

1 **APPENDIX H5: 2009 INTEREST GROUPS SCOPING COMMENTS**

# BDCP

## BAY DELTA CONSERVATION PLAN ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

### — Comment Card —

Please Print

Name: Annette Arceo Organization: Arceo Ranch  
Telephone: 916-775-1801 e-mail: saddlesongs@hotmail.com  
Address: PO Box 556  
City: Courtland State: CA Zip: 95615

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

The concept of exporting Delta water down South could jeopardize the stability of existing ecosystems and productivity of valuable crops. There currently waterways in place that could be used to transport water if necessary. Creating new conveyances that would remove our water would impose a negative balance on the environment and agriculture.

An alternative would be to revisit the idea of building another reservoir to store excess water for use in Southern Ca. Our reservoir system is a viable, tested and proven solution to saving the Delta and alleviating Southern water shortages. Sincerely, Annette Arceo


Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:

Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.

You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). Comments must be received by May 14, 2009.



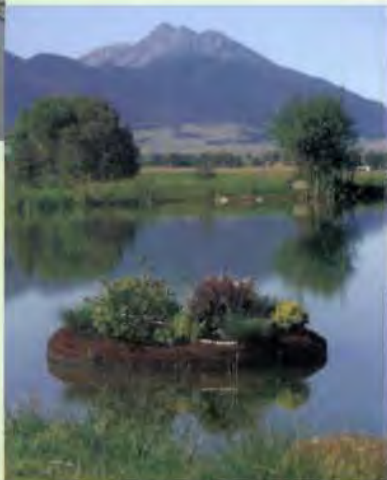
## What is a BioHaven® floating island?



A BioHaven is a man-made ecosystem that mimics naturally-occurring floating wetlands. The result is a highly efficient, natural way to improve water quality by filtering pollutants and removing excess nutrients.

BioHaven floating islands are porous mats made from a matrix of fibers derived from 100% recycled plastic and bonded together with foam to provide buoyancy. The mats are planted with sod, garden plants or wetland vegetation appropriate to their environment.

Left to flourish, this ecosystem becomes home to a diverse mix of wildlife.



Over three thousand BioHavens® have been successfully deployed in many diverse waterways – public and private, domestic and international.

### Wastewater and Water Remediation:

Wastewater treatment, Wiconisco, PA  
Lower Seletar Reservoir in Singapore  
Hamilton Lake, New Zealand  
Zoo Montana, Billings, MT  
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Pixie Woods, Stockton, CA  
Fairgrounds Lake, Helena, MT  
Sam Livingston Fish Hatchery, Calgary, Canada  
Sante Fe Irrigation, Rancho Sante Fe, CA

### Habitat Restoration and Aesthetics:

Eagle Rock Golf Course, Billings, MT  
Loon habitat, Big Sky, MT  
Garden in the Woods, Framingham, MA  
Lake Sinclair (Fish and Game), Milledgeville, GA  
Citizens for Conservation wetland restoration, Barrington, IL  
Turtle habitat, Toronto Zoo, Canada  
Caspian Tern Nesting Island, Summer Lake, OR

### For more information:

Floating Islands West, LLC  
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# BioHaven® floating islands

using nature  
to restore our natural world

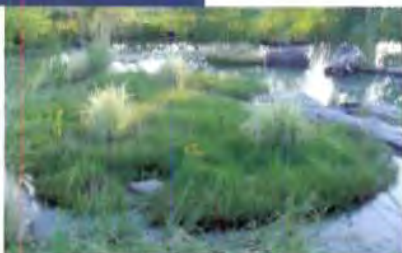
# cleansing

BioHaven® floating islands naturally cleanse water

A BioHaven floating island is an example of Biomimetics, the science of adapting designs from nature to solve modern problems. BioHavens use natural microbial processes to cleanse water. The matrix, and plant roots that grow through it, provide essential surface area for microbes to reproduce. Microbes (bacteria), occurring naturally in water, evolve quickly to remove contaminants of all kinds—

nutrients caused by fertilizer run off, organic waste, nitrates, phosphates, ammonia and heavy metals such as copper and zinc. The effectiveness of BioHavens comes from the fibrous matrix base, providing an expanded surface area for microbes to grow. For example, a 250 sq ft BioHaven provides one acre of “concentrated” wetland surface area. This generates extensive surface area allows microbes

to create a concentrated wetland effect that makes BioHaven many times more effective than nature.



# nurturing

BioHaven® floating islands become home to a diverse mix of wild life

BioHavens are truly havens for all kinds of wildlife, starting with microbes. At the base of the food chain, these multiply profusely and support the diverse wildlife that come to inhabit the islands.

Damsel flies and dragonflies hover round a new island. Ducks use them for brooding and roosting, loons nest on them, and plant roots that grow through the protective core of the island provide a food source for fish.



# enhancing

BioHaven® floating islands: A natural and beautiful solution



**Zoo Montana**  
BioHavens have made life more fun for two river otters while cleaning their water.



**Citizens for Conservation**  
A new wetland has been created in the suburbs of Chicago using BioHavens.



**Garden in the Woods**  
BioHavens in the shape of lily pads were a highlight of an art project.



**Wiconisco Water Treatment**  
BioHavens flourish while cleansing the water of excess nutrients at a wastewater facility.

From: jim@becnet.org [mailto:jim@becnet.org]  
Sent: Thursday, May 28, 2009 9:30 AM  
To: Brown, Delores; pgosselin@buttecounty.net; Barris, Lynn; Barbara Vlamis  
Subject:

May 28, 2009

Ms. Delores Brown, Chief, Office of Environmental Compliance,  
Department of Water Resources,  
P. O. Box 942836,  
Sacramento, CA 94236  
delores@water.ca.gov.

Re: NOTICE OF PREPARATION of the ENVIRONMENTAL IMPACT REPORT AND ENVIRONMENTAL IMPACT STATEMENT FOR THE BAY DELTA CONSERVATION PLAN (BDCP).

Dear Ms. Brown:

Butte Environmental Council, a public benefit corporation representing 850 members, is submitting the following comments and questions for the NOTICE OF PREPARATION of the ENVIRONMENTAL IMPACT REPORT AND ENVIRONMENTAL IMPACT STATEMENT FOR THE BAY DELTA CONSERVATION PLAN (BDCP).

Introduction: BEC objects to the NOTICE OF PREPARATION of the ENVIRONMENTAL IMPACT REPORT AND ENVIRONMENTAL IMPACT STATEMENT FOR THE BAY DELTA CONSERVATION PLAN (BDCP) because:

1. The description of the Project is not clear in the Notice;
2. The BDCP requires upstream water management projects to supply the water to operate pumps and therefore environmental analysis should be tiered under one or more of these projects (SVWMA, SVIWMP).
3. The project may result in significant adverse environmental impacts and poses significant unknown risks to the environment upstream and downstream from the Delta.
4. The project implies the intention of overriding the State and Federal Endangered Species Acts by promotion of "co-equal goals" of "ecological restoration" and "water supply".
5. The BDCP makes no effort to consider decreased demand for water exports. The BDCP assumes increased demand South of Delta (SOD) will result in sustained or increased export from the Delta.

1. The description of the Project is not clear in the Notice.

The need for the BDCP appears to be the implementation of significant environmental, infrastructure and operational changes to the artificial water supply systems of the Sacramento-San Joaquin Delta. While these changes appear to be focused on the Delta itself, the impacts associated with sustained/increased water extractions from the system will occur in both the upstream watersheds and the downstream ocean environment. The changes include the construction of a peripheral canal (renamed "isolated transfer facility"). Unfortunately the NOP fails to provide a sufficient draft BDCP plan that the public and affected agencies and jurisdictions can review to provide meaningful assessments and comments on the numerous and consequential environmental impacts of the BDCP on the Delta, the watersheds, and the associated Pacific Ocean environment.

2. The BDCP requires upstream water management plans/projects to supply the water to operate pumps and therefore environmental analysis should be tiered under one or more of these projects (SVWMA, SVIWMP).

While the Delta infrastructure is vulnerable to numerous disturbances that may alter the current conditions, the availability of water that flows through the Delta predicated the Delta-specific management decisions that must be made. The agencies recognize the importance of the Sacramento Valley Watershed in providing the water and have devised plans to operate the North of Delta (NOD) component of the system. But to date, there has been no comprehensive environmental review of the supply system. This is like designing and constructing a plumbing system in a building before securing a sustainable source of water to fill the pipes. The BDCP is being developed to set out near-term and long-term approaches to meet the objectives of providing for the conservation of covered species and their habitats, addressing the requirements of the federal and State endangered species laws, and improving water supply reliability. A comprehensive EIR/EIS of the Sacramento Valley Water Management Agreement (Phase 8, 2001, SVWMA) and/or the Sacramento Valley Integrated Regional Water management Plan (SVIRWMP 2005) should be complete prior to initiation of an EIR/EIS for the BDCP. The timing of the BDCP review before the SVWMA review is inappropriate.

Operation of Delta export pumps relies of water flowing from the Sacramento River into the San Joaquin River. There are at least three projects mentioned in the Sacramento Valley Integrated Regional Management Plan (SVIRWMP) being floated to "improve" water supply reliability from this watershed: integration of the lower Tuscan aquifer formation into the state water supply through conjunctive water management, constructing canals and pumps to create Sites reservoir, and enlarging Shasta reservoir. Additionally, these plans assume reoperation of both Shasta and Oroville reservoir.

Integration of the Tuscan aquifer system into the state water supply requires conversion of a balanced aquifer that provides baseflow to east-side streams and water supply to groundwater dependent municipalities and farms into a widely fluctuating underground reservoir. There is significant opposition to this proposal. Butte Environmental Council has raised legal challenges to studies and aquifer performance testing that would decrease streamflow, threaten native valley oak trees, and endanger the water supply for groundwater dependent farmers. Impacts to aquatic habitat, including habitat for listed anadromous fish, would inevitably result in declines in salmon and steelhead populations in the Sacramento Valley Watershed, the Delta and the Ocean. Declining water table levels would require independent farmers to deepen wells, increase pumping costs and, in some cases, abandon farming operations. Land subsidence associated with overdrafted aquifers would impact infrastructure and decrease water storage capacity.

Building Sites Reservoir infrastructure would require establishment of canal right-of- ways and would flood a coast-range valley that is currently valued for grazing and oak woodland habitat. There are indications that Sites Reservoir would chemically transform river water into reservoir water with elevated levels of metals and other pollutants, including methyl mercury, from the valley's soil. This proposed reservoir would increase the ability of agencies to eliminate natural flow regimes that the Sacramento River needs to maintain riparian habitat.

Raising Shasta Reservoir would wash away a long-treasured trout fishery and 26 sites along the McCloud River that are sacred to the Winnemem Wintu American Indian tribe. The cultural value of this land is of paramount importance. The recreational value of the fishery is also of great concern.

3. The Project may result in significant adverse environmental impacts and poses significant unknown risks to the environment upstream and downstream from the Delta.

Central Valley Chinook salmon, delta smelt, longfin smelt, green sturgeon and other species have crashed to record low population levels, due to massive water exports out of the California Delta and Central Valley dam operations. The destruction of the natural upper Feather River and Sacramento River anadromous spawning grounds that occurred as a result of dam building has not been mitigated by attempts to recreate successful regeneration through the operation of artificial hatcheries and the trucking of smelts bypassing natural migration routes. The single location of robust Central Valley Spring Run Chinook Salmon regeneration occurs in Butte Creek (located in Butte County). This stream is vulnerable to drawdown during the springtime up-migration of Chinook salmon when farmers are flooding rice fields and irrigating orchards. Any attempt to increase surface water transfers from the Sacramento Valley by using groundwater substitution will exacerbate existing threats to the delicate balance that allows this irreplaceable natural resource to thrive.

The impacts to recreational and commercial fishing associated with the decline of salmon populations have been severe. Increasing demands on the hydrology of the Sacramento Valley to meet the demands of the BDCP must be analyzed by the EIR/EIS to consider impacts to areas outside of the Delta. Coastal fishing economies have been severely impacted by the failure of the Central Valley plumbing (including areas upstream from the Delta) to provide adequate habitat for migration, regeneration and rearing. Acknowledgements of potential impacts on the Sacramento Valley economy that is dependent on a balanced groundwater supply must be considered. Municipalities and orchards located on the up-gradient portion of the Eastern Sacramento Valley aquifer system are totally dependent on groundwater.

4. The project implies the intention of overriding the State and Federal Endangered Species Acts by promotion of "co-equal goals" of "ecological restoration" and "water supply".

A basic tenant of the BDCP is the promotion of "co-equal goals" of "ecological restoration" and "water supply" violates the state's Natural Community Conservation Planning Act (NCCPA). The primary objective of the NCCP program, broader in its orientation than the California and Federal Endangered Species Acts, is "to conserve natural communities at the ecosystem scale while accommodating compatible land use," according to the DFG. BEC believes that these coequal goals violate the Acts. Protection of endangered species comes first - it is not a coequal goal.

5. The BDCP makes no effort to decrease demand for water exports. The BDCP assumes increased demand SOD will result in sustained or increased export from the Delta.

A primary focus of the BDCP is to provide South of Delta (SOD) irrigation water to an ever-hardening demand put forth by the shift to permanent crops and inevitably places the permanent habitat requirements of fish and wildlife North of Delta (NOD) in a secondary tier of importance. The assumption that surplus water exists NOD to meet existing and expanding demand is not valid. Increased demands on water supply in the region and for transfer out of basin to provide water to implement the BDCP, combined with unpredictable weather patterns, creates the probability that unreasonable effects upon fish, wildlife and other instream beneficial uses may occur upstream from the Delta. The BDCP fails to describe the trend of escalating amounts of water exported from the Sacramento Valley to SOD contractors. While the plan indicates water exports will be limited to "the availability of sufficient water, consistent with the requirements of State and federal

law..." the public has no assurance based on past performance that this will hold true. In fact, the assurance that water supply will be valued co-equally with ecological restoration insures that there will be institutional attempts to override environmental law during inevitable emergencies arising from the continued demand by contractors for water especially during dry periods.

#### Alternatives

Alternatives to the proposed Project should be presented to the public. An EIR/EIS must describe a reasonable range of alternatives to the project that could feasibly obtain the Project's objectives. The EIR must evaluate the merits of each alternative and must include a no-project alternative. "Compliance with CEQA is not optional." (Stanislaus Audubon Society, supra, 33 Cal.App.4th at 159, fn. 7.) The EIR/EIS should consider different cropping options, retirement of drainage impaired land SOD, conservation/recycling improvements in municipal water use, and other methods to reduce water demand, which could significantly reduce the need to move water through the Delta.

#### Cumulative Impacts

In addition, an EIR/EIS would necessarily contain further analysis on biological, hydrologic, land use, cumulative, and growth-inducing impacts. The Agencies May Not Avoid Consideration of the Significant Environmental Impacts by Improperly Segmenting the Proposed Activities. The USBR and California DWR are involved in numerous current and reasonably foreseeable water programs and projects that are not disclosed in the Notice and have not been reviewed under CEQA or NEPA. This includes, but is not limited to:

- \* Sacramento Valley Water Management Agreement (Phase 8) 2001
- \* Butte County Integrated Water Management Plan 2005
- \* Sacramento Valley Integrated Regional Water Management Plan 2006

This must be rectified in an EIR/EIS, so that all the impacts associated with the rapidly evolving California Water Supply system may be fully disclosed to the public for review and comment.

#### Summary

DWR's paltry description of the Project fails to comply with the most essential review and disclosure requirements of CEQA, thereby depriving decision makers and the public of the ability to consider the relevant environmental issues in any meaningful way (details above). Rather, DWR swept critical evidence regarding the Project's impacts under the carpet, in violation of CEQA.

DWR's participation in water marketing serves to prop up a failing state policy and abrogates the responsibility of state and local governments to plan for the efficient use of land and water. The market does not provide for the health, safety, or welfare of the public or the environment. The market fosters avarice as witnessed by the continual growth of sprawling subdivisions and development in floodplains, desert farming, and plans to integrate the groundwater of the northstate into the state water supply with all activities subsidized by the public. At a minimum, BEC encourages the DWR to prepare an NOP for the project that more clearly describes activities, connections with other water supply plans, and risks to the economy and environment of the entire watershed

BEC requests notification of any meeting that addresses this proposed BDCP or any other DWR project that requires any consideration of CEQA. Please send any additional documents that pertain to this project.

Jim Brobeck, Water Policy Analyst

Butte Environmental Council  
116 W 2nd St Ste 3  
Chico, CA 95928  
530.891.6424  
F: 530.891.6426



- \* Sacramento Valley Water Management Agreement (Phase 8) 2001
- \* Sacramento Valley Integrated Regional Water Management Plan 2006

**Comments made at the BDCP Scoping meeting on March 26, 2009**

**Good evening. My name is Peter Hunn and I am a third generation farmer from Clarksburg. I am here tonight to speak as an elected board member of the Woodland based company, Cal/West Seeds, the oldest seed co-op in California. I would like to make a short comment and end with two questions. For more than 70 years Cal/West has been producing and supplying seeds grown in the North Delta to customers across the country and in more than 30 foreign countries, most recently China. For the past 45 years, 100% of the world's supply of Dichondra Seed has been produced in the Clarksburg region. The unique soil and climate conditions in the Clarksburg area enable growers to produce high quality Dichondra Seed on a consistent basis. Safflower Seed is another important crop grown in the Clarksburg area. Most of today's commercially grown varieties of Safflower Seed were first developed and reproduced in the Clarksburg area because of the unique soil and high water table. Clarksburg area farmers are successful and prosperous today because they have learned how to adapt and stay on the cutting edge. Cal/West and its growers fear that plans being developed by the BDCP and Delta Vision committees will destroy this region of the Delta and its grower's way of life.**

**Question number one: Have you considered or studied changes to the Clarksburg region hydrology that would result from proposed conveyance or habitat restoration projects?**

**Question number two: What will be the effects on water quality in the North Delta on a year round basis from the proposed conveyance or habitat restoration projects? Will salt water intrusion ultimately make the North Delta a region where agriculture will no longer survive?**

**I would like to conclude by reading you two quotes. The first quote is "I can run wild for six months.....after that, I have no expectation of success". The second quote is "I fear all we have done is awakened a sleeping giant and filled him with terrible resolve". Both these quotes were made by Imperial Fleet Admiral Yamamoto. The first quote was made a year before the attack on Pearl Harbor and the second quote was made immediately following the attack.**

**Please address these issues directly in your final EIR/EIS.**



*Serving the Flood Control Community Since 1926*

# CALIFORNIA CENTRAL VALLEY FLOOD CONTROL ASSOCIATION

Melinda Terry, Executive Director  
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910 K Street, Suite 310, Sacramento, CA 95814  
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May 13, 2009

*Via e-mail*

[BDCPComments@water.ca.gov](mailto:BDCPComments@water.ca.gov)

Ms. Dolores Brown, Chief  
Office of Environmental Compliance  
Department of Water Resources  
State of California  
P.O. Box 942836  
Sacramento, CA 95814

**Subject: Scoping Comments of the California Central Valley Flood Control Association, Bay-Delta Conservation Plan Environmental Impact Report/Environmental Impact Statement**

Dear Ms. Brown:

The California Central Valley Flood Control Association (Association) respectfully submits these scoping comments on the Bay-Delta Conservation Plan Environmental Impact Report/Environmental Impact Statement (EIR/EIS).

The Association was established in 1926 to promote the common interests of its membership in maintaining effective flood control systems in California's Central Valley for the protection of life, property, and the environment. Our members consist of more than 75 levee districts and other flood control entities along the Sacramento and San Joaquin Federal Project Levee system and non-Project levees within the Sacramento-San Joaquin Delta. Our members are significantly concerned with the impacts the BDCP projects and actions will have on the Central Valley flood control system; and therefore, our comments are directed at changes to the flood system anticipated under a BDCP EIR/EIS in regard to habitat improvements and conveyance of water through and around the Delta.

### Sacramento River Flood Control Project

Flood protection in the Sacramento River watershed is primarily provided by the Sacramento River Flood Control Project (System). The System consists of approximately 980 miles of levees plus overflow weirs, pumping plants, and bypass channels that protect communities and agricultural lands in the Sacramento Valley and Sacramento-San Joaquin Delta. Historically, more than 40 percent of the State's runoff flowed to the Delta via the Sacramento, San Joaquin, and Mokelumne rivers. The Yolo Bypass, as the key component of the System, carries 80% of the water at the latitude of Sacramento during extreme floods. The System was originally authorized by Congress in the Flood Control Act of 1917 and implemented throughout the first half of the 20<sup>th</sup> century with a single objective -- flood control.

The 21<sup>st</sup> century has brought with it a broad array of competing demands for the resources of the Sacramento River watershed. In order for the System to survive this century, a comprehensive, holistic, and sustainable set of solutions must be developed and implemented to transition this single objective System into a multi-objective system designed to meet the competing demands of the 21<sup>st</sup> Century.

Our Association believes that the paramount duty of the State of California in developing and implementing the Central Valley Flood Protection Plan (CVFPP) is to provide for the protection of public safety and welfare. The Department of Water Resources' (DWR) own FloodSAFE program's first principle for a FloodSAFE California is: "Approach flood risk management on a system-wide basis, taking into account varied land uses and flood protection needs." The main concern of the Association is that the BDCP needs to comply with the CVFPP by making sure that flood protection and flood capacity of the System is a priority.

The concept of "flood neutral" based on current hydrology does not fully address the future potential impacts on flood control improvements and maintenance allowable under existing easements and works. This document must be consistent with the ongoing California Central Valley Flood Protection Plan. The Yolo Bypass is a critical component of the Sacramento Valley Flood Control Project. Any anticipated work within the Yolo Bypass, including the conveyance or restoration, must coordinate with and accommodate the recommendations of the CVFPP as well as future flood control improvements. It is our assertion that no BDCP projects should be allowed to preempt the paramount public safety function of the flood protection components of the System. There is no acceptable balancing or trade-offs to the flood control function in the Yolo Bypass, or anywhere else in the System, as currently operated or as required in the future. Additionally, adaptive management requirements should be included that require BDCP project modifications in the event of increases in flood risk to System facilities and public safety.

One of the main goals of the BDCP plan is to increase habitat critical to special status fish species, and also establish habitat outside of the central delta in areas currently farmed. If listed species successfully propagate in these new habitat areas, as planned, the existing levee maintaining agencies in the area will experience increased maintenance costs due to the

existence of listed species in the area. These impacts should be evaluated and mitigated in the EIR/EIS.

### Central Valley Flood Protection Plan

The Federal government has reconstructed levee systems along the Sacramento and San Joaquin River systems. The individual levees within these systems act in coordination in order to provide flood benefits to all lands within the Central Valley of California. The current State plan of flood control and the Central Valley Flood Protection Plan are currently evaluating the adequacy of the existing flood control system. In addition, the plans will be looking at increasing protection to urban areas at the 200-year flood frequency level. The results of these plans may cause the Yolo Bypass and other parts of the System to be modified in order to increase their flood carrying capacity. It is imperative that the EIR/EIS evaluate impacts to flood protection when developing habitat or additional floodplains under its plan. The EIR/EIS must avoid reducing current flood capacity throughout the whole Central Valley flood control system.

Evaluation of flooding in the Sacramento and San Joaquin systems requires flood modeling from the Delta all the way up to the highest reaches of the levee systems. The State is currently developing models to perform this type of operation. The BDCP EIR/EIS must utilize these models in order to adequately evaluate the impacts that any habitat or other changes within the flood system under BDCP.

The BDCP draft documents indicate that levees may be removed in order to flood certain areas that are currently being farmed. The BDCP EIR/EIS must evaluate the process by which this could occur, and related impacts, especially for levee systems that are under the jurisdiction of the U.S. Army Corps of Engineers. Substantial public and private investments in water conveyance for irrigation and drainage are potentially at risk by seasonal flooding of levee protected areas. Construction of cross or cutoff levees could limit the extent of damage or stranded investment; however, that land base to support maintenance of such a facility will not exist. Local levee districts will not accept maintenance for such new levees. These possibilities and their physical and financial impacts must be addressed in the EIR/EIS. Breaching adjacent levees increases the potential for erosion, surface water elevation changes, and water quality changes, all to the detriment of local public and private operations and must be properly analyzed and mitigated in the EIR/EIS.

### Yolo Bypass

The BDCP documents indicate that additional water will be diverted into the Yolo Bypass during periods of non-flood flow. This will be accomplished by notching, or gating, the Fremont Weir at a lower elevation than currently exists. During the scoping sessions, very little detail was given in regards to the notching or gating of the Fremont Weir in order to provide flows in the Yolo Bypass during non-flood years. It was indicated during the scoping sessions that flooding could extend 45 days, up to May 1. BDCP draft documents acknowledge that more frequent inundation of the bypass may accelerate the erosion of bypass and downstream levees without appropriate protections. The BDCP EIR/EIS should describe this project in more detail,

including how this will be accomplished and evaluate any impacts, such as seepage, erosion, and wave fetch damage to adjacent levees, that this will cause on neighboring levee systems due to increased flooding of the Bypass. The Bypass levees are designed for short term, infrequent flooding; and are typically not armored by riprap, nor are they designed to prevent seepage for a long period of time.

This change could also significantly change the vegetation regime in the Yolo Bypass; which could therefore, reduce the flood carrying capacity if a riparian forest is allowed to grow in the Bypass as has previously occurred in the Sutter and Tisdale Bypasses. Lack of vegetation maintenance for as little as one year could effectively create thick stands of habitat that would act to increase the coefficient of friction within the Yolo Bypass and change the flood carrying capacity. The BDCP EIR/EIS must describe in detail how this capacity will be maintained or improved.

Previous flood flows in the Bypass, particularly in 1986, demonstrated that flood flows at the design condition for the lower reaches of the Bypass is both higher than design stage and extended into areas not covered by flowage easement. The bypass is already incapable of passing the design flow at the design stage up stream of Liberty Island. New impacts due to additional capacity impairments will affect agricultural land and their attendant habitat values, increase erosion on existing levees, create additional road flooding, reduce local drainage capacity, and potentially allow flood flows to outflank the federal project levee at the northern end of the bypass. Rigorous modeling and monitoring criteria needs to be funded and implemented as a component of any project.

BDCP should firmly commit to flood control primacy in the Yolo Bypass and clearly and unequivocally condition any BDCP action in the floodway as being secondary to the flood control function, and further assert that flood control operations, maintenance and repairs are the foremost and primary activity on the structural section of levees and any permanent establishment of habitat must be consistent with those primary activities within the BDCP study area. An agreement should be reached with the Central Valley Flood Protection Board and the U. S. Army Corps of Engineers which specifically provides for such flood control primacy under present and future conditions. BDCP must assure flood control interests that flood control activities in and adjacent to BDCP projects, including improvements and maintenance, will not be subject to mitigation requirements as a result of the establishment of the BDCP projects or their operation. BDCP must also provide mitigation credits for the use of lands within the Yolo Bypass that would be allocated to the Sacramento River Flood Control Project, with specific reservations for those facilities in or adjacent to the Cache Slough/Yolo Bypass Restoration Opportunity Areas.

#### Non-Project Levees

The BDCP plan refers to a through-Delta portion of its dual conveyance facility; however, there are very few details regarding what this component will entail. The bulk of the levees that currently comprise the through-Delta corridor, and also protect water quality in the western Delta, are non-Project levees; that is, not part of the Federal flood control system. They

are currently maintained by the local reclamation districts. These levees essentially form the Delta and protect all the land-based habitat and improvements, which include thousands of acres of water fowl habitat, State highways and county roads, gas and electrical transmission lines, railroads, and small urban populations. In addition, these levees support channel margin habitat along their slopes, and within the shallow water areas waterward of the levee. They also protect existing channel islands, which are remnants of the original Delta habitat.

Several details should be addressed in the EIR regarding non-Project levees. First, non-Project levees that are going to be deemed part of the through-Delta corridor should be identified. In addition, the document should describe the kind of rehabilitation would be accomplished on these levees to ensure that the failure risk is reduced due to Project levels. In the San Joaquin side of the Delta, of particular concern is expansion of existing floodways in the Paradise Cut area. The modification to this area will cause flows that have historically continued in the San Joaquin River towards Stockton to be diverted west and north along the non-Project levees of the south and central Delta.

In addition, the EIR/EIS should address other levees in the Delta that provide benefit to the through-Delta portion of the dual conveyance facility; in particular, the levees that provide water quality benefits. The “domino effect” should be addressed in regard to levees that may, or may not, be maintained in the future. It is a documented fact that when levees fail and islands are not reclaimed, the neighboring islands experience extensive increases in maintenance due to seepage problems and increased wind/wave fetch forces.

The EIR/EIS should address the other effects of breached levees and non-reclaimed islands. Emergency response to islands critical to the BDCP will be compromised by flooding of islands through which emergency access is required. The EIR/EIS should evaluate the change in Delta hydraulics and fish migration under several scenarios of flooded islands. Flooded islands will cause increased water loss through evaporation. This loss of water would be greater than the current consumptive use of the agricultural islands. The EIR/EIS should address where water will be obtained to offset this loss in order to meet water quality objectives. It is possible that additional control structures may be required to meet water quality objectives if multiple flooded islands are not reclaimed. Levees form the channels which are a great benefit to recreation. The document should also evaluate the impacts to recreation due to unreclaimed flooded islands.

The eastern canal alignment will be within the 100-year floodplain for its entire 49 miles. Although the entire reach is protected by existing levees, these levees do not provide 100-year protection. The EIR/EIS should address the maintenance and rehabilitation of these levees to a level of 100-year protection.

These non-Project levees are maintained by local reclamation districts. The eastern alignment of the canal, in particular, will bifurcate a number of these reclamation districts. The BDCP document should address the future of reclamation districts once a canal is built through their boundaries. The canal will affect both the operation and maintenance of existing levees, possibly cause seepage problems that would hinder the structural stability of these levees, and would also create a separation of landowners that would change the ability to drain the lands.

All existing habitat in the Delta is protected by levees. The BDCP document should address how this existing habitat will fare in the future, especially if levees should fail and islands are not reclaimed. The scoping sessions did not present any information regarding existing habitat and the future of this habitat. In addition, the BDCP document should investigate the possibility of increasing habitat, such as channel margin habitat, in conjunction with rehabilitation of existing levees that are important to the through-Delta portion of the dual conveyance facility. These multi-objective projects could provide extreme benefit to the Delta lands and habitat.

#### U.S. Army Corps of Engineers' Levee Standards and Vegetation

The Corps of Engineers has recently restated its National Levee Inspection Standard and vegetation management guidelines, ETL 1110-2-571. These requirements reinforce its requirements that vegetation (habitat) be removed from certain levees. The California Department of Water Resources is a party to a recent agreement titled, *California Central Valley Flood System Improvement Framework* which specifically states, "New levees being added to the System (such as setback levees, backup levees, and ring levees) will also be designed, constructed, and maintained to ETL Standards." The BDCP EIR/EIS should address how this will affect its plans. Habitat creation in the floodway can impact flood carrying capacity and other flood control benefits that currently exist. Successful habitat development in areas adjacent to levees and other water control features bring increased regulatory compliance costs and restrictions. It is essential to evaluate and compensate for these impacts. The inability to maintain habitat development in the future could cause additional problems. Under the topic of adaptive management, the BDCP should require habitat removal should it prove to negatively affect flood control, or have impacts to human health and safety.

#### Adaptive Management

The adaptive management process proposed in BDCP draft documents fails to describe how monitoring will be designed to establish cause and effect relationships between implementation of specific conservation measures or operation of new conveyance facilities and the type and magnitude of human impacts from those measures such as economic and public safety. Draft documents gives examples of a tidal marsh restoration project being reduced or discontinued or water operation being modified if its providing little benefit to covered species, however it does not explain what will happen if a habitat project or water operation results in causing economic or physical harm to humans in the Delta. Due to the significant scientific uncertainties regarding the impacts from the construction and operation of new conveyance facilities and the implementation of habitat conservation measures in the Delta, the EIR/EIS must include an adaptive management process that includes modification of any conveyance or habitat project that results in human consequences, including reducing flood protection. For instance, if the Fremont Weir project mentioned earlier is implemented and funding for vegetation maintenance in the Yolo Bypass is not available and a riparian forest starts growing in the Bypass, the Plan needs to adaptively manage the habitat measure to assure flood capacity is returned. Just as there is an adaptive management process for responses by covered species to




the Plan's implementation, there also needs to be an adaptive management process to respond to negative human impacts caused by the Plan's implementation. Otherwise, this is not a complete adaptive management plan.

Summary

Finally, it is impossible to provide comprehensive or complete comments on the Bay Delta Conservation Plan Environmental Impact Report/Environmental Impact State or evaluate the cumulative impact of various projects to be in a final EIR/EIS due to the lack of a project description or specific performance targets such as, but not limited to, bypass flows and outflows, greenhouse gas impacts, or seismic stability. The purpose of an EIR is to provide State and local agencies and the general public with detailed information on the potentially significant environmental effects which a proposed project is likely to have and to list ways which the significant environmental effects may be minimized and indicate alternatives to the project. The lack of specificity or details on the proposed project prevents the Association and its local agency members from being able to identify the significant environmental effects of the project action or how to avoid any significant environmental effects, or how to mitigate those significant environmental effects, where feasible, pursuant to the basic purpose and goals of CEQA. We therefore expect to be provided the opportunity in the future to see and comment on a detailed project description, alternatives, and proposed mitigations before a final EIR/EIS is approved.

Thank you for the opportunity to submit these scoping comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Terry". The signature is fluid and cursive, with a large loop at the end of the last name.

Melinda Terry,  
Executive Director

**bdcpcomments**

**From:** Bill Wells [commodorewells@msn.com]  
**To:** bdcpcomments  
**Cc:** phunn@frontiernet.net  
**Subject:** Comments on Bay Delta Conservation Plan (BDCP)  
**Attachments:**

**Sent:** Wed 5/13/2009 12:33 PM

Dear Ms. Delores Brown - Thank you for taking the time to answer the following questions regarding the BDCP.

1. The peripheral canal diverting water around the Delta has the potential to cause an ecological disaster of monumental proportions, killing wildlife and allowing invasive species to prosper. Owens Valley, Mono Lake, San Joaquin River, Trinity River, and the Colorado Delta come to mind. Can you provide a few examples where a diversion of this type has actually helped the ecology of a waterway?
2. Does Resource Secretary Mike Chrisman's family business Chrisman Ranches in Visalia receive any water that is diverted from the Delta and or the San Joaquin River?
3. The proposed dam or barrier on Three Mile Slough possibly will cause a major silting problem on the San Joaquin River side of the slough. Has DWR researched and found a solution for this potential problem?

Best regards,

Bill

Bill Wells  
Executive Director  
California Delta Chambers & Visitor's Bureau  
PO Box 1118  
Rio Vista, CA 94571



**CALIFORNIA FARM BUREAU FEDERATION**  
NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5655 · FAX (916) 561-5691

May 14, 2009

Lori Rinek  
Sacramento Fish & Wildlife Office  
2800 Cottage Way, W-2605  
Sacramento, CA 95825

*Via First-Class Mail & Email*  
*lori\_rinek@fws.gov*

Delores Brown, Chief  
Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

*Via First-Class Mail & Email*  
*BDCPcomments@water.ca.gov*

***Re: Comments on the BDCP EIR / EIS; State Clearinghouse Number: 2008032062.***

Dear Ms. Rinek and Ms. Brown:

The California Farm Bureau Federation ("California Farm Bureau") is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. California Farm Bureau is California's largest farm organization, comprised of 53 county California Farm Bureaus currently representing approximately 85,000 members in 56 counties. California Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

California Farm Bureau appreciates the opportunity to submit comments on the Notice of Intent/Notice of Preparation of a draft Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") for the Bay Delta Conservation Project ("BDCP"), which encompasses requirements of the federal Endangered Species Act ("ESA"), the California Endangered Species Act ("CESA") and the State of California's Natural Communities Conservation Planning Act ("NCCPA"); as well as, DWR's (and potentially State and Federal water contractor's) intention to apply for ESA and CESA incidental take permits ("ITP") for water operations and management activities in the Sacramento-San Joaquin Delta.

California Farm Bureau supports the BDCP process and the collaboration among many different stakeholders. Nevertheless, California Farm Bureau has reservations about how impacts to agricultural resources will be addressed in the upcoming environmental review. California Farm Bureau is concerned that the Fish & Wildlife Service, Bureau of Reclamation, National Marine Fisheries Service, and the Department of Water Resources (hereinafter “Agencies”) may fail to recognize that agricultural land and water quality resources are a part of the physical environment, thus consideration of impacts to agricultural resources must be included as part of a proper National Environmental Policy Act (“NEPA”) and California Environmental Quality Act (“CEQA”) environmental review.

### **Agricultural Resources Must Be Considered During Environmental Review**

Agricultural resources are an important feature of the existing environment of the State, and are protected under federal policies, such as the Farmland Protection Policy Act and NEPA, State policies, and CEQA. Agriculture is the number one industry in California, which is the leading agricultural state in the nation.<sup>1</sup> Operation of the Central Valley Project and the State Water Project helped to transform agriculture throughout the State. Agriculture is one of the foundations of this State's prosperity, providing employment for one in 10 Californians and a variety and quantity of food products that both feed the nation and provide a significant source of exports.<sup>2</sup> In 1889, the State's 14,000 farmers irrigated approximately one million acres of farmland between Stockton and Bakersfield. By 1981, the number of acres in agricultural production had risen to 9.7 million.<sup>3</sup> More recently, the amount of agricultural land in the State has declined. From 1982 to 1992, more than a million acres of farmland were lost to other uses. Between 1994 and 1996, another 65,827 acres of irrigated farmland were lost, and this trend is expected to continue.

In order to preserve agriculture and ensure a healthy farming industry, the Legislature has declared that “a sound natural resource base of soils, water, and air” must be sustained, conserved, and maintained.<sup>4</sup> Prior to converting agricultural lands to other uses, decision makers must consider the impacts to the agricultural industry, the state as a whole, and “the residents of this state, each of whom is directly and indirectly affected by California agriculture.”<sup>5</sup>

Both NEPA and CEQA require analysis of significant environmental impacts and irreversible changes resulting from proposed projects. These include unavoidable impacts; direct, indirect, and cumulative effects; irreversible and irretrievable commitment of resources; relationships between short-term uses and long-term productivity; and growth-inducing impacts to the environment. In both CEQA and NEPA, the physical environment includes agricultural lands and resources. Given

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<sup>1</sup> Food & Agr. Code, § 802 subd. (a).

<sup>2</sup> CALFED Final Programmatic EIS/EIR, July 2000, pg. 7.1-1.

<sup>3</sup> Littleworth & Garner, California Water II (Solano Press Books 2007) p. 8.

<sup>4</sup> Food & Agr. Code, § 802 subd. (g).

<sup>5</sup> Food & Agr. Code, § 803.

the national and statewide importance of agriculture and the legal requirements of environmental review, California Farm Bureau urges the Agencies to properly assess all direct and indirect effects on the agricultural environment resulting from the proposed BDCP project in the EIS/EIR.

### **Agricultural Resource Must be Considered In a Legally Defensible NEPA Review**

#### 1. Farmland Protection Policy Act

As a result of substantial decreases in the amount of open farmland, Congress enacted the Farmland Protection Policy Act (FPPA) in 1981 as part of the Agriculture and Food Act (final rules and regulations were published in the Federal Register on June 17, 1994).<sup>6</sup> In its statement of purpose, the FPPA aims to minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses. Projects are subject to FPPA requirements if they may irreversibly convert farmland (directly or indirectly) to nonagricultural use and are completed by a Federal agency or with assistance from a Federal agency.<sup>7</sup> Such projects shall also be administered in a manner compatible with local government and private programs and policies to protect farmland.<sup>8</sup>

To help assist federal agencies in minimizing the loss of farmland, guidelines were developed.<sup>9</sup> Prior to progressing with the BDCP project, the Agencies should review these guidelines and incorporate the criteria into their NEPA analysis:<sup>10</sup>

As stated above and as provided in the Act, each Federal agency shall use the criteria provided in § 658.5 to identify and take into account the adverse effects of Federal programs on the protection of farmland. *The agencies are to consider alternative actions, as appropriate, that could lessen such adverse effects*, and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government and private programs and policies to protect farmland.<sup>11</sup>

[....]

It is advisable that evaluations and analyses of prospective farmland conversion impacts be made early in the planning process before a site or design is selected, and that, where possible, agencies make the FPPA evaluations part of the National Environmental Policy Act (NEPA) process.<sup>12</sup>

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<sup>6</sup> 7 U.S.C. §§ 4201 et seq.

<sup>7</sup> 7 U.S.C. § 4201.

<sup>8</sup> 7 C.F.R. § 658.4.

<sup>9</sup> See 7 C.F.R. §§ 658.1 et seq.

<sup>10</sup> Agencies are to integrate the NEPA reviews with other agency planning and review processes, and coordinate with other federal agencies and with similar state processes when appropriate. (40 C.F.R. § 1500.2 subd. (c); 40 C.F.R. § 1506.2.)

<sup>11</sup> 7 C.F.R. § 658.4, emphasis added.

<sup>12</sup> 7 C.F.R. § 658.4 subd. (e).

## 2. NEPA

In addition to the FPPA, NEPA itself requires review of the agricultural environment. Title I of NEPA contains a Declaration of National Environmental Policy which requires the federal government to use all practicable means to create and maintain conditions under which man and the environment, including the agricultural environment, can exist in productive harmony.<sup>13</sup> Section 102<sup>14</sup> requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach.<sup>15</sup> Specifically, all federal agencies are to prepare detailed statements assessing and evaluating the environmental impact of and alternatives to major federal actions significantly affecting the environment.<sup>16</sup>

Given the magnitude and scope of the BDCP project, significant environmental impacts, including direct, indirect, and cumulative effects, will occur. In determining “significance” under NEPA, the discussion in the BDCP EIS/EIR should focus on the “context” and the “intensity” of the impacts.<sup>17</sup> Under NEPA, context “means that the significance of an action must be analyzed in several contexts such as society as whole (human, national), the affected regions, the affected interests, and the locality.”<sup>18</sup> Intensity is measured, in part, by considering: (1) unique characteristics of a geographic area such as proximity to historic or cultural resources, parkland, prime *farmlands*, wetlands, wild and scenic rivers, or ecological critical areas; (2) the degree which the effects on the quality of the human environment are likely to be highly controversial; (3) the degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principal about a future consideration; (4) *whether the action is related to other actions with*

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<sup>13</sup> 42 U.S.C. §§ 4321 et seq.

<sup>14</sup> Among other things, Section 102(2) of NEPA requires agencies to:

(C) Include in every recommendation or report on proposals for legislation and other major Federal Actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

- (i) The environmental impact of the proposed action,
- (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) Alternatives to the proposed action,
- (iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented; ...

(E) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. (42 U.S.C § 4332(2)(C), § 4322(2)(E).)

<sup>15</sup> 42 U.S.C § 4332(2).

<sup>16</sup> *Id.*

<sup>17</sup> 40 C.F.R § 1508.27.

<sup>18</sup> *Id.*, *emphasis added.*

*individually insignificant but cumulatively significant impacts*; (5) whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.<sup>19</sup>

California Farm Bureau would like to caution the Agencies against overlooking their obligation to consider impacts to agricultural resources, as many federal agencies have made this mistake in the past. On August 30, 1976 the Council on Environmental Quality (“CEQ”) issued a memorandum to federal agencies informing them of the need to consider farmland loss as a potentially significant environmental impact. On August 20, 1980, the CEQ issued the following additional guidance to the heads of agencies regarding losses of agricultural lands because:

Approximately one million acres of prime and unique agricultural lands are being converted irreversibly to non-agricultural uses each year. Actions by federal agencies such as construction activities, development grants and loans, and **federal land management decisions** frequently contribute to the loss of prime and unique agricultural lands directly and indirectly. Often these losses are unintentional and are not necessarily related to accomplishing the agency’s mission.<sup>20</sup>

For this reason, the CEQ advised:

If an agency determines that a proposal significantly affect[s] the quality of the human environment, it must initiate the scoping process [cite omitted] to identify those issues, **including effects on prime or unique agricultural lands, that will be analyzed and considered, along with the alternatives available to avoid or mitigate adverse effects...** The effects to be studied include ‘growth inducing effects and other effects related to inducing changes in the patterns of land use...cumulative effects...mitigation measures...to lessen the impact on...agricultural lands.’<sup>21</sup>

Clearly in light of this guidance, the Agencies must consider agricultural resources as part of the physical environment when undertaking its NEPA analysis of alternatives, direct and indirect impacts, cumulative impacts, and mitigation alternatives for the BDCP EIS/EIR.

### **Agricultural Resource Must be Considered In a Legally Defensible CEQA Review**

One of the major principles of the State’s environmental and agricultural policy is to sustain the long-term productivity of the State’s agriculture by conserving and protecting the soil, water, and

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<sup>19</sup> *Id.*, *emphasis added*.

<sup>20</sup> 45 Fed. Reg. 59189, *emphasis added* (see copy of document attached marked Attachment A).

<sup>21</sup> *Id.*, *emphasis added* (attached).

air that are agriculture's basis resources.<sup>22</sup> As currently proposed, the BDCP project alternatives will convert agricultural lands to other uses, including land for habitat restoration, conveyance facilities, and levee improvements. This conversion would add to the existing statewide conversion of substantial amounts of agricultural lands to other uses, and may conflict with adopted plans of many local governments, including cities and counties, and existing HCPs.

Since the environmental review for the BDCP will result in a joint State and Federal environmental document, the Agencies must consider the fact that CEQA also recognizes agricultural land and water resources as a part of the physical environment. Any and all adverse environmental effects on agricultural resources resulting from the BDCP project, as well as cumulative impacts that will occur over time, must be fully assessed and disclosed under CEQA, as well as avoided or mitigated as required by CEQA.

In CEQA, "[s]ignificant effect on the environment" means, "a substantial, or potentially substantial, adverse change in the environment."<sup>23</sup> The CEQA Guidelines make it clear the "environment" in question encompasses, "any physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise and objects of historic or aesthetic significance."<sup>24</sup> For further guidance as to the exact meaning of "significance," the CEQA Guidelines provide a list of 29 general effects that will cause a project to "normally have a significant effect on the environment."<sup>25</sup>

Of particular relevance is CEQA Guidelines Appendix G, section II, Agricultural Resources, which states the following:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agriculture Land Valuation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optimal model to use in assessing impacts on agriculture and farmland. Would the project:

- (a) Convert prime farmland, unique farmland, or farmland of state-wide importance . . . to non-agricultural use?
- (b) Conflict with existing zoning for agricultural use or a Williamson Act contract?
- (c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use?

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<sup>22</sup> Food & Agr. § 821 subd. (c).

<sup>23</sup> Pub. Resources Code, § 21068.

<sup>24</sup> Pub. Resources Code, § 21060.5.

<sup>25</sup> Cal. Code Regs., tit. 14, § 15000 et seq. ("CEQA Guidelines, Appendix G).



### **Specific Environmental Concerns That Must Be Analyzed in the Joint EIS/EIR**

Having reviewed the Notice of Intent and the Notice of Preparation, California Farm Bureau has identified several specific concerns relating to agricultural resources that should be analyzed in the BDCP EIS/EIR, as follows:<sup>26</sup>

- **Accurate and Complete Identification of Agricultural Resources:** The agricultural lands surrounding the BDCP Project must be accurately and completely depicted. The California Department of Conservation (“DoC”), through the farmland Mapping and Monitoring Program (“FMMP”), monitors changes in Prime farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance. The EIS/EIR must incorporate the FMMP Maps as a basis for its analysis. The acreage of farmland that will be converted and/or impacted from this project must be included in the EIR/EIS. Additionally, any other changes in the existing environment due to the project which, due to their location or nature, could result in conversion of agricultural to nonagricultural use must also be examined.

California Farm Bureau also recommends that any agricultural impact discussion for areas outside existing Important Farmland Map boundaries be based on the agricultural land definition in the Williamson Act.<sup>27</sup> This would also be in accordance with the definition of “agricultural land” in CEQA. Public Resources Code Section 21060.1 provides:

- (a) “Agricultural land” means prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California.
  - (b) In these areas of the state where lands have not been surveyed for the classifications specified in subdivision (a), “agricultural land” means land that meets the requirements of “prime agricultural land” as defined in paragraph (1), (2), (3), or (4) of subdivision (c) of section 51201 of the Government Code.
- **Accurate and Complete Analysis of All of the Impacts:** The impact analysis in the EIS/EIR must not be limited to the amount of area that would be physically occupied by the BDCP Project. The analysis should consider the construction of ancillary facilities and supporting infrastructure, mitigation areas, as well as growth-inducing impacts and social and economic impacts. These potentially significant impacts must not be overlooked.

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<sup>26</sup> Note: this list is not exhaustive.

<sup>27</sup> The California Land Conservation Act of 1965 (Government Code, §§ 51200 *et seq.*), commonly known as the “Williamson Act.”

Furthermore, the permanent and temporary disturbances caused directly by construction activities must be fully analyzed in the EIS/EIR.

- **A Full Range of Alternatives Must be Examined:** The Agencies shall identify and rigorously examine all reasonable alternatives for the BDCP project.<sup>28</sup> The range of alternatives must be feasible and must avoid or substantially lessen the project's significant environmental effects<sup>29</sup> "even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly."<sup>30</sup> A feasible alternative is one that is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."<sup>31</sup>
- **All Impacts to Agricultural Resources Must be Fully Mitigated:** All feasible mitigation measures proposed in the EIS/EIR to address the impacts to agricultural resources must be fully described and must mitigate for the impacts. A project of this magnitude has the potential to convert significant amounts of agricultural land to nonagricultural use. To address this, sufficient funding should be allocated for mitigation of agricultural land loss on a per acre basis.<sup>32</sup>
- **This Project Must Comply With the Williamson Act:** The Williamson Act provides a tax incentive for the voluntary enrollment of agricultural and open space lands in ten year contracts between local government and landowners. The contract enforceably restricts the land to agricultural and open space uses and defined compatible uses. A project such as this would not be compatible with the Williamson Act. Each local government that participates in the Williamson Act designates certain boundaries within their jurisdictions as

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<sup>28</sup> 40 C.F.R. §§ 1500.2 subd. (e), 1501.2 subd. (c), 1502.1, 1502.14 subd. (a), 1502.15 subd. (d).

<sup>29</sup> Pub. Resources Code, §§ 21002, 21001.1(a), 21100(b)(4), 21150.

<sup>30</sup> Cal. Code Regs., tit. 14, § 15126.6, subd. (b), *emphasis added*.

<sup>31</sup> *See* Pub. Resources Code, § 21061.1; Cal. Code Regs., tit. 14, § 15364.

<sup>32</sup> The Agencies should consult with applicable county and local governments to assess local agricultural mitigation measures. For example, San Joaquin County and Yolo County have adopted ordinances to preserve agricultural land through the use of agricultural easements for agricultural land lost to development. San Joaquin County requires a 1:1 mitigation ratio for any "General Plan amendment that changes the designation of any land from an agricultural to a nonagricultural use" or any "Zoning Reclassification that changes the permitted use from agriculture to a nonagricultural use, regardless of the General Plan designation." (*San Joaquin County General Plan*, Section 9-1080.3(a) (c)) Yolo County requires a 1:1 mitigation ratio for any "conversion or change from agricultural use to a predominantly non-agricultural use... ." (*Yolo County General Plan*, Section 8-2.2416(3)) In addition, various cities within the counties of the Delta have adopted their own agricultural mitigation measures. The cities of Brentwood, Davis, Gilroy, and Stockton have also adopted ordinances to preserve agricultural land through the use of agricultural easements for agricultural land lost to development. Brentwood requires a 1:1 mitigation ratio "by any applicant for a subdivision or any other discretionary land use entitlement which will permanently change agricultural land ... to any nonagricultural use." (*Brentwood Municipal Code*, Section 17.730.030(A)(B).) Davis requires that "[t]otal mitigation for a development project shall not be less than a ratio of two acres of protected agricultural land for each acre converted from agricultural land to nonagricultural land." (*Davis Municipal Code*, Section 40A.03.025(c).)

