the potential for additional water storage. Please see Master Response 37 for further information regarding water storage.
1849	1	There has been a shocking effort to muscle this project through and overwhelm the opposition. I point particularly to the wholehearted support of the project by elected officials and government entities before the financial and environmental costs are fully known. There has also been a significant focus on obtaining water and insufficient concern for the immense environmental harm.	The preferred alternative is now the California WaterFix Project 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. 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. By establishing a point of water diversion in the north Delta and new operating criteria with the goal of improving water volume, timing, and salinity, the proposed project is designed to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational

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			flexibility--refer to Master Response 3 (Purpose and Need). The plan does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. The BDCP process was initiated by former Governor Arnold Schwarzenegger, who was twice elected by a majority of California voters. The process has continued under the administration of his successor, Edmund G. Brown, Jr., who has publicly stated his tentative support first for Alternative 4 (BDCP) as set forth in the Draft EIR/EIS and now for Alternative 4A (California WaterFix Project) as described in the RDEIR/SDEIS, though he has acknowledged the need to complete environmental review and to obtain public input prior to making any final decisions on the project (refer to Master Response 4 for concerns over whether the project is pre-decisional). Hence, this planning, design, and environmental process has been initiated and carried forward by two Governors acting on a mandate from the voters of the State as a whole. The environmental documentation and project approval will be acted upon by the decision makers from each lead agency at the conclusion of the CEQA and NEPA processes.
1849	2	Moreover, as a frequent visitor to Courtland, I find it unfathomable that this project may be located there. This area is one of the few bucolic, agricultural regions left in California. This project will destroy the area. Have any of you visited Courtland to see what you will ruin? Lastly, the Delta waterway is already highly stressed and this project will advance its degradation. Stop this flawed process and ill-conceived plan.	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP-- refer to Master Response 3 (Purpose and Need). The Lead Agencies acknowledge the discussion of community character in Chapter 16 of the EIR/EIS and RDEIR/SDEIS Appendix A (Socioeconomics), which identifies the unique features of the Delta and describes the effects on Delta communities. Impacts to agriculture are discussed in Chapter 14; project proponents have proposed measures that would support and protect agricultural production in the Delta by securing agricultural easements and/or by seeking opportunities to protect and enhance agriculture with a focus on maintaining economic activity on agricultural lands. Please see Master Response 18 for more information on agricultural mitigation. The proposed project was developed to meet the rigorous standards of the federal and state ESAs, and as such the proposed project is intended to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. The environmental documentation and project approval will be acted on by the decision makers from each lead agency at the conclusion of the environmental planning processes for both CEQA and NEPA.