“agricultural preserve” and land within these boundaries can be enrolled in the Williamson Act. Once enrolled, local governments calculate the property tax assessment based on the actual use of the land instead of the potential land value assuming full development.

A Williamson Act contract lasts a minimum of ten years, and automatically renews each year, so that a minimum ten year contract is always in effect. A nonrenewal of the contract can be filed by either the landowner or the local government. Unless the contract is cancelled<sup>33</sup>, the restrictions on the use of the property continue for the life of the contract.

Any discussions regarding mitigation for this project must include a discussion of the Williamson Act’s policies regarding public acquisition of and public improvements within, agricultural preserves and on lands under Williamson Act contract.<sup>34</sup> In addition to disfavoring locating public improvements in agricultural preserves, a public agency must consult with the Director of the Department of Conservation whenever it appears likely that a public improvement may be located in an agricultural preserve.

At a minimum, the EIS/EIR must include the following specific information on the agricultural preserves and Williamson Act contracts in the project area: (1) a map detailing the location of agricultural preserves and Williamson Act contracted land with each preserve. The document must also calculate the total amount of acreage under contract, according to land type (prime or non-prime), that could be either directly or indirectly impacted by this project; and (2) the impacts that public acquisition of areas under Williamson Act contracts would have on nearby properties also under contract. This analysis is similar to the “growth-inducing” impacts analysis under CEQA.

- **Public Acquisition of Property for this Project Must be Limited:** It is unclear at this time how much private property will have to be acquired for this project. The least environmentally damaging and practicable alternative must maximize the use of property already owned by the government before acquiring private land. For land under Williamson Act contract, Government Code Section 51291(c) spells out the requirements for government acquisition of land under contract (*see also* Gov. Code, § 51292 for the findings to be made before acquisition). These requirements must be strictly adhered to whenever any property under contract is acquired for this project.
- **Significant and Cumulative Impacts to Water Resources:** The EIS/EIR must also analyze the direct and indirect impacts of this project on water quality, including the indirect conversion of existing farmland for want of adequate and reliable water supply of sufficient quality, especially in areas within the Delta. Water quality impacts, both direct and indirect, resulting from the conversion of agricultural land to non-agricultural uses must be analyzed

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<sup>33</sup> The Williamson Act contract cancellation process is outlined at Gov. Code, §§ 51280 *et seq.*, and requires a specific set of findings which often includes environmental review pursuant to CEQA.

<sup>34</sup> Gov. Code, §§ 51290 *et seq.* contains the state policy against locating public improvements in agricultural preserves and prescribes the requirements that any public agency must take before locating public improvements in agricultural preserves.

and mitigated. Such analysis should include water supply and water quality and should involve an examination of water supply impacts the project may have, and how that might impact the water supply otherwise available for production agriculture.

- **Social and Economic Impacts Must be Analyzed:**<sup>35</sup> The siting of the BDCP Project through agricultural lands will greatly impact the agricultural industry as a whole, as well as local rural communities. These impacts can be far-reaching and include a loss of jobs, a loss of sales tax revenue which leads to a loss of social services, and a loss of agriculturally-related businesses. Such socio-economic impacts are interrelated with the proposed effects on the physical environment and thus, must be evaluated in the EIS/EIR.<sup>36</sup>

### **Mitigation Strategies Must Be Analyzed**

Give the significant environmental impacts of the Project, including impacts to agricultural lands, both NEPA and CEQA require the Agencies to mitigate impacts. Under NEPA, the mitigation of impacts must be considered whether or not the impacts are significant. Agencies are required to identify and include in the EIS/EIR all relevant and reasonable mitigation measures that could improve the proposed action.<sup>37</sup> Under CEQA, an EIR must propose and describe mitigation measures to minimize the significant environmental effects identified in the EIR.<sup>38</sup> A mitigation measure must be designed to minimize, reduce, or avoid an identified environmental impact or

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<sup>35</sup> NEPA and CEQA requirements for the analysis of social and economic impacts differ somewhat. NEPA requires that an EIS consider social and economic effects if they are related to effects on the natural or physical environment, and the NEPA definition of *effects* includes social and economic factors. (40 C.F.R. §§ 1508.8, 1508.14.) However, the intent of NEPA is that social and economic effects alone should not trigger preparation of an EIS. (40 C.F.R. § 1508.14.) CEQA requires analysis of a proposed project's potential impacts on population growth and housing supply, but social and economic changes are not considered environmental impacts in and of themselves under CEQA, although they may be used to determine whether a physical change is significant or not. CEQA also permits discussion of social and economic changes that would result from a change in the physical environment and could in turn lead to additional changes in the physical environment (CEQA Guidelines, § 15064 subd. (f).)

<sup>36</sup> See 40 C.F.R. § 1508.14, [When socioeconomic effects are interrelated with other effects on the physical environment, then all of these impacts should be addressed together in the EIS.].

<sup>37</sup> NEPA regulations define mitigation as:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments. (40 C.F.R. § 1508.21.)

<sup>38</sup> Pub. Resources Code, §§ 21002.1 subd. (a); 21100 subd. (b)(3); 14 Cal. Code Regs., § 15126.4.

rectify or compensate for that impact.<sup>39</sup> California Farm Bureau urges the Agencies to consider the following mitigation measures for full evaluation within the EIS/EIR:<sup>40</sup>

- Siting and aligning Project features to avoid or minimize impacts on agriculture.
- Examining structural and nonstructural alternatives to achieving project goals in order to avoid impacts on agricultural lands.
- Implementing features that are consistent with local and regional land use plans.
- Supporting the California Farmland Conservancy Project in acquiring easements on agricultural lands in order to prevent its conversion and increase farm viability.
- Restoring existing degraded habitat as a priority before converting agricultural lands.
- Providing water quality reliability benefits to agricultural water users.
- Maintaining water quality standards for all beneficial uses, including agricultural use.
- Focusing habitat restoration efforts on developing new habitat on public lands before converting agricultural land.
- If public lands are not available for restoration efforts, focusing restoration efforts on acquiring lands that can meet ecosystem restoration goals from willing sellers.
- Using farmer-initiated and developed restoration and conservation projects as a means of reaching Program goals.

### **Due Consideration of Relevant Water Quality and Water Rights Requirements and Constraints Is Needed**

The BDCP project proposes a number of large-scale alterations to the physical environmental of the Sacramento-San Joaquin Delta area, including a significant replumbing of the existing system by means of a new peripheral canal around the Delta, in addition to certain proposed improvements to existing through-Delta water conveyance pathways. Of particular concern to Delta interests—and to the California Farm Bureau, as well, as a statewide organization with many members in the Delta and areas upstream of the Delta, as well as elsewhere throughout the state—are the potential, adverse water quality and water supply and water rights impacts of the proposed project on agricultural water users and agricultural land, both within the Delta itself and in areas of upstream of the Delta. To proceed to successful implementation of the proposed project, a major, but inevitable challenge for the BDCP will be to navigate a complex web of legal and regulatory requirements, reaching far beyond mere compliance with CEQA and NEPA alone.

Under CEQA, a “feasible” project—including any “feasible” alternatives and/or mitigation—is a project that is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, *legal*, social, and

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<sup>39</sup> Cal. Code Regs., tit. 14, § 15370.

<sup>40</sup> Please note that this list is not exhaustive and additional mitigation measures addressing agricultural impacts should be analyzed.

technological factors.”<sup>41</sup> By definition, then, a “feasible” project is a project that comports with any laws that might, otherwise, result in an impermissible violation of applicable law or, in some other manner, thwart the project and its successful implementation. It is therefore essential that, in the design, construction, and operation of any new Delta conveyance system or other facilities in the Delta, the BDCP must strictly adhere to established water rights and water quality requirements under applicable state and federal law.

For the BDCP’s consideration in scoping, project development, and eventual project implementation, a number of the more significant constraints and requirements in the area of water rights and water quality are listed below as follows:

1. California’s dual riparian and appropriative water rights system, establishing vested water riparian and appropriative rights (including both pre-1914 and post-1914 appropriative rights) as a species of property right, and also establishing a clear hierarchy of rights and priorities among the various class of water users in times of scarcity or insufficient supply.
2. The Water Code’s Area-, Watershed- and County-of-Origin statutes (Water Code, §§ 108, 10505, 10505.5, 11128, 11460-11463), including the provisions of 11460 and 11463, entitling inhabitants and property owners in the watershed or area of origin, as a matter of first-priority right, to substitute or exchange water supplies, or supplemental water supplies for “adequate compensation,” “reasonably required” to supply existing and/or future beneficial needs in the areas and watersheds of origin.
3. Water Quality, Water Supply, and Water Rights Protections in the Delta Protection Statutes (Water Code, §§ 12200-12233), including:
  - a. The provisions of sections 12202 declaring “the *provision of salinity control and an adequate supply for the users of water in the Sacramento-San Joaquin Delta*” to be one of the “functions to be provided by the [State Water Project], in coordination with the activities of the United States in providing salinity control for the Delta through operation of the Federal Central Valley Project”;<sup>42</sup>
  - b. The provisions of section 12201 declaring a statewide interest in maintaining “*an adequate water supply in the Delta sufficient to maintain and expand agriculture, industry, urban, and recreational development in the Delta area*” and providing “a common source of fresh water for export to areas of water deficiency”;
  - c. The provisions of sections 12200, 12202, 12203, 12204 pertaining to surplus waters, “salinity control and an adequate supply of water for users of water in the Delta,” waters to which Delta users are legally “entitled,” and waters available for export;

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<sup>41</sup> Cal. Code of Regs., tit. 14, § 15364. See also, Pub. Resources Code, §§ 21002, 21002.1, 21061.1, 21081.

<sup>42</sup> See, also, *United States v. State Water Resources Control Board* (1986) 182 Cal.App.3d 82 at 128-129, 135-136.

- d. The provisions of section 12202 pertaining to a potential substitute water supply for Delta water users in lieu of current, on-going salinity control operations of the CVP and SWP.<sup>43</sup>
4. The so-called “No Injury Rule,” allowing a petitioned change in point of diversion, place, or purpose of use only upon approval of the State Water Resources Control Board, subject to protest by any interested person(s) and such conditions as the Board may impose, and upon a finding, following a public process, that the proposed change “will not operate to the injury of any legal user.”<sup>44</sup>
5. The effect of state and federal antidegradation laws and policies on the proposed action, in terms of potential adverse water quality effects in the absence of feasible and effective measures or actions to avoid or mitigate such adverse effects, including:
  - a. The State of California’s existing antidegradation policy, reaffirming the State’s policy to “**achieve the highest water quality consistent with maximum benefit to the people of the State** [...] so as to promote the peace, health, safety and welfare of the people of the State,”<sup>45</sup> and providing that “existing high quality will be maintained until it has been demonstrated [ ] that any change will be consistent with maximum benefit to the people of the State, **will not unreasonably affect present and anticipated beneficial use of such water** and will not result in water quality less than that prescribed in the policies.”<sup>46</sup>
  - b. Requirements of the existing federal antidegradation policy that “water quality necessary to protect [existing instream water uses] shall be maintained and protected [...] and that quality shall be maintained and protected unless the State finds [...], that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters area located [...] [and] [i]n allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully.”<sup>47</sup>
6. Duly established water quality objectives in any existing or future water quality control plan applicable to waters and existing beneficial uses of the Sacramento-San Joaquin Bay-Delta.

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<sup>43</sup> Note: Such a substitute water supply could consist of an adequate supply of “recirculated” freshwater supplies or of direct or indirect deliveries of water from a Delta conveyance facility, either to Delta channels or to Delta lands themselves. Moreover, such a substitute water supply could be provided either in combination with on-going salinity control operations of the CVP and SWP, year-round or seasonally, or else wholly in lieu of such operations. Pertaining to such potential substitute or exchange supplies, see, also, the related provisions of Water Code sections 11460 and 11463.

<sup>44</sup> See Water Code, § 1700, *et seq.*, including §§ 1701, 1701.1, 1701.2, 1703.1, 1703.2, 1701.6. 1704.

<sup>45</sup> See also, legislative declaration in Water Code, § 13000, *et seq.*

<sup>46</sup> “Statement of Policy with Respect to Maintaining High Quality of Water in California,” State Water Resources Control Board Resolution No. 68-16 (Oct. 28, 1968). (See document attached entitled Attachment B.)

<sup>47</sup> 40 C.F.R. § 131.12, see attached document entitled Attachment C.

7. Water quality control planning requirements of the California Porter-Cologne Act,<sup>48</sup> including:
- a. The statement of legislative intent found in Water Code section 13000, declaring the state's "**primary interest** in the conservation, control, and utilization of the water resources of the state, and that the quality of **all** water of the state [ ] **be protected for use and enjoyment the people of the state**";
  - b. The related legislative directive found in section 13000 that "activities and factors which may affect the quality of the water of the state [ ] be regulated to attain **the highest water quality which is reasonable**, considering **all demands** being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible";
  - c. Additional statements of legislative intent concerning water quality and likewise found in section 13000 of the Water Code, including the directive concerning protection of water quality and prevention of "degradation."<sup>49</sup>
  - d. The responsibilities of the regional and state water quality control boards to "establish such water quality objectives in water quality control plans as in [their] judgment will **ensure the reasonable protection of beneficial uses and the prevention of nuisance**,"<sup>50</sup> and, in so doing, to consider various "**factors**" including, but not limited to:
    - i. "**Past, present, and probable future beneficial uses of water.**"
    - ii. "Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto."
    - iii. "**Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.**"
    - iv. "Economic considerations."<sup>51</sup>
8. The State and Regional Water Quality Control Boards' further responsibilities to establish an effective "program of implementation," in connection with an water objectives in any water quality control plan, to include, without limitation:
- a. "A description of the nature of **actions which are necessary to achieve the objectives**, including **recommendations for appropriate action by any entity, public or private.**"
  - b. "**A time schedule for the actions to be taken.**"

<sup>48</sup> Water Code, § 13000, *et seq.*

<sup>49</sup> Concerning water quality, the Porter-Cologne Act, and the Federal Water Pollution Control Act, see also, Water Code, §§ 13160, 13170, 13170.1.

<sup>50</sup> Note: The Porter-Cologne Act's definition of a "nuisance," includes "anything which [...] [a]ffects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individual may be unequal." (See Water Code, § 13050, subd. (m). )

<sup>51</sup> Water Code, § 13241.



- c. “A description of surveillance to be undertaken to determine **compliance with objectives.**”<sup>52</sup>
9. The State Water Board’s joint “adjudicatory and regulatory functions” in the area of the water quality and water rights,<sup>53</sup> as well the reserved adjudicatory powers of the courts and of the State Water Board, including the Board’s latent powers and procedures described with respect to water rights adjudications under Water Code section 2000, *et seq.* and Water Code section 25000, *et seq.*,<sup>54</sup> as well as the ability of affected persons to bring actions to enforce compliance with established water quality standards through the courts, and the State Board’s powers to compel compliance with past orders and decisions of the board by means of its water rights permitting authorities.<sup>55</sup>
10. The policies of NEPA, as these pertain to water quality, water rights, and water supply, including:
- a. “Attain **the widest range of beneficial uses** of the environment **without degradation**, risk to health or safety, **or other undesirable and unintended consequences,**”<sup>56</sup>
  - b. “Use the NEPA process to identify and assess the **reasonable alternatives to proposed actions that will avoid or minimize adverse effects** of these actions upon the quality of the human environment,”<sup>57</sup>
  - c. “Use **all practicable means**, consistent with the requirements of [NEPA] **and other essential considerations of national policy**, to restore and enhance the quality of the human environment and **avoid or minimize any possible adverse effects** of [proposed] actions upon the quality of the human environment.”<sup>58</sup>
11. The policies and requirements of the CEQA as these relate, specifically, to water quality, including:
- a. The legislative declaration that “maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.”<sup>59</sup>
  - b. The legislative declaration that is “the policy of the state” to:
    - i. “Develop and **maintain a high-quality environment now and in the future**, and take **all action necessary** to protect, rehabilitate, and enhance the environmental quality of the state”; and

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<sup>52</sup> Water Code, § 13242.

<sup>53</sup> See Water Code, § 174.

<sup>54</sup> With respect to statutory and court adjudications, see, especially, Water Code, §§ 2000, 2501, 2525, 2700, and 2768.

<sup>55</sup> See Water Code, § 1825, *et seq.*

<sup>56</sup> 42 U.S.C. § 4331(b)(3).

<sup>57</sup> 40 CFR § 1500.2, subd. (e).

<sup>58</sup> *Id.* at § 1500.2, subd. (f).

<sup>59</sup> Pub. Resources Code, § 21000, subd. (a).

- ii. “Take *all action necessary* to provide the people of this state with *clean air and water*, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.”<sup>60</sup>
  - c. Also, CEQA’s mandate that public agencies “should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.”<sup>61</sup>
- 12. CEQA Guidelines Appendix G (“Environmental Checklist”), as that guidance document relates, without limitation, to potential adverse water quality- and water supply-related impacts of the proposed project or required consideration of alternatives, impacts, mitigation measures, and specific findings in the areas of “Agricultural Resources,” “Hydrology / Water Quality,” and any necessary “Mandatory Findings of Significance,” as follows:
  - a. Agricultural Resources: “Would the project...”
    - i. “[c]onvert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?”
    - ii. “[i]nvolve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?”
  - b. Hydrology and Water Quality: “Would the project...”
    - i. “[v]iolate any water quality standards or waste discharge requirements?”
    - ii. “[s]ubstantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river[...].?”
    - iii. “[o]therwise substantially degrade water quality?”
  - c. Mandatory Findings of Significance:
    - i. “Does the project have the potential to degrade the quality of the environment[...].?”
    - ii. “Does the project have impacts that are individually limited, but cumulatively considerable[...].?”
    - iii. “Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?”

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<sup>60</sup> Pub. Resources Code., § 21001, subd. (a) and (b).

<sup>61</sup> Pub. Resources Code, § 21002. See, also, Pub. Resources Code, § 21002.1 (“Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.”); Pub. Resources Code, § 21081.

### **Potential Integration with Future Surface and Groundwater Storage Projects**

California Farm Bureau has long advocated in favor of a significant expansion of capacity over and above the state's existing water storage infrastructure. Competition for limited supplies in California is intense and likely to intensify still further in the years and decades ahead. Environmental water needs in particular have grown exponentially over the last few decades, even as the state's population has roughly doubled—yet, during that time, the state's major water infrastructure has remained largely static.

Surface water storage has distinct advantages that water efficiency, groundwater storage, and other sources of water supply can certainly complement and enhance, but *not* replace. Meanwhile, long-term sustainability issues, along with reduced snowpack, intensifying drought and flood cycles, changing seasonal runoff patterns, increasing ambient and water temperatures, and rising sea levels associated with climate change, highlight the urgent need for new surface water storage facilities and improved regional and interregional conveyance.

Additional storage, both upstream and south of the Delta, in combination with possible new Delta conveyance facilities could greatly enhance system capacity to meet co-equal water supply and ecosystem goals. In particular, an enhanced ability to move water at opportune times (i.e., in wetter years and at less biologically sensitive times of the year) and in more environmentally friendly ways (through improved operations and screened diversions designed and located to avoid conflict with fish and ecosystem management goals) has great potential to improve system flexibility and sustainability statewide.

While surface water storage is currently outside of the scope of the BDCP, in seeking to address Delta conveyance and Delta ecosystem issues, the BDCP addresses two fundamental components of a general consensus that has recently emerged around what is, in essence, a single statewide strategy. Yet, while improvements to Delta conveyance and a stable and functioning ecosystem are a necessary part of this overall solution, so too is strategic investment in new surface water storage facilities with broad statewide benefits.

This was the conclusion reached by the Delta Vision Blue Ribbon Task Force in their initial Delta Vision Report in fall 2007:

“Existing Delta water conveyance systems are inadequate and must be improved. Similarly, existing groundwater and surface water storage capacity is inadequate and must be improved. Linking improvements in these two areas is critical to California's water future.... Current storage and conveyance systems often fail to meet competing expectations or even to allow accurate short-term predictions of water availability.... Any construction or change in the operations of conveyance facilities in the Delta must be ‘coupled’ to the construction and operations of storage facilities to ensure that the physical structures, timing, and operations of all facilities can be managed to meet all competing needs—for both environmental and economic

uses.” (Delta Vision Blue Ribbon Task Force Delta Vision Report, November 30, 2007 at pp. 12-13.)

The same conclusion was reiterated and reinforced in the Task Force’s Final Strategic Plan a year later:

“Achieving the co-equal goals requires a strategy that expands conveyance and storage options statewide and builds facilities that move water through and around the Delta.” (Delta Vision Final Strategic Plan, October 2008, p. 101.)

“New conveyance alone is not enough. Storage must be increased and smarter operation of existing reservoirs implemented, to improve reliability for water users and reduce risk to the environment. If flow managers are to have the flexibility to move water through or around the Delta at appropriate times, there must be places for the water to be stored until it is needed. This applies both to upstream locations (from which water could be released to increase Delta inflow), and to locations downstream of export diversions (from which users could access it directly).” (Strategic Plan, p. 102.)

“Any new water conveyance must allow flexibility in the timing and quantities of diversions to shift away from periods with highest impacts on Delta and upstream ecology while still providing predictable and acceptable volumes of quality water for diverted uses.” (Strategic Plan, p. 102.)

Equally importantly, the Delta Vision Task Force was consistent in the message that progress on the environment must go hand-in-hand with an adequate and reliable water supply for California’s economy:

“[Our] recommendations [on new storage, conveyance, and the Delta ecosystem] are inextricably linked. There won’t ever be a sustainable and reliable water supply without a vibrant Delta ecosystem. And the reverse is also true.” (Transmittal Letter to Governor for to Delta Vision Strategic Plan, October 2008.)

“[T]he Task Force’s Vision for the Delta and the following Strategic Plan are based on two co-equal goals: Restore the Delta ecosystem and create a more reliable water supply for California. They are co-equal goals because one objective can’t be achieved without the other.” (Delta Vision Strategic Plan, October 2008, p. v.)

Underscoring the growing consensus around the notion of a comprehensive strategy that emphasizes flexibility and sustainability through strongly linked storage, conveyance, and ecosystem elements, many of these same concepts were echoed in a series of “Planning Principles” identified in the Bay-Delta Conservation Plan’s January 2009 “Overview of the Draft Conservation Strategy for the Bay Delta Conservation Plan”:

BDCP Overview Planning Principle No. 2: “Divert More Water in the Wetter Periods and Less in Drier periods: An approach that shifts diversions away from sensitive ecological periods and locations would provide an opportunity to avoid the existing need to divert all water in excess of minimum regulatory requirements in drier periods, and would reduce conflicts between water supply and species conservation.”

BDCP Overview Planning Principle No. 4: “Build in Flexibility: Flexible water management infrastructure and operational criteria, and an adaptive regulatory regime are more likely to achieve both water supply and conservation objectives.”

BDCP Overview Planning Principle No. 6: “Provide for Reliable Water Supplies: Providing a reliable and sufficient water supply is essential for the state economy and to the success of the BDCP.”<sup>62</sup>

Additionally, while a summary of “Lessons Learned” from the same January 2009 BDCP Overview noted that limited existing South of Delta storage would continue to significantly constrain exports in the future, even with new conveyance, a hypothetical combination of such conveyance and a one million acre-feet increment in available storage could “significantly increase flexibility in meeting water supply and environmental objectives,” and that the “same is generally true [of potential new] North of Delta storage.” (BDCP Overview, “Lessons Learned,” p. 19.)

The general consensus, then, throughout much of the broader water user and water planning and stakeholder community, is that additional surface and groundwater storage, both north and south of the Delta, are an essential component of a long-term, sustainable solution to California’s complex and vexingly persistent water management problems. For new storage to provide far-reaching benefits, however, such storage must be sized, designed, and operated to provide the greatest flexibility and reliability to optimally satisfy *all* of the State’s competing needs, for as much of the state as possible.

A new, twenty-first century view of surface and groundwater storage must be taken by water users, state and federal agencies, and environmental advocates alike, that sees new storage neither in any calloused exploitative sense, nor as a symbol of environmental harm, but rather as a means to better reconcile competing needs through enhanced flexibility and reliability and, thus, achieve long-term sustainability.

Such policy concerns and recommendations are quite relevant to the scoping process of the BDCP EIR/EIS: For example, the CEQ’s NEPA regulations direct lead agencies to “[i]ndicate any public environmental assessments and other environmental impacts statements which are being or will be

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<sup>62</sup> BDCP Overview, pp. 9-10.

May 14, 2009

FWS (Lori Rinek); DWR (Delores Brown)

BDCP EIR/EIS; State Clearinghouse No: 2008032062

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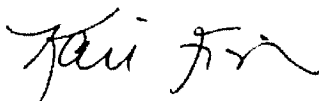
prepared that are related to but are not part of the scope of the impact statement under consideration.”<sup>63</sup>

Given the long-term 50-year planning horizon of the BDCP, California Farm Bureau sees potential future storage improvements currently outside of the scope of the BDCP as both closely related to, and imminently compatible with proposed Delta conveyance and ecosystem improvements in the BDCP. In this context, it is our strong recommendation that the lead agencies consider the potential for possible integration between the BDCP EIR/EIS and subsequent environmental documents for future water storage projects, by way of existing tiering, staging, supplemental EIR, and other similar provisions of NEPA and CEQA.<sup>64</sup>

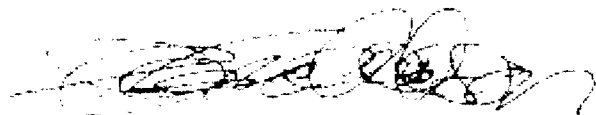
### **Conclusion**

California Farm Bureau recognizes that the status quo is unacceptable and improved conveyance is needed. We applaud the Agencies for addressing conveyance improvements in a forthright and decisive manner. The foregoing comments are provided in the manner of constructiveness to ensure adequate environmental review. Thank you for the opportunity to provide our comments. We look forward to further involvement and discussion with the Agencies on the development of the Bay Delta Conservation Project.

Sincerely,



**Kari E. Fisher**  
Associate Counsel



**Justin E. Fredrickson**  
Environmental Policy Analyst

KEF\JEF\mmm

cc:

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<sup>63</sup>40 C.F.R. § 1501.7(a)(6).

<sup>64</sup> See Pub. Resources Code, § 21093; Cal. Code Regs., tit. 14, §§ 15152, 15385, 15162, 15163, and 15167; 40 C.F.R. §§ 1502.9(c), 1502.20.

# **Attachment A**

9-8-80  
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Pages 59135-59296

# federal register

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Monday  
September 8, 1980



## COUNCIL ON ENVIRONMENTAL QUALITY

### Publishing of Three Memoranda for Heads of Agencies

August 20, 1980.

The Council on Environmental Quality is publishing three Memoranda for Heads of Agencies.

The first memorandum, dated August 11, 1980, on Analysis of Impacts on Prime and Unique Agricultural Lands in Implementing the National Environmental Policy Act was developed in cooperation with the Department of Agriculture. It updates and supersedes the Council's previous memorandum on this subject of August 1978.

The second memorandum, dated August 11, 1980, requests information on agency agricultural land policies and other information related to the implementation of the first memorandum.

The third memorandum, dated August 10, 1980, on Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory is intended to assist federal agencies in meeting their responsibilities under the President's August 2, 1979 directive.

Edward L. Strohbehn, Jr.,  
Executive Director.

Executive Office of the President,  
Council on Environmental Quality,  
722 Jackson Place, NW., Washington, D.C.  
August 11, 1980.

Memorandum for Head of Agencies

Subject: Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act

Approximately one million acres of prime or unique agricultural lands<sup>1</sup> are being converted irreversibly to nonagricultural uses each year. Actions by federal agencies such as construction activities, development grants and loans, and federal land management decisions frequently contribute to the loss of prime and unique agricultural lands directly or indirectly. Often these losses are

<sup>1</sup> As used in this memorandum, prime and unique agricultural land is cropland, pastureland, rangeland, forest land or other land, but not urban built-up land, which is capable of being used as prime and unique farmland as defined by the Department of Agriculture (see attachment) [The attachment to this memorandum was § 657.5 of title 7 CFR.]

unintentional and are not necessarily related to accomplishing the agency mission.

On August 30, 1978, CEQ, in cooperation with the Department of Agriculture, issued a memorandum to the heads of federal agencies on the need for analysis of prime or unique farmlands in the preparation and review of environmental impact statements. The memorandum also recommended steps for agencies to take in making such analyses. Since that memorandum was issued, federal agencies' environmental impact statements have begun to include references to the presence of prime or unique farmlands that would be affected by the proposed federal action. Moreover, they have clearly indicated that many federal and federally assisted projects have direct and indirect adverse impact on prime or unique farmlands.

Recent studies by the Council and the General Accounting Office indicate that federal agencies have not adequately accounted for the impacts of their proposed actions on agricultural land through the environmental assessment process. Furthermore, agency project plans and decisions have frequently not reflected the need and opportunities to protect these lands. The purpose of this memorandum is to alert federal agencies to the need and the opportunities to analyze agricultural land impacts more effectively in the project planning process and under the National Environmental Policy Act (NEPA).

Agencies can substantially improve their analysis of impacts on prime or unique agricultural lands by following closely our recently established NEPA regulations (40 CFR 1500-1508, Nov. 29, 1978). The regulations apply to these lands in several specific respects. Determining the effects of a proposed federal agency action on prime or unique agricultural lands must be an integral part of the environmental assessment process, and must be a factor in deciding whether or not to prepare an environmental impact statement. For example, when an agency begins planning any action, it should, in the development of alternative actions, assess whether the alternatives will affect prime or unique agricultural lands. Then, recognizing the importance of these lands and any significant impacts that might affect them, it must study, develop, and describe appropriate alternative uses of available resources. (Sec. 1501.2(c).)

In determining whether to prepare an environmental impact statement, the regulations note that the "Unique characteristics of the geographic area such as . . . prime farmlands . . ." (Sec. 1508.27(b)(3)) must be considered, among others. If an agency determines that a proposal significantly affect the quality of the human environment, it must initiate the scoping process (Sec. 1501.7) to identify those issues, including effects on prime or unique agricultural lands, that will be analyzed and considered, along with the alternatives available to avoid or mitigate adverse effects. An environmental impact statement must include a description of the area that will be affected by the proposed action (Sec. 1502.15) and an analysis of the environmental consequences of the proposal, including a discussion of "natural or depletable resource

requirements and conservation potential or various alternative and mitigation measures" (Sec. 1502.16(f)). These resource requirements include prime or unique agricultural lands. The effects to be studied encompass indirect effects that may include "growth inducing effects and other effects related to induced changes in the pattern of land use . . ." (Sec. 1508.8(b)). The cumulative effects of a proposal must be studied (Secs. 1508.7, 1508.8(b)), as must any mitigation measures that could be taken to lessen the impact on prime or unique agricultural lands (Secs. 1505.2(c), 1508.20). Agencies must also cooperate with state or local governments in their efforts to help retain these lands (Secs. 1502.16(c), 1506.2(d)).

Federal agencies with technical data on the occurrence, value, or potential impacts of federal actions on these lands will provide the lead agency with data that may be useful in preparing environmental assessments or impact statements. The U.S. Department of Agriculture will cooperate with all agencies in planning projects or developments, in assessing impacts on prime or unique agricultural lands, and in defining alternatives. Technical data as assistance regarding agricultural land may be obtained by contacting the Chairperson of the USDA Land Use Committee (list attached) or any USDA office. In addition to providing technical data and assistance, the USDA will continue to emphasize the review of EISs on federal actions likely to have significant effects on prime and unique farmlands. Under Section 1504 of the regulations, USDA should refer to CEQ those proposed federal actions which it believes will be environmentally unsatisfactory because of unacceptable effects on prime or unique farmlands. CEQ will review such referrals, and take necessary steps in accordance with Section 1504 of our regulations.

Because prime and unique agricultural lands are a limited and valuable resource, the Council urges all agencies to make a particularly careful effort to apply the goals and policies of the National Environmental Policy Act to their actions and to obtain necessary assistance in their planning processes so that these lands will be maintained to meet our current national needs and the needs of future generations of Americans.

Gus Speth,  
Chairman.

Attachments.

### U.S. Department of Agriculture State Land Use Committee Chairpersons

- Mr. William B. Lingle, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Alabama 36830
- Mr. Marvin C. Meier, Director, State and Private Forestry, 2221 E. Northern Lights Blvd., Box 6606, Anchorage, Alaska 99502
- Mr. Thomas G. Rockenbaugh, State Conservationist, Soil Conservation Service, Federal Bldg., Rm. 3008, 230 N. First Street, Phoenix, Arizona 85025
- Mr. M. J. Spears, State Conservationist, Soil Conservation Service, P.O. Box 2323, Little Rock, Arkansas 72203
- Mr. James H. Hansen, State Resource Conservationist, Soil Conservation Service,

- 2828 Chiles Road, P.O. Box 1019, Davis, California 95616
- Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, P.O. Box 17107, Denver, Colorado 80217
- Ms. Maria Maiorana Russell, Assistant Director, Community Resource & Staff Dev., Cooperative Extension Service, University of Connecticut, Storrs, Connecticut 06268
- Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, 204 Treadway Towers, 9 East Lockerman Street, Dover, Delaware 19901
- Mr. William E. Austin, State Conservationist, Soil Conservation Service, P.O. Box 1208, Gainesville, Florida 32601
- Mr. Dwight Treadway, State Conservationist, Soil Conservation Service, P.O. Box 832, Athens, Georgia 30601
- Mr. Jack P. Kanalz, State Conservationist, Soil Conservation Service, P.O. Box 50004, Honolulu, Hawaii 96850
- Mr. Randall Johnson, Farmers Home Administration, U.S. Department of Agriculture, 304 North Eighth Street, Boise, Idaho 83702
- Mr. Warren J. Fitzgerald, State Conservationist, Soil Conservation Service, P.O. Box 678, Champaign, Illinois 61820
- Mr. Robert Bollman, Assistant State Conservationist, Soil Conservation Service, 5610 Crawfordville Road, Suite 2200, Indianapolis, Indiana 46224
- Mr. Rollin Swank, Assistant State Conservationist, Soil Conservation Service, 893 Federal Bldg., 210 Walnut Street, Des Moines, Iowa 50309
- Mr. John W. Tippie, State Conservationist, 760 South Broadway, P.O. Box 800, Salina, Kansas 67401
- Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504
- Dr. Floyd L. Corty, Ag. Econ. & Agribusiness, Louisiana State University, Baton Rouge, Louisiana 70803
- Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Bldg., Univ. of Main, Orono, Maine 04473
- Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, Rm. 522, Hartwick Bldg., 4321 Hartwick Road, College Park, Maryland 20740
- Dr. Gene McMurtry, Assoc. Dir., Coop. Ext. Service, Stockbridge Hall, Rm. 211, University of Massachusetts, Amherst, Massachusetts 01003
- Dr. Raleigh Barlowe, 323 Natural Resources Bldg., Michigan State University, East Lansing, Michigan 48824
- Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 316 North Robert Street, St. Paul, Minnesota 55101
- Mr. Billy C. Griffin, Deputy State Conservationist, Soil Conservation Service, P.O. Box 810, Jackson, Mississippi 39205
- Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, P.O. Box 459, Columbia, Missouri 65201
- Mr. Van K. Haderlie, State Conservationist, Soil Conservation Service, Federal Bldg., P.O. Box 970, Bozeman, Montana 59715
- Mr. Russell Schultz, Soil Conservation Service, Federal Bldg., U.S. Courthouse, Rm. 345, Lincoln, Nebraska 68508
- Mr. Gerald C. Thola, State Conservationist, Soil Conservation Service, P.O. Box 4850, Reno, Nevada 89505
- Mr. Roger Leighton, James Hall, University of New Hampshire, Durham, New Hampshire 03824
- Mr. Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, P.O. Box 219, Somerset, New Jersey 08873
- Mr. Thomas G. Schmeckpeper, Deputy Regional Forester, U.S. Forest Service, Rm. 5424, Federal Bldg., 517 Gold Avenue, S.W., Albuquerque, New Mexico 87102
- Mr. Robert L. Hilliard, State Conservationist, Soil Conservation Service, U.S. Courthouse & Federal Bldg., 100 South Clinton St., Rm. 771, Syracuse, New York 13260
- Mr. Mitchell E. Clary, Assistant State Conservationist, Soil Conservation Service, P.O. Box 27307, Raleigh, North Carolina 27611
- Mr. Sylvester C. Ekart, Chairman, North Dakota Land Use Comm., Federal Bldg., P.O. Box 1458, Bismarck, North Dakota 58501
- Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Bldg., Rm. 522, 200 N. High Street, Columbus, Ohio 43215
- Mr. Bobby T. Birdwell, Soil Conservation Service, Agricultural Center Office Bldg., Farm Road & Brumley Street, Stillwater, Oklahoma 74074
- Mr. Guy Nutt, State Conservationist, Soil Conservation Service, Federal Bldg., 18th Floor, 1220 SW Third Avenue, Portland, Oregon 97204
- Mr. Thomas B. King, Associate Director, Cooperative Extension Service, The Pennsylvania State University, 323 Agricultural Admin. Bldg., University Park, Pennsylvania 16802
- Mr. Richard F. Kenyon, State Executive Director, Agricultural Stabilization and Conservation Service, 222 Quaker Lane, West Warwick, Rhode Island 02893
- Mr. K. G. Smith, State Director, Farmers Home Administration, 240 Stoneridge Drive, Columbia, South Carolina 29210
- Mr. Wayne D. Testerman, State Executive Director, Agricultural Stabilization and Conservation Service, 200 Fourth Street, SW., Federal Bldg., Rm. 210, Huron, South Dakota 57350
- Dr. M. Lloyd Downen, Director, Agricultural Extension, University of Tennessee, P.O. Box 1071, Knoxville, Tennessee 37901
- Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501
- Mr. Reed Page, State Director of the Farmers Home Administration, 125 South State St., Rm. 5434, Salt Lake City, Utah 84138
- Mr. Coy Garrett, State Conservationist, Soil Conservation Service, One Burlington Square, Suite 205, Burlington, Vermont 05401
- Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10028, Richmond, Virginia 23240
- Mr. Lester N. Liebel, Ext. Rural Development Coord., Cooperation Extension Service, Washington State University, 417, Ag. Phase II, Pullman, Washington 99163
- Mr. Craig M. Right, State Conservationist, Soil Conservation Service, P.O. Box 865, Morgantown, West Virginia 26505
- Mr. Jerome C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711
- Mr. Robert W. Cobb, Assistant State Conservationist, Soil Conservation Service, P.O. Box 2440, Casper, Wyoming 82601

Executive Office of the President,  
Council on Environmental Quality,  
722 Jackson Place, NW., Washington, D.C.  
August 11, 1980.

Memorandum for Heads of Agencies

**Subject: Prime and Unique Agricultural Lands and the National Environmental Policy Act (NEPA)**

The accompanying memorandum on Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act was developed in cooperation with the Department of Agriculture. It updates and supersedes the Council's previous memorandum on this subject of August 1978.

In order to review agency progress or problems in implementing this memorandum the Council will request periodic reports from Federal agencies as part of our ongoing oversight of agency implementation of NEPA and the Council's regulations. At this time we would appreciate receiving from your agency by November 1, 1980, the following information:

- identification and brief summary of existing or proposed agency policies, regulations and other directives specifically intended to preserve or mitigate the effects of agency actions on prime or unique agricultural lands, including criteria or methodology used in assessing these impacts.
- identification of specific impact statements and, to the extent possible, other documents prepared from October 1, 1979 to October 1, 1980 covering actions deemed likely to have significant direct or indirect effects on prime or unique agricultural lands.
- the name of the policy-level official responsible for agricultural land policies in your agency, and the name of the staff-level official in your agency's NEPA office who will be responsible for carrying out the actions discussed in this memorandum.

Gus Speth,  
Chairman.

Executive Office of the President,  
Council on Environmental Quality,  
722 Jackson Place, NW., Washington, D.C.  
August 10, 1980.

Memorandum for Heads of Agencies

**Subject: Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory**

In his second Message on the Environment, issued in August 1979, the President underscored the need to strengthen the National Wild and Scenic Rivers System and to take particular care not to harm rivers

which may qualify for inclusion in the System.

The President issued a directive on August 2, 1979 in conjunction with his Message which required that:

"Each Federal agency shall, as part of its normal planning and environmental review process, take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory prepared by the Heritage Conservation and Recreation Service in the Department of the Interior. Agencies shall, as part of their normal environmental review process, consult with the Heritage Conservation and Recreation Service prior to taking actions which could effectively foreclose wild, scenic, or recreational river status on rivers in the Inventory."

This memorandum is intended to assist your agency in meeting its responsibilities under the President's directive. A brief set of procedures is attached which provides guidance on how to integrate these responsibilities with your normal environmental analysis process under the National Environmental Policy Act (NEPA). The objective is to ensure that the President's directive is met promptly and efficiently.

Development along our rivers continues to outpace our ability to protect those rivers that might qualify for designation in the National Wild and Scenic Rivers System. The Heritage Conservation and Recreation Service (HCRS) in the Department of the Interior has been preparing a Nationwide Inventory of river segments that, after preliminary review, appear to qualify for inclusion in the System. It is therefore essential that federal agencies proceed carefully and limit any adverse effects of their actions on rivers identified in the Nationwide Inventory. Otherwise, the Inventory could be depleted before the identified rivers can be fully assessed to determine the desirability of including them as components of the National Wild and Scenic Rivers System.

Although the President's directive does not prohibit an agency from taking, supporting or allowing an action which would adversely affect wild and scenic values of a river in the Inventory, each agency is responsible for studying, developing and describing all reasonable alternatives before acting, and for avoiding and mitigating adverse effects on rivers identified in the Inventory. Where agency action could effectively foreclose the designation of a wild, scenic, or recreational river segment, the President has directed the agency to consult with HCRS. It is difficult to restore a river and its immediate environment once its wild and scenic qualities have been lost.

The purpose of this consultation requirement, which is meant to be part of the normal environmental analysis process, is to provide the opportunity for HCRS experts to assist other agencies in meeting program objectives without irreparably damaging potential wild, scenic, and recreational river areas. Consultation with HCRS should encourage better planning at an early stage in order to reduce resource management conflicts or to avoid them altogether. The consultation requirement also provides an

opportunity to seek early resolution of problems by policy-level officials if necessary.

Completed portions of the Nationwide Inventory—those for the Eastern half of the country—were sent to you from HCRS Director Chris T. Delaporte on November 13, 1979. Forthcoming portions of the Inventory will be transmitted as they are completed. You should ensure that the list of rivers in the Inventory and the attached procedures receive wide distribution in your agency.

Copies of orders, guidance, or memoranda which you use to adopt or to transmit the attached procedures within your agency should be sent to the Council on Environmental Quality (Attention: Larry Williams) and to the Interagency Wild and Scenic Rivers Study Group (Attention: Jack Hauptman, HCRS, 440 G Street, N.W., Washington, D.C. 20243).

Gus Speth,

Chairman.

Attachment.

*Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory*

These procedures are designed to assist federal officials in complying with the President's directive (attached) to protect rivers in the Nationwide Inventory through the normal environmental analysis process. NEPA, E.O. 11514, CEQ's NEPA Regulations, and agency implementing procedures should be used to meet the President's directive.

Although the steps outlined below pertain to wild and scenic river protection, they also fit clearly within agencies' existing environmental analysis processes. Agencies are already required: to identify and analyze the environmental effects of their actions; to consult with agencies with jurisdiction by law or special expertise (in this case, HCRS); to develop and study alternatives; and to use all practicable means and measures to preserve important historic, cultural, and natural aspects of our national heritage.

The procedures outlined below simply link the appropriate elements of the normal environmental analysis process with the President's directive "to take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory." Federal officials should promptly take steps to incorporate the actions specified below into their planning and decisionmaking activities and the conduct of their environmental analyses.

1. *Determine whether the proposed action could affect an Inventory river.*

Check the current regional Inventory lists to determine whether the proposed action could affect an Inventory river.

If an Inventory river could be affected by the proposed action, an environmental assessment or an environmental impact statement may be required depending upon the significance of the effects.

If the action would not affect an Inventory river, no further action is necessary under these procedures. (The agency is still required to fulfill any other responsibilities under NEPA).

2. *Determine whether the proposed action could have an adverse effect on the natural,*

*cultural and recreational values of the Inventory river segment.*

Using the Guide for Identifying Potential Adverse Effects, which is appended to these procedures, you should determine whether the proposed action could adversely affect the natural, cultural, or recreational values of the Inventory river segment. Adverse effects on inventoried rivers may occur under conditions which include, but are not limited to:

(1) Destruction or alteration of all or part of the free flowing nature of the river;

(2) Introduction of visual, audible, or other sensory intrusions which are out of character with the river or alter its setting;

(3) Deterioration of water quality; or

(4) Transfer or sale of property adjacent to an inventoried river without adequate conditions or restrictions for protecting the river and its surrounding environment.

If you have prepared a document which finds that there would be no adverse effects—such as a Finding of No Significant Impact under the CEQ NEPA regulations—you should send a courtesy copy to the HCRS field office in your region.

3. *Determine whether the proposed action could foreclose options to classify any portion of the Inventory segment as wild, scenic or recreational river areas.*

In some cases, impacts of a proposed action could be severe enough to preclude inclusion in the Wild and Scenic Rivers System, or lower the quality of the classification (e.g. from wild to recreational). If the proposed undertaking would effectively downgrade any portion of the Inventory segment you should consult with HCRS.

Proposed actions (whether uses or physical changes), which are theoretically reversible, but which are not likely to be reversed in the short terms, should be considered to have the effect of foreclosing for all practical purposes wild and scenic river status. This is because a river segment, when studied for a possible inclusion in the Wild and Scenic River System, must be judged as it is found to exist at the time of the study, rather than as it may exist at some future time.

If a proposal, including one or more alternatives, could have an adverse effect on a river in the Inventory, an environmental assessment or, if the effects are significant, an environmental impact statement must be prepared. HCRS staff is available to assist you in determining the significance or severity of the effects in connection with your assessment, scoping process, and EIS, if one is needed. A detailed analysis of each of the rivers in the Inventory is available from HCRS for your use.

You should request assistance in writing from HCRS, as early as you can, providing sufficient information about the proposal to allow HCRS to assist you in determining whether any of the alternatives under consideration would foreclose designation. HCRS will in turn provide you with an analysis of the impacts on natural, cultural and recreational values which should enable you to make a determination as to whether or not designation would be foreclosed. HCRS is available to assist you in developing appropriate avoidance/mitigation measures.

When environmental assessments are prepared on proposals that affect Inventory

ivers, copies should be sent in a timely fashion to the HCRS field office in your area before a proposed action is taken and while there is still time to avoid or mitigate adverse effects. When environmental impact statements are prepared on proposals that affect Inventory rivers the lead agency should request HCRS and the affected land managing agency to be cooperating agencies as soon as the Notice of Intent to prepare an EIS has been published.

If HCRS does not respond to your request for assistance within 30 days, you may proceed with completing preparation and circulation of the environmental assessment or EIS as planned. Even where HCRS has been unable to comment on the environmental assessment or Draft EIS, you are still obligated by the President's directive to "... take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory . . ."

**4. Incorporate avoidance/mitigation measures into the proposed action to maximum extent feasible within the agency's authority.**

Any environmental documents prepared on the proposed action should identify the impacts on natural, cultural and recreational values, address the comments submitted by HCRS, and state the avoidance/mitigation measures adopted. Any disagreements will be resolved through existing procedures. For projects requiring environmental impact statements, the record of decision must adopt appropriate avoidance/mitigation measures and a monitoring and enforcement program as required by the CEQ regulations. (40 CFR 1505.2(c)).

**A Note on the Meaning of "Federal Actions"**

The above procedures are meant to apply to all federal actions that could adversely affect a river in the Nationwide Inventory (see Section 1508.18 of CEQ's NEPA Regulations (40 CFR 1508.18) for the meaning of "major federal actions"). For actions which are known in advance to require an environmental assessment or environmental impact statement these procedures would be followed in the normal course of NEPA compliance. If a federal action would *not* normally require an environmental assessment or an environmental impact statement, but could adversely affect a river in the Nationwide Inventory, the action should either (1) not be "categorically excluded" under agency implementing procedures, or (2) be considered an "extraordinary circumstance" in which a normally excluded action must be subjected to environmental analysis (see Section 1508.4 of NEPA Regulations).

The above procedures should be used for any proposals (including the evaluation of alternative courses of action) for which the NEPA process is not yet completed. The above procedures should therefore also be applied to a proposed modification or supplement to a previously authorized or implemented action.

**For Further Information or Guidance**

The HCRS regional office will usually provide the best source of information on rivers in the Nationwide Inventory and on

specific ways that these rivers could be protected. For general assistance on policy and procedural matters, please contact the Chairman of the Interagency Wild and Scenic Rivers Study Group (202/343-4793), or contact the Council on Environmental Quality (202/395-4540).

**Appendix I.**

**Guide for Identifying Potential Adverse Effects**

The impact of a propose action should be assessed in relation to the eligibility and classification criteria of the Wild and Scenic Rivers Act, 16 U.S.C. 1271-1287, as amended.

In order to be eligible for inclusion in the National System, a river must:

1. Be "free-flowing," i.e., "existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of national wild and scenic rivers system." (16 U.S.C. Sec. 1286)

2. Possess "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values." (16 U.S.C. Sec. 1271)

Eligible river segments are classified according to the extent of evidence of man's activity as one of the following:

1. "Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America."

2. "Scenic river areas—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads."

3. "Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past." (16 U.S.C. Sec. 1273(b))

Any action which could alter the river segment's ability to meet the above eligibility and classification criteria should be considered an adverse impact. Actions which diminish the free-flowing characteristics or outstandingly remarkable values of a river segment could prevent the segment from qualifying for inclusion in the national system. Actions which increase the degree of evidence of man's activity, i.e., level of development, could change the classification of the river segment.

The effect of all proposed developments within the river corridor should be assessed in terms of severity of effect and extent of area affected. Development outside the corridor which would cause visual, noise, or

air quality impacts on the river corridor should also be examined.

Only proposed new construction or proposed expansion of existing developments need be considered in assessing impacts. Repair or rehabilitation of existing structures would not have a negative impact except if the action would result in significant expansion of the facility or if the construction process itself would cause an irreversible impact on the environment.

Placement of navigation aids such as buoys and channel markers will not be considered as causing adverse effects.

The following are examples of types of developments which would generally require consultation with HCRS because of the potential for adverse effects on the values of a potential wild, scenic, or recreational river. The list is not exhaustive.

Small dock	Road
Small bulkhead	Railroad
Clearing and snagging	Building (any type)
Drainage canal, culvert or outfall	Pipeline, transmission line
Irrigation canal	Bridge or ford
Levee or dike	Gas, oil or water well
Rip-rap, bank stabilization or erosion control structure	Sub-surface mine opening
Small reservoir	Quarry
Increase in commercial navigation	Power substation
Dredging or filling	Recreation area
Run-of-the-river dam or diversion structure	Dump or junkyard
	Change in flow regime
	Clear-cut timber harvest
	Radio tower, windmill

The following are examples of types of development which appear most likely to cause serious adverse effects if they are constructed adjacent to or in close proximity to an Inventory river. Such development proposals will almost always require consultation with HCRS because their effects are likely to conflict with the values of a potential wild, scenic or recreational river. These effects could be severe enough to foreclose designation of the affected river segment. This list is not exhaustive.

Impoundment	Major highway
Channelization	Railroad yard
Instream or surface mining	Power plant
Lock and dam	Sewage treatment plant
Airport	Housing development
Landfill	Shopping center
Factory	Industrial park
Gas or oil field	Marina
	Commercial dock

**Appendix II**

[For a memorandum from the President on Wild and Scenic Rivers and National Trails dated August 2, 1979, see the *Weekly Compilation of Presidential Documents* (Vol. 15, page 1379).]

(FR Doc. 80-27023 Filed 9-5-80; 6:45 am)  
BILLING CODE 3125-01-M

# **Attachment B**

STATE WATER RESOURCES CONTROL BOARD

RESOLUTION NO. 68-16

STATEMENT OF POLICY WITH RESPECT TO  
MAINTAINING HIGH QUALITY OF WATERS IN CALIFORNIA

WHEREAS the California Legislature has declared that it is the policy of the State that the granting of permits and licenses for unappropriated water and the disposal of wastes into the waters of the State shall be so regulated as to achieve highest water quality consistent with maximum benefit to the people of the State and shall be controlled so as to promote the peace, health, safety and welfare of the people of the State; and

WHEREAS water quality control policies have been and are being adopted for waters of the State; and

WHEREAS the quality of some waters of the State is higher than that established by the adopted policies and it is the intent and purpose of this Board that such higher quality shall be maintained to the maximum extent possible consistent with the declaration of the Legislature;

NOW, THEREFORE, BE IT RESOLVED:

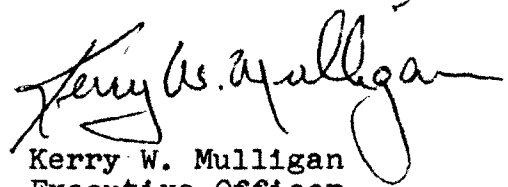
1. Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies.
2. Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.
3. In implementing this policy, the Secretary of the Interior will be kept advised and will be provided with such information as he will need to discharge his responsibilities under the Federal Water Pollution Control Act.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Secretary of the Interior as part of California's water quality control policy submission.

CERTIFICATION

The undersigned, Executive Officer of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 24, 1968.

Dated: October 28, 1968

A handwritten signature in cursive script, reading "Kerry W. Mulligan". The signature is written in dark ink and is positioned above the printed name and title.

Kerry W. Mulligan  
Executive Officer  
State Water Resources  
Control Board

# **Attachment C**





1 of 1 DOCUMENT

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\*\*\* THIS SECTION IS CURRENT THROUGH THE MAY 7, 2009 ISSUE OF \*\*\*  
\*\*\* THE FEDERAL REGISTER \*\*\*

TITLE 40 -- PROTECTION OF ENVIRONMENT  
CHAPTER I -- ENVIRONMENTAL PROTECTION AGENCY  
SUBCHAPTER D -- WATER PROGRAMS  
PART 131 -- WATER QUALITY STANDARDS  
SUBPART B -- ESTABLISHMENT OF WATER QUALITY STANDARDS

**Go to the CFR Archive Directory**

*40 CFR 131.12*

§ 131.12 Antidegradation policy.

(a) The State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following:

(1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(2) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(3) Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

(4) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act.

**HISTORY:** *48 FR 51405*, Nov. 8, 1983.

**AUTHORITY:** *33 U.S.C. 1251* et seq.

**NOTES:** NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes to Chapter I appear at *65 FR 47323, 47324, 47325*, Aug. 2, 2000.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter 1 Notice of implementation policy, see: *71 FR 25504*, May 1, 2006.]

NOTES TO DECISIONS: COURT AND ADMINISTRATIVE DECISIONS SIGNIFICANTLY DISCUSSING SECTION --

*Ky. Waterways Alliance v Johnson (2006, WD Ky) 426 F Supp 2d 612*

296 words

**bdcpccomments**

**From:** JLucas1099@aol.com [JLucas1099@aol.com]

**Sent:** Thu 5/14/2009 4:40 PM

**To:** bdcpccomments

**Cc:**

**Subject:** BDCP - Bay Delta Conservation Plan comments 5-14-09

**Attachments:**

Ms. Delores Brown  
Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836, Sacramento, CA 94236

May 14, 2009

Dear Ms. Brown,

In regards the Bay Delta Conservation Plan and extension of a water supply diversion system in the Delta, I would like to submit the following comments for consideration:

~ One of the basic resource components of river systems in the Bay Delta is the sediment carrying capacity of their flows. This sediment not only replenishes riverbank vegetation, floodplain and intertidal marsh, but is essential for migratory fisheries in providing benthic nutrients as well as cover from predators. The sediment load delivered to the Delta from Sacramento and San Joaquin River system watersheds is well documented in a 1992 report prepared for the San Francisco District Corps of Engineers titled "Sediment Budget Study for San Francisco Bay". The data on Delta river flows from 1922 to 1991 is essential for any modeling of delta diversions and for assessment of minimum flows that are necessary to sustain beneficial in-delta resources, as well as carry sufficient sediment loads through San Francisco Bay and out to the Pacific Ocean.

~ In reviewing the range of flows that are recorded for the Sacramento River it appears that a diversion of 15,000 cfs, as is proposed is unsustainable in consideration of flows that are diverted just upstream for the Yolo Bypass, or shipping channel, historically between 4000 and 5000 cfs (plans to deepen this channel to 35 feet may require more cfs.). In last recorded year, 1991, total annual flow in Sacramento River at Sacramento was recorded as 7,276 thousand acre feet which could not accommodate any further diversion than that 4000 cfs allocated for the shipping channel. A modeling of historic flows is essential to this plan.

~ Since a diversion of 15,000 cfs from the Sacramento River is not feasible, it would appear that a diversion channel should be sized to accommodate a quarter of that amount (say 10' X 125') which would reduce impact to Delta marshes, and lower water loss to evaporation, cost of construction and cost of wetlands mitigation. If more water is needed it needs to be obtained from another river system.

~ A formula needs to be scientifically arrived at that will define minimum flows needed to retain the integrity of the rivers that flow through the delta marshes and provide critical spawning and rearing habitat for resident and migratory fish, and birds, as well as sustain habitat biodiversity by overflow into marshes and wetlands. The Uplands Habitat Goals report and studies such as the 1985-86 Interagency Ecological Studies Program for the Sacramento-San Joaquin Estuary should provide sufficient data without commissioning new research. Elements of shallow benches, overhanging shade and instream woody materials will have top consideration, while entrainment and water diversion operations which contribute to such critical loss of fish and organisms need an entirely new design, preferably making most of gravity flow. Clifton Court pumps are rather medieval.

~ Before any consideration can be given to this or any other modification of Delta diversions, a successful recovery plan must be instituted to reverse this collapse of Delta Smelt and salmon populations in the Bay. A plan needs incorporate all recipients of Sierra water supplies, to contribute fish friendly streams or financially. Rather than construct bigger reservoirs with thermal pollution and rampant algae growth, smaller underground containment must be encouraged and groundwater reserves returned to some semblance of historic levels. Agriculture needs subsidy, but here again, farmers could rotate with dry farming crops in drought years.

~ Please establish appropriate conservative base flows for rivers of the Bay Delta Estuary that can sustain historic uses and resources, and in particular restore a West Coast fishery to support the Pacific Flyway, and California's dedicated band of fishermen. Fishing, if anything, has more tenure in our state than farming.

~ Thank you for all consideration that you can give to these concerns. If I run across any engineer who can devise a formula for sustaining Delta flows, I will forward it on. One last thought, the de-sedimentation plant planned at

the diversion point from the Sacramento River mainstem is a poor concept. Might I suggest that a Colorado hydrologist and sediment specialist, Dave Rosgen, be consulted before any such plant is built.

Libby Lucas, Conservation, CNPS Santa Clara Valley Chapter, 174 Yerba Santa Ave., Los Altos, Ca 94022

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# BDCP

BAY DELTA CONSERVATION PLAN  
ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

— Comment Card —

**Please Print**

Name: Joseph Horn Organization: C.S.B.A.  
Telephone: 925 757 0797 e-mail: JOEhorn\_2000@yahoo.com  
Address: 3115 Elizabeth Ln.  
City: Antioch State: CA Zip: 94509

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

If you are worried about LA being a city of 25- or 30 million people stop shipping water to the M.C.D. Metropolitan Water District of Southern Cal. If they have no water they will not come. The people that is.

Real Estate is important in the northern part of the state. We can't cover the top half of the state with water storage so people can live in the southern desert. Southern Cal. should be storing there run off water or stop having so many swimming pools. Last desert plants may be the answer

Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:

Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.  
You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). Comments must be received by May 14, 2009.

# BDCP

## BAY DELTA CONSERVATION PLAN ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

— Comment Card —

Please Print

Name: Hugh Chamberlin Organization: Calif. Striped Bass Assoc.

Telephone: 209-469-4507 e-mail: seahughfish@yahoo.com

Address: 3131 Christina Ave.

City: Stockton State: CA Zip: 95204

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

Dear Chief Brown,

I am deeply concerned about the negative environmental effects of the peripheral canal. In addition, I feel as if the legislature's going to push it through without enough voters being fully aware of the fiscal impact and the dreaded consequences for Northern CA homeowners such as myself - let alone the environmental effects to our beloved jewel, the San Joaquin Delta. As it stands, we already have sea lions trying to cross I-5. We don't need the peripheral canal. I feel as if it is a bad idea for all of us - and for the future generations as well.

Hugh Chamberlin

Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:  
Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.  
You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). Comments must be received by May 14, 2009.



**California Striped Bass Association**  
**West Delta Chapter**

P.O. Box 2691  
Antioch, CA 94531-2691



Dedicated to the preservation, conservation and enhancement of Striped Bass

Dear Sirs

Let get to the point, the reason for Bill 1253 is to raise the salinity in the rivers by pumping more water from up the river that is the Sacramento.

Water salinity have to meet levels for fish, so if levels are high you can't pump. Don't beat around the bush and blame the striped bass for your failure to save the salmon in the pumps and all the other fish to.

J Horn Life Time member of  
C.S.B.A.



May 14, 2009

Ms. Dolores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources  
PO Box 942836  
Sacramento, CA 94236

Sent via email to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov)

**RE: Comments Regarding EIR/EIS for Bay Delta Conservation Plan**

Dear Ms. Brown:

On behalf of the California Waterfowl Association (CWA), I am writing to provide our input during the scoping period on the proposed joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Bay Delta Conservation Plan (BDCP). CWA is a charitable 501(c)(3) organization dedicated to conserving California's waterfowl, wetlands, and outdoor heritage, representing the interests of over 21,000 members statewide. We have done extensive wetland restoration work within the Central Valley, including projects within the Delta planning area.

CWA is founding partner of the Central Valley Joint Venture (CVJV) a partnership of 21 public and private entities, whose mission is to work collaboratively through diverse partnerships to protect, restore, and enhance wetlands and associated habitats for waterfowl. As a partner in CVJV, we helped develop and support the goals and objectives of their Implementation Plan, and agree with all the comments submitted previously by them regarding the EIS/EIR for the BDCP.

California has lost more than 95% of its historic wetlands, largely due to urbanization, flood control and agriculture. As a result, many species have declined from historic levels, and are increasingly dependent on fewer wetlands. Despite these tremendous habitat losses, California arguably remains the most important wintering area for waterfowl and other waterbirds in the Pacific Flyway. Avian species from the north, some as far as Alaska and the Canadian Arctic, rely on our wetlands for nutritional and other needs while visiting during the winter. In addition, many resident bird species nest within or near local wetland habitats.

The San Francisco Bay-Delta is an important region for wintering and breeding waterfowl. However, it has been described as an ecosystem in a state of collapse. While the ecosystem still contains an abundance of fish and wildlife, waterfowl populations are but a fraction of those documented historically. Creating a Delta that is better for



desirable fish and wildlife while providing the needs of most Californians is not simple, and previous attempts have not been successful. We are encouraged by the recent efforts stimulated by Delta Vision and BDCP, and urge the planners to insure the effort is comprehensive, based on sound science, and restoration and management remain truly adaptive.

CWA and other CVJV partners have invested considerable time and resources in the Delta proper, as well as the Yolo Basin, Suisun Marsh, and Cosumnes River. As a result of these efforts, the habitat in the Delta region, while considered degraded for native fish, has actually become considerably more hospitable to avian species. In the Delta region, the CVJV has protected almost 5000 acres and restored almost 9000 acres of wetland habitat. In addition, almost 40,000 acres of agricultural land are flooded annually in the Delta. However these accomplishments are still far below the CVJV goals for the Delta region. These goals are primarily based on the nutritional needs of migratory birds wintering in the Central Valley, of which the Delta provides an important, but yet to be fully achieved, component. In addition to biological goals and habitat objectives, the water needed to maintain and manage wetlands are specifically mentioned in the CVJV Implementation Plan.

Consequently, we strongly support additional wetland restoration in the Delta. However, as a general principal, we caution planners to fully recognize and protect the existing ecological values of the region. We believe that there is the potential to reverse much of the wetland benefit we have painstakingly accomplished (and at great public and private expense) unless conservation measures promoted are done in a manner sensitive to needs of the entire ecosystem. The potential for restoring ecological conditions favorable for native fish species is great, but should be additive to, rather than at the expense of, existing avian and other terrestrial values.

Therefore, it is important that the BDCP EIR/EIS consider the goals and objectives of the CVJV Implementation Plan. The BDCP could impact, either positively or negatively, both past accomplishments and future progress towards CVJV Plan goals. Furthermore, this analysis should address impacts on all the goals and objectives of the CVJV, not just those specific to the planning basins in the Delta region. This recommendation is justified, because the BDCP has far-reaching implications for water availability and management, and subsequent land use changes throughout the Sacramento and San Joaquin River watersheds.

At a minimum, the scope of the EIR/EIS should include the following components relative to the protecting existing and future non-aquatic ecological values of the Delta region:

- Analyze the potential change in food availability for waterfowl resulting from conversion of managed wetlands to tidal wetlands in the project area and Suisun Marsh.

- Analyze the potential change in breeding habitat for waterfowl resulting from the conversion of managed wetlands to tidal wetlands in the project area.
- Analyze the potential change in food availability and breeding habitat for waterfowl resulting from temporary loss (or changes in management) of managed wetlands and agriculture due to either prolonged floodplain inundation or conversion to floodplain habitat, especially in the Yolo Bypass. Considerable public and private funds have been invested to create managed wetlands with the capacity to create optimal habitat for waterfowl and other waterbirds.
- Analyze the potential changes in food availability for wetland-dependent migratory birds resulting from conversion of certain farmlands or change in agricultural crop type. Especially in the Yolo Bypass, where proposed actions for fish habitat restoration may preclude the ability to plant a rice crop.
- Analyze how improved water conveyance may simplify and perhaps increase transfers of water south of the Delta, potentially reducing the amount of rice farmed in the Sacramento Valley. More specifically, analyze:
  - The impacts of potentially reduced rice acreage on foraging habitat for wintering and breeding waterfowl
  - The impact of potentially reduced winter flooding of harvested ricefields on energy supply for waterfowl and other wildlife in the Sacramento Valley.
  - The impact of reduced spring/summer flooded rice habitat, and potentially increased fallow cropland, on breeding habitat for waterfowl and other birds.
  - The potential to establish cover crops to reduce erosion and provide habitat (e.g., nesting cover) for breeding waterfowl and other wildlife if cropland becomes idle/fallow as a result of BDCP actions,
- Analyze whether and to what extent the project alternatives are consistent with the existing legal requirements regarding refuge water supply requirements of the CVPIA.
- Analyze how water supply and reliability to wetlands and agricultural habitats for migratory birds will change within the BDCP planning region, and in other potentially impacted regions of the Central Valley, given the different project alternatives.
- Analyze the costs and benefits of various project alternatives associated with the socio-economic values of seasonal wetland-related recreational opportunities, like hunting, fishing, and birding. Waterfowl hunting is a tradition in managed wetlands proposed to be converted to tidal wetlands, especially in the Suisun Marsh.

Thank you for the opportunity to comment, and I look forward to reviewing the full EIR/EIS.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory S. Yarris', written in a cursive style.

Gregory S. Yarris  
Director of Conservation Policy



# CENTRAL VALLEY JOINT VENTURE

## North American Waterfowl Management Plan

May 13, 2009

California Waterfowl

California Association of  
Resource Conservation  
Districts

Defenders of Wildlife

Ducks Unlimited, Inc.

National Audubon  
Society

PRBO  
Conservation Science

River Partners

The Nature Conservancy

The Trust for Public Land

Ms. Dolores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources  
PO Box 942836  
Sacramento, CA 94236

Sent via email to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov)

### **RE: Comments Regarding EIR/EIS for Bay Delta Conservation Plan**

Dear Ms. Brown:

On behalf of the Central Valley Joint Venture Management Board, I am writing to provide our input during the scoping period on the proposed joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Bay Delta Conservation Plan.

The Central Valley Joint Venture (CVJV) is a partnership of 22 public and private entities comprised of agencies, and conservation and corporate organizations. Our mission is to work collaboratively through diverse partnerships to protect, restore, and enhance wetlands and associated habitats for migratory birds, in accordance with conservation actions identified in the *Central Valley Joint Venture 2006 Implementation Plan* (Plan). Through these biologically-based actions, CVJV partners work to sustain migratory bird populations in perpetuity for the benefit of those species, resident wildlife, and the public.

### **Background**

California has lost more than 95% of its historic wetlands, largely due to urbanization, flood control and agriculture. As a result, many species have declined from historic levels, and are increasingly dependent on fewer wetlands. Despite these tremendous habitat losses, California arguably remains the most important wintering area for waterfowl and other waterbirds in the Pacific Flyway. Avian species from the north, some as far as Alaska and the Canadian Arctic, rely on our wetlands for nutritional and other needs while visiting during the winter. In addition, many resident bird species nest within or near local wetland habitats.

The importance of wetland habitat in California is now recognized and policies have been established to insure conservation of existing wetlands and restoration of additional wetland acres:

- 1) Through the passage of Senate Concurrent Resolution 28 (January 1, 1983), the Legislature, in recognition of the importance of wetlands, indicated its “intent to preserve, protect, restore and enhance California's wetlands and the multiple resources which depend upon them for the benefit of the people of the State”.
- 2) In 1993, Governor Wilson signed Executive Order W-59-93, to “ensure no overall net loss and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property”.
- 3) The State Fish and Game Commission policy states (Amended 8/18/05):  
“...it is the policy of the Fish and Game Commission to seek to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California”.
- 4) On April 15, 2008, the State Water Resources Control Board adopted Resolution No. 2008-0026, “Development of a Policy to Protect Wetlands and Riparian Areas in Order to Restore and Maintain the Water Quality and Beneficial Uses of the Water of the State”.

The CVJV has strived to support these policies, and gone a step further by identifying specific goals and objectives for wetland and agricultural conservation. The CVJV also has promoted and implemented non-traditional management solutions to fulfill the needs of waterbirds by working extensively with the private wetland managers and agriculture. In addition to conventional restoration and protection, the CVJV has also emphasized active management and enhancement of wetlands and agriculture to maximize the benefits to waterbirds. Managing wetlands involves prescriptive water control and timing of flooding (or irrigation) to improve food production or availability. Enhancing agriculture for waterbirds involves applying water to cropland to provide additional foraging habitat and thus energetic needs not met by the Central Valley's limited natural or managed wetlands. Enhanced agriculture also provides breeding habitat for certain focus species of the CVJV.

The CVJV Plan defines specific habitat goals and objectives for 6 avian groups deemed of ecological or economic value in the Central Valley. The CVJV goals and objectives are outlined in detail in the Plan, and it is available at our website [http://www.centralvalleyjointventure.org/materials/CVJV\\_fnl.pdf](http://www.centralvalleyjointventure.org/materials/CVJV_fnl.pdf). Summarized objectives for the Delta, Yolo, and Suisun basins are provided in a separate attachment. Since 1990, CVJV has protected nearly 57,000 acres of wetland habitat and restored over 65,000 acres of wetland habitat; however, we have not yet met our wetland goals. Agricultural habitat enhancement goals have been exceeded valley-wide, largely due restrictions on burning, yet certain basins are short of enhancement goals.

### **Comments regarding proposed BDCP EIR/EIS**

The San Francisco Bay-Delta has been described as an ecosystem in a state of collapse. While the ecosystem still contains an abundance of fish and wildlife, invertebrates and plants, many are undesirable species that were not around a few decades. Creating a Delta that is better for desirable fish and wildlife while providing the needs of most Californians is not simple, and previous attempts have not been successful. We are encouraged by the efficient recent efforts stimulated by Delta Vision and BDCP, and urge the planners to insure the effort is comprehensive, based on sound science, and restoration and management remain truly adaptive.

The CVJV was created during a similar crisis situation not long ago. In the 1980's waterfowl populations plummeted to all time lows, also partly due to drought. In response, the United States and Canadian wildlife agencies developed the North American Waterfowl Management Plan (NAWMP). The NAWMP recognized that wide-ranging degradations to wetlands and associated uplands across the continent required a comprehensive response to improve landscapes using public policies, wildlife friendly agriculture, and traditional habitat restoration programs. The purpose of the plan was, and remains, to sustain abundant waterfowl populations (and now other birds) by conserving landscapes, through self-directed partnerships (e.g., CVJV) guided by sound science.

The success of that strategic partnership can be seen throughout the Central Valley, including the Delta region. CVJV partners have invested considerable time and resources in the Delta proper, as well as the Yolo Basin, Suisun Marsh, and Cosumnes River. As a result of CVJV activities, the habitat in the Delta region, while considered degraded for native fish, has actually become considerably more hospitable to avian species. In the Delta region, the CVJV has protected almost 5000 acres and restored almost 9000 acres of wetland habitat. In addition, almost 40,000 acres of agricultural land are flooded annually in the Delta. However, these accomplishments are still far below the CVJV goals for the Delta region. These goals are primarily based on the nutritional needs of migratory birds wintering in the Central Valley, of which the Delta provides an important, but yet to be fully achieved, component (see attachment). In addition to biological goals and habitat objective, the water needed to maintain and manage wetland goals are specifically mentioned in the CVJV Plan.

We strongly support additional wetland restoration in the Delta. However, as a general principal, we caution planners to fully recognize and protect the existing ecological values of the region. We believe that there is a sizable potential to undo much of the good work we have painstakingly and at great public and private expense accomplished to date unless this new work is done in a manner sensitive to needs of the entire ecosystem. The potential for restoring ecological conditions favorable for native fish species is great, but should be additive to, rather than at the expense of, existing avian and other terrestrial values.

With that in mind, it is important that the architects of the BDCP EIR/EIS consider the goals and objectives of the CVJV Plan. The BDCP could impact, either positively or negatively, both past accomplishments and future progress towards CVJV Plan goals. Furthermore, this evaluation should address impacts on all the goals and objectives of the

CVJV, not just those specific to our planning basins in the Delta region. This request is justified, because the BDCP has far-reaching implications for water availability and management, and subsequent land use changes throughout the Sacramento and San Joaquin River watersheds. We also encourage the EIR/EIS to consider areas beyond the Delta and Suisun Marsh for implementing conservation measures and potential mitigation. The present crisis originated outside the Delta, with its origins in water projects that diverted increasing amounts of water from the rivers upstream. To limit the scope of the solution to the Delta region could be overly restrictive, especially given predictions of sea level rise and subsequent potential changes in terrestrial species distributions

At a minimum, the scope of the EIR/EIS should include the following components relative to the protecting existing and future non-aquatic ecological values of the Delta region:

- Analyze the potential change in food availability for wetland-dependent migratory birds resulting from conversion of managed wetlands to tidal wetlands in the project area and Suisun Marsh.
- Analyze the potential change in breeding habitat for wetland-dependent migratory birds resulting from the conversion of managed wetlands to tidal wetlands in the project area.
- Analyze the potential change in food availability and breeding habitat for wetland-dependent birds resulting from temporary loss (or changes in management) of managed wetlands due to either prolonged floodplain inundation or conversion to floodplain habitat, especially in the Yolo Bypass.
- Analyze the potential changes in food availability for wetland-dependent migratory birds resulting from conversion of certain farmlands or change in agricultural crop type.
- Analyze how improved water conveyance may simplify and perhaps increase transfers of water south of the Delta, potentially reducing the amount of rice farmed in the Sacramento Valley. More specifically, analyze:
  - The impacts of potentially reduced rice acreage on foraging habitat for wintering and breeding migratory birds (and other wildlife, e.g., giant garter snake).
  - The impact of potentially reduced winter flooding of harvested ricefields on energy supply for waterfowl and other wildlife in the Sacramento Valley.
  - The impact of reduced spring/summer flooded rice habitat, and potentially increased fallow cropland, on breeding habitat for waterfowl and other birds.

- The potential to establish cover crops to reduce erosion and provide habitat (e.g., nesting cover) for breeding migratory birds if cropland becomes idle/fallow as a result of BDCP actions,
- Analyze whether and to what extent the project alternatives are consistent with the existing legal requirements regarding refuge water supply requirements of the CVPIA.
- Analyze how water supply and reliability to wetlands and agricultural habitats for migratory birds will change within the BDCP planning region, and in other potentially impacted regions of the Central Valley, given the different project alternatives.
- Analyze the costs and benefits of various project alternatives associated with the socio-economic values of seasonal wetland-related recreational opportunities, like hunting, fishing, and birding.

Thank you for the opportunity to comment on this important effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Delfino". The signature is written in a cursive, flowing style.

Kim Delfino  
Management Board Chair

cc: CVJV Management Board



## **Summarized Central Valley Joint Venture habitat objectives for migratory birds in the region of the Delta, including the Delta, Yolo, and Suisun basins**

The Central Valley Joint Venture (CVJV) set habitat objectives, for a 5-year time horizon, for six bird groups, including the following: breeding and non-breeding waterfowl, breeding and non-breeding shorebirds, waterbirds, and riparian dependent songbirds. CVJV approaches to establishing conservation objectives for the different bird groups are described in Appendix A.

For background in understanding summarized objectives below, note that for breeding and wintering waterfowl and riparian dependent songbirds, the JV used drainage basins at the planning unit for which to establish conservation objectives. These include: (1) Butte; (2) Sutter; (3) Colusa; (4) American; (5) Suisun; (6) Yolo; (7) Delta; (8) San Joaquin; and (9) Tulare basins. And for breeding and non-breeding shorebirds and waterbirds, the JV used four planning regions to establish conservation objectives: (1) Sacramento Valley, consisting of Colusa, Butte, American, and Sutter Basins; (2) Delta, consisting of Yolo and Delta Basins for shorebirds, and of Yolo, Delta, and Suisun basins for waterbirds; (3) San Joaquin Basin; and (4) Tulare Basin. For shorebirds, Suisun Marsh was not included, as counts were not available at the time of the CVJV Implementation Plan development.

The Suisun, Yolo, and Delta basins are dealt with in detail below (language excerpted or summarized from the 2006 Central Valley Joint Venture Implementation Plan).

### **Description of basins and summarized CVJV objectives for each**

#### **Suisun Basin**

The Suisun Basin includes 170 square miles in southern Solano County and is bordered on the east by the Sacramento-San Joaquin Delta and on the west by the Carquinez Strait. Suisun Marsh dominates the basin, and is the largest brackish (diked, managed) wetland remaining in California. In 1963 landowners created the 116,000-acre Suisun Resource Conservation District, which includes a complex of managed and unmanaged wetlands as well as upland habitat. There are 158 privately owned wetlands in the Suisun Basin. There are also 15,000 acres owned by the California Department of Fish and Game in the Grizzly Island Wildlife Area complex. Landowners must meet standards for wetland habitat and water quality set by the Suisun Marsh Preservation Act of 1977, enacted by the State of California.

Historically, the Suisun Marsh was a tidally influenced basin that totaled 74,000 acres. Large portions of the marsh were submerged daily until levee construction in the 1850s restricted tidal flows. Tide gates and levees currently protect most of Suisun Marsh from flooding, however salinities have gradually increased because of freshwater diversions from the San Joaquin and Sacramento rivers. Vegetation communities in the marsh reflect this increase in salinity, as many common plant species are salt tolerant.

Summary of migratory bird conservation objectives for Suisun Basin:

- The entire 58,000 acre marsh was assumed to be protected by the Suisun Marsh Protection Act of 1977, so wetland protection objectives were determined to be necessary.
- Wintering waterfowl:
  - Annual enhancement objective for existing wetlands = 2686 acres/year
  - 153,102 acre-feet of water required for wetland management
- Breeding waterfowl: increase semi-permanent wetlands
- Breeding and non-breeding shorebirds: Suisun Marsh was not included, as counts were not available at the time of the CVJV Implementation Plan development. However, it is known that 10s of 1000s, and perhaps as many as 100,000 non-breeding shorebirds use the seasonal wetlands in the basin.

### **Yolo Basin**

The Yolo Basin lies west of the Sacramento River between Cache Creek to the north and the Montezuma Hills and the Delta Basin to the south, and totals about 800 square miles. The basin historically received overflow waters from the Sacramento River as well as Cache, Putah, and Ulatis creeks. Low lying areas near the Delta were tidally influenced and supported permanent marshes, while flooding at higher elevations produced seasonal wetland habitat. Like much of the Central Valley, the hydrology of the Yolo Basin has been modified by levees and flood control structures. The Yolo Bypass was developed along the east side of the basin, and provides flood protection for adjacent lands when flows in the Sacramento River are high.

Summary of migratory bird conservation objectives for Yolo Basin:

- Wetland protection objective = 5000 acres (8700 acres unprotected)
- As of 2003, 2935 acres protected
- Wintering waterfowl:
  - Wetland restoration objective = 3000 acres
  - Annual enhancement objective = 713 acres/year (increases to 963 acres/year when wetland restoration objectives met)
  - 57,790 acre-feet of water will be required once wetland restoration objectives are met
  - Agricultural enhancement objective = 11,000 acres (8000 acres assumed to be corn, 3000 acres assumed to be rice that must be flooded)
- Breeding waterfowl: increase semi-permanent wetlands and restore upland habitat
- Breeding riparian songbirds: 675 acres
- Wintering shorebirds: see Delta (below)

### **Delta Basin**

The Delta Basin totals 2,100 square miles and extends from the American River in the north, to the Stanislaus River in the south. Other borders are the Sierra Nevada foothills to the east, the Sacramento River to the northwest, and the Coastal Range to the southwest. Prior to the mid-1800s, the Delta was tidally influenced and part of a larger estuary that included Suisun Marsh and the San Francisco Bay. Development of the basin began in the 1850s when the Swamp Land Act transferred ownership of all “swamp and

overflow land” from the federal government to the State. By the early 1900s, nearly all the Delta’s wetlands had been converted to agriculture.

The basin is formed by the convergence of the Sacramento, San Joaquin, Cosumnes, Mokelumne, and Calaveras Rivers. This confluence is subject to tidal movement and water diversions as it flows into the San Francisco Bay. A 1,000-mile network of levees has reclaimed sixty former wetland islands in the Delta. These islands are intensively farmed and some are managed as duck hunting clubs after crop harvest.

Summary of migratory bird conservation objectives for Delta Basin:

- Wetland protection objective = 3000 acres (4300 acres unprotected)
- As of 2003, 1704 acres protected
- Wintering waterfowl:
  - Wetland restoration objective = 19,000 acres
  - Annual enhancement objective for existing wetlands = 529 acres/year (increases to 2112 acres/year when wetland restoration objectives met)
  - 120,408 acre-feet of water will be required once wetland restoration objectives are met
  - Agricultural enhancement objective = 23,000 acres
- Breeding waterfowl: increase semi-permanent wetlands
- Wintering shorebirds (Delta + Yolo basins):
  - Seasonal wetland objective = 7334 acres of (6994 conventionally managed and 340 with early flood-up; 50% of seasonal wetlands must provide foraging depths <10cm during some portion of wintering period)
  - Semi-permanent wetland objective = 170 acres
  - Winter flooded rice objective = 5142 acres (64% of winter flooded rice must provide suitable foraging depths during some portion of winter)
- Breeding shorebirds:
  - Semi-permanent wetlands objective in Delta = 875 acres (breeding shorebird numbers are low in the Delta relative to other areas of the Central Valley) + 875 acres of semi-permanent wetlands combined for the American, Butte, Colusa, Sutter, and Yolo basins.
- Waterbirds (Yolo, Delta, and Suisun combined):
  - Semi-permanent wetlands objective = 1000 acres
  - Riparian objective = 1000 acres
- Breeding riparian songbirds:
  - Riparian restoration objective = 1500 acres (900 acres along Mokelumne River and 600 acres along the Cosumnes River)

## **Appendix A. CVJV approaches to setting conservation objectives**

### **Non-breeding waterfowl:**

Conservation objectives for wintering waterfowl were established at the basin scale. An energetic approach was used, assuming that food energy supplies are the limiting factor for support of target populations. First, the relationship between population energy demand and existing food supplies was evaluated for ducks, dark geese, and white geese using a modeling approach. Second, the relative contribution that agriculture and managed seasonal wetlands make to waterfowl food supplies in the basin was estimated. Finally, changes in waterfowl carrying capacity that would result from the loss of agriculture were evaluated, as was the ability of public lands to meet duck energy needs.

### **Non-breeding shorebirds:**

A similar modeling approach for wintering waterfowl was used to determine habitat objectives for non-breeding shorebirds. The CVJV 2006 plan assumes that food is the primary need for shorebirds during migration and winter, and providing adequate foraging habitat at appropriate water depths will enhance survival outside the breeding season. The food energy modeling approach calculates population energy demand and population energy supplies for specific time periods and was used to estimate shorebird habitat needs and to develop conservation objectives. The objectives were distributed across planning regions based on known shorebird distribution.

### **Breeding shorebirds:**

Four factors were considered when establishing conservation objectives for breeding shorebirds in the Central Valley: (1) historic patterns of habitat loss; (2) current distribution of breeding shorebirds among planning regions; (3) an estimate of the habitat resources currently available to breeding shorebirds in each planning region; and (4) annual rates of wetland restoration in the Central Valley. Annual wetland restoration rates provide a basis for identifying how much conservation work might be accomplished on behalf of breeding shorebirds in the next five years, while factors one through three provide the basis for distributing this objective in a biologically meaningful way.

### **Waterbirds:**

Short term conservation objectives for waterbirds include a combination of quantitative habitat objectives and qualitative habitat conservation recommendations to benefit a range of waterbird species that breed and/or winter within the Central Valley. For waterbirds the CVJV: (1) identifies focal species that serve as an “umbrella” for similar species; (2) identifies factors believed to be limiting their populations; and (3) develops conservation strategies to counter these limiting factors.

Focal species that best serve as “umbrella” species for the family or group of waterbirds that they represent, and that would most likely benefit from JV conservation actions,

were selected for each family, if they met the following criteria: (1) listed as Highly Imperiled or of High Concern in the NAWCP; *or* (2) listed as of Moderate Concern in the NAWCP *and* California Bird Species of Special Concern; *and/or* listed as a USFWS Bird of Conservation Concern. Using this process, the JV identified seven focal species representing six families spanning a range of wetland or riparian conditions: Western grebe (*Aechmophorus occidentalis*); snowy egret (*Egretta thula*); least bittern (*Ixobrychus exilis*); white-faced ibis (*Plegadis chihi*); black tern (*Chlidonias niger*); black rail (*Laterallus jamaicensis*); and Sandhill crane (*Grus Canadensis*).

Without population goals on which to base habitat objectives, the JV's approach was to identify factors believed to be limiting populations, and to target conservation strategies that counter these limiting factors. The JV used a two-step process to develop conservation objectives. First, biologists developed quantitative (i.e., acre) habitat objectives for each of five principal waterbird habitats (seasonal wetlands, semi-permanent/permanent wetlands, rice, irrigated crop and pasture, and riparian) and distributed them among each waterbird planning region. Secondly, they provided qualitative focal species conservation recommendations.

#### **Riparian dependent songbirds:**

Population objectives are calculated for a suite of focal bird species that primarily breed in riparian habitat. The species were chosen whose requirements define different spatial attributes, habitat characteristics and management regimes believed to be representative of a healthy riparian system. Seven focal species were chosen: Song Sparrow, Yellow-breasted Chat, Black-headed Grosbeak, Common Yellowthroat, Yellow Warbler, western Yellow-billed Cuckoo, and Spotted Towhee. For six of the species (not including Yellow-billed Cuckoo) population objectives were developed based on monitoring data. Current population estimates were derived by estimates of birds per acre multiplied by the area of current habitat available and targets were derived by multiplying an appropriate target density by the area of potentially restorable habitat. The process to develop population objectives for Yellow-billed Cuckoo differed from other species due to its exceptionally low current population size and difficult sampling methodology. Instead, a minimum management goal for populations in each basin was established.

# BDCP

## BAY DELTA CONSERVATION PLAN ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

### — Comment Card —

Please Print

Name: Earleen Clark Organization: Clark Farms

Telephone: 916-775-1435 e-mail: \_\_\_\_\_

Address: 40660 Waukeena Road

City: Clarksburg State: CA Zip: 95612

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

Is it true that no one knows if your proposed project will meet its objectives and that not all aspects of the conservation of threatened and endangered fish species in the Delta have been studied adequately?

What experiments have been conducted that show this project to be beneficial to Delta smelt, Sacramento Splittail, Longfin smelt, Chinook Salmon, steelhead, Green Sturgeon, and White Sturgeon?

Adequate experiments and studies need to be conducted to provide assurance that the conservation objectives of the BDCP with regard to threatened and endangered fish species will be obtained.

Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:

Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.

You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). **Comments must be received by May 14, 2009.**

*Handwritten signature/initials*

# BDCP

DAY DELTA CONSERVATION PLAN

ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

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Where will the BDCP get the funds to pay for the project?

How will the source of the funds for the project affect Delta citizens?

How much money will be provided by the state of California?

How much money will be provided by water contractors?

How much money will be provided by the private sector?

Will there be conflicts of interest based on the source of the funds to pay for the BDCP?

Will the BDCP be influenced in any way on the basis of the source of its funding?

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BAY DELTA CONSERVATION PLAN

ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

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How will increased salinity in Elk Slough, as a result of your project, affect our grape vines?

Who will compensate me for lost or reduced production of my wine grapes when water quality is reduced as a part of this BDCP project? How will that compensation be determined? Also, how will I be compensated for my lost water rights?

Taking water out upstream will reduce our water quality. How will your project affect ground water supply in the Delta? How will our drinking water supply and drinking water quality change as a result of this project?

Answers to the above questions should be addressed and provided to us.

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Will the BDCP result in increased mosquito populations in the Delta?

Does the BDCP include plans for controlling mosquito populations?

How will mosquito populations and methods of controlling mosquito populations affect the residents of the Delta?

How will methods of controlling mosquito populations affect threatened and endangered fish species in the Delta?

Will there be an increase of West Nile Disease because of the BDCP?

What experiments and studies have been done with respect to mosquito populations and the BDCP?

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How will predator populations be controlled?  
Striped bass, a well known Delta fish predator,  
will benefit from many of the changes being  
implemented as part of the BDCP. As the young-of-  
year striped bass populations increase with BDCP imple-  
mentation, how will fish predation issues be addressed?  
Striped bass have been the top predator in the Delta  
since their introduction. How will the BDCP change this  
fact? Isn't it true that striped bass populations <sup>will probably increase</sup> with  
the implementation of the BDCP? IF more predation  
occurs as a result of the BDCP, will not Delta  
smelt populations decrease due to the increase  
in predation?

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I think an alternative strategy to the BDCP Draft Conservation Strategy may have a greater impact to provide for the conservation of threatened and endangered fish species in the Delta and improve the water supply system within a stable regulatory framework. Since previous efforts similar to the strategies proposed by the BDCP have failed in the past, I would like you to investigate the merit of building more reservoirs north of the Delta to collect spring snow melt and runoff, providing better regulation and control with regard to substances detrimental to fish being released or dumped into water supplies north of the Delta, and providing cleaner water with controlled flow to pass through the existing channels of the northern Delta. Continued →

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What experiments or studies have been conducted to determine if more reservoirs and stronger regulation of detrimental substances being dumped into waterways north of the Delta would work as well as, or better than, the BDCP draft conservation strategy and, also, might be more cost effective?

What studies and experiments have been done to determine how much the contaminants being dumped into water supplies north of the Delta are impacting threatened and endangered fish species in the Delta?

What studies have been done to determine how many reservoirs (including existing reservoirs and increasing the capacities of those reservoirs) would be needed continued →

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north of the Delta to provide adequate storage of  
spring snow melt and runoff to allow for a steady,  
controlled year-around amounts of water to pass  
through existing channels in the Delta that would  
meet the purposes of the BDCP?

What studies have been done to determine the cost  
of the above-referenced strategies versus the cost  
of the strategies of the BDCP Draft?

How much will the strategies of the BDCP cost?

How much will the aforementioned alternatives cost?

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I am concerned that the BDCP will result in increased salinity in Elk Slough which is the source of our farm's irrigation water. Increased salinity in Elk Slough will adversely affect our grape vines and may make farming our land impossible altogether. At the BDCP EIR/EIS public scoping meeting in Clarksburg, California, on March 26, 2009, we were told that the salinity level in the northern Delta would not change, but stay at the same current levels and would not move inland any further, but stay at the current locations. It has been our understanding that decreasing water flows through the northern Delta will cause increased salinity. It also has been our understanding that additional water storage above the northern Delta →

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would provide for an adequate supply of water flow through the Delta at times when water is being diverted from the Sacramento River to the BDCP peripheral canal to prevent increased salinity in the northern Delta. What will the BDCP include to prevent increased salinity in Elk Slough? Will additional upstream water storage be required as part of the BDCP project to meet salinity standards and maintain current salinity levels without further salinity increases?

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Previous habitat restoration efforts in the Delta have been largely unsuccessful. This project looks similar to those efforts. Why will this project be successful? In what ways is this project similar to previous unsuccessful efforts and in what ways is it different? What data from previous efforts are incorporated in the BDCP? What studies and experiments have been conducted to show that this plan will meet with success when similar past efforts have failed?

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How will the BDCP prevent the spread of nonnative organisms in the Northern Delta?

How will the BDCP meet the regulations and requirements of the Yolo County General Plan?

Who will be fiscally responsible if nonnative organisms and/or water born pathogens become established in the north Delta?

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CLARKSBURG  
WINE GROWERS  
& VINTNERS  
ASSOCIATION



May 14, 2009

Ms. Delores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

Dear Ms. Brown,

The Clarksburg Wine Grape Growers and Vintners Association are strongly opposed to the development of the proposed water conveyance system in our American Viticulture Area (AVA). We believe that any system developed to remove additional water from the Delta will result in a disaster to the Delta and its inhabitants, as well as cost billions of dollars to the taxpayers.

The economic impact on the wine grape industry will be severe if any of the 3 water conveyance options are implemented.

The Clarksburg appellation contains 17,000 acres of wine grapes, all of which come from Delta vineyards. District 17 which includes other Delta wine grape growing areas produced 3,061,421 tons of wine grapes in 2008\* (source; Grape Crush Report 2008 CA Dept. of Food & Agriculture, March 10, 2009). The value of this crop to the state was approximately \$46,585,148 at the grape sales level. 54,839,085 cases of wine were produced. The benefit when sold to customers through various distribution channels resulted in sales of several billion dollars a year.

Vineyards are very expensive to plant and maintain. They are considered to be a permanent crop as opposed to an annual crop. The destruction of vineyards as proposed by the 3 options would cause significant negative economic impact to the state.

We demand that the state carefully and thoroughly study, the adverse economic impact the conveyance options being considered would have on the local and state economy.

Cordially,

Timothy W. Waits  
CWGVA President

Cc: ND Cares



May 13, 2009

Ms. Delores Brown, Chief  
Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236  
BDCPcomments@water.ca.gov

Re: Bay Delta Conservation Plan (BDCP) Scoping Comments

Dear Ms. Brown,

In an effort to protect and promote the viability of Delta agriculture, the five Delta County Farm Bureaus; Contra Costa, Sacramento, San Joaquin, Solano and Yolo have joined together to form the Delta Caucus. The Delta Caucus understands and supports the need for water reliability statewide and supports efforts and processes to responsibly plan for California's water future.

Within the framework of the limited information available, the Caucus is concerned the BDCP scoping comments may not be comprehensive or complete. As environmental and conveyance plans are developed, the BDCP must solicit additional comments, especially from Delta interests. However, based upon our knowledge of the BDCP at this time, the Delta Caucus has the following concerns which we have grouped into three categories: fundamental questions, conveyance, and fish recovery efforts.

Fundamental Questions:

1. Has exporting water from the Delta damaged the environment and socio-economic health of the Delta?
2. Will increased reliance and investment to move water from North to South through the Delta institutionalize, perpetuate, and accelerate damage in the Delta?

3. Will species-specific restoration damage the ecosystem and diminish abundance of other sensitive species?
4. Is there enough developed water to support the considerable investment in the Delta being proposed by the BDCP and would that investment be better used to support development of other options such as regional self-reliance?
5. Should Delta conveyance be an interim solution while other viable options to develop a reliable water supply for the State of California are identified and developed?

Conveyance:

1. The EIR must clearly show how each proposed alternative is designed to operate within the multitude of existing legal restrictions, water quality requirements, and contractual constraints such as but not limited to the North Delta Water Agency contract with the State of California, area of origin priorities, and Delta salinity standards. The EIR must include a detailed analysis of all legal constraints on water exports and a thorough explanation detailing how each alternative will comply with them.
2. The EIR must quantify how much Delta outflow is needed to maintain a healthy fresh water Delta (see attached study by Dr. Jeff Hart). This information is critical to determine how much water is available for export, the appropriate size of conveyance facilities, and the overall evaluation of each alternative.
3. The design capacity of proposed conveyance facilities should be determined by the amount of export water available. Each alternative should be developed to reflect the limitation of available water for export.
4. The EIR must explain why the BDCP isolated facility (peripheral canal) is being designed to convey 15,000 cubic feet per second. Do normal river flows justify an isolated facility capable of conveying 15,000 cubic feet per second? How much water will be conveyed "through Delta"? Will smaller capacity isolated facilities be considered? Why build a very expensive, disruptive facility if it is not needed, if it may be used only occasionally, if it could divert substantially all of the Sacramento River summer flow, and if it has the potential to devastate the Delta.
5. The EIR should compare and contrast upstream diversions and their effects on water quality entering the Delta from the Sacramento and San Joaquin Rivers. This information should be used to evaluate the effects of BDCP alternatives which divert water from the Sacramento River before entering or traveling through the Delta.

6. The EIR should examine alternatives in depth to determine if “Through Delta” conveyance is friendlier to the entire Delta ecosystem than removing water from the common pool in the North Delta and conveying it for export in an isolated facility.
7. The Delta Protection Act of 1992 was passed to protect the Primary Zone of the Delta for agriculture, habitat and recreation. The EIR should determine how these Delta resources will be negatively impacted and how alternatives can be designed to be compatible with the Act and its objectives. For example, water from isolated facilities could be piped underground across reclamation districts rather than in surface canals to eliminate negative impacts to drainage, flood control and irrigation systems caused by dividing reclamation districts.
8. The EIR must identify how facilities and changes in river elevations will impact ground water elevations. Plans must be developed to mitigate for seepage and other negative impacts associated with changes in ground water elevation.
9. The EIR must develop governance structures which will protect the Delta environment and its socio-economic interests. Governance structures must be legally required and have the authority to act swiftly to curtail and even stop water exports in order to maintain a healthy fresh water Delta and comply with all water laws, constraints and contracts.
10. Because in the near and intermediate term, water exports must be conveyed through Delta, every effort should be made to make this alternative work for the long term and thus avoid the additional expense and considerable negative impacts of building an isolated facility.
11. The EIR must identify all negative impacts to the Delta economy and ecosystem caused by each of the alternatives, must quantify the cost of the impacts, and must define in detail mitigation actions which will be required. For example, how will the BDCP mitigate for loss of farmland and loss of Swainson’s Hawk foraging habitat?
12. The EIR must determine how each conveyance alternative will affect flood control and especially how each alternative will impact flood plains such as the McCormack Williamson Tract, and the Hood-Franklin pool. BDCP projects must not adversely impact flood safety in the Delta.
13. Loss of income to special districts and counties must be considered. A mechanism must be developed to ensure that tax revenue is not lost due to public acquisition of property for conveyance facilities.

Fish Recovery Efforts (Wetlands/Tidal Wetlands/Fish Habitat):

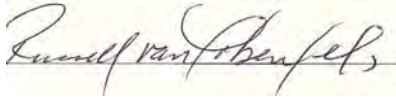
1. The EIR should identify in detail all factors which influence the abundance of targeted fish and only propose those actions which show a strong positive correlation to increased fish abundance.
2. While the adaptive approach might work for small projects, large-scale conversion of agricultural lands should only be based upon sound science linking land conversion to increased fish abundance. Large scale, irreversible experiments should not be conducted and permits should not be issued without sound scientific expectations.
3. Where sound science shows a strong positive correlation between fish abundance and habitat creation, land already owned by the public should be converted first. Eminent domain should not be used to acquire habitat restoration sites.
4. The EIR must analyze the implications of creating wetlands within the borders of reclamation districts. Is it feasible to create wetlands within the borders of reclamation districts where at certain times water is the common enemy? How will flood control, drainage, and irrigation systems be impacted within reclamation districts where fish habitat is created?
5. Redirected impacts caused by moving targeted fish from one area of the Delta to another must be identified and mitigated. For example, if the Delta Smelt population increases due to BDCP projects, water users should not be restricted from pumping water from the channels where this occurs.
6. As with conveyance alternatives, the EIR must identify all negative impacts to the Delta economy and ecosystem caused by water quality changes and conversion of land from agricultural production. It must clearly articulate how the BDCP will mitigate for loss of farmland and habitat such as Swainson's Hawk foraging habitat.
7. The EIR should identify in depth all plant communities and avian and terrestrial species which will be adversely impacted by creation of fish habitat. The analysis should include impacts caused by changes in water quality as well as large-scale conversion of both agricultural and wildlife habitat to fish habitat.
8. The EIR must examine seepage impacts and other changes in ground water elevation caused by creating fish habitat. It must provide detailed and meaningful mitigation when negative impacts restrict owners' use of their property.

9. Loss of income to special districts and counties must be considered. A mechanism must be developed to prevent loss of tax revenue as a result of the creation of wetland/fish habitat.

In conclusion, the Delta Caucus suggests that the BDCP broaden its focus to include more than the Delta. California water reliability for the future should not be dependent on Delta conveyance or circumvention which will likely result in unexpected negative impacts to the Delta ecosystem and socio-economic environment. The water supply for millions of Californians will be more secure and reliable by increasing regional supplies and reducing dependence on the Delta.

Thank you for this opportunity to submit our scoping comments at this time.

Sincerely yours,



Russell van Loben Sels,  
Chair, Delta Caucus

Enclosure: California Delta – Estuary (Dr. Jeff Hart)

CC:

Honorable Dianne Feinstein  
Honorable Barbara Boxer  
Honorable Dan Lungren  
Honorable Doris Matsui  
Honorable Dave Cox  
Honorable Lois Wolk  
Honorable Joan Buchanan  
Honorable Alyson Huber  
Honorable Roger Niello  
Honorable Patrica Wiggins  
Honorable Dave Cogdill  
Honorable Mariko Yamada  
Honorable Tom Torlakson  
Honorable Bill Berryhill  
Honorable Jim Nielson  
Mike Chrisman, Secretary of Natural Resources  
Karen Scarborough, Natural Resources Agency  
Contra Costa County Board of Supervisors  
Solano County Board of Supervisors

Sacramento County Board of Supervisors  
San Joaquin Board of Supervisors  
Yolo County Board of Supervisors  
Terry Schulten, County Executive  
Paul Hahn, Agency Administrator  
Keith DeVore, Sacramento County Department of Water Resources  
Contra Costa, Solano, Yolo & San Joaquin County Farm Bureau's  
Chris Scheuring, California Farm Bureau Federation

## California Delta – Estuary

### Comments on Types and Transitions

Jeff Hart, Hart Restoration, Inc.

March 2, 2009

The California Delta is located at the terminus of the Sacramento and San Joaquin Rivers in the Central Valley, immediately east of the San Francisco Bay Estuary complex. The Delta is a relatively young environment, having been formed since the last Ice Age less than 10,000 years ago (Atwater et al. 1979)(Drexler, de Fontaine and Knifong 2007). At the time of European contact, it was a large wetland, but has since been “reclaimed” as a highly productive farming region. The Delta also functions as a conduit for the majority of California's water supply, as well as providing cultural, recreational, and environmental values, this because of and despite its significant physical and biological transformations. The Delta and nearby San Francisco Estuary have been the focus of various planning and scientific studies. Of scientific and policy interest is the extent to which salt water/brackish conditions extended eastward of the Bay-Estuary and into the Delta in pre-European contact times. For purposes of discussion, the border between the Delta and the Estuary is herein defined as a transition zone encompassing the mid to lower portion of Sherman Island; the Delta is found eastward, the Estuary westward. The following discussion provides an argument for this distinction.

Delta vs. Estuary: What's in a Name? In early history, the Delta was referred to as “swamp and overflow” lands, peatlands, or particular areas were named for its rivers and sloughs. It is not clear when the first usage of word “delta” began; by the 1940's the term began to be commonly used as a descriptor for this physical setting (Cosby 1941). The application of word estuary finds a cognate in the early Spanish designation “estero” (such as for Drakes Bay, Pt. Reyes region). Early English usage also did not refer to this region as an estuary, but used the term “bay”. Modern scientific usage clearly distinguishes between delta and estuary environments (Wikipedia 2009). Deltas are defined as more riverine influenced, where rivers, approaching low gradient environments of lakes, valleys and coasts branch out into a series of distributary channels flanked by sediment-deposited natural levees. Estuaries are extensions of oceans, and are characterized as a mixing zone of fresh and salt water (brackish). Both deltas and estuaries can be tidally influenced. Deltas can come in a variety of shapes: the classic triangle-shaped Nile Delta may be the exception more than the rule. The “inverted” California Delta might seem anomalous, but not unexpected given the tectonically active region on its western flank, which causes the numerous distributary channels to re-unite as a single channel (the broom handle) below Sherman Island where the estuary begins. The classic work of Atwater (1979) clearly distinguished the



Delta from the estuarine and bay environments to the west.

Agriculture and Salt. Atwater (1979) noted the lack of salt in Delta soils. Delta residents, especially agricultural interests, have considered the Delta to have been a freshwater environment. Clearly, agriculture could not have flourished had the Delta been a saltwater or brackish environment. A comparison with Suisun Marsh reveals a lack of agricultural practices (mostly limited to initial grazing, but soon managed for hunting) compared to the Delta which has had a rich and productive history of farming numerous crops such as grapes, pears, peaches, corn, wheat, potatoes, and alfalfa, to name a few. While scientists working with Suisun Marsh soils have noted distinctive layers of salt, comparable observations have not revealed such restrictions to agricultural practices in the Delta.

Native Plant Species/Relict Habitats. In addition to soil and agricultural evidence, a comparison of native plant species reveals qualitative differences between Delta and Estuary environments; the following discussion follows from Atwater (1979) as well as personal observations. San Francisco Bay supports about 13-14 vascular plant species. About 40 species occur in the Delta. Plants that occur in the Bay are typical salt marsh plants, and few of these occur in the Delta. Typical low elevation salt marsh plants include pickleweed (*Salicornia pacifica*) and cordgrass (*Spartina foliosa*) which inhabit tidal marsh environments. Higher elevation marsh plants include salt grass (*Distichlis spicata*), marsh grindelia (*Grindelia humilis*), alkali heath (*Frankenia grandifolia*), fleshy Jaumea (*Jaumea carnosa*) and others. Native plants of the pristine Delta include common tule (*Scirpus acutus*), California tule (*Scirpus californicus*) cattails (*Typha* spp.), common reed (*Phragmites communis*), twinberry (*Lonicera involucrata*), dogwood (*Cornus stolonifera*), button bush (*Cephalanthus occidentale*), and several species of willow (*Salix gooddingii*, *S. lasiolepis*, *S. lucida*). The plant community of San Pablo Bay, Suisun Marsh, and Carquinez Strait are transitional between San Francisco Bay and the Delta. That is, some plants of the opposite end of the spectrum can be found in the middle estuary: most salt marsh plants of San Francisco Bay, such as *Salicornia* and *Spartina*, can be found at Suisun Marsh, but not in the Delta. Some species, such as salt grass and *Grindelia*, can be found all the way to some Delta locations. But, significantly, some Delta freshwater species of wetland plants such as lady fern (*Athyrium filix-femina*), mint (*Stachys albens*), dogwood (*Cornus sericea*), twinberry (*Lonicera involucrata*), button bush (*Cephalanthus occidentale*), and willows (*Salix lasiolepis*, *S. lucida*), to name a few, are not found in the Estuary (Carquinez Strait, Suisun Marsh) or points west in San Francisco Bay tidal environments, but are restricted to remnant in-channel Delta islands east of Brown's Island and the Sherman Island transition zone. These remnant in-channel islands harbor a relictual, well-rooted flora characteristic of pre-gold rush Delta conditions. Because these species are salt intolerant and would be slow to re-invade a Delta that might have putatively been more estuarine, this flora would have been characteristic of this landscape for at least several hundred years before European contact. Further, abandoned man-made levees in the delta are colonized by a combination of mostly opportunistic alien and native species, but not the full suite of the relic species mentioned above. A fragmentary, incomplete fossil record does exist; Atwater (NO CITED PAGES FOR REPEATED CITATION) stated there to be no known fossil record of the saltwater marsh plants *Distichlis* or *Salicornia* remains from the Delta.

Early Observations/Effect of Reclamation. Early explorers generally described the freshwater conditions of the Delta (Thompson 1957). However, salinity levels in the larger estuary environment varied spatially on a yearly and seasonal basis, but within a geographical context. During fall and during periods of drought, it would be expected toward the Delta. Brackish water was noted in Antioch as early as August, 1841, and in the 1860's and 1870's (NO CITED PAGES FOR REPEATED CITATION). But Antioch is essentially an estuarine environment below and west of the true Delta. Potential saltwater intrusion upstream into the pre-European contact delta area, however, would likely have been countered by a vast reservoir of freshwater being stored in the Delta wetlands that would have functioned as a natural buffer. This would have been evident before the construction of levees, when the full reservoir effect of the delta would have been in play. The construction of artificially high levees would have cut off this natural supply of within island and floodplain freshwater; likewise, the placement of other water control structures (water diversion canals for irrigation) would have deleted natural floodplain water storage. The effect of these alterations as well as the deepening and widening of channels eventually increased the salt water intrusion. Salt water intrusion became serious in the Delta between 1920 and 1939, and the water was often considered unfit for irrigation. In response, late season irrigations were cut. In 1931, about 70 per cent of the delta channels contained water with 100 or more parts chlorine per 100,000 parts of water; the minimum river discharge was as low as 500 cubic feet per second. Indeed, one rationale for the construction of upriver dams was to mitigate salt water intrusion by the re-introduction of fresh water into the delta (NO CITED PAGES FOR REPEATED CITATION).

Geologic Model For Delta/Estuary Distinction. The botanical/soils/agricultural discontinuity between the eastern Estuary/western Delta necessarily involves an explanation relying proximally on hydrology, and ultimately, on geologic controls. Tectonic uplift of the western end of the Delta (Coast Range, Montezuma Hills) caused for the constriction of the Delta distributary channel system to a single channel (the "broom handle effect"); hydrologically, this functioned as a dam. The Delta islands and immediate floodplains therefore functioned as a large reservoir and watershed, storing water during the winter and spring run-off; and slowly releasing it through the fall, thus buffering salt water intrusion. While periods of more saline conditions might have prevailed downstream in the Estuary, the Delta region would have been buffered by a consistent release of water. This geological control would therefore explain the discontinuity (agriculture/soils/flora) between the SF Estuary and the California Delta.

Recent Paleoecological Studies. To determine historical (Holocene) SF Estuary salt water/freshwater trends, a number of excellent studies recently have been conducted (Goman 2000)(Bryne 2001)(Starratt 2004)(Malamud-Roam et al. 2007). Through core samples of representative native habitat sites and other indirect approaches, scientists have deployed various techniques to assess past conditions: carbon -isotope, diatom, pollen and other fossils, and trends in river flow. These studies have demonstrated trends of hundreds to thousands of years of water quality conditions that reflect broad changes of climate, but not necessarily seasonal variations. In none of these studies have paleoecological data points been gathered in the Delta, however.

Need for More Delta Research. To resolve conflicting views of historic Delta

water quality conditions, we propose continuing the type of research conducted by (Goman 2000)(Bryne 2001)(Malamud-Roam et al. 2007) and others. We would propose collecting core samples from several extant in-channel Delta islands. Most remaining islands are found within the San Joaquin River system (e.g., near Webb least one island in Lindsey Slough and one near Webb Tract would therefore represent conditions of lower water quality than along the Sacramento River.

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Bryne, Roger. 2001. Carbon-Isotope, diatom, and pollen evidence for late holocene salinity change in a brackish marsh in the san francisco estuary. *Quaternary Research* 55:66-76.

Cosby, Stanley W. 1941. *Soil Surveys of the Sacramento-San Joaquin Delta Area, California*.

Drexler, Judith Z., Christian S. de Fontaine, and Donna L Knifong. 2007. Age determination of the remainig peat in the sacramento - san joaquin delta, california, USA. *USGS. Open File Report 2007-1303*.

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Malamud-Roam, Frances, Michael Dettinger, Lynn B Ingram, Malcolm K Hughes, and Joan L Florsheim. 2007. Holocene climates and connections between the san francisco bay estuary and its watershed: A review. *San Francisco Estuary and Watershed Science* 5 (1).

Starratt, S W. 2004. Diatoms as indicators of late holocene fresh water flow variation in the san francisco bay estuary, central california, U.S.A. . Ed. M Poulin. *Seventeenth International Diatom Symposium*,371-397.

Thompson, John. 1957. *The Settlement Geography of the Sacramento-San Joaquin Delta*.

Wikipedia. 2009. River delta. *New Reference* [http://en.wikipedia.org/wiki/River\\_delta](http://en.wikipedia.org/wiki/River_delta)."

Russell van hoken Sds  
Chair of Delta Caucus  
President Sacramento County Farm Bureau

I have a whole list of concerns, but in my limited time will only touch on a few of them. The balance I will submit in written form.

First: The draft EIR must clearly show how each proposed alternative is designed to operate within the multitude of legal restrictions, water quality requirements, and contractual constraints such as:

The North Delta Water Agency contract with the State of California.

Area of origin priorities.

Delta salinity standards.

Second: The draft EIR must identify how much Delta outflow is needed to maintain a healthy estuary and how each alternative will be designed in order to maintain the appropriate outflow and Delta water quality. The EIR should compare and contrast water flow and water quality from the two major rivers (the Sacramento and San Joaquin) which enter the Delta and determine what factors contribute to the major difference in water quality.

Export alternatives can not be developed and evaluated without this critical information.

The appropriate size of facilities can not be determined without this critical information.

Export quantities can not be determined without this critical information.

And finally, how were BDCP alternatives developed without this critical information?

Third: The draft EIR must show a correlation between Delta smelt abundance and creation of tidal and seasonal wetland habitat.

Unless BDCP restoration of fish habitat is based on sound science, an adaptive attempt to try one thing after another will likely end in failure and result in irreparable damage to the Delta environment and agriculture.

Fourth and finally: The draft EIR must explain why the BDCP isolated facility (peripheral canal) is designed to convey 15,000 cfs. Is it based on science to support a healthy Delta or on achieving maximum exports without regard to the health of the Delta environment?

If the maximum export capacity is 15,000cfs and the preferred alternative is a dual conveyance system, why isn't the capacity of the peripheral part of the system reduced by the conveyance capacity of the through Delta part so that the combined capacity is 15,000cfs?

Wouldn't it be more appropriate to size the peripheral part of the dual conveyance system by starting with expected river flows and subtracting Delta outflow requirements to maintain a healthy estuary subtracting through Delta capacity and what is left could be conveyed in an isolated facility. It may be nothing.

So why propose digging a big ditch that you may not be able to use or can only use occasionally and which would make it possible to destroy the Delta.

If the current system of exports has damaged the Delta, then some of the proposed BDCP alternatives could devastate the Delta.

Jerry Creech  
DELTA SPORT BOATS  
Vice Commodore.  
925-290-6210

— Intend to coordinate Summer  
Boat counts



# DELTA WETLANDS PROJECT

May 14, 2009

Ms. Delores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

Dear Ms. Brown:

The Delta Wetlands Project has reviewed the Notice of Preparation (NOP) for the Bay Delta Conservation Plan (BDCP). This comment letter augments Delta Wetlands' previous scoping comment letter submitted May 30, 2008.

Delta Wetlands Properties, the largest private landowner in the Delta, owns and currently farms approximately 20,000 acres on four Delta islands: Webb, Bouldin, Holland and Bacon. It is responsible for the maintenance of 56 miles of levees. Delta Wetlands Properties is developing the in-Delta storage project known as the Delta Wetlands Project (Project). The Delta Wetlands Project will divert and store water on Webb Tract and Bacon Island and create and enhance wetlands to manage wildlife habitat on Bouldin Island and most of Holland Tract. The stored water will be provided to municipal, industrial and agricultural users within the Central Valley Water Project and State Water Project service areas. The stored water may also be released to enhance Delta outflow and water quality. The Project is anticipated to be funded completely by beneficiaries. The Department of Water Resources (DWR) and the Delta Wetlands Project entered into a protest dismissal agreement that the Project will not harm the operations of the CVP or SWP.

A Final EIR (2001 SCH # 1988020824) and Final EIS (2001) were prepared for the Delta Wetlands Project. The Final EIR is being updated by the Semitropic Water Storage District in response to *Central Delta Water Agency v. State Water Resources Control Board*, 124 Cal.App.4<sup>th</sup> 245 (2004). Semitropic is preparing the Delta Wetlands Project Place of Use EIR that will analyze the effects of providing water to the proposed places of use, banking water within the Semitropic Groundwater Storage Bank and Antelope Valley Water Bank, and will update prior analyses based on new information and changed circumstances. The Place of Use EIR NOP was provided to DWR. As the Delta Wetlands Project is "likely and foreseeable," BDCP's CEQA analysis must consider the Delta Wetlands Project. We encourage DWR to consider the Delta Wetlands Project documents in preparing the Draft EIS/R for BDCP, as discussed below.

The BDCP NOP provides general descriptions of "covered activities" designed to meet broad planning goals of restoring and protecting water supply, water quality, and ecosystem health. Although little detail is provided, it is likely that any long-term conservation plan will involve or affect the Delta Wetlands islands (Bacon Island, Bouldin Island, Holland Tract and Webb Tract), which are a dominant feature of the central and west Delta. If BDCP does not coordinate with Delta Wetlands Properties and the Delta Wetlands Project, BDCP's proposed activities could interfere with current agricultural operations as well as the development and operation of the Delta Wetlands Project. For example, modification to the flow regime in the Delta could reduce flows and/or impair water quality in a manner that injures Delta Wetlands' existing irrigation water right licenses and Delta Wetlands Project water rights.

Anson B. Moran, General Manager  
1660 Olympic Blvd., Suite 350  
Walnut Creek, CA 94596  
Telephone (415) 730-5637

The Delta Wetlands Project is consistent with and will help accomplish the ambitious BDCP goals, including the conservation of covered species, the restoration and protection of water supply reliability, protection of certain drinking water quality parameters, and the restoration of ecosystem health to proceed within a stable regulatory framework. As a stand-alone project, the Delta Wetlands Project works with BDCP's isolated conveyance alternatives and provides a variety of benefits to BDCP including a more diverse array of restored habitats, strengthening Central Delta levees along the critical Middle River water supply pathway, and reducing conflicts between water demand and supply. The benefits provided by the Project to BDCP, however, are significantly enhanced through incorporation of the Project into BDCP plans. BDCP, therefore, should identify and evaluate in its EIR specific measures to coordinate the BDCP covered activities and conservation measures with the Delta Wetlands Project. This coordination will not only reduce the severity of BDCP's potentially significant effects but will also enhance the BDCP goals. These coordination measures should be reflected in every alternative.

BDCP should consider measures that integrate the Delta Wetlands Project in the following manner:

- Delta water quality impaired by diversions from an isolated facility is most effectively mitigated by releases from an in-Delta storage facility;
- Storage may be the only tool to recover water supply yield reduced by the Wanger decision and future restrictions likely imposed by the State Water Resources Control Board and to satisfy the Endangered Species Act;
- The Delta Wetlands Project will finance the strengthening of 56 miles of central Delta levees, will become the core of a sustainable Delta, and serve as an antidote to the concerns of in-Delta interests that isolated conveyance leads to abandonment of the Delta;
- The 9,000 acres of habitat provided by the Project's Habitat Management Plan will be one of the largest new conservation efforts in the region and will provide an array of wetland and upland habitats that will compliment BDCP's focus on aquatic habitat restoration; and,
- Importantly, the Project can provide these benefits much sooner than the isolated facility will be operational.

Delta Wetlands looks forward to working with DWR and BDCP in the development of the conservation plan and EIR. Please do not hesitate to contact me if you have any questions.

Sincerely,



Anson B. Moran  
General Manager



# BDCP

## BAY DELTA CONSERVATION PLAN ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

### — Comment Card —

**Please Print**

Name: Warren Tetrak Organization: Grand Island Ranch  
Telephone: (916) 776-2111 e-mail: giranch @ Frontier.net  
Address: 14310 Highway 160  
City: Ryde State: CA Zip: 95680

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

- 1.) Money would be "better spent" on desalinization technology.
- 2.) Any approach utilizing the existing "deep water channel" is preferred - regardless of cost.
- 3.) Please consider the economic impact on the residents of this area and the effect on their "Constitutional Rights". This property was purchased and managed in "good faith" and no government agency should have the authority to alter what the "minority group" of landowners have legally established.
- 4.) Environmental issues are being addressed as a "Smoke screen" to water supply for southern California.

Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:  
Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.  
You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). **Comments must be received by May 14, 2009.**

San Jose

# BDCP

## BAY DELTA CONSERVATION PLAN ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

— Comment Card —

Please Print

Name: Erin Gil Organization: Grass Farm  
 Telephone: 408-463-0500 x307 e-mail: egil@grassfarm.com  
 Address: 602 Palm Ave  
 City: Morgan Hill State: CA Zip: 95037

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

- NEED MORE Community impact through increased conversation.
- NEED To involve different Community groups.
- LET people know of the impacts Environmentally & publicly.
- Thank you for the opportunity.

Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:  
 Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.  
 You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). Comments must be received by May 14, 2009.

**bdcpcomments****From:** figfarm@aol.com [figfarm@aol.com]**Sent:** Thu 3/26/2009 6:21 PM**To:** bdcpcomments**Cc:****Subject:** Comment and Question on Western Conveyance-Clarksburg bypass**Attachments:**

Ms. Brown,

I would like to accept this as an official comment regarding the proposed/study area for the Western Conveyance canal and the bypass passing through the Reclamation District #999 (RD 999) paralleling the RD 999 west levee, Levee Unit #1. I live in the proposed area and am part owner of 230 acres of highly developed land within the RD 999 service area.

The alternative for routing the canal westerly in lieu of the easterly route is proposed with many obstacles. I would like to enumerate these obstacles as follows:

1. The route is dominated by unwilling sellers who's livelihood and heritage come from the proposed land. Without willing sellers, what will the state do to obtain this land?
2. The estimated costs are \$5 billion for this project. In light of the present economic blight of the State's economy, where will the money come from?
3. The plans presented to the public so far show diversions at approximately LM 4.0 and LM 5.5 of RD 307, right bank of the Sacramento River. Landward elevations of the original ground line are around 12 to 15 feet NGVD. The center of the district (RD 307) is approximately sea level to five feet. Historically the districts made improvements to natural banks, often with ! a side-draft clam shell dredger, using native material, to make the improvements affordable. Has any engineer made a cross section of the proposed levee to see how disproportionately large the levee will need to be to gravity flow water from the east to the west across the district?
4. Assuming #1 and #2 are accomplished, it has been estimated between 5 million to 10 million cubic yards of suitable fill will be needed to build the required levees. My 25 years of experience shows that the native material in these areas, once considered satisfactory for construction material, is now considered by State and Federal geotechnical engineers to be unsuitable for construction of flood control, or in this case, water conveyance facilities. Where does the State of California propose to excavate this material? How do the planners justify economically transporting and placing this material to build these facilities?
5. When the Westerly Conveyance (proposed) is constructed to the east of the Sacramento-Yolo Ship Channel, a very expensive inverted siphon will need to be constructed to continue the flow of water and move it over to the west of the Ship Channel.

There is another easier solution if Westerly is the proposed alignment:

Proposal A. The State of California already has in place upgraded and improved levees on the left bank of the Yolo Bypass. At the base of this levee as constructed in 1964 is the borrow pit, now the toe drain. This drain runs from the Sacramento River to north of Rio Vista and always has water in it.

1. Wouldn't it make incredible sense, cost vastly less money and quick track the project to completion to move the proposed diversion point to the Sacramento Weir?
2. If the State were to widen the weir at the same time it would increase the flood protection

for the Sacramento Area Flood Control Agency levees which includes the City of Sacramento.

3. Using the Yolo Bypass for conveyance, an infinitesimally smaller amount of productive farm land would need be taken out of production.
4. Water already runs along the proposed route south.

Proposal B:

1. The Sacramento-Yolo Ship Channel has a diversion point at the locks into the Sacramento River. These locks could be renovated and used as control structures for diversions.
2. The rights of way and easements are already in place.
3. Diversion pumps could be put in place at the south end near Egbert Tract and begin the cross-Delta conveyance. High volume low head pumps could be used to lift the water into a surface channel moving the water further south and could be designed to lift the water to an adequate head to ensure flows to Clifton Court fore bay. These structures in comparison to the RD 999 structure will cost much, much less and fast track the project.

I await your response.

Sincerely,

RICHARD E. MARSHALL,  
Marshall Ranch  
RD 999, Clarksburg

---

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**bdcpcomments**

**From:** Joseph Rizzi [jrizzi@naturaldesalination.org]

**Sent:** Mon 3/23/2009 1:30 PM

**To:** bdcpcomments

**Cc:**

**Subject:** Natural Desalination for LA & SF Bay Area

**Attachments:**

100% of LA's drinking water can easily and more cheaply obtained from the sea, but yet it is not on the plans for study or consideration.

If LA & SF Bay area received its water from the sea, then the issues in the BDCP would not exist.

2 plants off the cost of California can supply most if not all of our drinking water using the simple *Patent Pending* Natural Desalination principles.

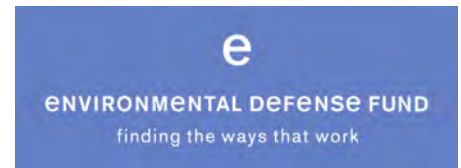
Zero energy required for desalination or transportation of drinking water to distribution points.

Joseph Rizzi

Natural Desalination

707-208-4508

[Joseph\\_Rizzi@NaturalDesalination.org](mailto:Joseph_Rizzi@NaturalDesalination.org)



May 14, 2009

Lori Rinek  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, W-2605  
Sacramento, CA 95825

Sent Via U.S. Mail and email to [lori\\_rinek@fws.gov](mailto:lori_rinek@fws.gov)

RE: Scoping Comments on the Bay Delta Conservation Plan (“BDCP”)

Dear Ms. Rinek:

On behalf of the Natural Resources Defense Council (“NRDC”), The Bay Institute, Defenders of Wildlife, Environmental Defense Fund, and our combined members and activists in California, we are writing to provide comments on the federal agencies’ February 13, 2009 Notice of Intent for the Bay Delta Conservation Plan. Last year our organizations submitted joint scoping comments on BDCP to the State of California, which we have attached hereto as Exhibit A and incorporate by reference. Our prior comments address the range of alternatives to be considered, particular environmental impacts to be analyzed, climate change analysis, and consistency with legal requirements under the Endangered Species Act and other applicable laws. *See* Exhibit A. In addition, we submit the following additional comments regarding:

- (1) BDCP’s consistency with the Delta Vision Strategic Plan;
- (2) BDCP’s consistency with the Central Valley Project Improvement Act (“CVPIA”), and the recent CVPIA Independent Fisheries Review Panel’s Report;
- (3) The EIS/EIR’s analysis of environmental impacts from and consultation on upstream operations and coordinated operations of the CVP and SWP; and,
- (4) The EIS/EIR’s analysis of the impacts of climate change, particularly with respect to (a) water supply and (b) changes in species’ ranges.

(1) BDCP’s Consistency with the Delta Vision Strategic Plan

The BDCP should incorporate and implement the *Delta Vision Strategic Plan’s* recommendations,<sup>1</sup> including, in particular: addressing unresolved issues before making decisions regarding conveyance (*see* Strategy 5.1 and the letter from Delta Vision Task Force to the Governor dated June 20, 2008, which is attached hereto as Exhibit B and incorporated by this reference); improving habitat and flows for fish in the Delta and upstream (*See* Strategy 3.1, 3.2,

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<sup>1</sup> The *Delta Vision Strategic Plan* is available online at: [http://deltavision.ca.gov/StrategicPlanningProcess/StaffDraft/Delta\\_Vision\\_Strategic\\_Plan\\_standard\\_resolution.pdf](http://deltavision.ca.gov/StrategicPlanningProcess/StaffDraft/Delta_Vision_Strategic_Plan_standard_resolution.pdf), and is incorporated by this reference.

and 3.4); investing in water efficiency and alternative water supply sources to reduce reliance on the Delta and increase regional self-sufficiency (*See* Strategies 4.1 and 4.2); and reforming governance and financing of the agencies in the Delta (*See* Strategies 7.1, 7.2, and 7.3). Our organizations strongly support the *Delta Vision Strategic Plan*, and we expect that BDCP will, in conjunction with other legislative and administrative actions, implement the *Strategic Plan's* recommendations, particularly those identified above.

## (2) BDCP's Consistency with the CVPIA and the CVPIA Independent Fisheries Review

As we noted in our prior comment letter, operation of the CVP must comply with the CVPIA, and BDCP should incorporate and implement the CVPIA's anadromous fish doubling goal, which is also a requirement of State law. *See* Exhibit A at p. 7.<sup>2</sup> Likewise, BDCP must also be consistent with and advance the CVP's water supply obligations with respect to state and federal wildlife refuges under the CVPIA. 106 Stat. 4600 §§ 3406(a), 3406(d).

In addition, the Department of the Interior recently released the CVPIA Independent Fisheries Review Panel's final report on implementation of the CVPIA, which makes several critical recommendations to improve the Department's implementation of the CVPIA's anadromous fish doubling goal, including: development of a new, comprehensive, adaptively managed Anadromous Fish Restoration Program plan and a revised b(2) policy; utilizing the full legal authority of the CVPIA to achieve the Act's goals; and implementing the CVPIA through other regulatory and planning processes to restore Central Valley salmonids.<sup>3</sup>

Our organizations strongly support the Department's leadership in the BDCP process to ensure that the final plan is consistent with and advances the CVPIA's goals and authorities, including the anadromous fish doubling goal, refuge water supplies, and future implementation of the Independent Fisheries Review Panel's report.

## (3) The EIS/EIR's analysis of environmental impacts from and consultation on upstream operations and coordinated operations of the CVP and SWP

As we emphasized in our prior letter to the State, we strongly encourage BDCP to take a holistic approach that analyzes coordinated CVP/SWP operations from upstream reservoirs to the Delta, rather than limiting its planning process to the legal Delta. *See* Exhibit A at 14. We continue to strongly advocate for such an approach. In addition to meeting NEPA/CEQA requirements by analyzing upstream impacts from the coordinated operations of the CVP and SWP in the cumulative effects analysis in the EIS/EIR, we strongly encourage BDCP to also consider changes to reservoir operations in order to achieve the BDCP's goals, as well as to meet other legal requirements applicable to the CVP and SWP (including the CVPIA, state and federal water quality laws, and the state and federal Endangered Species Acts). The NEPA review

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<sup>2</sup> The salmon doubling goal was also incorporated into the *Delta Vision Strategic Plan*. *See Delta Vision Strategic Plan* at 83.

<sup>3</sup> A copy of the CVPIA Independent Fisheries Review is available online at [http://www.cvpia-independentreview.com/FisheriesReport12\\_12\\_08.pdf](http://www.cvpia-independentreview.com/FisheriesReport12_12_08.pdf) and incorporated by this reference.

cannot be limited to the Delta, but must consider all direct and indirect impacts on the environmental baseline.<sup>4</sup>

Likewise, the coordinated operations of the CVP and SWP and its infrastructure (including any modifications proposed by BDCP) must undergo a section 7 consultation under the ESA. *See* 74 Fed. Reg. 7257, 7258 (“in a parallel yet separate process, Reclamation will be required to reinitiate Section 7 consultation on the long-term operation of the CVP, as coordinated with the SWP, to the extent that such coordinated operations may be modified to effectively be integrated with any operational or facility improvements that may occur from implementation of the BDCP.”). That consultation must consider the coordinated operations of the projects as a whole, not merely any changes proposed by BDCP, and the consultation must consider all federal, state, private and other actions that may affect listed species, including nondiscretionary actions, to ensure that the proposed project will not cause jeopardy to the survival and recovery of the species or adversely modify its critical habitat. *NWF v. NMFS*, 524 F.3d 917, 928-931 (9th Cir. 2008).

(4) The EIS/EIR’s analysis of climate change impacts, particularly with respect to (a) water supply and (b) changes in species’ ranges;

Our prior State scoping letter addressed the need to analyze climate change impacts, particularly with respect to water supply implications. *See* Exhibit A at 10-11. Recently, the California Department of Water Resources released a new analysis of climate change impacts on water supplies, which estimates that by 2050 (within the expected permit term of BDCP), delta exports would be reduced by 7-10%, and carryover storage would be reduced by 15-19%. *See* DWR, Possible Impacts of Climate Change to California’s Water Supply (April 2009), attached hereto as Exhibit C. BDCP, and the EIS/EIR, should utilize this information in analyzing the long term impacts and benefits of the proposed project and alternatives.

In addition, we note that climate change is likely to result in changes to the range of many avian,<sup>5</sup> terrestrial,<sup>6</sup> and aquatic species. The EIS/EIR should incorporate the best available science with respect to changed species’ ranges as a result of climate change, and the BDCP adaptive

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<sup>4</sup> Under NEPA, the environmental baseline generally consists of the biological and other conditions at the time the Notice of Intent is published. 40 C.F.R. §§ 1502.14-.15. Likewise, under the ESA, the environmental baseline includes “the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process.” 50 C.F.R. § 402.02; *see NWF v. NMFS*, 524 F.3d at 929-31. Therefore, the environmental baseline for BDCP should include the biological opinions of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on the Operations Criteria and Plan (OCAP) for coordinated operations of the CVP and SWP.

<sup>5</sup> To the extent not addressed in our prior comments, *see* Exhibit A at 6-7, 12, we also encourage BDCP to be consistent with existing HCPs and other legal requirements relating to birds, including but not limited to the Central Valley Joint Venture bird conservation plans, which are available online at <http://www.centralvalleyjointventure.org/plans/>.

<sup>6</sup> In addition, we strongly encourage BDCP to analyze and address impacts to terrestrial species under the legal framework of the NCCPA, which we understand is currently the intent of the parties in BDCP. *See also* Exhibit A at 2-3.



management framework should address such range changes as foreseeable circumstances. See Exhibit A at 4-5.

Conclusion:

BDCP is one of the most ambitious, and important, habitat conservation plans ever attempted. In order to ensure that BDCP meets legal requirements, incorporates the best available science, and achieves its goals, we strongly encourage federal biologists and other staff from all relevant agencies (USFWS, NMFS, USBR, EPA, ACOE) to participate in the BDCP process. Federal leadership and involvement is critical to the successful resolution of this planning effort.

Thank you for consideration of our views. Please feel free to contact us at your convenience if you have any questions or concerns with these comments.

Sincerely,



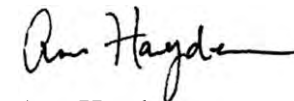
Doug Obegi  
Natural Resources Defense Council



Gary Bobker  
The Bay institute



Kim Delfino  
Defenders of Wildlife



Ann Hayden  
Environmental Defense Fund

# **EXHIBIT A**



May 30, 2008

Ms. Delores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources  
P. O. Box 942836  
Sacramento, CA 94236

**VIA U.S. MAIL AND EMAIL TO [delores@water.ca.gov](mailto:delores@water.ca.gov)**

RE: Scoping Comments on the BDCP EIS/EIR

Dear Ms. Brown:

We are writing on behalf of the Natural Resources Defense Council, Defenders of Wildlife, Environmental Defense Fund, and The Bay Institute, and our hundreds of thousands of collective members and activists in California, to submit the following comments on the scope of the Environmental Impact Statement / Environmental Impact Report (“EIS/EIR”) that is being prepared for the Bay Delta Conservation Plan (“BDCP”). We expect that analysis of these issues in the environmental review process for the BDCP will help lead the State and federal agencies to sustainably manage the CVP and SWP in the Delta, consistent with the co-equal goals of ecosystem health and reliable water supplies established by the Delta Vision Blue Ribbon Task Force. These comments are supplementary to our joint comments to the National Marine Fisheries Service and U.S. Fish and Wildlife Service dated March 24, 2008, which are attached hereto as Exhibit A and incorporated by this reference.

We present the following recommendations for the environmental review process of the BDCP:

- The BDCP should utilize an ecosystem approach under the Natural Community Conservation Planning Act, Cal. Fish and Game Code §§ 2800 *et seq.* (“NCCPA”);
- The BDCP should adopt measurable goals and objectives for the species (e.g., population abundance targets where possible) and habitats covered by the Plan, should include effective monitoring to determine progress towards these goals, and should adapt management of the CVP and SWP over time to meet these goals;
- The BDCP should include operational criteria to respond to a broad range of water years and other foreseeable circumstances, such as poor ocean conditions, in order to operate the CVP and SWP to meet conservation goals and ensure that the regulatory assurances provided in the Habitat Conservation Plan / Natural Community Conservation Plan (“HCP/NCCP”) do not adversely affect the Delta environment;
- Consistent with the requirements of the federal Endangered Species Act, 16 U.S.C. §§ 1531 *et seq.* (“ESA”), California Endangered Species Act, Cal. Fish and Game Code §§ 2080 *et*

*seq.* (“CESA”), and NCCPA, the HCP/NCCP must minimize the take of covered species, must provide guaranteed funding for implementation over the life of the permits, must not jeopardize either the survival or recovery of listed species, and must be consistent with existing legal requirements applicable to the CVP and SWP;

- The EIS/EIR should analyze alternatives that would increase outflow and reduce exports as compared to current conditions, and analyze water conservation, efficiency, and additional demand reduction measures, as well as water recycling, groundwater and conjunctive use programs, urban stormwater capture and other tools to achieve the BDCP’s water supply reliability goal;
- The baseline for analysis in the EIS/EIR must be based on the existing operational and legal constraints for the CVP and SWP;
- The EIS/EIR must analyze the BDCP’s impacts, with particular focus on: (1) global climate change; (2) water quality, including salinity, toxic hot spots, pesticides, mercury, and other pollutants; (3) biological resources, including all species that may be impacted by the CVP and SWP, as well as upland habitats that may be affected; and (4) cumulative impacts; and the approved HCP/NCCP must minimize the Projects’ environmental impacts to a less than significant level if feasible mitigation measures exist;
- The EIS/EIR must adequately analyze the effectiveness of proposed mitigation and conservation measures over the term of the BDCP;
- The EIS/EIR must analyze consistency with and potential impacts on the Delta Vision “vision” document and strategic plan;
- The EIS/EIR should consider broadening the Project Area and scope to include all parts of the CVP and SWP, including reservoirs upstream of the Delta, as well as other activities that impact covered species;
- The EIS/EIR should analyze the economic costs and benefits of water conservation and efficiency improvements to meet water supply needs, as well as identifying reasonable sources of funding to implement the BDCP; and
- The scoping and comment period for the EIS/EIR should be reopened upon completion of the BDCP conservation strategy and adoption of the Delta Vision Strategic Plan.

On the pages that follow, we address these issues in greater depth.

**I. The BDCP Must Utilize the NCCPA, Rather Than an Incidental Take Permit under CESA, to Ensure Long-Term Conservation.**

The BDCP must utilize the ecosystem approach of the NCCPA, rather than relying on an incidental take permit under CESA, to ensure that the plan will provide long-term conservation in the Delta. The March 17, 2008 Notice of Preparation for the BDCP EIS/EIR (“NOP”) reflects uncertainty as to whether a Natural Community Conservation Plan under the NCCPA, or an incidental take permit under CESA, will be utilized to comply with State law requirements. The NCCPA was designed for multi-species conservation planning, with an emphasis on habitat protection and restoration, as well as adaptive management, to meet the Act’s goals. As discussed further below in part IV(C) of this letter, restoration of species and habitats is a key goal of the NCCPA, Fish & Game Code § 2801(i), and the Act requires that implementation of the approved plan will help bring about the recovery of listed species and prevent additional

listings. *See* Cal. Fish & Game Code § 2805 (definition of “conserve”). Therefore, we strongly urge that the BDCP utilize the NCCPA because it will provide a more holistic and ecosystem-based approach to conserving and managing the Delta than a species-centric approach under CESA.

## **II. The BDCP Must Include Clear, Measureable Conservation Goals and Objectives, Monitor Progress towards those Goals, and Adapt Management to Meet these Goals.**

The BDCP Points of Agreement and the NOP both emphasize the use of adaptive management to meet the BDCP’s goals. We support the use of adaptive management in the BDCP, and we note that both the NCCPA and ESA require the use of adaptive management in an HCP/NCCP. Cal. Fish & Game Code § 2820(a)(2), (8), (b)(5), (f)(1)(G); *see* U.S. Fish and Wildlife Service, Habitat Conservation Plan Handbook (1996 and 2000 Addendum) (“HCP Handbook”) at 3-24. The BDCP should include a robust adaptive management program, as well as effective monitoring to determine whether program goals are being achieved and how to adapt management to better achieve those goals. The BDCP must include an effective monitoring program, *see* Fish and Game Code § 2820(a)(7); 50 C.F.R. § 17.22(b)(1)(iii)(B), (b)(3), and the EIS/EIR should include some analysis of monitoring programs, including the levels of anticipated take of covered species required for effective monitoring.

However, in order for adaptive management to be effective, the HCP/NCCP must have clear, measurable biological goals and objectives. The BDCP’s goals must be consistent with the co-equal goals of ecosystem health and water supplies established by the Delta Vision Blue Ribbon Task Force, but they must be far more specific than the general goals established in the NOP. The BDCP Points of Agreement recognizes that biological goals and objectives for each covered species should be adopted as part of the BDCP, but those goals have not yet been developed.

The BDCP should use measureable goals and objectives with respect to species and habitats, including all species covered by the plan and numerous species and habitat types affected by the plan, to ensure that the BDCP is achieving its conservation purpose. In particular, given the Delta species and habitat information available to the agencies, we believe that many species and habitat goals can be quantified, providing the best possible method of measurability. The Bay Institute, EDF, NRDC, Defenders of Wildlife, and Sierra Club California recently submitted joint comments to the Delta Vision Blue Ribbon Task Force which include ecosystem goals and targets that should be analyzed as potential goals for the BDCP. A copy of those comments are attached as Exhibit B and incorporated by this reference. Likewise, the ecosystem goals and objectives being developed by the CalFed Ecosystem Restoration Program and the Delta Vision Ecosystem Working Group may provide useful models in this regard. Lastly, the BDCP’s biological goals and objectives should be consistent with the numeric recovery plan goals for salmon, smelt and other listed species that have been or are being prepared by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

### **III. The BDCP Should Include Operational Criteria and Other Adaptive Management Measures to Respond to a Broad Range of Foreseeable Circumstances.**

As noted above, we are encouraged that the BDCP will include adaptive management as part of the actions covered under the HCP. NOP at 5-6. As both the ESA and NCCPA recognize, adaptive management is a necessary element of an ecologically sustainable HCP/NCCP. Fish & Game Code § 2820(a)(2), (8), (b)(5), (f)(1)(G); HCP Handbook at 3-24; *see* 50 C.F.R. § 17.22(b)(2)(C), (b)(5). This is particularly true in the Delta, where water supplies and river flows vary on daily, seasonal, annual, and decadal timelines, where global climate change will change the Delta over time, and where ocean conditions and other causes outside the control of the BDCP can significantly affect covered species. As the CALFED science program has found, because of the inherent variability in the Delta ecosystem, “any management plan for the Delta must retain or restore flexibility and variability if key species, processes, and services are to be maintained.” CALFED Science Program, *The State of Bay-Delta Science 2008, Summary for Policymakers and the Public* (2008) at 8. For instance, with respect to salmon, when ocean conditions are unfavorable, it is even more critical that we conserve the existing population by managing the CVP and SWP to maximize protection of salmon.

The NCCPA requires that the level of assurances provided by a NCCP be “commensurate with long-term conservation assurances and associated implementation measures pursuant to the approved plan.” Fish & Game Code § 2820(f). A critical component in determining the level of assurances is “[t]he degree to which a thorough range of foreseeable circumstances are considered and provided for under the adaptive management program.” *Id.* § 2820(f)(1)(8); *see also* 50 C.F.R. §§ 17.22(b)(5), 222.307(g) (regulatory assurances with respect to changed and unforeseen circumstances under the ESA). In addition, we note that California law requires suspension or revocation of the NCCP if take of the species under the plan will jeopardize the continued existence of the species. *See* Fish & Game Code § 2823. Thus all parties have an incentive in ensuring that the HCP/NCCP achieves its goals and avoids jeopardy to any listed species.

Therefore, we recommend that the EIS/EIR analyze operational criteria to respond to a range of water years and other foreseeable circumstances that will affect covered species, including: (1) poor ocean conditions that affect ocean-going covered species including salmon; (2) continuing toxic pollutants in the Delta, which affect numerous covered species; (3) increased levels of take from non-covered activities; (4) failure of one or more levees in the Delta; (5) changes to hatchery policies; (6) increased upstream diversions (7) further declines in the populations of listed species, (8) impacts from ongoing development in the Delta, and (9) the arrival or spread of invasive species. The operational criteria must alter the timing and/or amount of water exports through the CVP and SWP as necessary to protect covered species and the Delta ecosystem due to such foreseeable circumstances.

Defining operational criteria to respond to different water years and other foreseeable circumstances may be among the most important and difficult parts of the BDCP process. The criteria must be flexible enough to respond to such changed conditions, but also provide sufficient assurances that they will be implemented in a way that protects the Delta ecosystem. And there must be clear criteria for triggering and guiding the adaptive operating criteria.

As such, the flexibility required for the BDCP to succeed precludes any inflexible guarantees or complete regulatory assurances regarding water supplies and exports. As a matter of policy, California should not provide regulatory assurances for reliable water supplies that fail to contribute to the recovery of these species and of the entire ecosystem. Instead, the BDCP must retain sufficient flexibility to respond to changed conditions and continue to conserve and restore listed species and the health of the Delta ecosystem.

#### **IV. Compliance with the Legal Requirements for an HCP/NCCP under the ESA, CESA, and NCCPA**

The ESA, CESA, and NCCPA impose several legal requirements for the adoption of an HCP/NCCP. Four of these requirements are of particular importance here.

##### **A. The HCP/NCCP Must Minimize and Fully Mitigate Take of Covered Species**

First, under the ESA the HCP must minimize the take of covered species to the “maximum extent practicable.” 16 U.S.C. § 1539(a)(2)(B)(ii). However, State law provides more protection to species listed under CESA. Under CESA, the take must be “minimized and fully mitigated,” and under both CESA and the NCCPA, the measures required to minimize take must be roughly proportional to the amount of take. Fish & Game Code §§ 2081(b)(2), 2820(b)(3)(b), (b)(9). There is no question that the CVP and SWP are significant sources of mortality for most of the fish species proposed to be covered by the BDCP HCP/NCCP. *See, e.g., NRDC v. Kempthorne*, 506 F.Supp.2d 322 (E.D. Cal., 2007). Significantly reducing the Projects’ take of these species below existing levels is critical to the survival and recovery of these species. Changes to the operations of the water projects that significantly reduce take of these species over the term of the permit must be implemented as part of the final approved HCP/NCCP.

##### **B. The HCP/NCCP Must Provide Guaranteed Funding for Implementation Over the Life of the Permit.**

Second, the HCP/NCCP must provide guaranteed funding for its implementation over the life of the permits. 16 U.S.C. § 1539(a)(2)(B)(iii); *National Wildlife Federation v. Babbitt*, 128 F.Supp.2d 1274 (E.D. Cal. 2000); Fish & Game Code § 2820(a)(10), (b)(3)(A), (b)(8); *id.* § 2081(b)(4). Reliance on general governmental revenues is not adequate, nor is it consistent with the “beneficiary pays” principle of the CALFED Record of Decision. Rather, in exchange for the regulatory assurances that the HCP/NCCP provides, the beneficiaries of the permit should fund the majority of the implementation of the plan. Elements of the program, such as conveyance facility, which are designed solely to provide water supply benefits and mitigation for water project operations, should be paid for entirely by water users. To the extent that market mechanisms similar to the Environmental Water Account are relied on as conservation measures in the BDCP, the plan must likewise identify and ensure adequate funding to implement such market mechanisms. The NCCP/HCP must identify the user fees or other funding mechanisms that will provide the funding required over the life of the permit.

**C. The HCP/NCCP Must Ensure that the Projects do not Jeopardize the Existence or the Recovery of the Covered Species.**

Third, the HCP/NCCP must not jeopardize either the survival or recovery of listed species. *See* 16 U.S.C. § 1539(a)(2)(B)(iv); Fish and Game Code §§ 2081(c), 2801(i), 2805, 2823; *NWF v. NMFS*, 481 F.3d 1224, 1235-36 (9th Cir. 2005), as modified, -- F.3d --, 2008 WL 1821470 (April 24, 2008) (jeopardy analysis must consider the effects of the proposed action “within the context of other human activities that impact the listed species,” and “where existing conditions already jeopardize a species, an agency may not take action that deepens the jeopardy by causing additional harm.”). Therefore, to be consistent with the ESA and CESA, the activities authorized under the HCP/NCCP cannot jeopardize the recovery of any listed species, and they should be consistent with the recovery plans for listed species, including the recovery plan for Chinook salmon that is currently being developed.<sup>1</sup> *See NWF v. NMFS*, 481 F.3d at 1236-38, as modified, -- F.3d --, 2008 WL 1821470 (April 24, 2008) (requiring determination that the project will not jeopardize recovery of the species in the section 7 consultation process).

Furthermore, in order to comply with the NCCPA, the approved plan must not only avoid jeopardy to the survival of the species, *see* Fish and Game Code § 2823, but it must also promote the recovery of covered species, and prevent the listing of other species. *Id.* §§ 2801(i), 2805 (definition of “conserve”). Therefore, in order to comply with both the ESA and the NCCPA, the approved HCP/NCCP must promote the recovery of these covered species.

Merely sustaining the existence of these species is insufficient as a matter of law under the ESA and the NCCPA, and it is fundamentally wrong from a public policy perspective. California must require the CVP and SWP to do their part to recover salmon, Delta smelt, and the other species that have been adversely affected by the State and federal water projects for so many years.

**D. The Operations Authorized in the HCP/NCCP Must Comply with Other Legal Requirements Applicable to the SWP/CVP.**

Finally, the actions authorized under the HCP/NCCP must be incidental to “the carrying out of an otherwise lawful activity.” 16 U.S.C. § 1539(a)(1)(B); Fish and Game Code § 2081(b)(1); Cal. Code Regs., tit. 14, § 783.4(a)(1). Although this statutory language does not require the federal government to ensure that the Projects comply with existing law under the ESA, *Center for Biological Diversity v. U.S. Fish & Wildlife Service*, 450 F.3d 930, 941-943 (9th Cir. 2006), compliance with the incidental take statement “does not immunize its holder for violations of any other law, be it state or federal,” *id.* at 942.<sup>2</sup> If the activities authorized by the HCP/NCCP are inconsistent with the existing statutory framework applicable to the CVP and SWP, the

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<sup>1</sup> *See also* 40 C.F.R. § 1502.16(c); CEQA Guidelines § 15125(d),(e) (requiring analysis of whether the project complies with existing plans).

<sup>2</sup> In addition, the Ninth Circuit’s analysis suggests that under CESA, the State must determine that the operations of the CVP and SWP are consistent with existing law. *Id.* at 941-43; *compare* Cal. Code Regs., tit. 14, § 783.4(a)(1) (requiring the DFG Director to determine that the taking is “incidental to an otherwise lawful activity”) *with* 16 U.S.C. § 1539(a)(2)(B)(1) (requiring the Secretary to determine that “the taking will be incidental”).



regulatory benefits of the BDCP will be illusive because the Projects' operations will violate existing law.

Operation of the CVP and SWP must be consistent with numerous environmental laws, including, but not limited to: the Central Valley Project Improvement Act (106 Stat. 4600 §§ 3401-3412 ("CVPIA")); Fish and Game Code sections 5901, 5930-31, 5937, and 6901-3; the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, Porter-Cologne Water Quality Control Act, Cal. Water Code §§ 13000 *et seq.*, Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (2006), and Decision 1641; the public trust doctrine; and article 10, section 2 of the California Constitution (the reasonable use doctrine). In particular, State and federal law require the CVP and SWP to be managed to comply with the goal of doubling natural salmon populations. CVPIA § 3406(b)(1); Cal. Fish and Game Code § 6902. Recent language from DWR suggests that the BDCP process may seek to revise some existing legal requirements, particularly with respect to water quality.<sup>3</sup> We strongly recommend that the EIS/EIR specifically analyze whether and to what extent the alternatives analyzed in the environmental review are consistent with these existing requirements, in particular the statutory policy of doubling anadromous fish populations under the CVPIA and State law, and that the final BDCP include tools and flexibility to be consistent with all of these existing legal requirements, including the goal of doubling anadromous fish populations.

**V. The EIS/EIR Must Analyze Increased Outflow / Reduced Export Alternatives Among the Reasonable Range of Alternatives, and Analyze Water Conservation, Efficiency, and Demand Reduction Measures, as well as Water Recycling and Conjunctive Use Programs, as Alternatives to Achieve (in part) the BDCP's Water Supply Reliability Goal.**

CEQA and NEPA both require that a reasonable range of alternatives to the proposed project be considered in the environmental review process, including a no project alternative. Cal. Pub. Res. Code §§ 21002, 21061, 21100; tit. 14, Cal. Code Regs. ("CEQA Guidelines") § 15126.6; 42 U.S.C. § 4332; 40 C.F.R. §§ 1502.14, 1508.25(b). The EIS/EIR should analyze the conveyance alternatives identified in the Notice of Preparation ("NOP"), however, alternative export regimes must also be analyzed.

In particular, the NOP identifies four alternative Delta conveyance strategies to be considered in the environmental review process, per the Governor's direction. *See* NOP at 3. However, in order to meet CEQA's requirements and to adequately inform decision-making, in addition to these alternative conveyance systems, the EIS/EIR must consider a reasonable range of outflow and export levels from the Delta, including several alternatives that increase the level of freshwater outflow and reduce the amount of water diverted and exported from the Delta, as compared with current conditions. *See Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 566 (1990) (EIR must consider a reasonable range of alternatives that offer substantial environmental benefits and may feasibly be accomplished).<sup>4</sup>

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<sup>3</sup> *See* note 2, *supra*, at 22, 34.

<sup>4</sup> The Supreme Court's pending decision on review of the case of *In Re Bay Delta Programmatic EIR*, 133 Cal.App.4th 154 (2005), will provide additional guidance on this question. However, even assuming, *arguendo*, that

Increasing outflow and reducing exports from the Delta is likely to have significant environmental benefits, as increased exports over the past several years have coincided with significant declines in many fish species in the Delta, including Delta smelt, Sacramento Splittail, fall run Chinook salmon, and the Pelagic Organism Decline (“POD”). Court-ordered reductions in exports to protect Delta smelt, as well as scientific evidence relating to POD, demonstrate that increased outflow and reduced diversions likely are necessary to protect the Delta ecosystem and covered species.

Increased outflow and reduced exports likely are necessary to meet the ESA/CESA requirements of reducing take to the maximum extent practicable, as demonstrated by Judge Wanger’s order to protect Delta smelt from jeopardy in *NRDC v. Kempthorne*, 506 F.Supp.2d 322 (E.D. Cal., 2007). Increasing freshwater outflow by reducing water diversions is also likely to be required to recover longfin smelt, which is a candidate for listing under State and federal law. In addition, to the extent that the Project causes potentially significant environmental impacts, including impacts on unlisted species or water quality impacts, increased outflow may be necessary to minimize and mitigate those impacts to a less than significant level, as required by CEQA. Finally, increased outflow resulting from reduced diversions and exports may also be necessary to comply with other legal requirements applicable to the operation of the CVP and SWP, including the Central Valley Project Improvement Act and section 6902 of the Fish and Game Code.

Moreover, increased outflow alternatives not only are consistent with the goals of the program as stated in the NOP, but they may be necessary to achieve these goals. The NOP establishes several goals of the program, including: the conservation and management of covered species; preserving, restoring, and enhancing natural habitats and ecosystems that support covered species; and restoring and protecting water supply, water quality, and ecosystem health. See NOP at 7. The Delta Vision Blue Ribbon Task Force’s document, “Our Vision for the California Delta” released in December, 2007 also found that reduced diversions may be necessary to achieve the co-equal goals of ecosystem health and water supply.

With respect to increased outflow / reduced export alternatives analyzed in the EIS/EIR, demand reduction, water conservation, and water efficiency measures can be used to meet the water supply reliability goal of the BDCP. Likewise, water recycling, conjunctive use, urban stormwater capture, improved groundwater management, desalination, water transfers and similar programs can also provide additional water supply reliability. In addition, the BDCP should analyze land retirement, including land retirement on the west side of the San Joaquin Valley, as one measure to help achieve increased freshwater outflow and reduced exports/diversions. While land retirement must be carefully designed to avoid impacts to third parties, in the past Westlands Water District has advocated a land retirement program of up to 200,000 acres. Properly designed, land retirement can yield significant conservation benefits by making more water available for fish and wildlife. As more fully discussed in our March 24,

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such a range of alternatives is not required as a matter of law by CEQA, such a range of alternatives is critical from a public policy perspective, and as noted above, may be necessary to meet other legal requirements applicable to the CVP and SWP.

2008 letter, the EIS/EIR should include an analysis of such measures to achieve the BDCP goal of water supply reliability. Delta diversions and exports should not be the only method of achieving water supply reliability analyzed in the BDCP.

The document should also analyze the water supply reliability benefits of reduced diversions. Such reductions could reduce ongoing conflicts, unexpected pumping curtailments and judicial involvement. Reduced pumping alternatives with a “buffer” to protect the ecosystem could prevent additional listings and recover listed species more rapidly. All of these factors suggest that a lower level of average diversions could be more reliable than a higher level. In fact, experience in the past several years demonstrates this. Unsustainably high levels of diversions led a federal judge to order significant pumping reductions. In short, recent record levels of pumping have proven to be unreliable. The document must clearly distinguish between increased average diversions and increased reliability. The two terms are not identical.

Therefore, we strongly encourage the EIS/EIR to analyze a range of alternative outflow and export levels, which includes several alternatives that increase outflow and reduce exports compared to existing levels, and analyze alternative measures to achieve water supply reliability. In addition, as stated in the NOP, the environmental document should analyze a range of operational alternatives to meet the Projects’ goals. NOP at 2 (“The EIR/EIS will also analyze the impacts of alternative water operations and management actions to achieve conservation and water supply reliability goals.”).

**VI. The Proper Environmental Baseline Is Existing Operations, Not the Maximum Exports that the System is Operationally Capable of or Permitted For.**

Both NEPA and CEQA require that the Project be analyzed against the existing environmental conditions (the “environmental baseline”), so that the Project’s impacts can be meaningfully analyzed. 40 C.F.R. § 1502.15; CEQA Guidelines § 15125(a); *see County of Amador v. El Dorado County Water Agency*, 76 Cal.App.4th 931, 952 (1999). In order to meet CEQA and NEPA’s informational goals, the environmental baseline must be based on actual conditions on the ground, rather than the maximum exports that the CVP and SWP are operationally capable of or the full extent of the Projects’ paper water rights. Likewise, the ESA requires that the baseline for the section 7 jeopardy analysis include the effects of existing human activities, even if those activities are outside of the scope of the federal action currently contemplated. *NWF v. NMFS*, 481 F.3d at 1236-38, as modified, -- F.3d. --, 2008 WL 1821470 (April 24, 2008) (rejecting use of hypothetical reference case that ignored impacts from related, nondiscretionary activities).

The requirement of using a realistic baseline takes on additional significance because of our concern that DWR’s recent analysis of the potential benefits of a dual conveyance model rely on an inflated, hypothetical “reference case,” rather than actual export levels.<sup>5</sup> Using an unrealistic baseline significantly skews the environmental analysis, and it likely will understate the actual environmental impacts of the Project and overstate its benefits.

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<sup>5</sup> DWR, “An Initial Assessment of Dual Delta Water Conveyance,” April 2008, available online at [http://deltavision.ca.gov/BlueRibbonTaskForce/April2008/Handouts/Item\\_5d\\_Report.pdf](http://deltavision.ca.gov/BlueRibbonTaskForce/April2008/Handouts/Item_5d_Report.pdf).

Therefore, the environmental baseline analyzed in the EIS/EIR must be based on current levels of exports and withdrawals, including the restrictions to protect Delta smelt pursuant to the court's order in *NRDC v. Kempthorne*, 506 F.Supp.2d 322 (E.D. Cal., 2007), limitations to comply with D-1641, and other current legal and operational constraints on the system. The impacts of the Project must be measured against this baseline, and those impacts must be minimized to a less than significant level if feasible mitigation measures exist.

## **VII. Potentially Significant Impacts to be Analyzed in the EIS/EIR**

The NOP identifies a list of potential issues to be analyzed in the EIS/EIR. NOP at 9. We offer the following recommendations for the analysis.

### **A. The EIR/EIS Must Analyze the Effects of Global Climate Change on the CVP/SWP, Minimize the Projects' Environmental Impacts in Light of Global Climate Change, and Minimize the Projects' Contributions to Global Climate Change**

As the NOP recognizes (NOP at 9), and as DWR and other stakeholders are aware, global climate change is likely to substantially affect the operation of the State and federal water projects. In terms of water supply, global climate change is likely to significantly alter the timing, amount, and form of precipitation. It is anticipated that due to global climate change, significantly less snowfall will occur, particularly in the Sierra Nevada range, and that precipitation will come in the form of more frequent, more intense storms. In addition, it is likely that earlier snowmelt and increased spring runoff will occur; indeed, the date when 50% of annual runoff has occurred is one to four weeks earlier than it was 50 years ago. The percentage of total flows on the Sacramento River that occur between April to July flows declined by nearly ten percent over the last century, and it is likely that global climate change will continue this trend, resulting in substantially reduced summer runoff and flows in the Delta.

At the same time, global climate change will continue the existing trend of sea levels rise, which threatens to inundate many low lying lands in the Delta, and it likely will increase risks of flooding in the Delta. These effects have significant implications for operation of the CVP and SWP, which rely on melting snowpack for a substantial amount of the water supply that the Projects export.

In addition to effects on water supply and flood control, global climate change will affect Delta ecosystems. Changes to the timing, magnitude and form of precipitation will affect ecosystems directly, as well as likely resulting in increased water temperatures, adversely affecting cold water species like salmon. Temperature control devices, like those installed at Shasta, may be needed in other dams to protect covered species and minimize the Projects' take of these species. Increased carry-over storage to provide larger cold water pools may also be required to provide adequate protection for salmonids.

DWR's analysis of climate change indicates that climate change is likely to increase water evaporation and could reduce total stream flows, and may make it difficult for the CVP and SWP to meet existing demands for water. See DWR, *Progress on Incorporating Climate Change into*

*Management of California's Water Resources* (July 2006) at 2-6, 2-56, 4-14 to 4-17. Given the 50 year permit term under consideration in the BDCP, the EIS/EIR must anticipate reductions in the amount of stream flow available for export and delivery.

The operation of the State and federal water projects must adapt to the changes that global climate change will bring. In order to ensure that the Projects' impacts are minimized and mitigated, and that take of covered species is minimized and fully mitigated, the EIS/EIR must analyze how the Projects will adapt to climate change and minimize the Projects' impacts on the environment in light of these expected changes.

At the same time, CEQA requires that the Projects minimize their greenhouse gas emissions and contributions to global climate change. The water projects require significant amounts of energy to export water to destinations outside of the Delta; on average, pumping one acre-foot of SWP water to Southern California requires 3,000 kWh, and the SWP as a whole consumes an average of approximately 5 billion kWh/yr, accounting for 2 to 3 percent of all electricity used in California. Reducing exports from the Delta may significantly reduce the amount of energy used by the CVP and SWP, and thereby reduce the Projects' greenhouse gas emissions. The BDCP should analyze other actions that can be included in the BDCP to reduce greenhouse gas emissions and/or sequester carbon, such as the planting of tules and wetlands restoration.

**B. The EIS/EIR Must Analyze and Minimize the Full Range of Water Quality Impacts**

The analysis of the Projects' water quality impacts in the EIS/EIR must consider the full range of pollutants in the Delta, including pesticide pollution, toxic hot spots, salinity, mercury, and algal blooms. Any reduction in fresh water inflow to the Delta and/or outflow from the Delta may exacerbate existing water quality problems, resulting in a significant impact to the environment under CEQA/NEPA. In particular, salinity may not be used as a surrogate for an analysis of all water quality impacts. For example, changes in inflow patterns could change Delta residence time, lead to dissolved oxygen problems, and change the ratio of Sacramento River inflow to San Joaquin River inflow. These water quality impacts are unlikely to be adequately analyzed by a narrow focus on salinity. While many pollution problems are not caused by the Projects, the operation of the Projects undoubtedly plays a role in the magnitude, duration, and location of these water quality impacts. In addition, these water quality impacts may have cascading effects; for instance, it has been hypothesized that altered salinity levels resulting from Delta exports has increased the habitat suitability for invasive species, such as the Asian clam, that harm covered species like Delta smelt. The EIS/EIR must analyze the Projects' effects on water quality, including indirect effects to covered species and other wildlife, and those effects must be mitigated to a less than significant level.

**C. The EIS/EIR Must Analyze and Minimize Impacts to Biological Resources and Habitats, Including Upland Habitats**

CEQA and NEPA require that the EIS/EIR's analysis of the impacts to biological resources include the full range of plant and animal species and habitats that depend on the Delta ecosystem and may be affected by the covered activities in the BDCP. Impacts to these

biological resources must be minimized and mitigated to a less than significant level. Under CEQA, a project results in a mandatory finding of a significant impact if it would “substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species.” CEQA Guidelines § 15065. Such impacts must be minimized to a less than significant level if feasible mitigation measures can be implemented. Pub. Res. Code §§ 21002, 21002.1(b), 21081; CEQA Guidelines §§ 15021, 15091-93.

The EIS/EIR therefore must analyze the impacts of the Project on listed and covered species, as well as the full range of plants, birds, fish, and wildlife that live in the Delta and are affected by the CVP and SWP. This includes upland habitats and species, including grasslands and wetlands in the South Delta, Suisun Bay, and state and federal protected areas, including wildlife refuges such as the San Luis National Wildlife Refuge. The EIS/EIR should also analyze the BDCP’s consistency with existing HCPs in the Delta, as well as HCPs that are in development now.

We also note that the inclusion of fall-run Chinook salmon on the list of covered species (NOP at 6) raises significant concerns. Although not currently listed under either the ESA or CESA, the fall run’s population has declined precipitously in recent years, in part due to the operation of the SWP and CVP. For the first time in the State’s history, the commercial and recreational fisheries for salmon were closed this year, and current data suggests that this closure may be extended to at least 2009. Inclusion of this species provides an unwelcome suggestion that DWR and the Bureau of Reclamation will manage the water projects in a manner that fails to prevent the listing of the species during the life of the permits. The analysis in the EIR/EIS must focus particular attention on this issue, and the HCP/NCCP must be designed so as to avoid the need for listing fall-run Chinook under CESA or the ESA. Fish and Game Code § 2805 (definition of “conserve”); *see* CEQA Guidelines § 15065(a)(1). But that is far from sufficient; a goal of the BDCP must be to maintain healthy sport and commercial fisheries, and the BDCP must include conservation measures to conserve, restore and sustain the fall-run Chinook population.

In particular, the analysis of potential impacts to salmonids and natural resources upstream of the Delta should include, but not be limited to, the following potential impacts: entrainment in any new conveyance facility; entrainment or interrupted downstream migration as a result of continued Delta pumping; increased predation; degraded water quality; reduced carry-over storage (particularly in light of the potential for deeper and longer droughts as a result of climate change); reduced cold-water pools, increased in-stream temperatures; and changes in river flows upstream of the Delta.

Finally, the EIS/EIR must analyze impacts to the entire Bay-Delta ecosystem as a whole. For example, a species-by-species approach is likely to fail to address fundamental issues related to ecosystem function.

#### **D. The EIS/EIR Must Analyze and Minimize Cumulative Impacts**

Finally, the EIS/EIR must analyze and minimize the cumulative impacts of the covered activities in conjunction with other reasonably foreseeable projects and activities, including urban and

agricultural runoff, in-Delta diversions, upstream diversions, continued and reasonably foreseeable increases in these diversions, and implementation of the San Joaquin River settlement. Even if the BDCP is limited to the covered activities specified in the NOP, and other impacts to the Delta ecosystem are not included, CEQA and NEPA require that the cumulative impacts of these other stressors be analyzed in conjunction with the impacts of the SWP/CVP. It is critical – and CEQA requires – that the cumulative impacts of the BDCP and other foreseeable projects on fish, wildlife and habitats be minimized to a less than significant level.

### **VIII. Effectiveness of the BDCP's Conservation and Mitigation Measures**

Given the proposed fifty year term of the BDCP, ensuring that the conservation strategies and mitigation measures are likely to be effective is critical to the success or failure of the BDCP. As discussed above, the EIS/EIR must include a detailed analysis of impacts to all fish, wildlife, and habitats that could be affected by the BDCP. In order to do so, the EIS/EIR must analyze the effectiveness of the proposed conservation and mitigation measures in the BDCP.

In particular, to the extent that flexible operations and/or market mechanisms are relied upon in the plan, the document must include a thorough analysis of the performance of the Environmental Water Account (“EWA”). The EWA failed due to a wide range of problems, including: weakening of the regulatory baseline; the failure of operational flexibility to provide anticipated supplies; inadequate funding; the failure to trigger Tier 3 resources when needed; increases in the price of water on the market; a failure to fully implement the recommendations of the scientific community and regulatory agencies; the failure to analyze emerging problems and “adaptively manage” the EWA, and more. *See* Environmental Defense Fund, “Finding the Water,” (2005), available online at [http://www.edf.org/documents/4898\\_FindingWater.pdf](http://www.edf.org/documents/4898_FindingWater.pdf); Letter from K. Poole and B. Nelson to S. Cervantes dated December 10, 2007, attached hereto as Exhibit C and incorporated by this reference. To the extent that the BDCP relies on similar conservation measures, the EIS/EIR must analyze the EWA and the likelihood that the BDCP could suffer from similar problems.

### **IX. Consistency with the Delta Vision “Vision” and Strategic Plan**

The EIR/EIR should analyze consistency with and potential impacts on the Delta Vision “vision” and strategic plan. The Delta Vision process is addressing some of the same issues as the BDCP. However, the Delta Vision process is broader in scope. It is not yet clear to what extent the BDCP and Delta Vision will have identical or complementary ecosystem restoration goals and strategies. Given the scope of the BDCP and the 50 year proposed term of permits, the BDCP could have a significant impact on the ability of the state of California to implement the Delta Vision strategic plan. The BDCP and Delta Vision may or may not reach the same conclusion regarding conveyance. The BDCP’s proposals could have indirect effects on Delta resources within the scope of the Delta Vision process. We will mention here only two possible impacts. First, if the Delta Vision Strategic Plan recommends reductions in water diversions, the achievement of that goal could be affected if the BDCP provides assurances regarding an operational scenario for the water projects at a higher rate of diversion. In addition, Delta Vision recommends governance reform to allow more balanced operation of the projects, the assurances in the BDCP could interfere with the implementation of this recommendation.

**X. Scope of the BDCP**

**A. Scope of the BDCP and Project Area**

We strongly encourage the BDCP to consider expanding the geographic scope of the BDCP. The NOP identifies the Project Area as limited to the statutory Delta, NOP at 7, even though the NOP notes that other conservation actions required by the BDCP may take place outside of the Project Area, *id.*, and the BDCP includes the operation of the SWP and CVP within the covered activities, NOP at 5. In order to manage the CVP and SWP facilities in the Delta, however, changes to upstream CVP and SWP facilities may be required; for instance, maintaining water and/or salinity levels in the Delta is dependent upon releases from CVP and SWP dams and reservoirs, which are currently not included in the Project Area. The BDCP therefore should include these reservoirs within the scope of the BDCP and include an evaluation of upstream reservoir reoperation to achieve the water quality and quantity in the Delta necessary to achieve the BDCP's goals. We also note that if these upstream reservoirs are not included in the Project Area, it would appear that they must seek separate take authorization under State and federal law. Likewise, the BDCP may want to include Suisan Bay in the Project Area, as it is a key spawning area for Delta smelt and the site of proposed restoration activities under the BDCP.

A holistic approach to managing the Delta requires that these upstream and downstream facilities and habitats be included in the BDCP. Even if such facilities and habitats are not included in the EIS/EIR, impacts outside of the Project Area must be analyzed and mitigated to a less than significant level.

**B. Duration of BDCP Permits**

The BDCP has proposed a fifty-year permit term. In light of the changing nature of the Delta and scientific uncertainty over causes of species declines, we encourage the BDCP to consider shorter permit terms, such as 5-10 years, rather than a fifty-year permit. *See also* Fish and Game Code § 2820(f)(1)(D), (H) (extent of regulatory assurances depend on the duration of the permit). The EIS/EIR should consider including alternative permit durations among the range of reasonable alternatives.

**C. Other Activities to Potentially Include in the BDCP**

The BDCP Points of Agreement asserts that other conservation actions outside of the habitat restoration program should be developed to address other stressors on the Delta, such as exposure to contaminants and toxics, entrainment in non-CVP/SWP intake facilities, and invasive species. BDCP Points of Agreement (Nov. 16, 2007) at 3, 7. However, the NOP does not include these activities within the scope of the BDCP. *See* NOP at 5-6. These activities cause significant impacts on the Delta ecosystem and listed species, and excluding these activities from the BDCP compromises its ability to develop a sustainable "solution" for the Delta.

Therefore, we encourage the BDCP to work with parties involved with these activities in order to consider including these activities in the framework of the BDCP. Regardless of whether they



are included in the regulatory framework, NEPA and CEQA require that their impacts be included in the current regulatory baseline, and that the cumulative impacts of the BDCP and these activities be analyzed and mitigated to a less than significant level.

#### **D. Inclusion of Mirant Delta Power Plants in the BDCP HCP/NCCP**

We have some concerns about including the operations of the Mirant Delta power plants within the scope of this HCP/NCCP. While there are significant concerns with effect of the operation of these power plants on endangered species, notably Delta smelt, *see* Mike Taugher, *Mirant plants attract attention in delta crisis*, Contra Costa Times, March 15, 2006, there are also numerous other activities that cause potentially significant harm to Delta smelt and other covered species, as discussed above.

If the Mirant Delta power plants are included in the BDCP, particular attention should be paid to the following issues related to operation of the plants and their environmental effects:

- Analysis and minimization of the impacts of the entrainment of fish, effects of thermally heated discharges, and other impacts on covered species and other fish and wildlife species, including operational and structural changes such as:
  - Requiring more effective screening of the plants' cooling water intakes;
  - Changes to existing cooling water intakes and intake flow velocities;
  - Monitoring and reporting the plants' take of covered species;
  - Temporal and/or other restrictions on water withdrawals; and
  - Elimination of the existing once-through cooling systems for the plants, and replacement with dry cooling or recirculating cooling systems;
- Operational changes or other actions to reduce greenhouse gas emissions from plant operations; and,
- Establishing strict and enforceable numeric limits on the take of covered species.

As with operation of the SWP and CVP, the operations of the Mirant Delta power plants authorized by the HCP/NCCP must minimize take of covered species, minimize all environmental impacts to a less than significant level, and comply with existing legal requirements applicable to the plants.

#### **XI. The EIS/EIR Should Analyze the Economic Costs and Benefits of Water Conservation and Other Measures to Meet Water Supply Needs, as well as Identifying Reasonable Sources of Funding to Implement the BDCP.**

Although not required by CEQA, *see* CEQA Guidelines § 15064(e), an EIS under NEPA often includes an analysis of the economic impacts of the Project. *See also* 40 C.F.R. § 1502.23. In addition, as noted earlier, both the ESA and NCCPA require an identification of the guaranteed funding sources for implementation of the actions contemplated in the approved HCP. 16 U.S.C. § 1539(a)(2)(B)(iii); Cal. Fish and Game Code § 2820(a)(10), (b)(6), (8), (f)(1)(E).

More broadly, informed policy-making on the question of sustainably managing the Delta requires some analysis of the economic costs and benefits of each alternative, as well as an identification of funding sources that will implement the alternative plans being considered in the BDCP. While some environmental benefits are likely to be speculative and unquantifiable, and economic considerations cannot trump environmental considerations under NEPA and CEQA, economic considerations can be useful to inform decision-making.

In particular, numerous studies have demonstrated that water conservation and investments in water efficiency are far more cost effective than developing new storage facilities or otherwise expanding water supplies, including DWR's California Water Plan Update 2005. In light of the BDCP's water supply reliability goal, to the extent that the BDCP looks at how to meet the water supply needs of exporters in light of alternatives that reduce water exports over historic levels, the EIS/EIR should compare the cost effectiveness of water conservation and efficiency, and a full range of water supply alternatives with the construction, maintenance and operation of Delta conveyance facilities and other water supply components identified in the BDCP.

**XII. The Scoping and Comment Period for the EIS/EIR Should be Reopened Upon Completion of the BDCP Conservation Strategy and Adoption of the Delta Vision Strategic Plan.**

Consistent with our March 24, 2008 letter, and in order to improve informed public participation in the process, we respectfully request that the agencies re-open the scoping and comment process upon completion of the draft BDCP conservation strategy and Delta Vision Strategic Plan. Doing so will ensure that the conservation actions and alternatives that are developed through the BDCP conservation strategy are analyzed in the EIS/EIR, and it will better ensure that the BDCP is consistent with the Delta Vision Strategic Plan.

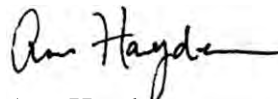
**XIII. Conclusion**

Thank you for consideration of our views. Please feel free to contact us at your convenience if you have any questions or concerns.

Sincerely,



Doug Obegi  
Natural Resources Defense Council



Ann Hayden  
Environmental Defense Fund



Kim Delfino  
Defenders of Wildlife



Gary Bobker  
The Bay Institute

cc: Russell Strach, National Marine Fisheries Service  
Donald Koch, Department of Fish and Game  
Steve Thompson, U.S. Fish and Wildlife Service  
Donald Glaser, Bureau of Reclamation  
Karen Schwinn, Environmental Protection Agency

Enclosures:

Exhibit A: Scoping Comments on BDCP EIS/EIR from NRDC, EDF and Defenders of Wildlife submitted to NMFS and USFWS dated March 24, 2008

Exhibit B: Key Elements of a Strategic Plan to Implement the Delta Vision (May 2008)

Exhibit C: NRDC Comments on the Draft Supplemental EIS/EIR for Extending the Environmental Water Account and OCAP Consultations (Dec. 10, 2007)

# **EXHIBIT B**



June 30, 2008

Honorable Arnold Schwarzenegger  
Governor  
State of California  
State Capitol  
Sacramento, CA 95814

Dear Governor Schwarzenegger:

The Delta Vision Blue Ribbon Task Force is providing this letter to fulfill its goal of commenting on a possible preferred water conveyance alternative by June 2008. We present these views against the backdrop of your February letter directing DWR to proceed with NEPA/CEQA analysis of at least four alternatives:

- ✓ The possibility of no new Delta conveyance facility;
- ✓ The possibility of a dual conveyance facility, as suggested by the Task Force;
- ✓ The possibility of an isolated facility;
- ✓ The possibility of substantial improvements and protections of the existing water export system, most often referred to as 'armoring the Delta' or a 'through-Delta' solution.

## Background

Executive Order S-17-06 directs the Blue Ribbon Task Force to include consideration of reliable water supply, the environment, and infrastructure in developing a vision and strategic plan. Of the 12 linked recommendations in the Vision we adopted in November 2007, Recommendation 1 states that the Delta ecosystem and a reliable water supply for California are the primary, co-equal goals for sustainable management of the Delta. Recommendation 8 states that new facilities for conveyance and storage, and better linkage between the two, are needed to better manage California's water resources to meet the dual objectives of reliable water supply and ecosystem health.

To achieve both of these linked objectives, the adopted vision made these additional recommendations: (1) Immediate improvements to the existing through-Delta export system; (2) an assessment of a dual conveyance system as the preferred direction, focused on understanding the optimal combination of through-Delta and isolated facility improvements; (3) to urgently assemble available information on design features, cost, and performance of alternative conveyance options against specified criteria to allow selection of a preferred alternative by June 2008.

In recent months, we have received a number of reports and presentations by Task Force work groups, and by CALFED, DWR, and others, described in Attachment A.

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>



Honorable Arnold Schwarzenegger  
June 30, 2008  
Page Two

**Conclusions and recommendations on a preferred water conveyance alternative.**

Through review and discussion of the information presented to us, we have grown more confident that dual conveyance, including both an improved, resilient through-Delta conveyance component and an isolated component, is a strong choice, provided the chosen design fully embraces the co-equal goals of a resilient ecosystem and reliable water supply. This is not just a choice of conveyance, or even of conveyance and storage, but also a choice with large implications for the future Delta ecosystem.

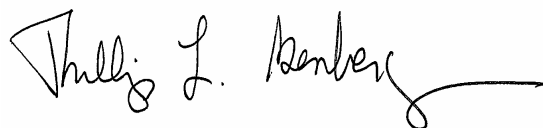
Analysis of conveyance facilities and associated storage must focus on more than the maximum amount of water that can be moved through the Delta. Beyond maximum flows, the analysis should determine the combination of facilities that can best achieve the management flexibility required to meet ecosystem needs, to provide greater reliability in water supply, to maximize the taking of water in wet periods when it is most available, and to accommodate the kinds of transfers and regional self-sufficiency needed. Management flexibility will be increasingly critical to capture water during wet periods and to cope with predicted increased volatility of weather and extreme weather events.

Much more analysis of sizing combinations, impacts, and costs of *both* an improved through-Delta component and an isolated component are needed to confirm any decision regarding dual conveyance and to finalize a design that contributes to our vision of co-equal goals for sustainable Delta management. In Attachment B, we recommend several elements for any conveyance facility investigation.

As your Delta Vision Blue Ribbon Task Force moves toward our final goal of developing a Strategic Plan to implement our Vision for the Delta and the water future of California, we again reemphasize that improvements to the existing through-Delta conveyance system must begin immediately. It is equally critical that improvements to the ecosystem must begin now to ensure progress as rapidly as possible. The recommended approach requires both analysis and action; as dual-conveyance is studied in greater detail, interim steps must be taken to improve the through-Delta conveyance system today.

Consistent with our Vision's first recommendation, our Strategic Plan will provide a framework within which a more resilient ecosystem and reliable water conveyance system can be effectively implemented and operated and may make additional recommendations regarding conveyance facilities and associated storage.

Sincerely,

A handwritten signature in black ink that reads "Phillip L. Isenberg". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Phillip L. Isenberg, Chair  
Delta Vision Blue Ribbon Task Force

cc: (See attached list.)

Honorable Arnold Schwarzenegger  
June 30, 2008

List of Courtesy Copies

Honorable Mike Chrisman  
Secretary for Resources  
Resources Agency  
1416 Ninth Street, Room 1311  
Sacramento, CA 95814

Mr. Lester Snow, Director  
Department of Water Resources  
1416 Ninth Street, 11<sup>th</sup> Floor  
Sacramento, CA 95814

Attachment A: Information provided since adoption of *Our Vision for the California Delta*

- The Task Force's Water Supply and Reliability and Healthy Ecosystem Work Groups have suggested that a wet-year diversion system (a shift of export diversion timing to wetter periods, when least harmful to the ecosystem) be considered as a strategy to achieve greater water supply reliability and ecosystem health. To do so would require increased storage and conveyance capacity statewide. A dual conveyance system would increase conveyance capacity and options, and could support a wet-year diversion system if properly managed.
- CALFED submitted a "Summary Review of Prior Delta Conveyance Reports", which reviewed the findings of over 100 reports that dealt with Delta water conveyance and potential effects on water quality and ecosystem health and resilience. The report identified data gaps, especially regarding ecosystem performance, in previous studies and conveyance designs that would be critical to address when assessing an improved conveyance system.
- DWR submitted "An Initial Assessment of Dual Delta Water Conveyance", which gave a preliminary assessment of a dual conveyance strategy as part of ongoing efforts related to the Bay-Delta Conservation Plan development process, including preliminary design features, cost, and preliminary performance results of alternative conveyance options. The Task Force found that the assessment explained the merits of an isolated component, but fell short of addressing the long-term resilience and recoverability of the through-Delta component of the dual conveyance strategy.



Attachment B: Recommended elements for assessing conveyance facilities and related storage

1. **Directly address alternative choices and design configurations by how well they serve the co-equal goals of protecting the Delta ecosystem and providing water for Californians.** Include a clear description of near-term actions to improve ecosystem function and water system reliability of the existing through-Delta conveyance system.
2. **Incorporate ecosystem health and resilience.** Analyze a full range of through-Delta flows *and* isolated facility flows on in-Delta ecological processes and functions, and analyze how reduced pumping operations may reduce entrainment of certain fish species. The analyses should ensure that restoring ecological functions is a central component of the plan, and not treated merely as mitigation to offset continued water export functions – an approach which has failed to break through the political deadlock on water and the ecosystem for the past 40 years.
3. **Incorporate anticipated levels of usage of available ground and surface storage.** Include not only existing ground and surface water storage but also possible increases in ground and surface water storage. Incorporate timelines by which additional surface and ground water storage may become available for use into analyses. In addition, assess possible gains from changed operations of storage capacity (e.g., more effective flood plain protection and management allows effective increases in reservoir capacity).
4. **Face up to the question of anticipated future water diversion and exports from the Delta.** In order to make an intelligent decision on alternative water export facilities it is essential to state the expectations on water diversions and describe the decision processes and rules that would be used to determine allowable diversions under a range of hydrologic and climatic conditions. A greater emphasis on wet period diversion will require a more comprehensive set of regulatory requirements for the Delta and upstream tributaries than exists today, in order to ensure the achievement of our co-equal goals. We understand the political difficulty of this discussion. However, failure to face up to the question will once again lead to a divisive and bitter statewide battle about water and the Delta. Analyze the performance of all conveyance systems considered in terms of wet period diversion; that is, the ability to *divert, move and store* more water during wetter periods and reduce water diversions in drier periods in part to provide for Delta environmental protection and as a strategy to cope with reduced snowpack as a result of climate change. Quantify thresholds for water required in the Delta (in volume, timing, and quality at various locations) for effective functioning of the estuarine ecosystem under different conditions.
5. **Analyze implications for migratory fish species and upstream rivers.** Analyze the implications of conveyance and operational options, including a full range of diversion levels, on representative migratory fish species and upstream riverine habitat.
6. **Incorporate realistic estimates of reliable water transfers as part of the evaluation.** Reliable water transfers are a valued public policy goal and specific estimates of such transfers should be included in designing and assessing alternative conveyance systems.

7. **Identify and evaluate improvements to through-Delta conveyance for resiliency and recoverability in the event of catastrophic loss and incorporate effective improvements in analyses.** Do not merely assume the status quo of existing through-Delta conveyance is acceptable; improvements to the existing through-Delta system must occur to protect California's water and the ecosystem regardless of dual conveyance design details chosen. Near-term improvements on through-Delta conveyance could contribute to the two important goals of (1) increased conveyance capacity and (2) reducing risk of catastrophic failure, including the value of repairable through-Delta conveyance capacity. This is consistent with our Vision recommendations 7, 8, and 9.
8. **Incorporate a sea level rise projection of at least 55 inches (by 2100) in facility designs.** Additionally, clearly state and assess the possible implications of other dimensions of climate change, such as increased extreme storms, on any conveyance facility.
9. **All alternative facilities should be evaluated against a common level of seismic and flood durability.** This analysis should include not only effects on the facilities themselves as structures but the risks to other human uses of the Delta and the Delta ecosystem resulting from effects of earthquakes or floods on facilities.
10. **Incorporate water quality objectives in analyses.** Clearly evaluate the implications of alternative approaches to conveyance and to the proposed conservation program on water quality objectives for the Delta, and how these objectives will be affected by the various alternatives. These analyses should incorporate a full range of water quality issues, including salinity, temperature, dissolved oxygen, pesticides and toxics and turbidity.
11. **Ensure transparency and accountability in decisions.** Specify projected schedules for construction, the cost of the activities, and their funding sources. Include sufficient details to guarantee that ecosystem restoration and conservation measures will be fully and properly implemented. Devise assurances that the actions will be implemented, including, for example, directly incorporating actions into any and all state water contracts, and as conditions for receipt of bond funds, either for facility development or for ecosystem purposes. Concurrently, ensure that a system of adaptive management is implemented so that progress is monitored and decision makers can manage adaptively.
12. **Develop a baseline that reflects current conditions.** Analyses of alternative conveyance facilities and operations should be compared against a common baseline that reflects current operations and legal requirements.

# **EXHIBIT C**

# Possible Impacts of Climate Change to California's Water Supply

## Introduction



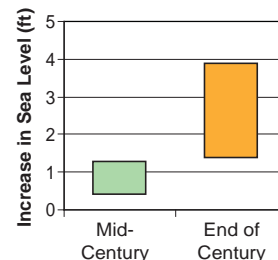
The State Water Project (SWP) and federal Central Valley Project (CVP) provide water for over 23 million people in California. Water stored in reservoirs flows through the Sacramento-San Joaquin Delta where pumps and canals transfer the water to central and southern California. A 2009 report by the California Department of Water Resources on *Using Future Climate Projections to Support Water Resources Decision Making in California* looks at how projected future climate conditions could affect the reliability of California's water supply. Following are the key findings of the report.

## Future Uncertainty

Planning for the future involves uncertainties. This study uses current projections for climate, population, and water demands to estimate California's future water supply. Uncertainties in the analyses increase the farther that we look into the future.

## Sea Level Rise Projections Section 4.1 in the report.

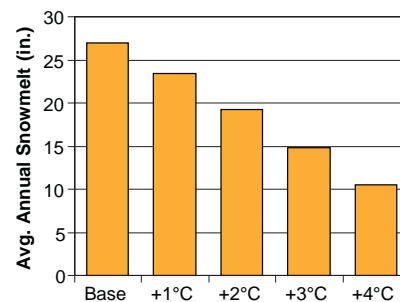
Warmer future air temperatures are expected to cause sea levels to rise. In fact, the sea levels near San Francisco increased by over 0.6 feet in the 20th century. Based on 12 future climate scenarios, projections for global sea level rise are 0.4 feet to 1.2 feet at mid-century and 1.4 feet to 3.9 feet by the end of the century. Rising sea levels will bring more saline ocean water into the Delta. Additional fresh water will need to be released from upstream reservoirs to maintain water quality.



Ongoing research indicates that future sea level rise may be even higher than the projections used in this report.

## Increasing Air Temperature Section 5.1 in the report.

Runoff from the upper Feather River basin provides water for Lake Oroville, the main water supply reservoir for the SWP. Because it is a low elevation basin, the snowpack and subsequent snowmelt runoff may be more vulnerable to increasing air temperatures than snowpack in higher elevation watersheds. Warmer air temperatures would shift some precipitation from snow to rain. Snowpack is an important natural reservoir for storing water in the winter and later augmenting the water supply through spring snowmelt.



An air temperature increase of 1°C (1.8°F) is expected to reduce the average annual snowmelt by about 15%, and a 4°C (7.2°F) increase results in about 60% less snowmelt.

Runoff would also shift earlier into the year, which is when reservoirs are operated for flood protection, not water supply. A 4°C (7.2°F) increase in air temperature shifts the mean runoff from mid-March to mid-February.

## Climate Change Impacts on Water Supply Section 5.2 in the report.

Future increases in air temperature, shifts in precipitation patterns, and sea level rise could affect California's water supply by changing how much water is available, when it is available, and how it is used. This study looks at climate change impacts to California's water supply reliability for 12 future projections from Global Climate Models (GCMs) for a higher greenhouse gas (GHG) emissions scenario and a lower emissions scenario. It assumes that current SWP and CVP infrastructure, regulations, and operating rules do not change. However, uncertainties in the results increase as the projections move further into the future.

Expected impacts to the SWP and CVP include pumping less water south of the Delta, having less surplus water in reservoirs that can be used during shortages, pumping more groundwater to augment reductions in surface water supplies, and an increased risk that insufficient water availability could interrupt SWP and CVP operations. A water shortage worse than the one during the 1977 drought could occur in 1 out of every 6 to 8 years by mid-century and 1 out of every 3 to 4 years at the end of the century. The table below shows the range of impacts to the SWP and CVP.

	Mid-Century		End of Century	
	Higher GHG Emissions (A2)	Lower GHG Emissions (B1)	Higher GHG Emissions (A2)	Lower GHG Emissions (B1)
Delta Exports	-10%	-7%	-25%	-21%
Reservoir Carryover Storage	-19%	-15%	-38%	-33%
Sacramento Valley Groundwater Pumping	+9%	+5%	+17%	+13%
SWP & CVP Power Generation	-11%	-4%	-9%	-4%
SWP & CVP Power Use	-14%	-14%	-17%	-16%
System Vulnerability to Interruption*	1 in 6 years	1 in 8 years	1 in 3 years	1 in 4 years
Additional Water Needed to Maintain Operations**	750 TAF/yr	575 TAF/yr	750 TAF/yr	850 TAF/yr

TAF=thousand acre-feet

An acre-foot is the amount of water a family of four will use in a year.

The results at the end of the century are more uncertain than the mid-century results.

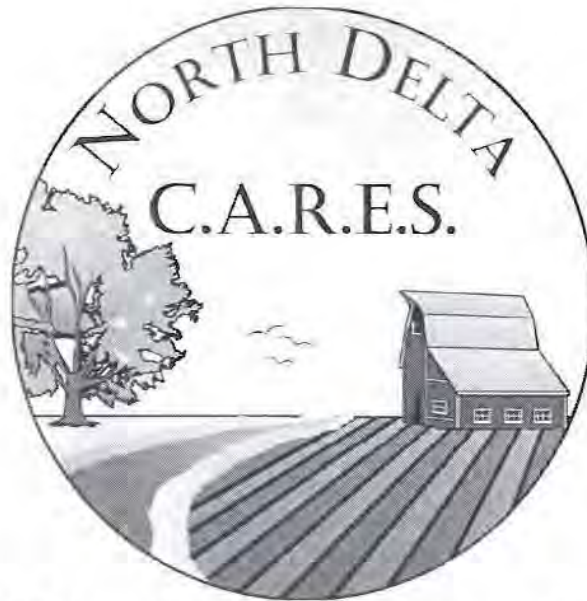
\* The SWP-CVP system is considered vulnerable to operational interruption during a year if the water level in one or more of the major supply reservoirs (Shasta, Oroville, Folsom, and Trinity) is too low to release water from the reservoir. Under current conditions, the system is not considered vulnerable to operational interruption.

\*\* Additional water is only needed in years when reservoir levels fall below the reservoir outlets.



For further information, please contact Francis Chung at [chung@water.ca.gov](mailto:chung@water.ca.gov) or Jamie Anderson at [jamiea@water.ca.gov](mailto:jamiea@water.ca.gov)

Clarksburg



## North Delta Community Area Residents for Environmental Stability

“North Delta CARES”

Post Office Box 271  
Clarksburg, CA 95612

March 16, 2009

### **Points of Agreement**

AN OPEN LETTER TO NORTH DELTA COMMUNITY AREA RESIDENTS ON THE BAY DELTA CONSERVATION PLAN. THE PLAN STILL THREATENS OUR HOMES, OUR FARMS, OUR BUSINESSES AND OUR INTERESTS. ON MARCH 26, 2009, AT THE CLARKSBURG MIDDLE SCHOOL AUDITORIUM, BEGINNING AT 6:00 P.M., THE BDCP WILL PRESENT ITS PLAN AND ASK FOR COMMENTS. THE LETTER THAT FOLLOWS WAS PREPARED BY NORTH DELTA CARES TO PUT OUR CONCERNS AND RESPONSES ON PAPER TO HELP YOU COMMENT ON THE BDCP. FEEL FREE TO USE ALL, SOME OR MAKE UP YOUR OWN COMMENTS TO COMMUNICATE WITH THE BDCP THAT NIGHT OR AT ANY TIME IN THE PROCESS. THANKS. NORTH DELTA CARES STEERING COMMITTEE.

Yolo County Board of Supervisors Chair Mike McGowan, speaking for the Boards of Supervisors of the five Delta counties, recently wrote in a *Sacramento Bee* commentary: "Attempts to address Delta issues will be unsuccessful without local involvement and ultimately without relying on those at the local level to help make it happen ... We want the entire state to understand that the Delta is not a blank slate. People live here. People work here." We are those people.

We recognize that the water, flood protection, economic, and environmental issues related to the Sacramento-San Joaquin River Delta are substantial and complex. Although the state-led Delta Vision and Bay Delta Conservation Planning processes held numerous public meetings where Delta residents, business people, and farmers – some living and working in the Delta many years – stated our concerns and offered our knowledge, experience, and ideas to address those issues, little of that input has been included in the state planners' announced solutions. Nearly all of their current plans are virtually the same as their initial conceptual plans. So we repeat...

1) We support only export of water from Northern California and the Sacramento-San Joaquin Delta which is in excess of the present and future human and environmental needs of these areas.

2) We support expanded, additional water storage in Northern California for wet-year capture of run-off water to provide for safe and reliable through-Delta export.

3) We firmly support conveying export water using the present through-the-Delta route, i.e. the Sacramento River and Delta channels southward, to the state and federal water project pumps, as the most ecologically and economically sound choice. We encourage modifications to this conveyance that:

- a) make water delivery more reliable;
  - b) make Delta levee systems structurally more sound;
  - c) protect listed fish species from endangerment from the project pumps; and
  - d) continue to preserve and defend present in-Delta water quantity and quality standards.
- 4) We support aggressive and continuing state-wide water conservation efforts.
- 5) We oppose a "Delta Vision" that seeks the return of Delta lands and hydrologic features to their natural state. We support construction of fish habitat restoration projects and other ecological improvements, provided they are based on sound science and situated on lands currently in public ownership, or on privately-owned lands only with the willing consent of the individual property owners.
- 6) We firmly oppose the use of an expanded "public trust" doctrine to alter or abolish presently-held water rights of any type.
- 7) We cannot support new Delta regional governance structures with the "coequal goals" of improving the Delta ecosystem and reliability of water supply unless persons living in the Primary Zone of the Delta, elected by Primary Zone residents, have seats at each decision-making level. We strongly oppose any governance structure comprised of an appointed and unaccountable body of members whose principal mission is to advance the above-mentioned coequal goals without due consideration of the effects of its actions on the lives and livelihoods of the thousands who call the Delta "home". Us!
- 8) We support a third *tri-equal* goal to protect and enhance the social, economic, and physical viability of the Delta, including:

- a) Delta agriculture, and its supporting businesses;
- b) Delta reclamation districts;
- c) Delta natural gas industry;
- d) Delta tourism, recreation, boating, and fishing industries;
- e) Delta community infrastructure and services, including civic organizations; fire districts, school systems, and communities of faith; and
- f) The present Delta levee system in its entirety.

In conclusion, because we maintain that those who live their lives closest to the Delta's lands and waters make up its most passionate and in many ways most well-informed stewardship group, we cannot support efforts, whether intentional or otherwise, that lead to de-population of the Delta, or large-scale transfer of Delta lands from private to public hands.

Additionally, we firmly maintain that attempts to develop and implement plans to "improve" the Delta's ecological health and water supply roles will inevitably fail without ongoing, substantial input and support from Delta locals at every level. We urge legislators, planners, state and federal agencies, water contractors, environmentalists, the Governor, and the public at large to recognize that natural systems, even degraded ones, will not be nurtured through solutions driven by politics and panic.

We hope all those who read this will inform themselves of the latest plans by the State of California and make comments on March 26, 2009, at the Clarksburg Middle School Auditorium or later in writing or by e-mail.

Visit us online at:

[WWW.NORTHDELTA CARES.ORG](http://WWW.NORTHDELTA CARES.ORG)



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May 14, 2009

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via e-mail: [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov)

**RE: Scoping comments on the Preparation of an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) Regarding the Bay Delta Conservation Plan (BDCP) for the Sacramento-San Joaquin Delta, California**

Ms. Brown:

The Planning & Conservation League (PCL) partners with environmental organizations statewide to provide an effective voice in Sacramento for sound planning and responsible environmental policy at the state level. Our mission is to protect and restore California's natural environment, and to promote and defend the public health and safety of the people of California, through legislative and administrative action.

PCL is an active advocate for a healthy Delta ecosystem as well as for water management solutions that improve water reliability without incurring large environmental costs. PCL was a member of the Delta Vision Stakeholder Coordination Group, is a participant in Delta governance discussions in the context of Senator Simitian's Senate Bill 12, and is also an Interested Observer of the Bay Delta Conservation Plan (BDCP) process. We offer our thoughts below on the appropriate scope of analysis in the proposed EIR/EIS on the BDCP. Because the current scoping period concerns the environmental analysis of a plan still under development, we request that the Department of Water Resources (DWR), as lead agency, initiate additional scoping and comment periods as the BDCP progresses. At a minimum, DWR should provide another opportunity for scoping comments upon completion of the proposed plan.

We recommend that DWR address the following issues in the EIS/EIR for the BDCP:

**A. THE EIS/EIR SHOULD CLEARLY STATE WHETHER OR NOT THE BDCP WILL BE IMPLEMENTED AS A HCP/NCCP**

Neither the Notice of Preparation nor the BDCP Planning Agreement commits its signatories to pursuing take authorizations by drafting the BDCP as a Natural Communities Conservation



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Plan (NCCP) (under the state Natural Communities Conservation Plan Act (NCCPA)) or as a Habitat Conservation Plan (HCP) (under section 10 of the Federal Endangered Species Act (FESA)). While these documents state the *intent* to develop the BDCP as an NCCP/HCP, the current ambiguity regarding this issue must be resolved. The EIS/EIR on the BDCP, if it is to provide meaningful analysis on necessary conservation objectives for Delta species and appropriate regulatory assurances, must unambiguously report the BDCP's legal basis for take authorization.

Given the stated intent to develop the plan as an NCCP/HCP, and the independent scientific input provided to the BDCP process as required under the NCCP/HCP laws, the EIR/EIS must include an evaluation of that independent scientific input.

## **B. THE EIS/EIR SHOULD FULLY ANALYZE AN APPROPRIATE RANGE OF REASONABLE PROJECT ALTERNATIVES**

The EIS/EIR on the BDCP should include a comprehensive analysis of reasonable project alternatives. While engineering alternatives that compare different structural or routing solutions for improvements or additions to Delta conveyance infrastructure are certainly appropriate to consider, the reasonable project alternatives should also include:

- **NO PROJECT:** An alternative that fully complies with current regulatory standards, including all water quality objectives. In the recent past, water quality objectives and endangered species laws have been violated. Modeling of the no project alternative must include operations that are consistent with regulatory standards.
- **INCREASED RELIABILITY THROUGH DECREASED DEMAND ON DELTA WATER SUPPLIES\* #1:** An alternative that includes reduced Delta exports and aggressive implementation of water conservation, water recycling, and groundwater treatment to fully meet water demand.
- **INCREASED RELIABILITY THROUGH DECREASED DEMAND ON DELTA WATER SUPPLIES\* #2:** An alternative that considers the retirement of drainage-impaired lands in the San Joaquin Valley, consistent with the EIR on San Joaquin Valley Drainage.

All alternatives should include full implementation of species conservation measures necessary to comply with federal and state endangered species laws.

*\* For recommended analytical approaches to assess the effects of reduced demand on water supply and water reliability, see Section E.*

## **C. THE EIS/EIR SHOULD DESCRIBE HOW EACH PROJECT ALTERNATIVE MEETS NECESSARY CONSERVATION TARGETS**

The BDCP process was initiated by Potentially Regulated Entities to comply with endangered species laws. The environmental review must describe how the conservation objectives are met under alternative project scenarios. This discussion must include:

- A comprehensive presentation of evidence in support of any conclusion that the water supply and reliability measures in each project alternative are compatible with the species recovery goals necessary for compliance under endangered species laws.
- A comprehensive presentation of the decision process used to set biological goals and objectives. A key component of the description of biological goals and objectives for aquatic species that spend all or a part of the life cycle in the Bay Delta Estuary should be the identification of the flow regimes (quantity, direction, temperature, turbidity, and other water quality parameters) that are needed in different locations at different times of the year in different types of water year in order to contribute to the restoration of these species. The effects of alternate flow regimes and water quality must also be considered in terms of their impacts on terrestrial (but riparian or wetland association) communities in the Delta region.
- A comprehensive presentation of the decision process used to select conservation measures that are expected to attain the biological goals and objectives. Even for processes that are well understood, selection of conservation measures may not be straightforward.
- A comprehensive presentation of the scientific rationale behind selected conservation measures, including discussion of how the impacts of each measure differ by species, life history stages, or geographic area.
- A comprehensive presentation of other considerations (e.g. economic, social, political, engineering) that influenced the selection of conservation measures.

#### **D. THE EIS/EIR SHOULD DESCRIBE THE STATEWIDE ENVIRONMENTAL IMPACTS OF EACH BDCP PROJECT ALTERNATIVE**

The BDCP Planning Agreement and Notice of Preparation identify the planning area as the Statutory Delta. In order to achieve improvements in ecosystem health and water reliability, we believe that an adequate NCCP/HCP must analyze alternative actions and effects upstream, in the Delta and in areas receiving water from the Delta. The EIS/EIR must describe the *impacts* of the BDCP actions both within and beyond the Statutory Delta, including areas that receive water from the Delta.

*Upstream impacts* that should be considered in development of the EIS/EIR on the BDCP include:

- The potential for changed operations at upstream reservoirs and any resulting change in the availability of cold water pools for fisheries (e.g. Shasta Dam, Oroville Dam)
- The potential for changed management of groundwater resources (e.g. the Tuscan Aquifer)

*Within-Delta impacts* that should be considered in development of the EIS/EIR on the BDCP include:

- The potential for changed operations to impact needed flows and water quality for in-delta species
- The potential for changed operations and other plan measures to impact in-delta water quality and availability for existing uses in the Delta.
- 

*Downstream impacts* (including in areas that receive water from the Delta through the CVP or SWP) that should be considered in development of the EIS/EIR on the BDCP include:

- the potential for continued water quality degradation caused by delivery of Delta waters to drainage impaired lands in the San Joaquin valley
- the potential for water supply reliability to be improved through local investments in water use efficiency, water recycling, and other programs that do not rely on Delta water supplies.

### **E. THE EIS/EIR SHOULD FULLY ANALYZE HOW REDUCTIONS IN DEMAND ON DELTA WATER RESOURCES AFFECT THE RELIABILITY OF WATER SUPPLIES FOR USERS UPSTREAM, IN, AND DOWNSTREAM OF THE DELTA.**

Many opportunities exist to improve water supply reliability for current users of Delta water supplies that do not adversely impact the Delta ecosystem. Described more fully in the California State Water Plan, those types of investments tend to improve a region's self-sufficiency in water and include implementation of water use efficiency measures as well as development of recycled water (including indirect and direct potable reuse) and graywater supplies.

#### **Recommendations for analysis of alternate demand scenarios**

In order to fully analyze the impacts of reducing exports from the Delta, models such as CALSIM II and CALSIM Lite must have the capacity to simulate reduced export scenarios in meaningful ways. Modeling reduced demand in a way that does not change the timing or level of pumping is unlikely to fully capture the potential ecosystem gains of reduced demand on the Delta.

#### **Recommendations for analysis of reliability under alternate demand scenarios**

"Exceedance charts", which show the probability of receiving a certain level (or more) of Delta water supply, generally show that large export volumes are less probable than low export volumes.

The current focus of the BDCP seems to be on finding a way to increase water supply reliability by increasing the probability of high-export years, e.g. by changing facilities or operations in some way that changes the "shape" of the exceedance curve. We have doubts that this approach is compatible with protection of the Delta ecosystem. Instead, we recommend an approach that aims to increase water supply reliability by reducing supply expectations. Because lower exports are more probable, contractors would have more consistent delivery of their expected Delta water supplies. Additionally, it's possible that the exceedance curve under a scenario of reduced demand on Delta water is of a different shape than the exceedance curve under a scenario of current demand, which may show additional reliability gains. That is, reliability is almost

certainly increased by demanding a lower export volume; reliability may also be increased if the probability of that lower export volume increases relative to the probability under higher demand scenarios.

## **F. THE EIS/EIR SHOULD FULLY ANALYZE HOW EACH PROJECT ALTERNATIVE PERFORMS UNDER DIFFERENT CLIMATE CHANGE SCENARIOS**

The EIS/EIR on the BDCP should include a comprehensive analysis of how conservation objectives can be met by project alternatives given the expected impacts of climate change, including:

- changes in hydrology, including the potential for less overall precipitation, as noted in a study by Columbia University's Richard Seager referenced in DWR's April 2008 report "California Drought, An Update".

*"Or to put it another way, though wet years will still occur, on average they will be drier than prior wet years while the dry years will be drier than prior dry years."*

<http://www.water.ca.gov/drought/docs/DroughtReport2008.pdf>

A similar finding was also reported in the February 2009 edition of the New Scientist:

*"Now new research suggests that the three-year drought in the Golden State may be a consequence of the expanding tropics, which are gradually growing as human emissions of greenhouse gases warm the planet."*

- sea level rise
- the possible failure of multiple Delta islands
- changes in the extent and quality of important aquatic habitats (including level and frequency of inundation, water temperature, salinity, productivity, and food web dynamics)
- changes in the extent and quality of important terrestrial habitats
- potential impacts on vital rates of Delta species (aquatic and terrestrial)
- potential shifts in species ranges of Delta species (aquatic and terrestrial)

For those alternatives which propose changes to water conveyance through the Delta, the EIS/EIR should fully compare performance of these conveyance alternatives under different climate change scenarios. The Planning and Conservation League submitted a letter (March 5, 2008) to the BDCP Conveyance Workgroup on the analyses recommended for assessing the resilience of alternate conveyance options to the expected impacts of climate change. This letter is attached (ATTACHMENT 1), and we incorporate its recommendations by reference.

## **G. THE EIS/EIR SHOULD PROVIDE BACKGROUND ON THE ANALYTICAL TOOLS USED IN ORDER TO ALLOW APPROPRIATE INTERPRETATION OF RESULTS**

The environmental review document must include clear identification of both the strengths and limitations of the analytical tools (e.g. CALSIM II) used for analysis, including the extent to which the tool has been validated and calibrated under (a) past hydrologic variability and (b) under likely future hydrologic variability. A tool's capacity for sensitivity analysis (i.e. comparison of outputs given changes or uncertainties in inputs) is of particular importance given that the Delta ecosystem is both naturally variable and imperfectly understood.

CALSIM and CALLite are helpful in answering certain types of questions, but may be inappropriate for many of the forecasting analyses necessary for the full review of the impacts of the proposed changes to water operations in the Delta.

## **H. THE EIS/EIR SHOULD DESCRIBE THE GOVERNANCE & ADAPTIVE MANAGEMENT PROCESS ESTABLISHED TO ENSURE THAT REGULATORY ASSURANCES ARE PROVIDED ONLY IF CONSERVATION ASSURANCES ARE MET**

Given the tenuous state of the Delta ecosystem, the conservation goals of the BDCP must be supported by an effective governance structure and a strong adaptive management program. We recommend that the BDCP condition regulatory assurances on satisfaction of the conservation objectives. The environmental review document must explicitly describe the conditionality of regulatory assurances, including the timing of review and permitting periods.

For any conservation measure or water operations measure that is expressed as a range of values (as is likely for many, if not most, measures), we recommend that the Precautionary Principle be applied. That is, we recommend that measures be implemented at the level that is most protective of the ecosystem and that the implementation of those measures be modified to a less stringent level of protection only if the response of covered species or new information suggests that a different level of protection would be appropriate.

PCL submitted a letter (May 12, 2008) to the Delta Vision Blue Ribbon Task Force recommending policy guidelines for improving water reliability for California. This letter is attached (ATTACHMENT 2), and we incorporate its recommendations by reference.

## **I. THE EIS/EIR SHOULD FULLY ANALYZE THE EXTENT TO WHICH THE FACILITIES, OPERATING CRITERIA, GOVERNANCE, FUNDING STRUCTURE AND TIMELINE OF THE BDCP COMPLEMENT OR CONFLICT WITH OTHER PLANNING AND PERMITTING PROCESSES.**

### **NCCP/HCPs already in existence or in development**

The EIS/EIR should discuss how the BDCP will be integrated with other conservation plans within and near the BDCP planning area.

**Delta Vision**

The EIS/EIR should discuss how the BDCP will be integrated with the Governor's Delta Vision strategic and implementation plans.

**New OCAP Biological Opinions**

The EIS/EIR on the BDCP should clearly explain how the BDCP is consistent with recommended conservation measures in the FWS Biological Opinion released in December of 2008 and the NMFS Biological Opinion that will be released in June of 2009.

We urge your comprehensive analysis of the issues we raise regarding the scope of the environmental review so that the final decision can be based on a full understanding of the types of robust measures sufficient to achieve the conservation goals of the BDCP. We look forward to additional opportunities to comment on the environmental review process as additional project information becomes available.

Sincerely,

A handwritten signature in black ink, appearing to read "Barb Byrne", with a long horizontal flourish extending to the right.

Barb Byrne  
Water Policy Analyst

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916-313-4524

# ATTACHMENT 1

3-05-2008 letter submitted by PCL to the BDCP  
Conveyance Workgroup recommending needed  
analyses for changes to Delta conveyance



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*President Emeritus*  
Sage Sweetwood

*First Vice President*  
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Kevin Johnson

*Secretary/Treasurer*  
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March 5, 2008

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*Via e-mail*

**RE: Questions recommended by the Planning and Conservation League for consideration by the Bay Delta Conservation Plan Conveyance Working Group**

Dear Ann, Jerry, and BDCP Conveyance Working Group members:

The Planning and Conservation League appreciates the opportunity to provide comments on the conveyance process now underway at the Bay Delta Conservation Plan (BDCP). PCL urges the BDCP process to gather the necessary information regarding the various conveyance options and their potential benefits and adverse impacts on the Bay Delta Estuary and its watersheds as quickly and as efficiently as possible.

However, the history of Delta policy in California demonstrates that a final decision should be made only after adequate information about the consequences of potential conveyance alternatives is available. In addition, given the likely uncertainties and information gaps that will exist even with the best of efforts, a discussion and decision



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regarding Delta governance reform must parallel and complement a final decision on the conveyance of water. As your group considers how conveyance may be a part of the plan for the recovery of covered species under the Bay Delta Conservation Plan (BDCP), we offer this initial list of important questions.

---

## **CLIMATE CHANGE**

1. How will various conveyance options reduce or exacerbate the impact of climate change on the water quality, timing and freshwater flow needs of aquatic species?
2. How will water quality at the various proposed intake locations, including an intake on the Sacramento River, be affected by differing levels of sea level rise, changed hydrology, and the possible loss of multiple delta islands?
3. What would it take to protect each conveyance option (including either a canal or pipeline) from the effects of differing levels of sea level rise, changed hydrology, and the possible loss of multiple delta islands?
4. What are the necessary flows including bypass and other flows, and diversion amounts consistent with ecosystem protection under various climate change scenarios, including differing levels of sea level rise, changed hydrology, and the possible loss of multiple delta islands?
5. To what degree are the answers to the questions below sensitive to future climate change scenarios? Are some conveyance configurations more resilient to climate change? How will each conveyance option impact the ability of California's aquatic species to adapt to and recover under climate change?

## **PHYSICAL CONSIDERATIONS**

### **Fish Screens**

6. How will fish screens impact Delta smelt, salmon, green sturgeon, longfin smelt, splittail and other Delta-dependent species?
7. What standards exist or need to be developed for screening delta smelt, green sturgeon and other fish?

8. What bypass flows would be required for the fish screens to work effectively and how can those estimates be tested?

9. How much water could be diverted through screens meeting the necessary standards? Given the uncertainties as to how alternative facilities will impact aquatic species, what options are available for reversible experiments that would be put into place prior to making permanent commitments?

### **Canal or Pipeline(s)**

10. What are the advantages and disadvantages of pipeline(s) versus a canal, including impacts on aquatic and terrestrial species?

11. What are the advantages and disadvantages of building a lined vs. unlined canal, including impacts on aquatic and terrestrial species?

### **Local drainage**

12. How do the various options, including a canal, affect local drainage and the permits necessary for that drainage within and into the Delta?

### **Alignment**

13. What are the advantages and disadvantages of different alignments for the various options, including impacts on aquatic and terrestrial species?

### **Sizing**

14. What are the advantages and disadvantages of different capacities for a canal or pipeline(s), including impacts on aquatic and terrestrial species?

### **Turnouts**

15. What are the advantages and disadvantages of freshwater turnouts from a canal or pipeline(s) that would discharge fresher water at various locations in the Delta, including impacts on aquatic and terrestrial species?

## **OPERATIONAL CONSIDERATIONS**

### **Flow Objectives**

16. What flows are required for:

- a. Hydrologic conditions that promote recovery of covered species?
- b. Effective fish screening?
- c. Support of an adequate food web in the Delta?
- d. Management of invasive species?
- e. Maintenance of water quality for other Delta beneficial uses, including drinking water, ecosystem, and agriculture?

17. How would alternative in-Delta operations change upstream operations, including effects on upstream flows, temperature, water quality and aquatic and terrestrial species?

### **Water Delivery Objectives**

18. What amounts of water could be diverted in different water years, by season, and on average while meeting the planning goals of species recovery?

19. How would those diversion amounts differ under different climate change scenarios including differing levels of sea level rise, changed hydrology, and the possible loss of multiple Delta islands?

### **Water Quality Objectives**

20. What would be the water quality at different locations in the Delta under different operations?

21. How would aquatic and terrestrial species have water of acceptable quality?

22. How would in-Delta agriculture have water of acceptable quality?

23. How would other water users (e.g. Contra Costa Water District and City of Rio Vista) have water of acceptable quality?

24. How would ecosystem water quality be monitored, managed, and protected?

## **DUAL CONVEYANCE**

*In addition to the applicable questions above:*

25. How would the fish facilities (including both screening and handling) at the existing diversion locations in the South Delta be improved to minimize loss of fish?

26. How would different climate change scenarios affect functionality of pumps in the southern Delta?

27. What operational management conditions are necessary to avoid impacts to pelagic fish and other species at the South Delta pumps under the various conveyance options?

## **COSTS**

28. What would be the costs for different conveyance configurations, including full mitigation and monitoring costs?

29. Who would pay the costs, and (e.g., if funded according to the beneficiary-pays principle) would different conveyance configurations and operations indicate different cost-sharing partners?

---

## **TOOLS**

As analysis of these, and other, questions proceeds, the work must include clear identification of both the strengths and limitations of the available tools. A tool's capacity for sensitivity analysis (i.e. comparison of outputs given changes or uncertainties in inputs) is of particular importance given that the Delta ecosystem is both naturally variable and imperfectly understood.

In addition, to provide full transparency and openness of decision-making, the analytical tools used to evaluate these questions (for example, CALSIM Lite) must be made available to all stakeholders.

Finally, although your working group is focusing on conveyance questions in particular, we emphasize that similar effort must be put into finding answers to questions relating to issues such as governance (including but not limited to conditions of potential assurances), adaptive management for both ecosystem management and water supply, and funding structures (e.g. beneficiary pays).

Sincerely,

A handwritten signature in black ink that reads "Jonas Minton". The signature is written in a cursive, flowing style.

Jonas Minton  
Senior Water Policy Advisor

[jminton@pcl.org](mailto:jminton@pcl.org)

w: (916) 313 - 4516

c: (916) 719 - 4049

cc: Karen Scarborough, Undersecretary for Resources

# ATTACHMENT 2

5-12-2008 letter submitted by PCL to the Delta Vision Blue Ribbon Task Force recommending policy guidelines for improving water reliability for California

*President*  
Bill Center  
*President Emeritus*  
Sage Sweetwood  
John Van De Kamp  
*Senior Vice President*  
Kevin Johnson  
*Secretary/Treasurer*  
Bill Leimbach



*Regional Vice Presidents*  
Elisabeth Brown  
Jan Chatten-Brown  
Dorothy Green  
Phyllis Faber  
Rick Hawley  
Fran Layton  
Doug Linney  
David Mogavero  
Stephanie Pincetl  
Lynn Sadler  
Teresa Villegas  
Terry Watt  
Bill Yeates

May 12, 2008

Phil Isenberg, Chair  
Delta Blue Ribbon Task Force  
Delta Vision  
650 Capitol Mall  
Sacramento, CA 95814

via e-mail:

[dv\\_context@calwater.ca.gov](mailto:dv_context@calwater.ca.gov)  
[ullrey@calwater.ca.gov](mailto:ullrey@calwater.ca.gov)  
[sguillen@calwater.ca.gov](mailto:sguillen@calwater.ca.gov)

**RE: Comments submitted for consideration in development of Delta Vision's strategic plan – Area (2) Reliable Water for California**

Dear Mr. Isenberg:

The Planning and Conservation League submits the following recommendations for the Delta Vision strategic plan, with particular emphasis on Area (2) of your invitation: Reliable Water for California. First, we propose some general guidelines for the development of policies that support the co-equal goals of reliable water supply and a healthy Delta ecosystem. Second, we highlight several bills currently under consideration in the California Legislature which exemplify some of our key policy recommendations.

The “Water Efficiency and Security Act” (AB 2153), jointly authored by Assembly Members Krekorian and Hancock, ensures that California maintains water supply reliability while accommodating growth. In doing so, AB 2153 can maximize water availability for the Delta while ensuring water supply reliability by reducing the growth in surface water diversions upstream of the Delta, and reducing reliance on Delta water in exporter areas.



AB 2175, co-authored by Assembly Members Laird and Feuer, establishes mechanisms for reducing per capita water use by 20%.

Our implementation suggestions are particularly relevant for the following Delta Vision recommendations:

1. *The Delta ecosystem and a reliable water supply for California are the primary, co-equal goals for sustainable management of the Delta.*
4. *California's water supply is limited and must be managed with significantly higher efficiency to be adequate for its future population, growing economy, and vital environment.*
5. *The foundation for policymaking about California water resources must be the longstanding constitutional principles of "reasonable use" and "public trust;" these principles are particularly important and applicable to the Delta.*
6. *The goals of conservation, efficiency and sustainable use must drive California water policies.*
7. *A revitalized Delta ecosystem will require reduced diversions -- or changes in patterns and timing of those diversions upstream, within the Delta, and exported from the Delta -- at critical times.*

While we strongly recommend that the Delta Vision strategic plan include recommendations for legislative solutions in 2008 and beyond, we also urge participants in the Delta Vision process to, *this year*, actively support key water legislation (such as AB 2153 and AB 2175) that is consistent with Delta Vision objectives. If supported by both the Assembly and Senate, these bills may already be on the Governor's desk by the time that the Delta Vision Strategic Plan is released. Successful passage of these bills during the current legislative session will assist the Delta Vision process by building momentum for improved management of water in California.

## **I. Proposed policy guidelines for improving water reliability for California**

PCL recommends that Delta Vision include the following policy guidelines in the Delta Vision strategic plan to be released in October 2008.

## **Proposed policy guidelines:**

### ***Policies for a sustainable Delta must have as their foundation an understanding of how much water the Delta ecosystem needs***

The recent dramatic declines in native Delta fish populations are clear evidence that current practices in the Delta are not sustainable. Toxics, invasive species, habitat degradation, salinity and turbidity patterns, altered flows and high water exports all contribute to the Delta's ecological problems.

Policies for a sustainable Delta must be built on a comprehensive understanding of what flow regimes (e.g., quantity, flow direction, seasonal, annual and inter-annual variability) and water quality conditions (e.g., temperature, salinity, turbidity, contaminant load) are required under a variety of conditions (e.g., water year types, potential climate change impacts, different points of diversions) to provide for a healthy and sustainable Bay Delta Estuary (e.g., healthy, self sustaining populations of pelagic fish, anadromous fish, wildlife, terrestrial species and all elements of their food webs).

### ***Policies for a sustainable Delta must go beyond “changes in patterns and timing” of diversions***

CALFED's Environmental Water Account is just one example of how “changes in patterns and timing” of diversions have failed to adequately protect the Delta ecosystem. While the patterns and timing of diversions are certainly important components of any operation plan, we have seen no plausible evidence that the Delta ecosystem can be recovered simply by “tuning” the Delta.

### ***Policies for a sustainable Delta must be designed with the ecosystem end in mind***

Policies to restore the Delta must provide sufficient protections to allow for species recovery. Importantly, the needs for ecosystem restoration should be defined by science, not by what is feasible under current export levels. We are concerned that some processes, such as the Bay Delta Conservation Plan, emphasize maintenance of exports as the barometer of the type and extent of restoration possible.

### ***Policies for a sustainable Delta must address both near- and long-term solutions***

It is necessary and appropriate that any plan to restore and protect a healthy Delta include long-term planning on policies or projects that will be implemented on the scale of decades. However, it is crucial that protective policies be implemented in the near-term as well.

Options for near-term actions should be screened for feasibility and, if promising, should be implemented on a reversible, experimental, basis, with real time monitoring and adaptive management.

***Policies for a sustainable Delta must take advantage of opportunities throughout the state***

Delta ecosystem health and water supply reliability can be and must be addressed at least in part by solutions outside of the Delta itself.

Improvements in regional water efficiency and regional water supplies are key components of a successful revival of the Delta by reducing demand on Delta water supplies. Restoring habitat and flow conditions upstream of the Delta will contribute to a sustainable Delta by improving spawning and rearing conditions for salmon and other Delta species.

***Policies for a sustainable Delta must not impair water resources elsewhere in California***

While we encourage the development of policies that take advantage of opportunities throughout the state, too often, a solution to an existing problem creates a new problem elsewhere. Policies that manage water demand on the Delta should not simply displace the negative impacts of water delivery, but should reduce the environmental impacts of water delivery statewide.

For example, while one tool to manage demand from the Delta may be a more active management of groundwater storage, the appropriateness of any such plan for groundwater use will depend on local circumstances. Many residents in the Sacramento River Valley north of Sacramento have domestic wells which tap into the Tuscan Aquifer. Because of the region's geology, any intensification of withdrawals from this aquifer is likely to cause serious economic and environmental impacts in the region.

**How the proposed policy guidelines will contribute to achieving the vision:**

The above policy guidelines contribute to achieving the vision in that they, consistent with Delta Vision's 12 linked recommendations, provide direction for the sustainable management and use of California's limited water supply.

### **Potential barriers to successful policy solutions:**

Besides the usual disagreements over reasonable and beneficial uses of water, some significant barriers to implementing successful policy solutions are:

- the disinclination to reduce exports from the Delta,
- the reluctance to embrace out-of-Delta solutions, and
- the unprecedented challenge of dealing with the coming effects of climate change.

### **How the proposed policy guidelines will serve California through 2030 and 2070**

One of the themes in the policy guidelines recommended above is “living within California’s water means”. Policies that shape California’s water demand within the limitations of the state’s water supply are more likely to be sustained over the long-term than policies that focus on investment in marginal gains in traditional supplies.

### **How the proposed policy guidelines will address a changing Delta, including population growth, sea level rise, seismic events, and changed hydrology due to climate changes**

Our policy recommendations recognize the need for water management strategies to adapt to the changing conditions in the Delta. New policies must clearly identify their resilience to a changing environment.

## **II. Policy measures currently under consideration in the state legislature**

PCL recommends that Delta Vision actively support AB 2153 (the “Water Efficiency and Security Act”, authored by Assembly Members Krekorian and Hancock) and AB 2175 (the water conservation bill authored by Assembly Members Laird and Feuer) and encourage the Assembly, Senate, and Governor to pass these important measures.

### **Current bills:**

#### ***AB 2153 (Krekorian/Hancock)***

This critical measure (co-sponsored by the Planning and Conservation League and the Environmental Justice Coalition for Water) directs new development projects to use cost-effective water use efficiency measures and to mitigate their water demand through

investments in efficiency in existing communities or development of sustainable local water supplies.

According to the Department of Finance, by 2030 California's population will grow by 11 million. Even if those new residents conserve the 20% called for in the Governor's February letter to state senators, their annual water use will still be over two million acre-feet (of the same order of magnitude as the amount of water that the SWP can reliably deliver). While the surface storage projects currently being debated cannot meet that projected demand, AB 2153 offers a way to accommodate much of this growth.

### ***AB 2175 (Laird/Feuer)***

This important bill (sponsored by the Natural Resources Defense Council) directs California's Department of Water Resources to achieve a 20% reduction in urban per capita water use by 2020, and to reduce annual agricultural water use by at least 500,000 acre-feet by 2020.

### **How the current bills will contribute to achieving the vision:**

Delta Vision's linked recommendations, particularly Recommendations 1, 4, 5, 6, and 7, highlight the idea of sustainability. To sustain both the Delta ecosystem and reliable water supply in the long-term, California must come to grips with the idea of limits and start to make the difficult decisions on how best to use and apportion its limited water resources.

Both AB 2153 and AB 2175 encourage the development of more water-efficient practices statewide. AB 2175 focuses on reducing per-capita water use in urban areas and on a statewide reduction in agricultural water use. AB 2153 ensures that the water demands on existing sources will not increase as we accommodate millions of new Californians.

### **Potential barriers to passage of these current bills:**

One barrier to passage of these bills is a reluctance to accept that water from the Delta will not be the primary source to accommodate future growth. Delta Vision's recommendation (#7) for reduced diversions from the Delta is an important message that can help build support for needed changes to water use such as those proposed in AB 2153 and AB 2175.

### **How the current bills will serve California through 2030 and 2070**

AB 2153 manages the water footprint of residential and commercial water use in a way that allows population and economic growth without further damaging the water reliability of current residents and businesses. The water conservation targets for urban and agricultural uses called for in AB 2175 complement AB 2153, since the water needs of new development will in part be mitigated by water efficiencies in the urban and agricultural sectors.

Both AB 2153 and AB 2175 provide the flexibility to incorporate new technologies and adapt to new circumstances. The hard goal of reducing (or at least not increasing) California's water demand is accomplished by measures that can evolve over the next 20 to 50 years.

### **How the current bills will address a changing Delta, including population growth, sea level rise, seismic events, and changed hydrology due to climate changes**

Even under the expected scenario of increasing population growth and effects of climate change such as sea level rise and changing hydrology, both AB 2153 and AB 2175 promote investments in water that will "pay off" year after year. While these two bills are of course not a complete solution to California's water woes, they are an important step forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mindy McIntyre', with a long horizontal flourish extending to the right.

Mindy McIntyre  
Water Program Manager

(916) 313 - 4518  
[mmcintyre@pcl.org](mailto:mmcintyre@pcl.org)

cc: John Kirlin

Seen Jose

# BDCP

## BAY DELTA CONSERVATION PLAN ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

*Comment Card*

Please Print

Name: Stan Williams Organization: Poseidon Water  
 Telephone: 408 332 5819 e-mail: swilliams@poseidon1.com  
 Address: 111 North Market, Suite 300,  
 City: San Jose State: CA Zip: 95113

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

Question related to effects of alternatives  
on salinity levels at area on edge of delta  
(Pittsburg)

Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:  
 Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.  
 You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). Comments must be received by May 14, 2009.



**RBOC**  
Protecting your boating interests.

925 L Street • Suite 220  
Sacramento CA 95814  
916.441.4166

[www.rbo.org](http://www.rbo.org)

**David Breninger**  
President

**Linda Bendsen**  
Vice President - North

**Anne Sachs**  
Vice President - South

**Bob White**  
Secretary - Treasurer

**Walt Kadyk**  
Past President

Legislative Advocates  
**Jerry Desmond**  
Executive Vice President

**Jerry Desmond, Jr.**  
Director of  
Government Relations

April 14, 2009

Mrs. Delores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

**RE: BDCP EIR and EIS**

Dear Mrs. Brown:

Recreational Boaters of California [RBOC] requests a meeting to discuss the concerns of the boating community with the regard to Bay Delta Conservation Plan proposals to construct new, permanent barriers and gates in and through Delta waterways.

This is a follow-up to our previous communications [attached] in which RBOC advocates the installation of operable boats locks, and further advocates that such control structures and boat locks be installed, maintained and operated without cost or expense to recreational boaters.

I would also like to confirm and re-iterate the interest of RBOC in working with the Department and stakeholders as data is collected regarding boat usage, as well as the design and function of locks.

RBOC Vice President - North Linda Bendsen recently expressed her interest in being involved, and provided her contact information to you and Mr. Richard Hunn.

It is our understanding that this dialogue is timely, as plans are being made to take counts of boats on waterways at different times during the upcoming months, and locks and intakes are being designed that would extend into the water and impact navigation. RBOC has information that will be helpful on these issues.

RBOC stands ready to assist BDCP to assure that Delta waterways remain navigable and accessible for recreational boating while BDCP strives to restore the Delta ecosystem and protect water supplies. You can contact me during the business day by telephone at 530-823-4860 (where I serve as General Manager of the Placer County Water Agency). Also, you can contact our Director of Governmental Relations, Jerry Desmond, Jr., by phone during the business day at 916-441-4166. The two of us on behalf of RBOC are available to meet with you and other BDCP members at anytime to collaborative in achieving our mutual interest.

Sincerely,



David Breninger, President

C: Mike Chrisman, Secretary of Natural Resources Agency  
Karen Scarborough, Under-Secretary of Natural Resources Agency  
Joe Grindstaff, Deputy Secretary for Water and Power  
Ray Tsuneyoshi, Director Department of Boating and Waterways  
Lester Snow, Director Department of Water Resources  
Jerry Johns, Deputy Director Delta and Statewide Water Management

Enclosures

rboc/2009/delta/Brown L 4-14-09



**DEPARTMENT OF WATER RESOURCES**

1416 NINTH STREET, P.O. BOX 942836  
SACRAMENTO, CA 94236-0001  
(916) 653-5791

**JUL 29 2008****RECEIVED JUL 29 2008**

Mr. Walt Kadyk, President  
Recreational Boaters of California  
925 L Street, Suite 220  
Sacramento, California 95814

Dear Mr. Kadyk:

Thank you for your letter of June 17, 2008, transmitting the policy of the Recreational Boaters of California (RBOC) regarding access to navigable Delta waterways and providing the contact information for RBOC. We will keep your policy in mind as we develop projects within the Delta.

Attached for your information is a letter from the Department to Mr. David Breninger, RBOC Vice President – North, providing the status of the projects proposed by the Department for the Delta.

If you would like to discuss specific projects in more details, please contact Katherine Kelly, Bay-Delta Office Chief, at (916) 653-1099.

Sincerely,

**Original Signed By**  
**Lester A. Snow**

Lester A. Snow  
Director

Enclosure

cc: David Breninger  
Placer County Water Agency  
P.O. Box 6570  
Auburn, CA 95604

Mike Chrisman  
Resources Agency Secretary

Ray Tsuneyoshi  
Department of Boating and Waterways  
2000 Evergreen Street, Suite 100  
Sacramento, California 95815



**RBOC**  
Protecting your boating interests.

925 L Street • Suite 220  
Sacramento CA 95814  
916.441.4166  
www.rbo.org

JUNE 17, 2008

Re: Access to Navigable Delta Waterways

Michael Chrisman, Secretary, California Resources Agency  
1419 Ninth Street, Suite 1311  
Sacramento, CA 95814

Lester Snow, Director, Department of Water Resources  
1416 Ninth Street  
Sacramento, CA 95184

Ray Tsuneyoshi, Director, Department of Boating and Waterways  
2000 Evergreen Street  
Sacramento, CA 95815

Secretary Chrisman, Director Snow and Director Tsuneyoshi:

We understand that the Delta Vision Blue Ribbon Task Force is working to identify and evaluate alternative measures and management practices that will be necessary to implement the Delta Vision's recommendations.

Recreational Boaters of California [RBOC] urges that access for continued navigation by recreational boats of the waters of the Delta be assured wherever any control structure is planned for placement across a navigable Delta waterway. Our Policy Statement on Access to navigable Delta Waterways is enclosed here. It is critical to the recreational boating community that navigation be preserved as efforts are made to achieve a sustainable Delta.

RBOC contacts on this issue are:

President Walt Kadyk	909-390-0450	wkadyk@advancedelectronics.com
Vice President - North Dave Breninger	530-823-4860	dbreninger@surewest.net
Past President - Lenora Clark	925-634-614	lenoraclark@aol.com
Director Linda Bendsen	707-422-3510	lbendsen@pacbell.net
Legislative Advocate Jerry Desmond, Jr.	916-441-4166	jerry@desmondlobbyfirm.com

RBOC is a nonprofit boater advocacy organization that works to protect and enhance the interests of the state's recreational boaters before the legislative and executive branches of state and local government. RBOC is celebrating its 40<sup>th</sup> anniversary as a statewide organization which since 1968 has continued its commitment to promoting the enjoyment, protection, and responsible use of our waterways.

Thank you for this opportunity to discuss our request.

Sincerely,

*Walt Kadyk*

Walt Kadyk, President

C: Board of Directors, Recreational Boaters of California  
Southern California Yachting Association  
Pacific Inter-Club Yacht Association

Rboc/2008/Delta/Chrisman-Snow-Tsuneyoshi L 6-16-08

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# RBOC

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 Sacramento CA 95814  
 916.441.4166  
 www.rbo.org

June 16, 2008

Phil Isenberg, Chair  
 Delta Vision Blue Ribbon Task Force  
 650 Capitol Mall  
 Sacramento, CA 95814

**Re: Access to Navigable Delta Waterways**

Chairman Isenberg:

We understand that the Task Force is working to identify and evaluate alternative measures and management practices that will be necessary to implement the Delta Vision's recommendations.

Recreational Boaters of California [RBOC] urges that access for continued navigation by recreational boats of the waters of the Delta be assured wherever any control structure is planned for placement across a navigable Delta waterway. Our Policy Statement on Access to Navigable Delta Waterways is enclosed here.

It is critical to the recreational boating community that navigation be preserved as efforts are made to achieve a sustainable Delta.

RBOC contacts on this issue are:

President Walt Kadyk	909-390-0450	wkadyk@advancedelectronics.com
Vice President - North Dave Breninger	530-823-4860	dbreninger@surewest.net
Past President - Lenora Clark	925-634-614	lenoraclark@aol.com
Director Linda Bendsen	707-422-3510	lbendsen@pacbell.net
Legislative Advocate Jerry Desmond, Jr.	916-441-4166	jerry@desmondlobbyfirm.com

RBOC is a nonprofit boater advocacy organization that works to protect and enhance the interests of the state's recreational boaters before the legislative and executive branches of state and local government.

RBOC is celebrating its 40<sup>th</sup> anniversary as a statewide organization which since 1968 has continued its commitment to promoting the enjoyment, protection, and responsible use of our waterways.

Thank you for this opportunity to discuss our request.

Sincerely,

*Walt Kadyk*  
 Walt Kadyk, President

C: Board of Directors, Recreational Boaters of California  
 Southern California Yachting Association  
 Pacific Inter-Club Yacht Association

Walt Kadyk  
 President

David Breninger  
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President

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Lenora Clark 2007

## RECREATIONAL BOATERS OF CALIFORNIA

### Policy Statement:

Preservation of Recreational Boating  
Access to Navigable California Delta Waterways  
- June 13, 2008 -

Recreational Boaters of California (RBOC) will advocate to protect the rights of recreational boaters to assure access for continued navigation by recreational boats the waters of the California Delta where ever any "control structure" (such as, but not limited to gates or barriers whether temporary or permanent) is planned for placement across a navigable Delta waterway. RBOC will seek assurances that as any changes are contemplated which further alter Delta navigable waterways that alternatives are identified and implemented to the satisfaction of RBOC that will best preserve and sustain recreational boat passage at each location. RBOC will seek to have operable boat locks installed as an integral design component to mitigate for the placement of any control structure across any navigable Delta waterway. All control structures and boat locks or other alternatives satisfactory to RBOC for recreational boat passage are to be installed, maintained and operated without cost or expense to recreational boaters.

###

## Dave Breninger

---

**From:** Kelly, Kathy [kkelly@water.ca.gov]  
**Sent:** Monday, June 09, 2008 2:08 PM  
**To:** Dave Breninger  
**Cc:** Snow, Lester; Ray Tsuneyoshi; Lenora Clark; Linda Bendsen; Walter Kadyk; Jerry Desmond Jr.; Fred Goodwin  
**Subject:** Request status report on operable boat locks at proposed new Delta control structures (gates/barriers)  
**Attachments:** Response to Breninger (letterhead).pdf

Dear Mr. Breninger:

Attached is our response to your request for information on the Department's activities and proposed projects in the Delta. A hard copy of this letter has also been sent to you.

Recreational boating in the Delta is an important consideration in the development of the Department's proposed Delta projects. The attached letter contains links to several Internet sites with additional information on specific projects and the names and contact information for project staff. You may also contact me directly if you wish to discuss your concerns further.

Sincerely,  
Katherine Kelly

*K<sup>2</sup>*

*Katherine Kelly*  
*Bay-Delta Office, Chief*  
*(916) 653-1099*

**From:** Dave Breninger  
**Sent:** Friday, May 23, 2008 11:52 AM  
**To:** ccoron@water.ca.gov  
**Cc:** Lester Snow; Ray Tsuneyoshi; Lenora Clark; Linda Bendsen; Walter Kadyk; Jerry Desmond Jr.; Fred Goodwin  
**Subject:** Request status report on operable boat locks at proposed new Delta control structures (gates/barriers)

May 23, 2008

**TO:** Charlotte Coron ccoron@water.ca.gov  
Chief, Administration and Program Control  
Bay-Delta Office

**FROM:** David Breninger dbreninger@pcwa.net  
Recreational Boaters of California  
Vice President-north

RE: Request status report on operable boat locks at all proposed new Delta control structures (gates and/or barriers)

Greetings,

I write to you in my capacity as a member of the Board of Directors and Vice President-north of Recreational  
8/18/2008

Boaters of California (RBOC). In that regard, and on behalf of recreational boaters of who transit the waterways of the California Delta, I write to inquire about the current status for operable boat locks at all locations proposed for the installation of gates and/or barriers that are planned to serve as new control structures across various Delta waterways. We are aware that such gates and/or barriers are planned as part of the South Delta Improvement Project (at least four structures), Franks Tract Project (at least two structures) and the Cross Channel Re-operation Gates Project. We would appreciate a report as soon as possible on the status on each of these Projects relevant to operable boat locks for passage around all gates and/or barriers that are proposed for controlling or inhabiting the flow of water in Delta waterways.

We are available to meet with you at any time at your Sacramento office. My phone number and email and postal-mail addresses are noted below for easy reference in contacting me.

I look forward to hearing from you soon.

Thank you,  
Dave Breninger  
RBOC VP-north

David Breninger  
General Manager  
Placer County Water Agency  
PO Box 6570  
Auburn CA 95604  
530.823.4860  
[dbreninger@pcwa.net](mailto:dbreninger@pcwa.net)  
[www.pcwa.net](http://www.pcwa.net)



**DEPARTMENT OF WATER RESOURCES**

1416 NINTH STREET, P.O. BOX 942836  
SACRAMENTO, CA 94236-0001  
(916) 653-5791



June 4, 2008

Mr. David Breninger  
General Manager  
Placer County Water Agency  
P.O. Box 6570  
Auburn, California 95604

Dear Mr. Breninger:

I am responding to your letter sent via email regarding the status of the various gates or barriers the Department is evaluating or proposing for the Delta.

The Department is pursuing the installation of the four permanent operable gates proposed in the South Delta Improvements Program. The gates planned for Old River at Tracy, Grantline Canal, and Old River at the Head of Old River will include boat locks to avoid any potential adverse effects to Delta boaters. The fourth gate is planned for Middle River. Middle River is shallow and boat traffic is very light. As such, no boat lock is planned for the operable gate in Middle River. These permanent gates and their associated boat locks will provide a net improvement over the existing seasonal rock barriers, which have ramps to convey boats around the barriers. Permitting for these gates is expected to be completed in September 2009, and construction is scheduled to begin in 2010. Please contact Jacob McQuirk at [jacobmc@water.ca.gov](mailto:jacobmc@water.ca.gov) or (916) 653-9883 for additional information.

The Department is analyzing the Franks Tract Project. The latest status report is attached. Recreation surveys have just started for the project area. The public scoping meetings for the project will happen this August. I have added your name to the list of interested parties to receive an announcement of the scoping meetings closer to the actual meeting dates. Additional information on this project is available at <http://baydeltaoffice.water.ca.gov/ndelta/frankstract/index.cfm>.

Mr. David Breninger  
General Manager

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The Department and U.S. Bureau of Reclamation have been investigating operational changes at the Delta Cross Channel to improve water quality conditions in the Delta while maintaining fishery protection. The Department and Reclamation have a regional salmon out-migration study planned this winter to collect information on salmon behavior and hydrodynamics to help evaluate potential operational scenarios. In addition, Reclamation has a North Central Delta Improvement Study that is using computer modeling to evaluate operational scenarios. As you may know, the Delta Cross Channel Gate does not have a boat lock and, therefore, changing the DCC gate operation could hinder or improve boat passage through this area. Victor Pacheco, DWR Principal Engineer, is DWR's program manager. You may contact him at [vpacheco@water.ca.gov](mailto:vpacheco@water.ca.gov) or (916) 653-6636 for additional information. Mona Jefferies-Soniea is Reclamation's program manager. You may contact her at [mjefferiessoniea@mp.usbr.gov](mailto:mjefferiessoniea@mp.usbr.gov) or (916) 978-5068.

The Department has begun working on an Environmental Impact Report/Environmental Impact Statement for the Bay-Delta Conservation Plan. The objective of the BDCP process is to develop a plan to provide for the conservation of at-risk species in the Delta and improve the reliability of the water supply system within a stable regulatory framework. Information on this effort can be found via DWR's Home Page and clicking on "BDCP EIR/EIS". Scoping meetings were held this month. It is possible that structures, gates, or channel modifications will be proposed for this plan. Boat passage and impacts to flood conveyance are two very important considerations in the design and proposed locations of these structures. We will make sure your email address is on the list of people to be kept abreast of the status of the BDCP EIR/EIS and any related public meetings. If you wish to learn more about this project, please contact Paul Marshall, DWR Principal Engineer, at [pmarshall@water.ca.gov](mailto:pmarshall@water.ca.gov) or (916) 653-7247.

The Department's activities in the Delta have increased over the past year or so. Keeping up with them is challenging. We are working to make information on all our Delta activities more accessible to the public. The best place for people to start is at the "Delta Initiatives" link on the DWR Home Page, <http://www.water.ca.gov/>. This link will be evolving over the next few weeks to better explain the Delta activities being undertaken or projects being considered by DWR in the Delta.



Mr. David Breninger  
General Manager

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You may contact me at (916) 653-1099 or [kkelly@water.ca.gov](mailto:kkelly@water.ca.gov) if you wish to discuss your concerns further. I have also transmitted this letter to you via e-mail. It will make accessing the referenced internet locations more convenient for you.

Sincerely,

*Original Signed by*

Katherine F. Kelly, Chief  
Bay-Delta Office

cc: Mr. Raynor T. Tsuneyoshi, Director  
Department of Boating and Waterways  
2000 Evergreen Street, Suite 100  
Sacramento, California 95815

Fairfax



Walt Kadyk  
President  
David Breisinger  
Vice President - North  
Anne Sacks  
Vice President - South  
Bob White  
Secretary - Treasurer  
Legislative Advocates  
Jerry Desmond  
Executive Vice President  
Jerry Desmond, Jr.  
Director of  
Government Relations

FOR IMMEDIATE RELEASE

**CONTACT:**  
Walt Kadyk, President  
(909) 941-6622  
Jerry Desmond, Jr.  
Director of Government Relations  
(916) 441-4166

**State Water Resources Department to Consider Boater Policies in Delta Planning**

Sacramento [August 13] – The boater advocacy organization Recreational Boaters of California is encouraged by and applauds the California Department of Water Resources statement that it will be considering important boater policies regarding access to navigable waterways as the department develops projects for the Sacramento-San Joaquin Delta.

Stated RBOC President Walt Kadyk: “This positive announcement by Director Lester Snow is an important step in our efforts to ensure continued navigation by recreational boats wherever any control structure is planned for placement across a navigable Delta waterway.”

The Delta Vision Blue Ribbon Task Force is working to identify and evaluate alternative measures and management practices that will be necessary to implement the Delta Vision’s recommendations. RBOC is participating in this process and is guided by the following policy that has been developed by its Board:

*Recreational Boaters of California (RBOC) will advocate to protect the rights of recreational boaters to assure access for continued navigation by recreational boats on the waters of the California Delta where ever any “control structure” (such as, but not limited to gates or barriers whether temporary or permanent) is planned for placement across a navigable Delta waterway. RBOC will seek assurances that as any changes are contemplated which further alter Delta navigable waterways that alternatives are identified and implemented to the satisfaction of RBOC that will best preserve and sustain recreational boat passage at each location. RBOC will seek to have operable boat locks installed as an integral design component to mitigate for the placement of any control structure across any navigable Delta waterway. All control structures and boat locks or other alternatives satisfactory to RBOC for recreational boat passage are to be installed, maintained and operated without cost or expense to recreational boaters.*

Recreational Boaters of California [RBOC] is celebrating its 40<sup>th</sup> anniversary as the nonprofit governmental advocacy organization that works to protect and enhance the interests of the state’s recreational boaters before the legislative and executive branches of state and local government.

RBOC was formed as a statewide organization in 1968 and from that date forward has continued its commitment to promoting the enjoyment, protection, and responsible use of our waterways.

Suite 220  
925 L Street  
Sacramento CA 95814  
916.441.4166  
www.rbo.org

My name is Jane Wagner-Tyack, and I am speaking here on behalf of Restore the Delta, a grassroots network of citizens committed to preserving the Sacramento-San Joaquin Delta. We want to express our dismay once again that the BDCP steering committee was formed to exclude representatives of Delta communities. You have designed a planning process in which the regulated bodies will in effect design the system that will regulate them. We have no confidence in your intention to provide for water quality for any except export purposes, even though a multi-billion dollar economy of farming and recreational and commercial fishing, with the jobs that economy provides, depends on ample clean water in the Delta. We have no confidence in the state's ability to plumb this intricate system in ways that sustain Delta habitat and human communities. We question the science on which you have based many of your decisions. We believe you moved precipitately to consider only an isolated conveyance as the solution to the Delta's challenges. And we think it is a terrible mistake to invest time and resources in planning for more of the kind of infrastructure that has already created unrealistic expectations about water availability and reliability statewide. The state should be putting these resources into efforts toward regional self-sufficiency and the most flexible, resilient systems possible in order to confront unknown conditions in the future.



## SACRAMENTO COUNTY FARM BUREAU

8970 Elk Grove Boulevard • Elk Grove, California 95624-1946  
(916) 685-6958 • Fax (916) 685-7125

May 14, 2009

Ms. Delores Brown, Chief  
Office of Environmental Compliance  
Department of Water Resources  
PO Box 942836  
Sacramento, CA 94236  
BDCPcomments@water.ca.gov

RE: Bay Delta Conservation Plan (BDCP) Scoping Comments

Dear Ms. Brown;

Sacramento County Farm Bureau is very concerned about how the Bay Delta Conservation Plan (BDCP) will affect Sacramento County agriculture. Please reference our scoping letter dated May 30, 2008 and include it by reference herewith. These comments should not be considered conclusive due to the lack of detail in plans as presented during the most recent scoping meetings and due to the frequent changes to maps and proposals describing the BDCP. Lack of detail and frequent changes makes it very difficult to understand and comprehensively comment on impacts caused by BDCP.

As Sacramento County Farm Bureau understands the BDCP today, we believe it will harm Sacramento County Agriculture in a variety of ways:

1. Isolated conveyance proposals with multiple outlets and large surface canals will negatively impact the northern Sacramento County Delta far beyond the footprint of the project.
2. Undefined habitat restoration projects in the vicinity of the Cosumnes River Preserve and McCormack Williamson Tract will negatively impact the environment, flood control operations and farming.
3. The BDCP has reduced and will further reduce land values.
4. BDCP environmental projects which convert or destroy agricultural lands will harm the local and regional economies as well as avian and terrestrial species.

The BDCP has published maps showing multiple canals slicing and dicing the northern part of the Sacramento County Delta. The following multiple negative impacts will result from dividing reclamation districts and creating new Delta channels:

*To Represent and Promote Agriculture in Sacramento County*

1. The BDCP will create new avenues of seepage limiting crop choices and productivity and destroying permanent crops such as cherries, pears and grapes.
2. The BDCP will destroy and make infeasible provision of essential reclamation district services such as flood control, drainage and delivery or irrigation water.
3. The BDCP will interfere with regional flood control in the Delta, the Franklin area and the Cosumnes and Mokelumne Rivers by redirecting normal and historical flow of floodwaters.
4. The BDCP will destroy special status, highly productive farmland both in the footprint of the project and in the areas where infrastructure is destroyed.
5. The BDCP will violate one of the primary goals of the Delta Protection Act of 1992; the promotion and protection of Delta agriculture in the Primary Zone.

The BDCP has developed maps showing areas where it will focus on habitat projects to benefit targeted fish species. One of these areas is composed of the Cosumnes River Preserve, McCormack Williamson Tract and the northern part of New Hope Tract. Although the BDCP has not provided the specifics of how these projects will be designed, Sacramento County Farm Bureau is concerned that the following negative impacts could result from habitat projects:

1. The BDCP will redirect impacts from the State and Federal pumping facilities to pumping facilities in close proximity to the habitat projects, causing controls and restrictions on Sacramento County Delta farmers; ability to operate their pumping facilities.
2. The BDCP will interfere with historical flood flows or change those flows in a manner which is detrimental to the region.
3. The BDCP will include redesigned levee systems which will increase flood risk for neighboring reclamation districts and the entire region.
4. The BDCP will cause seepage impacts which will limit the ability to farm surrounding land.

By putting lines on maps and widely distributing preliminary objectives, the BDCP has reduced land values due to real estate disclosure requirements and uncertainty. As alternatives are developed, land value declines will become even more extreme for the following reasons:

1. The BDCP will reduce or destroy habitat easement values.
2. The BDCP will destroy agricultural land and production and eliminate or restrict crop choices.
3. The BDCP will redirect species impacts and create operational limitations.

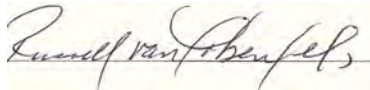
In addition, Sacramento County farmland that is in the direct path of the BDCP highly productive and capable of producing high value crops such as wine grapes, pears, apples and cherries. The Sacramento River District is the largest Bartlett pear growing region in the United States. The BDCP will also destroy vineyards in the emerging Clarksburg Appellation. The loss of Sacramento County farmland and production will negatively impact the regional economy and employment patterns. Job losses in labor-intensive vineyards and orchards will cause extreme hardship for populations least able to adjust.

Finally, Sacramento County agricultural land in the path of the BDCP provides critical foraging habitat for species such as the Swainson's Hawk and Greater and Lesser Sandhill Cranes. Because of the complementary habitat values and the scarcity of adequate and appropriate alternative foraging sites in close proximity to sanctuaries such as Stone Lakes National Wildlife Refuge and the Cosumnes River Preserve, loss of Sacramento County Delta agricultural land will also have a very destructive impact on local and migratory species.

The EIR/EIS for the BDCP must consider all negative impacts caused by conveyance alternatives and habitat restoration/enhancement projects. The EIR/EIS must determine how each alternative will impact regional flood control, land use, land values, the local and regional economies, and other species. All of these impacts must be studied, quantified and mitigated.

Thank you for the opportunity to comment at this time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Russell van Loben Sels", is written in black ink on a light-colored background.

Russell van Loben Sels, President  
Sacramento County Farm Bureau

CC:  
Honorable Dianne Feinstein  
Honorable Barbara Boxer  
Honorable Dan Lungren  
Honorable Doris Matsui  
Honorable Dave Cox  
Honorable Lois Wolk  
Honorable Joan Buchanan  
Honorable Alyson Huber  
Honorable Roger Niello  
Sacramento County Board of Supervisors  
Terry Schulten, County Executive  
Paul Hahn, Agency Administrator  
Keith DeVore, Sacramento County Department of Water Resources

Contra Costa, Solano, Yolo & San Joaquin County Farm Bureau's

San Joaquin Farm Bureau Federation  
3290 N. Ad Art Road  
Stockton, CA 95215  
209-931-4931

May 14, 2009

Ms. Delores Brown, Chief  
Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

Re: BDCP Scoping Comments

Dear Ms. Brown,

In an effort to protect and promote the viability of Delta agriculture, the five Delta County Farm Bureaus-Contra Costa, Sacramento, San Joaquin, Solano and Yolo-have joined together, to form the Delta Caucus. The Delta Caucus understands and supports the need for water reliability statewide and supports efforts and processes to responsibly plan for California's water future.

Within the framework of the limited information available, the Caucus is concerned that BDCP scoping comments may not be comprehensive or complete. As environmental and conveyance plans are developed, the BDCP must solicit additional comments, especially from Delta interests.

However, based upon our knowledge of the BDCP at this time, the San Joaquin Farm Bureau Federation Caucus has the following concerns which we have grouped into three categories: fundamental questions, conveyance, and fish recovery efforts.

Fundamental Questions:

1. Has exporting water from the Delta damaged the environment and socio-economic health of the Delta?
2. Will increased reliance and investment to move water from North to South through the Delta institutionalize, perpetuate, and accelerate damage in the Delta?
3. Will species-specific restoration damage the ecosystem and diminish abundance of other sensitive species?
4. Is there enough developed water to support the considerable investment in the Delta being proposed by the BDCP and would that investment be better used to support development of other options such as regional self-reliance?



5. Should Delta conveyance be an interim solution while other viable options to develop a reliable water supply for the State of California are identified and developed?
6. Why is it that an insufficient range of alternatives been considered in this proposal. To date, there has only been one alternative, a Peripheral or other “conveyance” facility.
7. Why is it that Delta interests have been ignored in this process?
8. Has the BDCP determined how it will mitigate for the massive amounts of farmland in the Delta will be REPLACED within our geographic regions? To date, there has been no conversation regarding the mitigation for the loss of farmland and HOW THIS WILL IMPACT OUR FOOD SECURITY, let alone where the BDCP process will create NEW FARMLAND that will be preserved in perpetuity to ensure our food supply locally and for export abroad. As this essential step is missing and because local interests have been precluded from meaningful input in this process, we believe that the entire process should be re-started, so we can address our entire states water needs and how we minimize our impact to the food production of our region.

Conveyance:

1. The EIR must clearly show how each proposed alternative is designed to operate within the multitude of existing legal restrictions, water quality requirements, and contractual constraints such as but not limited to the North Delta Water Agency contract with the State of California, area of origin priorities, and Delta salinity standards. The EIR must include a detailed analysis of all legal constraints on water exports and a thorough explanation detailing how each alternative will comply with them.
2. The EIR must quantify how much Delta outflow is needed to maintain a healthy fresh water Delta. This information is critical to determine how much water is available for export and will aid in the overall evaluation of each alternative.
3. The EIR must explain why the BDCP isolated facility (peripheral canal) is being designed to convey 15,000 cubic feet per second. Do normal river flows justify an isolated facility capable of conveying 15,000 cubic feet per second? How much water will be conveyed “through Delta”? Will smaller capacity isolated facilities be considered? Why build a very expensive, disruptive facility if it is not needed, if it may be used only occasionally, if it could divert substantially all of the Sacramento River summer flow, and if it has the potential to devastate the Delta.
4. The EIR MUST INCLUDE A FULL RANGE OF ALTERNATIVES THAT

COULD BE ALLOWED INCLUDING INTERIM MEASURES THAT WOULD ENSURE A SUBSTANTIAL AMOUNT OF WATER CONVEYED (THROUGH THE DELTA) CAN BE UTILIZED BY ALL RESIDENTS WITH MINIMAL DISRUPTION OF ONGOING DELTA OPERATIONS. AS THERE ARE MANY PROSPECTS HERE THAT HAVE NEVER BEEN CONSIDERED, WE HAVE BEEN LIMITED BY THE AGENCIES SUPPORTING THIS ONE AND ONLY PROPOSAL FROM HAVING MEANINGFUL INPUT INTO THIS PROCESS. FURTHER, THIS PROCESS HAS PRECLUDED THE INPUT OF LOCAL INTERESTS THAT STAND TO BE IMPACTED THE MOST.

5. The EIR should compare and contrast upstream diversions and their effects on water quality entering the Delta from the Sacramento and San Joaquin Rivers. This information should be used to evaluate the effects of BDCP alternatives which divert water from the Sacramento River before entering or traveling through the Delta.
6. The EIR should examine alternatives in depth to determine if “Through Delta” conveyance is more friendly to the entire Delta ecosystem than removing water from the common pool in the North Delta and conveying it for export in an isolated facility.
7. The Delta Protection Act of 1992 was passed to protect the Primary Zone of the Delta for agriculture, habitat and recreation. The EIR should determine how these Delta resources will be negatively impacted and how alternatives can be designed to be compatible with the Act and its objectives. For example, water from isolated facilities could be piped underground across reclamation districts rather than in surface canals to eliminate negative impacts to drainage, flood control and irrigation systems caused by dividing reclamation districts.
8. The EIR must identify how facilities and changes in river elevations will impact ground water elevations. Plans must be developed to mitigate for seepage and other negative impacts associated with changes in ground water elevation.
9. The EIR must develop governance structures which will protect the Delta environment and its socio-economic interests while allowing all economic interests the ability to survive should water concerns over endangered species need to be addressed. In this process, we should not undermine the rights of existing water rights holders.
10. Because in the near and intermediate term, water exports must be conveyed through Delta, every effort should be made to make this alternative work for the long term and thus avoid the additional expense and considerable negative impacts of building an isolated facility.

11. The EIR must identify all negative impacts to the Delta economy and ecosystem caused by each of the alternatives, must quantify the cost of the impacts, and must define in detail mitigation actions which will be required. For example, how will the BDCP mitigate for loss of farmland and loss of Swainson's Hawk foraging habitat? Further, how will this process comply with the Agricultural mitigation ordinance that requires that ANY conversion of agricultural resources be addressed? Our expectation is that for every acre converted under this plan to public land, that 5 acres of new farm land be created in our jurisdiction (county) where the conversion took place. Meaning, if you convert 50,000 acres of farmland in our county to habitat and the canal, that you would need to create 250,000 acres of NEW FARMLAND in our county.
12. The EIR must determine how each conveyance alternative will affect flood control and especially how each alternative will impact flood plains such as the McCormack Williamson Tract, and the Hood-Franklin pool. BDCP projects must not adversely impact flood safety in the Delta.
13. Loss of income to special districts and counties must be considered. A mechanism must be developed to ensure that tax revenue is not lost due to public acquisition of property for conveyance facilities.

Fish Recovery Efforts (Wetlands/Tidal Wetlands/Fish Habitat):

1. The EIR should identify in detail all factors which influence the abundance of targeted fish and only propose those actions which show a strong positive correlation to increased fish abundance.
2. While the adaptive approach might work for small projects, large-scale conversion of agricultural lands should be avoided at all costs as they lead to the permanent devastation of our food security potential.
3. Where sound science shows a strong positive correlation between fish abundance and habitat creation, land already owned by the public should be utilized to meet this objective. Eminent domain should not be used to acquire habitat restoration sites.
4. The EIR must analyze the implications of creating wetlands within the borders of reclamation districts. How will flood control, drainage, and irrigation systems be impacted within reclamation districts where fish habitat is created? Redirected impacts caused by moving targeted fish from one area of the Delta to another must be identified and further analyzed. For example, if fish populations do not increase, how much additional land from the region must be converted (subject to mitigation) to maintain the water quality that needs to exist to protect these species, and where will the agency acquire that water?

5. As with conveyance alternatives, the EIR must identify all negative impacts to the Delta economy and ecosystem caused by water quality changes and conversion of land from agricultural production. It must clearly articulate how the BDCP will mitigate for loss of farmland and habitat such as Swainson's Hawk foraging habitat and countless others species that depend on Delta lands. As most species spend most, if not all of their lives on private ground, how will this process ensure that only private working landscapes are utilized to preserve sensitive resources?
6. The EIR should identify in depth all plant communities and avian and terrestrial species which will be adversely impacted by creation of fish habitat within the Delta and the catastrophic conversion of a fresh water habitat system into a salt water dominated system. The analysis should include impacts caused by changes in water quality as well as large-scale conversion of both agricultural and wildlife habitat to habitat. These conversions too, would be subject to the agricultural mitigation ordinance.
7. The EIR must examine seepage impacts and other changes in ground water elevation caused by creating habitat. It must provide detailed and meaningful mitigation when negative impacts restrict owners' use of their property.
8. Loss of income to special districts and counties must be considered. A mechanism must be developed to prevent loss of tax revenue as a result of the creation of wetland/fish habitat.

In conclusion, the San Joaquin Farm Bureau has presented an insufficient range of alternatives and has created a system that precludes meaningful public input into this process. We suggest that the BDCP broaden its focus to include more than the Delta. As the agencies involved see only one objective, we believe this precludes our ability to provide meaningful input on how we can best achieve our goals of delivering water for urban and agricultural water uses in our state. If we can improve upon this process, the water supply for millions of Californians will be more secure and reliable by increasing regional supplies and reducing dependence on the Delta.

Thank you for this opportunity to submit our scoping comments at this time. We fear, that most of our members who stand to be most impacted by this process, have been precluded from having meaningful input into this process.

Sincerely yours,

Bruce Blodgett  
Executive Director  
San Joaquin Farm Bureau Federation  
3290 N. Ad Art Road  
Stockton, CA 95215  
209-931-4931



# SAVE OUR DELTA'S FUTURE

April 22, 2009

Ms. Delores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA

Subject: EIR/EIS Scoping Meeting for the Environmental Analysis of the BDCP  
Proposed Action

Dear Ms. Brown:

I attended and spoke at the BDCP Scoping meeting in Clarksburg on March 26, 2009 on behalf of the Delta-based association, Save Our Delta's Future. As a representative of SODF, and for myself and my family personally, I hereby respectfully request that DWR and the BDCP process directly address the following concerns in your final EIR/EIS. Because much is not known about what the final BDCP will contain and how certain areas within the Delta will be affected, some of the concerns below are prefaced with a hypothetical relative to the final content of the BDCP.

1) Assuming some levees on Grand Island will be demolished, some portion of Grand Island will be inundated, and that "ring levees" will be constructed to protect Walnut Grove and the surrounding land – all of which has been mentioned for some time within the context of restoring the Delta's ecosystem, including large-scale habitat restoration plans – please state:

(a) the environmental impact on people, homes, agricultural operations, natural gas extraction, roads, school transportation, and the like, within the area affected;

(b) the environmental impact of the following: demolishing existing levees, the inundation process, how this will/might affect the adjacent land;

(c) the environmental impact: of constructing levees in locations where none previously existed, of the construction process itself, of the materials to be utilized in the new levees that are seismically sound);

(d) the environmental impact of the physical changes in (a), (b), and (c) above on residents, homes, businesses, churches, schools, agricultural operations, natural gas extraction, and tourism, within the community of Walnut Grove and immediate surrounding area, within the ring levees.

2) Assuming that the activities in 1) (b) and (c) above will cause "pollution" of waters and wetlands as defined in the Clean Water Act and its regulations, will the DWR seek, or will the Army Corps of Engineers require, a section 404 permit for the total BDCP implementation, or multiple section 404 permits for different locations and phases of the BDCP implementation?

3) Assuming some/all levees on Sutter Island will be demolished, and some/all of Sutter Island will be inundated – all of which has been mentioned for some time within the context of restoring the Delta’s ecosystem, including large-scale habitat restoration plans – please state:

(a) the environmental impact on people, homes, agricultural operations, natural gas extraction, roads, school transportation, and the like, on Sutter Island;

(b) the environmental impact of: demolishing the island’s existing levees, of inundating the island, and how this major physical change to Sutter Island will/might affect the levees on neighboring islands.

4) Assuming the presence of a wide variety of invasive (nonnative) species of plants and wildlife in Delta waters, wetlands, and surrounding lands – Department of Water Resources cites some 260 invasive species in the Delta

(<http://www.publicaffairs.water.ca.gov/swp/delta.cfm#PageTop>), please address the environmental impact of extirpating those invasive species that are directly and indirectly contributing to the decline of the Delta’s eco-system, including whether and how it is possible to eliminate those species without doing harm to the wide variety of native species that BDCP is seeking to recover and preserve.

Thank you for addressing these items of concern.

The following are excerpts from my oral comments at the March 26<sup>th</sup> Scoping Meeting in Clarksburg.

*I trust you recognize that for those of us who live, work, and own property in the Delta, this is our home. We are here because we chose, and choose, to be her. This is a way of life for us.*

*While we recognize that the Delta and Delta waters can be improved, and we support that, we are not prepared to see the Delta completely rearranged so as to return it to its natural state, as some uncompromising environmentalist organizations clamor for. The time has long since passed for restoring the Delta to what is was before the several hundred invasive species made the Delta their home.*

*We are not prepared to see the public trust doctrine expanded so as to alter or abolish presently held water rights.*

*We are not prepared to have a governance structure imposed on our Delta region that is composed of appointed and unaccountable political appointees, such as the California Coastal Commission, with no effective local elected representatives with equal voice in Delta affairs.*

*We support a third “tri-equal” goal added to the two co-equal goals put forward by the Delta Vision Plan – namely, to protect and enhance the social, economic, and physical viability of the Delta as home. This includes:*

*Delta agriculture and supporting businesses;*

*Delta non-agricultural businesses;*

*Delta reclamation districts;*

*Delta natural gas;*

*Delta tourism, recreation, boating, and fishing industries;*

*Delta community infrastructure and services, including schools, churches, and civic organizations; and*

*The Delta levee system.*

*For the sake of maintaining good relations of all regions and people of the state of California, please don’t throw those of us who call the Delta home “under the bus.” If the final plan for the Delta, including the BDCP, effectively ignores the people who live and work at ground zero – many for generations, as the numbers who have attended these meetings in the*

*Delta demonstrate, your mission may become so embroiled in regional, political, and legal ill-will that nothing positive comes out of the effort, and that would be a shame. Thank you.*

  
M. David Stirling

[www.saveourdeltasfuture.org](http://www.saveourdeltasfuture.org)  
Post Office Box 271  
Walnut Grove, CA. 95690



## **S. H. Merwin & Sons, Inc.**

38065 Z Line Road, Clarksburg, California 95612  
Office:(916) 775-1698 Shop:775-1653 Mill:775-1282

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**To:** Ms. Delores Brown  
Chief, Office of Environmental Compliance  
California Department of Water Resources  
P.O. Box 942836,  
Sacramento, CA 94236

**Re:** Comments on BDCP Draft EIR/EIS

March 26, 2009

Good evening,

My name is Jeff Merwin and I farm in the Netherlands district (RD-999, Clarksburg, Yolo County), more specifically, west of Jefferson Blvd, along the east side of the Sacramento Deep Water Ship Channel and along Duck Slough. I have attended both the April 30, 2008 scoping meeting in Clarksburg for the BDCP DEIR, and the "Delta Town Hall" meeting that was held in Walnut Grove on Tuesday June 29<sup>th</sup> 2008. Now we are here again, and I want to ask for the record, that my previous written and verbal comments from last year be included in the record for this EIR/EIS. I can safely say that not one person in this room wants to be here, but you won't go away and we are worried about what you are going to inflict on us.

Tonight I am here to continue to express my grave concerns about the process, and to ask you to utilize sanity rather than panic as the driving force in the process. We are not stupid. Don't even begin to talk to us about habitat restoration solely for enhancement of endangered species. The BDCP is utterly and entirely about mitigating diversion of water for export from the delta. I predict that if that stopped, the delta would miraculously improve with no further action. I know that is not realistic, but what is most exasperating to me are the convoluted and equally unacceptable "fixes" that are being proposed instead.

One example: at the meeting in Walnut Grove last summer was a Fish and Wildlife Scientist (Socialist!?) that blithely spoke of restoring the Delta as much as possible to its pre 1850 historical state to benefit fish, taking 100,000 acres ("perhaps 130,000 or maybe 30,000 acres") for habitat restoration. What planet was he born on that makes him feel completely free to ignore people and constitutional rights to private property ownership and the benefits thereof? Wouldn't it be wonderful if the world looked the way it did 150 years ago. Fine, then let's be fair about it, start bulldozing down housing tracts everywhere without including the people who live there in the discussion leading up to the action. Now that would be an interesting experiment indeed! The time for drawing lines on maps for grand projects such as these has long passed, and yet you continue.



One of my deepest concerns in this process is the ongoing lack of continuity in the maps that are supposed to be an integral part of accurately communicating the BDCP. Some elements proposed may be shown on a map in one meeting, and the next week they may be removed from the maps in another meeting, then they seem to reappear again at yet another meeting. This is disturbing and literally misleading to citizens who are attending these meetings to be as informed as we can be about what you are proposing to do to us.

Tonight's meeting is a case in point. We are here to discuss and offer input for the BDCP "project" draft EIR, and you have maps out in the hall that provide a certain level of detail which include the four proposed alternatives, yet one of them adds a fifth, undocumented alternative, which is to use the Sacramento Deepwater Ship Channel as the northern conduit for a western alignment of the peripheral canal. I would not have recognized it on the map, except that I live on the SDWSC East levee berm, and I suggested that alternative last year. Nobody else seems to have noticed it tonight, and except for one unlabelled series of references on one or two maps in the hall, your team certainly has omitted it as an option in tonight's presentation.

In fact the map that you have left up for our reference in the PowerPoint presentation tonight shows only one alternative conveyance option of five, and broad, vague areas targeted for conservation and habitat restoration. Yet the one BDCP "conservation measure" that would have the most significant impact on the Clarksburg area is completely missing from any of tonight's maps, and has had absolutely no public discussion by your team in this community: Conservation measure FL002 .1 or the Deepwater Ship Channel Flood Bypass. This has been discussed at several different BDCP meetings (technical advisory committee, steering committee, lower bypass committee, etc.) and it has appeared in some maps as either actual line drawings or shaded like the other conservation restoration areas, and then it is omitted from other maps. Based on tonight's presentations, I would be led to believe that conservation measure FL002.1 is no longer a part of the BDCP. Is FL002.1 still in play, or not? If it isn't dead, then why are you not telling us about it?

Let's go back to the DWSC peripheral canal option. Why are you not seriously discussing that alternative? It is already built, it has the most robust levees in the entire delta, and it would be considerably less intrusive on delta landowners (the government already owns Sherman Island, across which the southern portion of a western alignment might travel). Further, if you constructed locks at the Rio Vista end, you could isolate it and raise the water level 5 feet, which would provide 8500 acre feet of in delta storage, while at the same time solving the Port of Sacramento's channel depth problems, and additionally remove a potential flood threat to West Sacramento. While I agree with most of the people in this room that a peripheral canal will likely do nothing but further harm the delta, if this is what is being forced upon us, then at least choose the least obtrusive routing.

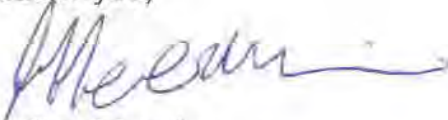
I realize that these are *just* discussions and it's *just* talk and *just* research and *just* thinking outside the box, and all the documents and maps have "draft" stamped on them. But I also know that the simplest and most realistic next step for discussion to become action is to erase the word "draft" from the existing documents and maps, and we're officially screwed. But it was all done "publically".

Anyone in this room who wants to be seriously worried should look up SB-12 (Simitian), and several other bills being prepared by our legislature to fund and administer these proposals. They include language that will curl your hair like: *"Requiring the state board to use its authority to determine reasonable use of water over the coming decades to evolve away from the generally accepted practices of diverting surface water for irrigated agriculture,..."*

Let me end my comments with an analogy, being a farmer I am dedicated and proud to be providing food to the world. Think for a moment how you would feel if it was determined that the public good would best be served if we cut off your food. Would your livelihood be threatened, would you be concerned? That is precisely what you are threatening us with.

Please address these comments directly in your final EIR/EIS.

Thank-you,

A handwritten signature in blue ink, appearing to read 'Merwin', with a long horizontal flourish extending to the right.

Jeffrey Merwin  
President  
S.H. Merwin & Sons, Inc.

**bdcpcomments**

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**From:** sunshine@snugharbor.net [sunshine@snugharbor.net] **Sent:** Mon 3/9/2009 9:25 PM  
**To:** bdcpcomments  
**Cc:** Karla Nemeth  
**Subject:** Attn: Barbara McDonnell, Chief  
**Attachments:**

Hello Ms. McDonnell,

This email is written in reference to the Notice of Preparation of the Bay Delta Conservation Plan EIR/EIS dated 2/13/09. Please provide the following information:

A. Page 2, in the paragraph at the bottom refers to the link for the "Overview of Conservation Strategy With Core Elements.pdf" document. I've tried the complete link you've listed, and it does not work. Please provide a link to the 12.19.08 document listed in your notice and perhaps post a notice so others can find that exact document also. Or, in the alternative, if the document name and location has changed, please provide that information to me as well.

B. Are comments due by March 13, 2009 (30 days from notice filed per page 10) or are they due by May 14, 2009?

Thank you in advance for your time and attention to this important matter.

Respectfully submitted,

Nicole S. Suard, Esq., Managing Member, Snug Harbor Resorts, LLC on Steamboat Slough

**bdcpcomments**

**From:** Donald Bryant [dobry39@yahoo.com]  
**To:** bdcpcomments  
**Cc:** dobry39@yahoo.com  
**Subject:** DUAL CONVEYANCE-NEIGHBORHOOD COMMENTS  
**Attachments:**

Sent: Wed 5/13/2009 4:42 PM

The Board of Directors and the 380 households of the South Pocket Homeowners Association strongly urge that the Delta Dual Conveyance pumping intakes not be located adjacent to residential developments on either side of the Sacramento River. Both the East and West reaches of the project currently under consideration, situate pumping plants directly across the river from our homes or the homes of neighborhoods close to ours.

Our current experience is that the noise, dust, property damage, unsightly appearance and general disruption caused by the construction and eventual operation of the FRWA project has been a serious detriment to our quality of life. Construction and operation of the currently planned Dual Conveyance intakes, each of which is TEN times the capacity of the entire FRWA plant, can surely be expected to be an even greater violation to the peace and quality of our SPHA neighborhoods.

Nowhere in the Dual Conveyance discussions or materials can we find any analysis or even mention of other water supply alternatives that could be built and operated in conjunction with existing Delta pumping facilities and thereby reduce pressure on the Delta eco-system. Consideration of such alternatives as ocean water desalination and tertiary treatment of reclaimed water are absent from the entire scoping process.

In addition, we are very concerned as to what would be the electrical power source for a project of this magnitude, and what the location and physical configuration would be for power facilities that could meet such a significant demand.

We urge the designers and planners of the Delta Dual Conveyance to locate all intake facilities where their construction and operation will not disrupt the quality of life in ours and other residential developments. Additional large water pumping plants in this vicinity will significantly compromise its residential esthetics and create the appearance of an industrial area. Furthermore, any intake station, even remotely adjacent to a residential area, should be designed with a visual and operational profile that is minimally invasive and disruptive to its surroundings.

SOUTH POCKET HOMEOWNERS ASSOCIATION

BOARD OF DIRECTORS

1624 Hood Franklin Road  
Elk Grove, CA 95757  
www.stonelakes.org



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May 14, 2009

Via Email ([delores@water.ca.gov](mailto:delores@water.ca.gov))

Ms. Delores Brown  
Division of Environmental Services  
California Department of Water Resources  
901 P St., Bonderson Bldg., 4th Fl.  
P. O. Box 942836  
Sacramento, CA 95814

Re: Comments on Revised NOP for BDCP EIR/EIS

Dear Ms. Brown:

This letter provides the comments of the Stone Lakes National Wildlife Refuge Association (Association) on the Revised Notice of Preparation (NOP) for the joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Sacramento-San Joaquin Bay Delta Conservation Plan (BDCP). The Association also submitted comments on the previously issued NOP, which are attached as Exhibit A. The Association is a nonprofit organization dedicated to preserving and protecting the Stone Lakes National Wildlife Refuge (Stone Lakes NWR), which is located within the legal Delta. Among other activities, the Association has worked to ensure that Stone Lakes NWR is protected from adverse impacts relating to changes in flows and water quality due to surrounding development in coordination with local, state and federal agencies.

The Refuge is the single largest complex of natural wetlands, lakes and riparian areas remaining in the Sacramento-San Joaquin Delta, and provides critical habitat for waterfowl and other migratory birds of international concern, as well as a number of endangered plant and animal species. Stone Lakes NWR and its surrounding agricultural areas are home to several special status species, including the tri-colored blackbird, greater sandhill crane, white-face ibis, long-billed curlew, Swainson's hawk, burrowing owl, giant garter snake and valley elderberry longhorn beetle.

Please consult the "Final Comprehensive Conservation Plan and Environmental Assessment for the Stone Lakes National Wildlife Refuge," available at <http://www.fws.gov/stonelakes/ccp.htm> for specific information regarding Stone Lakes NWR resources and as background for development of the content of the EIR/EIS.

## **Background**

In 1972, the U.S. Army Corps of Engineers recommended establishing a national wildlife refuge in the Stone Lakes Basin after completing a flood control study of Morrison Creek, Sacramento County's largest creek system. In 1994, following six years of study and public meetings, the U.S. Fish & Wildlife Service (FWS) established Stone Lakes NWR in Sacramento County, which borders the Cities of Sacramento and Elk Grove. Stone Lakes NWR is the 505th refuge in the National Wildlife Refuge System and one of the few urban wildlife refuges in the nation. The goals of Stone Lakes NWR are to:

1. Preserve, enhance, and restore a diverse assemblage of native Central Valley plant communities and their associated fish, wildlife, and plant species;
2. Preserve, enhance, and restore habitat to maintain and assist in the recovery of rare, endangered, and threatened plants and animals;
3. Preserve, enhance, and restore wetlands and adjacent agricultural lands to provide foraging and sanctuary habitat needed to achieve the distribution and population levels of migratory waterfowl and other water birds consistent with the goals and objectives of the North American Waterfowl Management Plan and Central Valley Habitat Joint Venture;
4. Create linkages between Refuge habitats and habitats on adjacent lands to reverse past impacts of habitat fragmentation on wildlife and plant species;
5. Coordinate Refuge land acquisition and management activities with other agencies and organizations and to maximize the effectiveness of Refuge contributions to regional habitat needs;
6. Provide for environmental education, interpretation, and fish and wildlife-oriented recreation in an urban setting accessible to large populations; and
7. Manage wetlands and adjacent floodplain lands in a manner consistent with local, State, and Federal flood management; sediment and erosion control; and water quality objectives.

(57 Fed. Reg. 33007 (July 24, 1992).)

## **General Comments**

The Association is concerned that the BDCP as currently proposed, would have significant negative impacts on Stone Lakes NWR and that little is being done to lessen those impacts. Though not disclosed in the NOP, the Association understands that the eastern alignment of the canal, which traverses Stone Lakes NWR, is now being pursued as the preferred conveyance alternative. This component of the BDCP would change to the manner in which the state and federal water projects deliver water to the pumps in the South Delta, shunting Sacramento River water around the Delta prior to entering the state and federal pumps. Assessment of potential impacts on Stone Lakes NWR of this and other potential BDCP project components has been difficult because the BDCP lacks a detailed and stable project description. Moreover, the Association has not been able to obtain the up-to-date conveyance route maps that would assist in providing advice to the BDCP as to how to avoid impacts on Stone Lakes NWR.

The Association requests that the proponents of the BDCP carefully consider impacts of implementing the BDCP on the resources of Stone Lakes NWR in the EIS/EIR. The significant public investments that made Stone Lakes NWR possible should be honored by providing the very highest level of protection to the resources of Stone Lakes NWR. *Project components that would threaten the ability of the Refuge to continue to serve the purposes for which it was created should not be pursued.*

## **Specific Suggestions**

The Association recommends that the EIR/EIS address the following issues:

1. **Project Description.**

A clear description of the Project is necessary for environmental review purposes. Such a description has not yet been provided. This lack of information interferes with the ability of the Association to meaningfully comment on the Revised NOP. It is only by also monitoring the BDCP Steering Committee meeting proceedings and handouts that the Association is aware of the latest configuration of project components that would affect Stone Lakes NWR, primarily a massive canal and associated infrastructure. Also through these investigations, the Association understands that habitat restoration activities are no longer being targeted for lands within Stone Lakes NWR.

Given the gravity of impacts and long term implications of the BDCP, Association urges that selection of each Project component be underlain by a

strong scientific foundation. The Association questions, for instance, whether an isolated canal actually is a “conservation measure” at all, given the wide-reaching effects that construction and operation of such a canal would have, not just on Stone Lakes NWR, but on the entire route of the massive Project. Additionally, the Association is concerned that while a new diversion point may lessen impacts on aquatic organisms at the pumps, it may do so at an unacceptable cost to habitat and viability of terrestrial species as well as other aquatic species on the Sacramento River. Many of these species were not formerly impacted by the SWP and CVP operations and also are protected under the state and federal endangered species laws.

2. Project Setting.

The environmental setting in the EIR/EIS must include a detailed description of Stone Lakes NWR and other similar resources within the Delta. This description should be made with reference to the Comprehensive Conservation Plan and other available research materials.

3. Project Impacts.

The Association is primarily concerned about the impacts a massive canal and associated facilities would have on the existing and planned uses of Stone Lakes NWR. As explained above, Stone Lakes NWR provides essential habitat to a variety of species. Long term plans described in the Comprehensive Conservation Plan include long-term plans for many improvements to better serve wildlife needs as well as the surrounding communities. (Comprehensive Conservation Plan, pp. 71-92.) Construction of a massive canal on even part of Stone Lakes NWR would interfere with the ability to implement many of these plans, including the ability to effectively manage lands for conservation purposes that are bisected by the canal. The EIR/EIS must fully analyze these conflicts.

The Association has been actively working to address flooding issues at Stone Lakes NWR for several years. The Refuge is within the 100-year floodplain and damaging floods have occurred in the Beach-Stone Lakes basin an average of one out of every three years. Extensive flooding occurred in 14 of the last 40 years. (Comprehensive Conservation Plan, p. 64.) This flooding has been exacerbated by urbanization to the east (Elk Grove) and north (Sacramento) of Stone Lakes NWR. Pursuant to a settlement agreement, the Association is now working collaboratively with the City of Elk Grove to develop a drainage plan for the area that minimizes flooding and pollution of Stone Lakes NWR. There is a concern that construction of a canal and associated facilities would further interfere with the hydrology of the area to create even worse flooding of Stone Lakes NWR. The EIR/EIS must fully analyze these impacts.



Cumulative land use changes and development are also a serious source of concern. Wildlife reliant upon Stone Lakes NWR also depend on and utilize the surrounding lands for foraging and other activities; much of this land is in active agricultural production. Thus, the effects of a massive canal and associated facilities are a concern within and near the Stone Lakes NWR boundary, regardless of whether those lands are actually within the formal boundary. Because Stone Lakes NWR cooperates with agricultural activities in the area to provide habitat benefits, the Association is also concerned about the fragmenting impacts of canal construction on the continued viability of existing agricultural uses. Moreover, construction and operation of the canal would create traffic, noise, air pollution and other disturbances to sensitive wildlife.

Stone Lakes NWR provides important wintering habitat for migratory birds such as the greater sandhill crane. Availability of habitat for these birds in the region has already been severely diminished by urbanization. The further impact caused by location of a large canal in Stone Lakes NWR and other nearby habitat areas must be fully analyzed.

The Association is also tracking a related project that would also bifurcate and disrupt lands within Stone Lakes NWR: the Transmission Agency of Northern California Transmission Project (TANC). One alternative route of the TTP includes massive transmission lines through Stone Lakes NWR. If built, these lines may prevent birds from landing at Stone Lakes NWR. TANC, in combination with the canal and associated facilities, would result in cumulative environmental impacts on sensitive species that must be carefully considered. Moreover, given the need for power along any new conveyance route, these projects may be interrelated and interdependent, making it necessary to review the projects in tandem.

Stone Lakes NWR has been designated as one of the six most threatened refuges in the nation. (See *State of the System: An Annual Report on the Threats to the National Wildlife System*, National Wildlife Refuge Association (2005), at p. 9, available at: <http://refugenet.org/new-pdf-files/BeyondtheBoundaries.pdf>; see also <http://www.fws.gov/stonelakes/ccp.htm>.) This designation was primarily based on impacts from surrounding urbanization. The insertion of significant infrastructure such as the canal and TANC would even further threaten the continuing viability of Stone Lakes NWR. These impacts must be carefully studied and mitigated.

The Association is also concerned that the new northern diversion point, combined with other BDCP components could alter habitat conditions within the Delta in a manner that would negatively impact wildlife that use Stone Lakes

NWR. For example, changes in water quality in the Sacramento River and the Delta waterways may affect the availability of food for species that also rely on Stone Lakes NWR for habitat. Each proposed change to the ecosystem may have ripple effects through the food chain that must be carefully studied to weigh costs and benefits of any proposed changes to the system.

#### 4. Mitigation for Project Impacts

Should the canal and associated facilities be planned for construction in Stone Lakes NWR, a comprehensive mitigation program will be necessary to meet mitigation requirements of CEQA and NEPA. Once a clear Project definition is developed, the Association would work with the BDCP proponents to develop suitable mitigation measures. As a fundamental matter, the BDCP must provide mitigation for impacts to resources at Stone Lakes NWR occur *within Stone Lakes NWR*. Given the significant public investment in Stone Lakes NWR, cumulative threats to Stone Lakes NWR, any resources expended to mitigate for the significant effects of the Project must be aimed at improving habitat conditions within Stone Lakes NWR. Otherwise, the BDCP may seriously interfere with the ability of Stone Lakes NWR to attain its statutory goals, threatening its continued viability as a refuge.

#### 5. Project Alternatives

As noted above, the Association questions the need for the canal component of the BDCP. The cost, complexity and controversy of the canal demand that the environmental document thoroughly and non-peremptorily consider project alternatives. A comprehensive strategy incorporating agricultural and urban water conservation; alternative sources such as desalinization and tertiary-treated wastewater; and storage strategies, including groundwater banking, conjunctive use and additional storage must be described and evaluated as a project alternative to Delta export. Review of the costs associated with these strategies (see “The Economics of Ending Delta Water Exports Versus the Peripheral Canal: Checking the Data of the PPIC” by Dr Jeffrey Michael) suggest that implementing such a strategy would be competitive with the cost of the Peripheral Canal.

The environmental analysis also must consider alternative canal design to reduce impacts on the Stone Lakes National Wildlife Refuge. These alternatives should include: (1) diversions originating south of Hood as identified in the alternative identified by the Public Policy Institute of California in their report: “Beyond the Peripheral Canal: Envisioning Futures for the Sacramento-San Joaquin Delta”, (2) a smaller overall design flow for the canal involving fewer diversion points from the Sacramento River, (3) underground construction of the

canal where it passes through and adjacent to the Stone Lakes NWR, and (4) a combination of all of the above. If the primary purpose of the canal is to protect the Delta fisheries and improve the ecological functioning of the Delta estuary, then more southerly diversions from the Sacramento River should also be considered.

Finally, and for the purpose of creatively thinking outside the box in confronting Delta ecosystem problems, the environmental analysis should consider an alternative that diverts Sacramento Regional Sanitation District's Regional Treatment Plant wastewater flows directly into a canal or pipeline. To the extent that treatment plant discharges are related to the collapse of the salmonid food chain, such an alternative would lessen those impacts as well as reduce the need to divert fresh water directly from the Sacramento River.

The Association and Stone Lakes NWR staff are willing to work directly with DWR and BDCP staff to better define these alternatives.

### **Conclusion**

The Association feels strongly that whatever measures the BDCP ultimately pursues to address the species issues associated with Delta water exports should not degrade Stone Lakes NWR, which is already a threatened resource. Please contact me, or our counsel, Osha Meserve (916-455-7300, [osha@semlawyers.com](mailto:osha@semlawyers.com)) if you have any questions regarding the information contained in this letter or would like to obtain more information about Stone Lakes NWR for purposes of drafting the EIR/EIS.

Very truly yours,



Liz Zainasheff  
President

Senator Lois Wolk, 5th District

Bart McDermott, Refuge Manager, SLNWR, [Bart\\_McDermott@fws.gov](mailto:Bart_McDermott@fws.gov)

Rob Burness, Watershed Chair, Stone Lakes NWR Association,  
[rmburness@comcast.net](mailto:rmburness@comcast.net)

Don Nottoli, Sacramento County Board of Supervisors, [nottolid@saccounty.net](mailto:nottolid@saccounty.net)

Robin Kulakow, Executive Director, Yolo Basin Foundation,  
[robin@yolobasin.org](mailto:robin@yolobasin.org)

## SLNWRA Letterhead

Via email: [delores@water.ca.gov](mailto:delores@water.ca.gov)

Ms. Delores Brown,  
Chief, Office of Environmental Compliance  
Department of Water Resources,  
P. O. Box 942836  
Sacramento, CA 94236

Dear Ms. Brown:

This letter provides the comments of the Stone Lakes National Wildlife Refuge Association (Association) on the Notice of Preparation (NOP) for the joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Sacramento-San Joaquin Bay Delta Conservation Plan (BDCP). The Association is a nonprofit organization dedicated to preserving and protecting the Stone Lakes National Wildlife Refuge (Stone Lakes NWR), which is located within the legal Delta. Among other activities, the Association has worked to ensure that Stone Lakes NWR is protected from adverse impacts relating to changes in flows and water quality due to surrounding development in coordination with local, state and federal agencies.

The Refuge is the single largest complex of natural wetlands, lakes and riparian areas remaining in the Sacramento-San Joaquin Delta, and provides critical habitat for waterfowl and other migratory birds of international concern, as well as a number of endangered plant and animal species. Stone Lakes NWR and its surrounding agricultural areas are home to several special status species, including the tri-colored blackbird, greater sandhill crane, white-face ibis, long-billed curlew, Swainson's hawk, burrowing owl, giant garter snake and valley elderberry longhorn beetle.

Please consult the "Draft Comprehensive Conservation Plan and Environmental Assessment for the Stone Lakes National Wildlife Refuge", available at [http://library.fws.gov/CCPs/stonelakes\\_draft.pdf](http://library.fws.gov/CCPs/stonelakes_draft.pdf) for specific information regarding Stone Lakes NWR resources and as a potential resource in developing the content of the EIR/EIS.

### Background

In 1972, the U.S. Army Corps of Engineers recommended establishing a national wildlife refuge in the Stone Lakes Basin after completing a flood control study of Morrison Creek, Sacramento County's largest creek system. In 1994,

following six years of study and public meetings, the U.S. Fish & Wildlife Service (“FWS”) established Stone Lakes NWR in Sacramento County, which borders the City of Elk Grove. Stone Lakes NWR is the 505th refuge in the National Wildlife Refuge System and one of the few urban wildlife refuges in the nation. Due primarily to encroaching urban uses, the Refuge has been designated as one of the six most threatened refuges in the nation. (See Exhibit A, *State of the System: An Annual Report on the Threats to the National Wildlife System*, National Wildlife Refuge Association (2005), at p. 9, available at: <http://refugenet.org/new-pdf-files/BeyondtheBoundaries.pdf> see also [http://library.fws.gov/CCPs/stonelakes\\_draft.pdf](http://library.fws.gov/CCPs/stonelakes_draft.pdf).) Changes to the manner in which state and federal water projects make water deliveries to exporters of water otherwise destined for the Delta also have the ability to adversely impact the resources of Stone Lakes NWR.

### General Comments

The Association requests that the proponents of the BDCP carefully consider impacts of implementing the BDCP on the resources of the Refuge in the EIS/EIR. Specifically, impacts of alternative conservation actions including improved water conveyance infrastructure in the Delta must be considered. It is the Association’s understanding that the dual and isolated conveyance system routes being considered as part of improved conveyance infrastructure would traverse Stone Lakes NWR lands. This could have very significant impacts on the habitat values of the Stone Lakes NWR

The Association has also reviewed a Habitat and Operations Technical Team handout that mentions possible inundation of Stone Lakes Bypass for 45 days or more as a possible long term scenario. The environmental impacts of this or other possible uses of Stones Lakes NWR must be carefully evaluated. Such an evaluation would include consideration of drainage-related impacts already occurring as a result of increasing runoff from the growing City of Elk Grove. While more water can at time create environmental benefits, prolonged flooding can also cause trees to die and cause other impacts.

The significant public investments that made the Refuge possible should be honored by providing the very highest level of protection to the resources of Stone Lakes NWR.

### Specific Suggestions

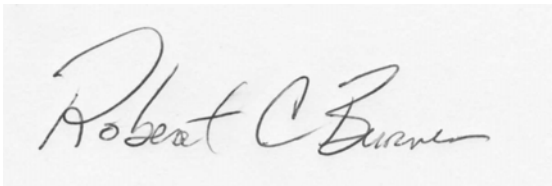
The Association recommends that the EIR/EIS address the following issues:

1. **Establish Appropriate Project Objectives.** A project objective relating specifically to the protection of sensitive publicly owned biological resources within the Delta should be included in the EIS/EIR.
2. **Include a Complete Project Setting.** The environmental setting in the EIR/EIS must include a detailed description of Stone Lakes NWR and other similar resources within the Delta.
3. **Clearly Delineate the Proposed Location of Project Alternatives Involving Conveyance Systems.** The impacts analysis should be based on a specific location for the alternatives involving freshwater conveyance systems. The Association and Stone Lakes NWR staff are available to assist in identifying and/or refining the possible locations for the conveyance system.
4. **Analyze Impacts on Refuge Specifically.** Impacts analysis in the EIR/EIS should examine how each alternative would affect the resources of Stone Lakes NWR. Also, specialized biological expertise should be engaged to assess impacts on Refuge biota.
5. **Include Feasible Alternatives to Minimize or Avoid Significant Impacts of the Project.** To the extent significant impacts to the resources of Stone Lakes NWR are identified feasible mitigation measures and alternatives must be identified and adopted to reduce those impacts.

### Conclusion

The Association feels strongly that whatever option the BDCP ultimately pursues to address the species issues associated with Delta water exports not degrade Stone Lakes NWR, which is already a threatened resource. Please contact me if you have any questions regarding the information contained in this letter or would like to obtain more information about Stone Lakes NWR for purposes of drafting the EIR/EIS.

Very truly yours,

A handwritten signature in black ink that reads "Robert C. Burness". The signature is written in a cursive style and is contained within a light gray rectangular box.

Robert Burness, Watershed Chair

C: Beatrix Treiterer, Acting Refuge Manager, SLNWR,

[Beatrix\\_Treiterer@fws.gov](mailto:Beatrix_Treiterer@fws.gov)

Liz Zainasheff, President, Stone Lakes NWR Association, [lizz@surewest.net](mailto:lizz@surewest.net)

Don Nottoli, Sacramento County Board of Supervisors, [nottolid@saccounty.net](mailto:nottolid@saccounty.net)

Virginia Mahecek, Valley Mountain Consulting,

[valley\\_mountainconsulting@yahoo.com](mailto:valley_mountainconsulting@yahoo.com)

Pamela Creedon, Executive Officer CVRWQCB, [PCreedon@waterboards.ca.gov](mailto:PCreedon@waterboards.ca.gov)

Greg Suba, Laguna Creek Watershed Council, [gsuba@surewest.net](mailto:gsuba@surewest.net)

Barbara Washburn, Laguna Creek Watershed Council,

[BWASHBURN@oehha.ca.gov](mailto:BWASHBURN@oehha.ca.gov)



May 14, 2009

Via email (BDCPcomments@water.ca.gov) and Certified Mail

Delores Brown  
Division of Environmental Services  
California Department of Water Resources  
901 P. Street, Bonderson BLDG, 4th Fl.  
PO Box 942836  
Sacramento, CA 95814

Re: Comments on BDCP Notice of Preparation (State Clearinghouse No. 2008032062)

Dear Ms. Brown:

This letter provides the Suisun Resource Conservations District's (SRCD) comments on the Revised Notice of Preparation (NOP) for the Bay Delta Conservation Plan (BDCP). SRCD is a special district created by the California legislature with the primary local responsibility for promoting conservation of the Suisun Marsh through regulation and improvement of water management practices on private lands within the Suisun Marsh. (*See* Public Resources Code § 9962.) As a resource conservation district, SRCD is empowered to coordinate resource management efforts for purposes of watershed restoration and enhancement. (*See* Public Resources Code § 9001(b)(1) and (3).) SRCD is a party to the Revised Suisun Marsh Preservation Agreement (RSMPPA), and is actively engaged, along with DWR and other parties, in preparing the Habitat Management, Preservation, and Restoration Plan for the Suisun Marsh Programmatic Environmental Impact Statement /Environmental Impact Report (Suisun Marsh Plan). By virtue of its regulatory authority in the Suisun Marsh under Public Resources Code section 9962, SRCD is a responsible agency for the BDCP under the California Environmental Quality Act ("CEQA," the provisions of which are found at Public Resources Code sections 21000 et seq.).

The California Department of Water Resources (DWR), which is serving as lead agency for the environmental review of the BDCP, has a long history of cooperation with SRCD to preserve, protect and enhance the Suisun Marsh. DWR is a party to the SMPA and is actively involved in developing the Suisun Marsh Plan. This history is important and relevant to understanding SRCD's comments and concerns regarding the NOP and, more generally, the BDCP process to date. In reviewing the NOP and following various BDCP processes and publications, it appears to SRCD as if much of this history has been forgotten.

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Long before the BDCP process began, or CalFed before it, SRCD was protecting the environment of the Suisun Marsh. For decades, SRCD, Solano County and the San Francisco Bay Conservation and Development Commission (BCDC) worked together on this mission. In the 1970's, legislation was enacted to protect the Suisun Marsh. (See Public Resources Code sections 29000 et seq.). This legislation, called the Suisun Marsh Preservation Act, found that the approximately 55,000 acres of managed wetlands in the Marsh comprises almost 10% of the remaining natural wetlands in California. (Public Resource Code, § 29002.) These wetlands provide wintering habitat for migrating waterfowl, and are particularly important during years of drought because such habitats become scarce in the Central Valley. The Suisun Marsh is also habitat for many protected or rare species, such as peregrine falcons, white-tailed kite, golden eagle, California clapper rail, black rail, salt-marsh harvest mouse and Suisun shrew. The Suisun Marsh Preservation Act makes clear that these habitats are dependent upon maintaining adequate water quality, but that water quality in the Suisun Marsh is lowered by “[n]umerous upstream storage facilities, together with diversions of water from the delta and tributary streams of the delta....” (Public Resource Code, § 29010(a)(3).)

Following Water Rights Decision 1485, which established salinity water quality objectives in the Suisun Marsh, SRCD began a long relationship with DWR, the United States Bureau of Reclamation (USBR) and the California Department of Fish & Game (DFG) focused on addressing the impacts to Suisun Marsh water salinities from the DWR and USBR water projects. In 1987, these parties entered the Suisun Marsh Preservation Agreement (SMPA). The SMPA has been amended several times since then, with the most recent amendment occurring in 2006. The RSMPA contains several contractual commitments on the part of DWR and the USBR related to Suisun Marsh water quality. As set forth below, SRCD seeks assurance from DWR that the BDCP will not conflict with DWR's obligations under the SMPA.

Most recently, the SMPA parties have been working on the Suisun Marsh Plan. Like the BDCP, the Suisun Marsh Plan is a habitat conservation plan under the federal and state endangered species acts. The Suisun Marsh Plan project area is the primary and secondary Suisun Marsh, as defined in Public Resources Code section 29101.

This cursory summary of the broad efforts to protect the environment of the Suisun Marsh is provided because SRCD is becoming increasingly concerned that the BDCP process is heading in a direction that will benefit Delta water exporters at the expense of the Suisun Marsh environment. SRCD is concerned about enormous estimates being discussed of how many acres within the Suisun Marsh may be converted from managed wetlands to tidal marsh. Doing so would alter, most likely permanently, the waterfowl habitat that is declared so important by the Legislature in the Suisun Marsh Preservation Act, and would be totally inconsistent with more than thirty years of Suisun Marsh preservation efforts.

SRCD is also concerned about long-term impacts to water quality associated with the BDCP. Although not clearly or directly discussed in the NOP, it is believed that the primary purpose of the BDCP is to address environmental impacts caused by current export practices and the construction of a new peripheral canal. SRCD understands the challenges facing the water exporters and wants to cooperate in solving those issues.

SRCD will not, however, support a BDCP that degrades Suisun Marsh water quality in any significant manner.

As set forth in more detail below, the NOP fails to satisfy the most basic requirements of CEQA. The three key elements of a NOP are: (1) a description of the project; (2) identifying the location of the project; and (3) identifying the project's probable environmental effects. (14 C.C.R., § 15082(a)(1).) The NOP fails to meet CEQA's standards in all three areas, and SRCD requests that DWR consider all comments submitted hereon and prepare a new NOP.

#### Specific Comments/Questions.

SRCD respectfully requests that DWR respond in writing to each comment or question posed below.

1. The NOP fails to adequately identify the project. On page 2, the NOP states that the BDCP is to address "covered activities." A list of 9 "covered activities" is provided on page 4 of the NOP, but this list is so cursory that it does not provide SRCD or a reasonable reader of the NOP with an understanding of what projects are actually "covered activities." For instance, item 1 of the list on page 9 is "existing Delta conveyance elements and operations of the CVP and SWP." What does this mean? The NOP should describe what are the existing Delta conveyance elements and operations, and why those elements/operations require preparation of a habitat conservation plan.

Item 2 is "New Delta conveyance facilities," which the NOP claims are described in the November 2007 Points of Agreement. The new conveyance facilities description found in that document reads:

The Steering Committee agrees that the most promising approach for achieving the BDCP conservation and water supply goals involves a conveyance system with new points of diversion, the ultimate acceptability of which will turn on important design, operational and institutional arrangements that the Steering Committee will develop and evaluate through the planning process. The main new physical feature of this conveyance system includes the construction and operation of a new point (or points) of diversion in the north Delta on the Sacramento River and an isolated conveyance facility around the Delta. Modifications to existing south Delta facilities to reduce entrainment and otherwise improve the State Water Project's (SWP) and Central Valley Project's (CVP) ability to convey water through the Delta while contributing to near and long-term conservation and water supply goals will also be evaluated. This approach may provide enhanced operational flexibility and greater opportunities for habitat improvements and fishery protection. During the BDCP process, the Steering Committee will evaluate the ability of a full range of design and operational scenarios to achieve BDCP conservation and planning objectives over the near and long term, from full reliance on the new facilities to use of the new facilities in conjunction with existing facilities.

This one-paragraph description of what is commonly called the "Peripheral Canal"

is too vague to allow educated comment on how to scope the project. In particular, there should be information regarding the possible changes in operation of the state and federal water projects that may occur in relation to the Peripheral Canal (e.g. how much water may be diverted in the North Delta; when may diversions occur; what impacts will these diversions have on downstream water users and water quality, etc.)

2. The NOP fails to adequately identify the location of the project. The “Project Area” description on page 6 states that the BDCP will occur in the Statutory Delta, as well as Suisun Marsh, Suisun Bay, “and areas upstream of the Delta.” Figure 1 is a map labeled “Legal Delta Boundary,” and which delineates the area that is statutorily defined as the Delta. This map fails to delineate, however, the Suisun Marsh or “areas upstream of the Delta.” A revised map that clearly shows the project area should be included in the revised NOP.

3. The NOP fails to provide a reasonable description of the project’s probable environmental effects. The fact that a primary objective of the BDCP is to address existing CVP and SWP operations means that it should be reasonably straightforward to at least explain the environmental effects from operation of those projects. Recent court proceedings should provide a good basis from which to identify environmental impacts from the CVP and SWP.

Of particular concern to SRCD are the vaguely discussed plans to convert tens of thousands of acres of managed wetlands to tidal marsh. These types of conversions, while benefitting certain species, are detrimental to others. The Suisun Marsh is an area where tidal restoration is contemplated. The NOP fails to reasonably describe where and in what acreages tidal restoration will occur, or to discuss probable environmental effects associated with such tidal restoration.

4. The NOP fails to reasonably discuss possible impacts to downstream water rights holders associated with the BDCP. Again, if part of the BDCP project is to change the point where the SWP and CVP divert water from the south Delta to the north Delta, then the NOP should address how this will affect downstream water rights holders – including specifically those water users in the Suisun Marsh.

5. Of equal interest is how the change in point of diversion will affect downstream water quality? Will the BDCP project increase salinities in the Suisun Marsh?

6. Will tidal restoration efforts in the Suisun Marsh increase salinity in remaining managed wetlands?

7. The NOP indicates that the BDCP is focused on habitat and conservation measures aimed at restoring certain fish populations. Yet, the project area shown on Figure 1 appears limited to the Delta and Suisun Marsh areas. Why have other areas, such as upstream in the Central Valley river systems, been excluded from the BDCP’s fish restoration efforts?

8. What impact will the Suisun Marsh tidal restoration efforts have on remaining interior levees of the managed wetlands? In other words, if exterior levees are breached to effect tidal restoration, what impacts will occur to the interior levees that will

then be subject to direct tidal action? Will BDCP be paying for and performing upgrades to affected levees?

9. How will the BDCP relate to the SMPA and the Suisun Marsh Plan? Will they be consistent?

Alternatives/Mitigation Measures.

As a responsible agency, SRCD is required to comment on project alternatives and potential mitigation measures. The NOP is currently too vague, however, to allow meaningful comment on such matters. For instance, the NOP contains no direct information regarding the project impacts to the Suisun Marsh, nor enough indirect information regarding the project's parameters and impacts for SRCD to reasonably infer impacts to the Suisun Marsh. For this reason, many of SRCD's concerns are phrased in the form of questions, above. Answers to these questions would assist SRCD in providing meaningful comment on a revised NOP.

SRCD requests that all project alternatives be consistent with the Suisun Marsh Preservation Act, RSMMPA, Suisun Marsh Plan, and regulations of BCDC and Solano County, including the Suisun Marsh Local Plan of Protection. Again, SRCD and DWR have worked together on these Suisun Marsh conservation efforts for decades, and this work should not be reversed because of the impacts of water export operations. DWR and SRCD, along with the USBR, BCDC, Solano County and DFG have cooperatively developed a Suisun Marsh conservation strategy that balances the needs of species. The vague tidal restoration figures being released to the public, such as those found in the May 8, 2009 Habitat Restoration and Enhancement Recommendations, Handout #3, suggest that BDCP may attempt to convert tens of thousands of acres of Suisun Marsh managed wetlands into tidal marsh. This would be an unbalanced habitat conservation strategy, and one that would run afoul of all the plans and legal authorities cited above.

SRCD is ready and willing to answer any questions from DWR or respond to specific comments related to the Suisun Marsh. In particular, it may be helpful for SRCD staff to meet with DWR staff to review the history of Suisun Marsh conservation efforts and, in particular, to discuss how BDCP relates to the SMPA and Suisun Marsh Plan, and to confirm that BDCP tidal restoration efforts will parallel those proposed for the Suisun Marsh Plan.

Please do not hesitate to call SRCD at the number listed above.

Sincerely,



Steven Chappell, Executive Director

Clarksburg

# BDCP

BAY DELTA CONSERVATION PLAN

ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

— Comment Card —

**Please Print**

Name: LEO WINTERNITZ Organization: THE NATURE CONSERVANCY

Telephone: 916-449-2853 ext. 4125 e-mail: LWINTERNITZ@TNC.ORG

Address: 2015 J ST. STE. 103

City: SACRAMENTO State: CA Zip: 95811

Yes, I would like to be added to your e-mail list.

Your input on the BDCP EIR/EIS is greatly appreciated. Please write your comments below, including comments on the extent of the action, range of alternatives, methodologies for impact analysis, types of impacts to evaluate, and possible mitigation concepts. Comments will be accepted until close of business on May 14, 2009.

THE NATURE CONSERVANCY OWNS ABOUT 10,000 ACRES  
IN THE DELTA AT STATER ISLAND AND MCCORMICK  
WILLIAMSON TRACT. STATER ISLAND IS MANAGED  
FOR WILDLIFE HABITAT, PARTICULARLY FOR SANDHILL CRANES  
AND OTHER AVIAN SPECIES.

THE EIR/EIS SHOULD ADDRESS BOTH THE SHORT  
TERM (CONSTRUCTION) AND LONG TERM (OPERATIONS)  
IMPACTS ON TNC LANDS ASSOCIATED WITH THE  
PERIPHERAL CANALS. ATTENTION SHOULD BE PAID TO  
DISURBANCE DURING CONSTRUCTION, AND HYDROLOGY,  
WATER QUALITY AND RELATED IMPACTS DURING OPERATION.

ANY POTENTIAL BENEFITS TO THESE LANDS SHOULD BE  
IDENTIFIED AS WELL. TNC IS WILLING TO WORK WITH PROJECT

Please submit your comments at station 6 at this scoping meeting, or fold this form in half, seal with tape and mail to:

Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236.

You may also e-mail your comments to [BDCPcomments@water.ca.gov](mailto:BDCPcomments@water.ca.gov). **Comments must be received by May 14, 2009.**

PROPOSANTS TO IDENTIFY POTENTIAL MITIGATION AND OTHER  
ASPECTS THAT MIGHT BE BENEFICIAL TO BOTH PARTIES.



WILSON FARMS

P.O. BOX 307 • CLARKSBURG, CA. 95612 • (916) 744-1456

My question for the BDCP meeting in  
Clarksburg on March 26, 2009

With all this concern that you folks  
here tonight have expressed about reviving  
all these species that you're so concerned  
about, how does pumping water out of the  
Delta improve the habitat?

I submit that survival of these species is  
a much lower priority than taking our water  
and sending it down south to the bay area.  
In your minds, concern about species is  
secondary if even that. Your biggest focus  
is on taking fresh water from the Delta  
and sending it to cities built in the L.A.  
area and other coastal communities,

"Please address this directly in for final EIR/EIS."

Ken Wilson  
President / Wilson Farms

**Kathy Hunn**

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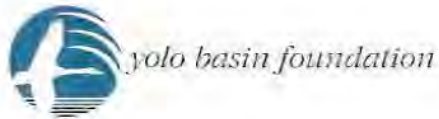
**From:** Kenneth Wilson [Kenneth@wilsonvineyards.com]  
**Sent:** Monday, April 20, 2009 5:31 PM  
**To:** phunn@frontiernet.net  
**Subject:** BDCP response

After listening to the BDCP panel' supposed concern about the fish and their dropping numbers, I asked:

So how does pumping fresh water out of the Delta to send down south help the fish? I commented that I felt that their concern was bogus and that their main concern was shipping water down south so that the folks down there could fill their swimming pools.

Please address this directly in your final EIR/EIS.

Ken Wilson  
President/Wilson Farms  
P.O.Box 307  
Clarksburg, Ca. 95612



March 18, 2009

Karen Scarborough  
Chair, Bay Delta Conservation Plan Steering Committee  
Resources Agency  
1416 Ninth Street  
Sacramento, CA 95814

Dear Ms. Scarborough:

The Yolo Basin Foundation has been monitoring the development of the Bay Delta Conservation Plan and would like to take the opportunity of the EIR/EIS Scoping process to submit comments for the public record. Attached to this letter is a position paper prepared by Yolo Basin Foundation regarding the BDCP and also the "Yolo Bypass Conceptual Aquatic Restoration Opportunities," a plan approved by the Yolo Bypass interagency Working Group in September 2006.

The Yolo Basin Foundation is a nonprofit community-based organization founded in 1990 and is dedicated to the appreciation and stewardship of wetlands and wildlife through education and innovative partnerships. It is universally credited with facilitating the creation of the Yolo Bypass Wildlife Area. The Foundation and California Department of Fish and Game are nationally recognized for their success in unifying agriculture, wildlife habitat, and flood protection in their partnerships and educational programs.

The Yolo Basin Foundation Board of Directors represents the diversity of wetlands related interests including agriculture, education, hunting, business, research, and conservation. We look forward to working with the BDCP Steering Committee as the plan progresses.

Sincerely,

A handwritten signature in blue ink that reads "Robin Kulakow".

Robin Kulakow  
Executive Director



## **Yolo Basin Foundation Position on: BDCP Habitat Conservation Measure— Modification of Fremont Weir**

The Yolo Bypass consists of an outstanding mix of agriculture and terrestrial and wetland habitats. It is the location of the Department of Fish and Game's 16,000-acre Yolo Bypass Wildlife Area, which utilizes agriculture to help provide wildlife habitat for thousands of animals in a way that is compatible with the flood control function of the Bypass. It is home to many threatened and endangered species and provides a wildlife viewing, environmental education, and waterfowl hunting destination, as well as simply a peaceful place to enjoy open space, all within sight of the State Capitol.

The Yolo Bypass Wildlife Area depends on agricultural leases to pay a significant portion its operations and maintenance costs. Rice is the principal crop grown in the Wildlife Area and is the most valuable crop grown in the Yolo Bypass. Other crops include corn, tomatoes, and forage crops, as well as cattle ranching, both in the Wildlife Area and the greater Bypass. Farming in the Yolo Bypass is challenging, and farmers need to be working in their fields by mid-March. It is the activity of farming that keeps Bypass vegetation under control, thus allowing flood waters to pass through quickly and unobstructed.

The Fremont Weir at the north end of the Bypass functions as a flood relief valve that protects the heavily populated Sacramento metropolitan area when the Sacramento River reaches flood stage at 33.5 feet. Flood control is the overarching function of the Yolo Bypass and carries flood waters past Sacramento on average once every three years.

Habitat Conservation Measures as currently described in the Bay Delta Conservation Plan will have adverse impacts on the Yolo Bypass Wildlife Area. Specifically, the proposed Floodplain Habitat Restoration Conservation Measure (FLOO1.1): "Modify the Fremont Weir and the Yolo Bypass to provide for a higher frequency and duration of inundation." The stated goal is create an operable gate to sustain flood flows into the Bypass for 30-45 days between December 1 and May 15 to create flood plain habitat for Chinook salmon and Sacramento splittail.

This measure would have serious impacts to current land use in the Yolo Bypass Wildlife Area by:

- compromising the floodway function of the Yolo Bypass,
- effectively eliminating the current agricultural activities in the Wildlife Area and thus seriously impacting its income stream, and
- making the Wildlife Area unusable for the thousands of school children who annually participate in the Yolo Basin Foundation's *Discover the Flyway* school program.

The development of this BDCP does create an opportunity to look for alternatives that avoid the impacts described above while achieving realistic fisheries goals. The Lower Yolo Bypass Planning Forum BDCP Conservation Measures Committee, co-sponsored by Yolo Basin Foundation and the Delta Protection Commission provides a valuable stakeholder forum in which to develop ecosystem-based alternatives to improve fish habitat while protecting existing uses.

In considering possible alternatives, Yolo Basin Foundation asks that the Committee incorporate the five actions that are described in “Yolo Bypass Conceptual Aquatic Restoration Opportunities” approved by the Yolo Bypass Interagency Working Group in 2006. See attached document.

Any alternative under consideration for the Bypass should protect the Yolo Bypass Wildlife Area as managed under the Yolo Bypass Wildlife Area Land Management Plan adopted by California Department of Fish and Game in June 2008, including:

- protection of the floodway function of the Yolo Bypass as mandated in agreements between the Department of Fish and Game and the US Army Corps of Engineers and MOUs with other agencies,
- implementation of wildlife and botanical surveys to specifically document areas that have not yet been surveyed, e.g. Giant Garter Snake and vernal pool habitats, and
- preservation of agriculture at the Wildlife Area.

The Yolo Basin Foundation has twenty years of experience in maintaining the partnerships needed to successfully improve fish and wildlife habitat in the Wildlife Area and the larger Yolo Bypass. The Foundation believes that a certain scale of spring inundation of the Yolo Bypass is possible without sacrificing all that is being accomplished at the Yolo Bypass Wildlife Area. Foundation staff and board members look forward to working with BDCP Steering Committee members and staff to address the goals of the BDCP in the Yolo Bypass.

## Yolo Bypass Interagency Working Group

California Department of Fish and Game  
California Department of Water Resources  
National Marine Fisheries Service  
US Fish and Wildlife Service

September 2006

### Yolo Bypass Conceptual Aquatic Restoration Opportunities: Keeping Yolo Bypass Users Whole While Improving Aquatic Conditions

The following describes potential northern Yolo Bypass (above Little Holland Tract) aquatic restoration opportunities. The CALFED Ecosystem Restoration Program Implementing Agencies (CDFG, USFWS, NMFS) in cooperation with the DWR, are evaluating the feasibility of implementing the following opportunities. These opportunities were developed through consultations with participating agencies of the Yolo Bypass Interagency Working Group (YBIWG).

The YBIWG acknowledges key issues, interests, and concerns raised during previous discussions with stakeholders and evaluates potential restoration opportunities with these issues in mind. The YBIWG intends to keep all users and interests whole.

The mission of the YBIWG is to improve conditions for native fish species (particularly State and federal Threatened and Endangered fish species and species of special concern) in the Yolo Bypass, thereby enhancing populations and recovery efforts while maintaining or improving existing conditions for land management.

This document focuses, at a conceptual level, on the sequential development of potential restoration opportunities in the northern Yolo Bypass. The set of potential restoration opportunities is provided to foster discussion among public entities and stakeholders interested in the northern Yolo Bypass. YBIWG Stakeholder Outreach will involve: presenting conceptual restoration opportunities, seeking stakeholder input to guide further actions, and, in concert with stakeholders, developing an appropriate restoration plan that maintains or improves conditions in the Yolo Bypass for native fish and bypass users.

The YBIWG has identified the following potential restoration opportunities for further evaluation:

- **Putah Creek** – Lower Putah Creek stream realignment and floodplain restoration for fish passage improvement and multi-species habitat development on existing public lands.

- **Lisbon Weir** – Modify or replace the weir to improve the agriculture and habitat water control structure for fish, wildlife, and agriculture; reduce maintenance.
- **Additional multi-species habitat development** – Provide for controlled localized seasonal inundation on more frequent intervals; identify areas of opportunity only on: the Wildlife Area; other existing public lands; and private lands where cooperative agreements with willing land owners provide mutual benefits.
- **Tule Canal connectivity** – Identify passage impediments (e.g. road crossings and impoundments); work with land owners to develop the best options for improving fish passage and ensuring water diversion capability.
- **Multi-species fish passage structure**– Investigate the redesign of the existing fish ladder; evaluate the feasibility of constructing a new fish passage structure, operated to ensure: continued maintenance of flood capacity; no substantial changes in timing, volume, and/or duration of flow; and minimal disturbance to existing land use and agricultural practices.

Biological monitoring will be implemented as necessary and may be used to guide future actions and adaptive management.

Multi-species restoration opportunities discussed here are presented in a sequential order of completion. For the full value of the proposed restoration opportunities in the Yolo Bypass to be realized, the following ordered scheme should occur.

### **Step 1 - Putah Creek**

Evaluate and develop a plan for the realignment and restoration of lower Putah Creek. The area proposed for restoration is within existing public lands. The realignment has the potential to create 130 to 300 acres of shallow water habitat. Benefits would include improved salmonid immigration and emigration to and from Putah Creek, an increase in avian (shorebird and waterfowl) habitat, increased aquatic and riparian habitat for other native species, as well as a significant enhancement to existing fish habitat in and around Putah Creek.

Goals:

- Improve passage, rearing, and emigration of adult and juvenile salmon and steelhead in Putah Creek.
- Provide diverse aquatic and riparian habitats for shorebirds, ground nesting birds, waterfowl, plants, invertebrates, plankton, and spawning and rearing of native fish species.

### **Step 2 – Lisbon Weir**

Modify or replace Lisbon Weir to provide better fisheries management opportunities in Putah Creek and the Toe Drain, while improving the reliability of

agricultural diversions and reducing maintenance requirements. A conceptual example of the synergistic benefits of these proposed restoration actions is the idea that improving Lisbon Weir's reliability for agricultural diversions could increase flexibility in water distribution, thereby allowing for greater attraction flows to be released down the realigned Putah Creek.

Goals:

- Improve irrigation water distribution system to benefit fish and wildlife, and agriculture.
- Improve likelihood of adult fall-run Chinook immigration to Putah Creek
- Reduce delay and possible stranding of adult steelhead, Chinook salmon and sturgeon, when passable conditions to the Sacramento River exist.
- Reduce delay of juvenile salmonid emigration within the Toe Drain.

### **Step 3 – Additional multi-species habitat development**

Expand existing shallow water habitat for various species including juvenile native fish. Additional multi-species habitat could be developed through the excavation of a low shelf along a limited portion of the Toe Drain and through small scale setback levees, or by other unidentified means. Restoration opportunities for the development of additional seasonal shallow water habitat, where opportunities exist, may occur on:

1. Undeveloped lands within the Yolo Bypass Wildlife Area.
2. Other undeveloped public lands within the Yolo Bypass.
3. Private lands where cooperative agreements between the implementing agencies and the landowners provides mutual benefits.

Goals:

- Increase rearing habitat available to juvenile steelhead, Chinook salmon, and splittail.
- Increase shallow water habitat availability for multiple species (fish, wildlife, plankton, and others).

### **Step 4 – Tule Canal Connectivity**

Identify areas of stranding adjacent to the Fremont Weir. Evaluate the feasibility of improving connectivity between the Fremont Weir, the Fremont Weir scour ponds, and the Toe Drain to reduce stranding of adult and juvenile fish. Identify seasonal road crossings and agricultural impoundments in the northern Yolo Bypass that impact wetted habitat connectivity, immigration, and emigration of fish species utilizing the Yolo Bypass. Develop conceptual approaches for the modification of crossings and impoundments to improve fish passage while ensuring continued water diversion capability.

Goals:

- Reduce delay and stranding of adult steelhead, Chinook salmon, and sturgeon immigrating within the Yolo Bypass
- Reduce delay and overall losses of juvenile Chinook salmon and steelhead emigrating within the Yolo Bypass.

**Step 5 – Multi-species fish passage**

Evaluate the feasibility and appropriateness of providing fish passage improvements in and along the Fremont Weir. Appropriate operational constraints would guide plan development and would ensure:

1. Continued maintenance of flood conveyance capacity.
2. No substantial changes in timing, volume, and/or duration flow.
3. Minimal disturbance to existing land use and agricultural practices.

Restoration opportunities may include the addition of a new, controlled multi-species fish passage structure at the eastern edge of the Fremont Weir. Additionally, restoration opportunities may include improvements along the existing weir face and apron to facilitate sturgeon passage along the length of Fremont Weir without introducing any additional flows. Conceptual designs for this option could include rock ramps that would provide a gradual slope up the face of the weir. In addition to the installation of new fish passage structures, the existing fish ladder will be analyzed to determine if modifications could allow for a greater range of fish species passage.

Goals:

- When present in the northern Yolo Bypass, improve immigration and emigration (reduce delay and stranding) of adult and juvenile fish (steelhead, Chinook salmon, and sturgeon).





The intent of the YBIWG is to keep all users and interests whole. The YBIWG identified potential restoration opportunities with consideration to the following areas of concern:

- Agricultural operations and lifestyle
- Flood control
- Educational activities
- Public and private waterfowl management operations and lifestyle
- Water quality
- Wildlife Area infrastructure investments
- Wildlife management operations
- Recreation
- Vector control
- Benefits to fish

The YBIWG is open to considering additional areas of concern that may be identified through additional stakeholder outreach. Conceptual restoration opportunities were developed to keep all users and interests whole. To this end, restoration opportunities that significantly changed the timing and/or duration of flow, or that resulted in substantial new regulation of the Yolo Bypass, were eliminated from further consideration.

**bdcpcments**

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**From:** Robin Kulakow [robin@yolobasin.org] **Sent:** Wed 5/13/2009 4:25 PM  
**To:** bdcpcments  
**Cc:** lois.wolk@sen.ca.gov; Mariko Yamada; Jim Provenza  
**Subject:** Comments for BDCP EIR/EIS  
**Attachments:**  YBF Position on Fremont Weir 4-8-09 .pdf(142KB)  ATT127801.txt(180B)  DE Op-Ed 4-26-09.pdf  
(113KB)  ATT127801.txt(187B)

Hello: I would like to enter the attached documents into the public record as comments from the Yolo Basin Foundation. These documents are in addition to our comments submitted at the Davis Public Scoping meeting:

The first document is a statement of the position of the Yolo Basin Foundation. Please address the adverse impacts and suggested actions listed in this document in the EIR/EIS.

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<<YBF Position on Fremont Weir 4-8-09 .pdf>> <<ATT127801.txt>> <<DE Op-Ed 4-26-09.pdf>>  
<<ATT127801.txt>>





## **Yolo Basin Foundation Proposal to Create a Yolo Bypass Conservation Measure for the Bay Delta Conservation Plan**

The Yolo Bypass consists of a diverse mix of agriculture and wetland habitats in the North Delta. It is the location of the Department of Fish and Game's 16,000-acre Yolo Bypass Wildlife Area, which utilizes agriculture to help provide wildlife habitat for thousands of animals in a way that is compatible with the flood control function of the Bypass. It is home to many threatened and endangered species and provides a wildlife viewing, environmental education, and waterfowl hunting destination, as well as simply a peaceful place to enjoy open space, all within sight of the State Capitol.

Yolo Basin Foundation believes that a key Habitat Conservation Measure as currently described in the Bay Delta Conservation Plan will have adverse impacts on this outstanding regional treasure.

The proposed measure is Floodplain Habitat Restoration Conservation Measure (FLOO1.1): "Modify the Fremont Weir and the Yolo Bypass to provide for a higher frequency and duration of inundation." The stated goal is to create an operable gate to sustain flood flows into the Bypass for 30-45 days between December 1 and May 15 to create flood plain habitat for Chinook salmon and Sacramento splittail.

This measure would seriously affect the ability of Fish and Game personnel to manage the Wildlife Area in accordance with the Yolo Bypass Wildlife Area Land Management Plan adopted in 2008 and other foundational agreements, including the US Army Corps of Engineers Operation and Maintenance Manual and MOUs signed by flood control and wildlife agencies in 1994. It would:

- effectively eliminate the current agricultural activities in the Wildlife Area which provide thousands of acres of wintering waterfowl habitat while generating an important income stream for the management of the Wildlife Area;
- curtail all public use on the Wildlife Area when the Fremont Weir is spilling, including the elimination of access for the thousands of school children in the spring who annually participate in the Yolo Basin Foundation's *Discover the Flyway* school program; and
- prevent the wetland management practices that maintain the Wildlife Area in a flood neutral state.

The development of this BDCP does create an opportunity to look for alternatives that avoid the effects described above while achieving realistic fisheries goals. The Yolo Basin Foundation proposes an alternative that would create a Yolo Bypass Conservation measure in place of the proposed Fremont Weir modification. This new measure would incorporate the five actions that are described in "Yolo Bypass Conceptual Aquatic Restoration Opportunities" approved by the Yolo Bypass Interagency Working Group in 2006. Known as the "Five Step Proposal," the actions are:

- **Putah Creek**—Implement Lower Putah Creek stream realignment and floodplain restoration for fish passage improvement and multi-species habitat development on existing public lands.
- **Lisbon Weir**—Modify or replace the weir to improve the agriculture and habitat water control structure for fish, wildlife, and agriculture.
- **Additional Multi-species Habitat Development**—Provide for controlled, localized seasonal inundation on more frequent intervals; identify areas of opportunity only on: the Yolo Wildlife Area, other existing public lands, and private lands where cooperative agreements with willing landowners provide mutual benefits.
- **Tule Canal Connectivity**—Identify passage impediments (e.g. road crossings and impoundments), work with landowners to develop the best options for improving fish passage and insuring water diversion capability.
- **Multi-species Fish Passage Structure on the Fremont Weir**—Investigate the redesign of the existing fish ladder, evaluate the feasibility of constructing a new fish passage structure operated to insure continued maintenance of flood capacity, no substantial changes in timing, volume, and/or duration of flow and minimal disturbance to existing land use and agricultural practices.

These actions were developed in a formal collaboration with CA Department of Fish and Game, US Fish and Wildlife Service, CA Department of Water Resources, and National Marine Fisheries Service with the co-equal goals of improving aquatic habitat and keeping Yolo Bypass users whole. These five actions are included in the Yolo Bypass Wildlife Area Land Management Plan. They are also part of the Bypass-wide package of actions that make up the Yolo Bypass Integrated Project within the Yolo County Integrated Regional Water Management Plan. This plan was crafted by a long standing group of stakeholders representing the Yolo Bypass.

Since the Five Step Proposal focuses on Putah Creek and Yolo Bypass infrastructure, an action to increase the frequency and duration of spring flooding from the Sacramento River could also be included. This approach would more directly benefit Sacramento River salmon.

Finally, any change in inundation patterns in the Yolo Bypass would have to protect the Yolo Bypass Wildlife Area and be developed in conjunction with the Central Valley Flood Protection Board.

The Lower Yolo Bypass Planning Forum, a formal collaboration co-sponsored by Yolo Basin Foundation and the Delta Protection Commission, provides a means for stakeholders to develop an ecosystem-based set of actions to improve fish habitat while protecting existing uses. We encourage the BDCP Steering Committee to collaborate with this group.

The Yolo Basin Foundation has twenty years of experience in maintaining the partnerships needed to successfully improve fish and wildlife habitat in the Wildlife Area, and the larger Yolo Bypass. Foundation staff and board members look forward to working with BDCP Steering Committee members and staff to address the goals of the BDCP in the Yolo Bypass.

The second document is an op-ed that appeared in the Davis Enterprise that also addresses our concerns.

**Yolo Basin Foundation Op-Ed Regarding the Bay Delta Conservation Plan**  
*(This opinion piece appeared in the Davis Enterprise on 4/26/09 as  
“Spring Flooding Imperils Bypass.”)*

Don't throw the baby out with the bathwater! A measure contained in the Bay Delta Conservation Plan (BDCP) would do just that if it isn't modified.

The Sacramento-San Joaquin Delta ecosystem is in trouble. Governor Schwarzenegger has assembled an army of agency leaders, staff and consultants with the goal of solving the Delta ecosystem crisis and providing guaranteed water to Southern California people and farms before he leaves office. “Delta Vision,” published in November 2008, is the outcome of their effort, and the BDCP is a complex multi-party plan to carry out the goals of “Delta Vision” within the context of the state and federal endangered species acts.

A model for solving the Delta's problems exists here in Yolo County--the 16,000-acre Yolo Bypass Wildlife Area, and the partnerships it was founded on. Instead of incorporating this successful model, policy makers are on their way to undoing 20 years of community effort to create and manage this amazing public resource.

The Yolo Bypass Wildlife Area, owned and operated by the CA Department of Fish and Game, exemplifies the power of diverse interests working together, and its success is possible because of widespread community and agency support that is based on a long running grassroots effort. It exists within the flood control function of the Bypass; it contributes to the agricultural economy of Yolo County; and it is an open space jewel for the regional community, all while providing a healthy, diverse wetlands ecosystem. The fact that the Yolo Bypass Wildlife Area is located adjacent to the State Capitol means it is accessible to a large metropolitan population, and its impact on building a community environmental ethic should not be underestimated.

The BDCP proposes to construct a notch in the Fremont Weir in order to prolong spring flooding, fundamentally changing how the Bypass works. The Fremont Weir currently diverts up to 500,000 cubic feet per second of water into the Yolo Bypass when the Sacramento River reaches flood stage. The proposed modification would be used to flood the Bypass for a 45 day period between January and May in most years.

This proposal is based on studies that compared the health of young ocean-going salmon that were carried by floodwaters into the Bypass with similar smolts caught in the Sacramento River. The fish that migrated via the Bypass showed signs of being healthier than those that migrated through the channelized Sacramento River. It is hypothesized that the difference is based on time spent in the shallow waters of the Yolo Bypass floodplain.

While this proposed measure may improve the survival chances for some young salmon in a few more years than currently happens, it is only one among many actions that need to be completed to improve salmon survival throughout their life cycle to the ocean and back. The Yolo Bypass Wildlife Area Land Management Plan contains five other actions to improve conditions for salmon and other native fish without notching the Fremont Weir. A copy of the plan can be found on the Yolo Basin Foundation's website: [www.yolobasin.org](http://www.yolobasin.org).

Increased frequency and duration of spring flooding will have a serious impact on agriculture and habitat management in the Yolo Bypass, tipping the balance toward inviability. The extensive rice growing operations in the Bypass provide millions of dollars of income that contributes to the vibrant Yolo County agriculture economy as well as valuable habitat for water birds. The Yolo County Agriculture Commission estimates that the combination of rice and other crops plus ranching in the Yolo Bypass creates about \$44 million in direct farm income annually.

Rice farmers need to start preparing the ground and planting rice starting in March. There are already years in which spring flooding prevents this field work and the rice acreage decreases significantly. Increased spring flooding makes nearly every year a bad year for Bypass farmers and the habitat benefits they provide.

Agriculture, including ranching, is fully integrated into the management of the Wildlife Area. With the involvement of the Dixon Resource Conservation District, agricultural activities help Fish and Game fulfill their habitat goals while generating important income for the operation of the Wildlife Area. This income is what makes it possible for the Wildlife Area to be open to the public and managed in a way that creates and sustains diverse habitat.

Spring flooding is problematic in other ways. Floodwaters that linger into spring encourage the growth of tules, cattails, and willows which left unmanaged will slow down the movement of floodwaters. This proliferation of emergent vegetation reduces the ability of the Yolo Bypass to move floodwaters away from urban areas as designed. Late spring flooding also adversely affects the success of ground nesting birds because the growth of grasses that provide cover is delayed.

Yolo Basin Foundation, the nonprofit associated with the Wildlife Area, is working to deliver the message to the members of the BDCP Steering Committee that there are other measures available to improve aquatic habitat for fish while sustaining the existing high quality mosaic of farm fields and wetlands. We are encouraging them to work with us to develop a set of actions that builds upon the success of the Yolo Bypass Wildlife Area and honors current management underway on public and private lands throughout the Yolo Bypass.

We also urge the citizens of Yolo County to weigh in on the BDCP effort by expressing support for the protection of the Yolo Bypass Wildlife Area and the values it represents. The BDCP EIR/EIS scoping process is open for public comment until May 14<sup>th</sup>. For information on how to submit comments go to <http://www.resources.ca.gov/bdcp/>.

Robin Kulakow  
Ann Brice  
Yolo Basin Foundation

Thank you for the opportunity to comment.

Robin Kulakow  
Executive Director  
Yolo Basin Foundation  
(530)-756-7248

**bdepccomments**

---



**From:** Robin Kulakow [robin@yolobasin.org]

**Sent:** Fri 5/15/2009 1:34 PM

**To:** bdepccomments

**Cc:**

**Subject:** Yolo Bypass

**Attachments:**  Impacts of proposed Fremont Weir modification 4-09.pdf(164KB)  ATT134336.htm(377B)

I would like to add to the comments and letters submitted by Yolo Basin Foundation, the following documents that specifically address concerns about the proposed modification to the Fremont Weir. The documents are the Yolo Bypass Management Strategy and the Yolo Bypass Wildlife Area Land Management Plan (a CEQA document) Please add these to the public record as well. Please especially note the planning influences section of the Yolo Bypass Wildlife Area Land Management Plan. These documents are posted on our website, [www.yolobasin.org](http://www.yolobasin.org). I will also send you CDs with the documents.

Additionally I am attaching the link to the minutes of the Yolo Bypass Working Group. There are extensive stakeholder comments and questions regarding the proposed measure going back to 1999. There is reference to concerns about CALFED's proposal to increase the frequency and duration of spring flooding at the very first meeting, Nov. 1999. See page 8 for specific reference to the concerns although, the whole discussion centered around the impacts of frequency and duration of spring flooding. If you wish I can also send you a CD with the minutes as well.

I have also attached a document listing impacts to the Yolo Bypass Wildlife Area.

Thank you,

Robin Kulakow  
Executive Director

Yolo Bypass Management Strategy  
[http://www.yolobasin.org/bypass\\_strategy.cfm](http://www.yolobasin.org/bypass_strategy.cfm)

Yolo Bypass Land Management Plan  
<http://www.yolobasin.org/management.cfm>

Yolo Bypass Working Group minutes  
[http://www.yolobasin.org/bypass\\_group.cfm](http://www.yolobasin.org/bypass_group.cfm)



## **BDCP Habitat Conservation Measure (FLOO1.1): Modification of Fremont Weir and Spring Inundation of the Yolo Bypass**

The Yolo Bypass Wildlife Area is a unique resource that provides substantial environmental, social, and economic benefits to the people of California. The 16,000 acres consists of an outstanding mix of terrestrial and wetland habitats that is home to many threatened and endangered species. It is the most popular wildlife viewing, environmental education, and waterfowl hunting destination in the Sacramento Delta.

Habitat Conservation Measures described in the Bay Delta Conservation Plan will have adverse impacts on the Yolo Bypass Wildlife Area. Specifically, the proposed Floodplain Habitat Restoration Conservation Measure (FLOO1.1): “Modify the Fremont Weir and the Yolo Bypass to provide for a higher frequency and duration of inundation,” must be evaluated for compatibility with existing public use programs, agricultural and wetland operations, and legal obligations under state, federal and international law.

The immediate **adverse impacts** of more frequent inundation of the Yolo Bypass include but are not limited to:

- **Public Use (All public use activities cease when the Bypass floods.)**
  - School Program: Approximately 4,000 students annually visit the Wildlife Area annually as part of the “Discover the Flyway” program. The program attracts students from over 100 schools in 5 counties.
  - Hunting Activity: Over 4,000 hunters utilize the area from throughout northern California. Hunter dollars provide the largest component of the operating budget at Yolo.
  - Wildlife Viewing: It is estimated that 30,000 people a year visit the Wildlife Area to view the large variety and number of birds, which peak in the winter and spring months.
- **Agriculture**
  - Agricultural Activities: There will be an inability to plant fields until they have dried out enough to begin ground tillage. Delaying this initiation of farming activity severely limits what can be grown here. White rice production will be severely impacted.
  - Forage value of uplands: Prolonged flooding results in the introduction of unwanted plant species, such as cocklebur, in the uplands. This will lead to a reduction in grazing lease fees and subsequent reduction in operating funds.
- **Wildlife**
  - Spring Nesting: This activity will be nearly eliminated. Ground nesting birds such as waterfowl, harriers, kites and shorebirds are especially vulnerable to spring flooding.
  - Rodent Presence: Fewer rodents, due to flooding, results in a reduction in food for wintering raptors.
  - Threatened and Endangered Terrestrial and Wetland Species: There will be adverse impacts to numerous protected species.



### ***Adverse Impacts (continued)***

- **Vector Control**
  - Best Management Practices: Established BMPs for wetland management under controlled conditions will not apply, resulting in increased mosquito production. The BMPs are the basis for our working relationship with Sacramento Yolo Mosquito and Vector Control District.
- **Flood Control**
  - Agreed upon vegetation densities will not be manageable with increased spring flooding, which encourages uncontrolled growth of tules, cattails and willows. This will make the Wildlife Area non compliant with the flood control function of the Yolo Bypass.
- **Methylmercury**
  - Best Management Practices: Current BMPs developed as part of a Total Maximum Daily Load for the Delta, will reduce the creation of methylmercury in wetlands that is subsequently transported to the Delta. These BMPs will not be applicable with increased flooding. The result could be a net increase in the levels of methylmercury being transported to the Delta.

### **Existing Obligations Impacted by FLOO1.1:**

- Agreements signed by DFG to manage habitat that is compatible with flood control: Project Modification Report, USACOE and DFG 1992; Other MOUs signed in 1994.
- Legal requirements of federal and state easement programs including federal Wetland Reserve Program, Presley Program and others on both public and private lands require a set management regime.
- Use of NAWCA funds to restore wetlands obligated DFG to manage the constructed wetlands for the benefit of migratory waterfowl and shorebirds in perpetuity.
- Increased spring inundation compromises the long established goals of the Central Valley Joint Venture and violates the DFG's commitment to manage these wetlands for waterfowl and shorebirds.
- Increased spring inundation affects the International Waterfowl Management Plan, an international treaty aimed at protecting migratory waterfowl populations.
- The Wildlife Area provides important habitat for several listed species, including Giant Garter Snake, Snowy Plover, Conservancy Fairy Shrimp, and Ferris' Alakali Milk Vetch.





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**DIRECTOR**

Judy Boshoven

April 16, 2009

Ms. Delores Brown, Chief  
Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

Dear Ms. Brown,

The Yolo Land Trust (YLT) has reviewed the online scoping materials for the environmental review under NEPA and CEQA presented by the Bay Delta Conservation Plan (BDCP).

From the maps presented, it appears that the western route for the project would traverse properties owned by Linda Elliot in the area between West Sacramento and Clarksburg and the Sacramento River and the Deepwater Ship Channel in Yolo County for which YLT holds conservation easements.

This letter is to inform the BDCP that YLT intends to vehemently uphold the terms of the conservation easements that are potentially affected by the BDCP and recommends that these impacts be specifically addressed in the NEPA and CEQA documents.

Sincerely,

Judy Boshoven  
Executive Director

Copies to:  
Linda Elliot  
Yolo County Board of Supervisors  
Yolo County Planning Department



Yolo Habitat/Natural Community Conservation Plan Joint Powers Agency

## YOLO NATURAL HERITAGE PROGRAM

~ Partnering for conservation ~

March 20, 2009

Secretary Mike Chrisman  
Undersecretary Karen Scarborough  
California Natural Resources Agency  
Bay Delta Conservation Plan Steering Committee members  
1416 9<sup>th</sup> Street, Suite 1311  
Sacramento, CA 95814

*Member Agencies:*

*County of Yolo*

*City of Davis*

*City of Winters*

*City of West Sacramento*

*City of Woodland*

*University of California,  
Davis*

Secretary Chrisman, Undersecretary Scarborough, and Committee members:

Yolo County, its incorporated cities, and the University of California at Davis (jointly the "Yolo Habitat JPA") are developing a county-wide, multi-species HCP/NCCP known as the Yolo Natural Heritage Program (YNHP). Substantial public and private investment has been made to date on this effort and we anticipate plan approval in the spring of 2010. The Yolo Natural Heritage Program is expected to provide regulatory and conservation benefits for more than 65 special status and at risk species that inhabit five natural communities in Yolo County. Eight other landscape level conservation efforts are in various stages of completion between Lake Tahoe and San Francisco Bay. Yolo County, located midway between Tahoe and San Francisco, is strategically important to the completion of this meaningful habitat corridor in Northern California.

The JPA commends the state and its partners on the decision to engage in serious discussions regarding the health of the Sacramento-San Joaquin Delta through development of the Bay Delta Conservation Plan. We have been advised by staff to the Bay Delta Conservation Plan that the most reliable way to convey information to the BDCP process is in writing. This letter serves two purposes: to provide the JPA's comments and concerns to date relative to the developing BDCP, and to request that the BDCP and the JPA establish a formal coordinating structure where opportunities and conflicts can be addressed efficiently and to our mutual benefit. The JPA is ready to engage in this effort and looks forward to discussing how we move forward productively.

The BDCP and YNHP share an approximately 90,920 acre planning overlap area that provides functional habitat for several species of interest to both planning efforts. These include giant garter snake, Swainson's hawk, and valley elderberry longhorn beetle, as well as grasslands and seasonal wetland communities. The habitat values within the overlap area are critical to the viability of several at risk species, including near endemic plants that could be impacted by BDCP-related habitat conversions unless careful analysis is undertaken early in the planning process. The overlap

planning area also supports habitat friendly agriculture and the Vic Fazio Wildlife Area, two highly valued assets that we believe should be preserved.

While we expect that our mutual interests will continue to evolve, at this time the JPA offers the following specific comments:

#### Habitat

To ensure compatibility between the two plans we recommend that BDCP conservation objectives be coordinated early with the YNHP where we share common species needs. The YNHP has assembled a robust data set and is ready to engage in this discussion. Unavoidable habitat conversions resulting from BDCP actions must be fully mitigated. This includes mitigation for impacts to terrestrial species as well as for the loss of agricultural resources. BDCP and YNHP should each apply standardized mitigation ratios in the overlap area to ensure that equitable outcomes and benefits are realized. BDCP and YNHP implementing strategies should be coordinated as both planning efforts continue to evolve so that neither plan overshadows the other. We request that BDCP support our efforts to retain vegetated levees within the YNHP planning area boundary. The JPA supports the continued viability of the Vic Fazio Wildlife Area and requests that BDCP avoid impacts to this important habitat resource.

#### Agriculture

The production of rice within and outside of the Yolo Bypass is essential to the successful implementation of the YNHP because it provides habitat benefits to several YNHP species, including giant garter snake. We are concerned that BDCP proposals to inundate the Yolo Bypass for the benefit of fish species will compromise future production of rice in the Bypass, and by extension throughout the county. We ask that BDCP carefully evaluate proposals in the Bypass and where practical avoid sensitive biological resources and agricultural operations that provide species benefits. BDCP must provide regulatory assurances for landowners adjacent to BDCP habitat project areas. County revenue losses and increased public cost burdens associated with BDCP actions must be fully accounted for and mitigated.

#### Permitting

The JPA requests that the following projects be added to the BDCP covered activities list. These projects are proximate to Delta waters and would benefit from regulatory permitting anticipated in the BDCP that cannot be achieved in the YNHP. We can provide detailed information on the scope of these activities upon request.

Davis/Woodland/UCD surface water project

Davis/Woodland wastewater discharge project

Port of Sacramento

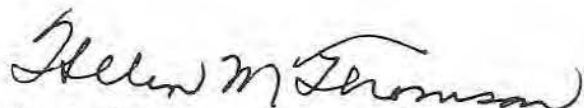
Restoration and habitat enhancements undertaken in the YNHP that have the potential to impact BDCP target species

We realize that BDCP is on an accelerated timeline and are willing to marshal resources to ensure that our proposal does not impede BDCP progress. Because the YNHP and BDCP are expected to produce final plan documents within the same time frame we trust that our request will be considered expeditiously.

Secretary Chrisman  
March 20, 2009  
Page 3 of 3

Please contact me or Maria Wong, JPA Executive Director, with any questions you have. I look forward to scheduling our first meeting at the earliest opportunity.

Cordially,



Helen M. Thomson  
Chairwoman, Yolo County HCP/NCCP Joint Powers Agency

cc: Senator Lois Wolk  
Assemblymember Mariko Yamada  
Mayor Cabaldon, City of West Sacramento  
Mayor Davies, City of Woodland  
Mayor Asmundson, City of Davis  
Mayor Martin, City of Winters  
Chair McGowan, Yolo County Board of Supervisors  
Chancellor Vanderhoef, University of California, Davis

1 **APPENDIX I: COPIES OF TRANSCRIPTS OF 2008 PRELIMINARY**  
2 **SCOPING MEETINGS**

**BUREAU OF RECLAMATION**

**WATER EDUCATION FOUNDATION**

**717 H Street, Suite 317  
Sacramento, CA 95814**

**--ooOoo--**

**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**BAKERSFIELD**



**Bakersfield:**

Chair: I have a number of speaker cards here. If you didn't fill out a speaker card and you'd like to make a comment, you can grab one from the folks in the back and they'll bring it up to me. Otherwise, I'm just got a few here and we'll go ahead and get started. So the first one I have here is Jim Beck. I have a little timer here, too, for you to watch.

Mr. Beck: (indiscernible)

Chair: That's right. I'll even let you say your name first, too.

Mr. Beck: Thank you for visiting Bakersfield. This is the tenth stop on your world tour, and it's definitely going to be the most important place you visit. I'm Jim Beck. I'm the General Manager of the Kern County Water Agency, and Brent (indiscernible) been on the representatives from our agency that's been participating as part of the (indiscernible). And I just want to take the opportunity to express how important completion of the BDCP is to Kern County, and especially our agency. We're the second largest agricultural contractor on the State Water Project. We're the third largest urban contractor. And so the livelihood, the way of life of Kern County really relies on the Delta. And so the mission that you all have been

charged with is very important to us, and really the fate of our county is in some ways in your hands. So you have a very weighty responsibility and it's very important to us that the take permits that are part of the outcome of this be received. I think you're familiar with some of the significant impacts that we've received this year as a result of the lack of those permits and the decision under Judge Wanger, which is costing us at least 400,000 acre feet of water. That's a huge hit for Kern County, and it indicates the necessity for a long-term solution to the Delta issues. We believe that construction of an isolated facility, the operation of dual conveyance, is the most reasonable approach, and we expect that the BDCP process will lead to that conclusion. I think the important challenge for you, and for us as water users, is to make sure that process doesn't get derailed. We can't afford to wait. Next year's going to be a really tough year in our neck of the woods. You ought to visit us next year at this time, if we face some even more critical situations. And I think that that's a message, too, that as you complete the BDCP, remember the co-equal role of protecting species and protecting water supplies. Again, in this portion of the state, it seems that often the importance of protecting species at any cost seems to be the way business is

trying to get done in California. And often we see water users, and especially agricultural water users, unfairly targeted as the solution to all the species problems in the Delta. Again, we would hope that you continue to take up the message that we've bringing to Sacramento. And as part of this process you've got to take a fair look at all the stressors that are affecting the health of the Delta, that's invasive species, that's toxics, that's other pumpers besides the federal and state export facilities. And again, we think that that's an important part, that you maintain a scientific objectivity that looks at all of the stressors that have been identified. Again, I want to say thank you for coming and for giving us a chance to express some of Kern's concerns, and also some of the support that we have for the BDCP process. And finally, good luck.

Chair: Thank you. Robert Cundie?

Mr. Cundie: My name is Robert Cundie. I'm the Assistant Engineer Manager for Wheeler Ridge Maricopa Water Storage District. The district is a public agency formed in 1959, and we provide irrigation water service directly to 140 square miles of farmland at the southern end of the San Joaquin Valley, and an additional 30 square miles of lands in our district that rely on ground water also benefit from the project.

That project relies essentially on State Water Project supplies. Our agency takes water from the Kern County Water Agency. We comprise about 20% of their contracts, which makes us about 5% of the State Water Project. We also participate in ranges of 15-25% in various local groundwater banking projects, for which the State Water Project deliveries are essential components. Our farmers over the past 20 years have taken a number of activities consistent with state and environmental organization priorities. These has been to switch from low value crops to high value crops, to install high water use efficiency on farm irrigation systems, and to invest in groundwater banking facilities. All of these activities have the affect in some sense of making us more reliant on the State Water Project supplies and their delivery. And as we all know, those have been impacted. I will provide specific comments on some of the scoping that you are charged with doing as part of this process. My assumption is that there will be no project alternative. In some sense there will be a reduced or multiple reduced export alternatives, as well as what I understand is the preferred alternative for a dual system. Obviously, fisheries in the Delta are in a serious state, and you are urged to consider, not just the pumps themselves, but of

course, many, if not all, of the other stressors that impact those fishery species. Because a plan which primarily involves focus on the pumps can't possibly be the whole solution, because of the influence of invasive species, toxics, and waste water discharges, unscreened diversions, over 2,000 in the Delta, not just the screened diversions that occur at the state pumps. So all of these have to be factored in some fashion into the plan and in the analysis, so that the proper mitigation measures, and appropriate to the level of impact, are properly analyzed. In Kern County, there will be impacts from the Bay Delta Conservation Plan. They may be positive or negative. These impacts will include environmental impacts. For instance, in the no-project or reduced export alternatives, we would expect exports to be reduced into Kern County, and that reduction has direct affects on farmland, resulting in less farmland being in production and less food being produced. A loss of farmland under CEQA is a significant environmental affect that would need to be analyzed as part of your alternatives. In addition, the impacts on groundwater banking projects, of which Kern County has a major role in the state in supplying groundwater banking facilities, those impacts are necessary for analysis in reduced exports or no-project alternatives.

In the preferred alternatives, it's possible that these impacts may, in fact, be positive, if not only water supply reliability, but water supply itself, are improved as a result. And those positive impacts should also be recognized. We would like to make many more comments, but that focuses on the scoping elements that you've asked for input on tonight. Thank you.

Chair: Thank you. Next up is George Capello.

Mr. Capello: Hello, and thank you for allowing us to speak to you. I am George Capello. I am the President of the Wheeler Ridge Maricopa Water Storage District. My straight man there has given you all the statistic, so I won't bother going back over that. I wrote something out, but as I listened to you speak in the preliminary, I thought, you know, I better just talk off the top of my head and give you a flavor of what growers in the district are going through. I was a grower in the district. [beeping sound] Already? These impacts are real to the farmers, as you well know. And they understand dealing with the Delta, and the environmental situation, and making sure the environmental side is equally balanced with the agricultural need. And we have contracts for water that comes through the Delta. And with our reliability shrinking, and Judge Wanger type rules, and

these kinds of things, it's crushing the small farmer, and it's putting a heavy burden on the larger farmers. I've transitioned from a farmer into a real estate and appraisal business, and I see it impacting these guys continually. And it won't be long when the larger farmer cannot afford the cutbacks, the costs, and some of these burdens that are put on them, not to mention the other input costs that are going through the ceiling. Yes, prices have risen somewhat, but ag prices have stayed stable for over 35 years, while costs have gone up. So it's imperative that in your analysis that you please give some heavy weight to these impacts to agriculture, the need for a reliable water supply, and hopefully some stability in that region, along with the environmental issues that have to be covered. Those are important also. The Delta doesn't work without the species and all the things that go with it. But at the same time, you have to have agriculture that helps pay the bills. And I want to thank you, and hope you're not too exhausted after all these trips. But thank you for your consideration.

Chair: Thank you. And the last card I have is Ernest Connant.

Mr. Connant: Just a couple of brief comments. My name is Ernest Connant. I'm with the Young, Woolridge Law Firm, and we represent a number of

different districts in the San Joaquin Valley, principally in Kern County. And just to kind of put this in further perspective, and to kind of elaborate on a little bit of what Jim said, all of the imported supplies to Kern County are dependent on the Delta. Of course, the State Water Project is, as you all know, the Cross-Valley Canal contractors are dependent on the Delta and contract with DWR and the Bureau, and last, but not least, the Friant system is dependent on the Delta. There would be no Friant system but for the 1939 contract between the exchange contractors, which have to be supplied from the Delta in exchange for San Joaquin River water. So all of the imported supplies in Kern County are dependent on the Delta. There probably is no other area of the state that's more dependent on the Delta than this area. And so this is very important to us. In terms of kind of scoping comments, and very general, and I'm sure that we'll be providing more specific comments by the deadline, but I think it's very important that the right no-project alternative and baseline be identified. And it's important that you keep in mind what has occurred in developing that, and the failure of the federal government, through the Bureau and DWR, to meet the contractual expectations of the contracts that were entered into in



reliance of the water supplies that were expected these many years ago. So as we move forward and you commence the process to prepare the EIR and EIS, I think it's extremely important that the no-project alternative and baseline be properly framed. Again, we thank you for coming to Kern County and providing the opportunity for us to interact with you a bit. And we all know that Brent is very much involved in this process and will be providing information to us as this process moves forward. And again, thank you for providing this opportunity. Thank you.

Chair: Thank you. Anyone else like to make a comment? Okay, I'm not seeing any takers. So with that, we'll adjourn this part of the meeting. I want to thank you all very much for coming. And I'll see you next time. Thanks.

**-- MEETING ADJOURNED --**

**BUREAU OF RECLAMATION**

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**717 H Street, Suite 317  
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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**CHICO**

**Chico:**

Mr. Anderson: And, we have a lot of members who have some strong, strong perceptions about what the BDCP will be doing. My name is Charles Anderson. I'm with the Association of the California Water Agencies. Written comments were provided yesterday by our president Glen Peterson in Sacramento and so this is (unintelligible) some oral comments that will be from (unintelligible). The Association of the California Water Agency represents more than 450 complete water agencies throughout the state, ranging from small irrigation districts to larger urban water agencies and aqua members collectively deliver 90 percent of the water in California to homes, businesses, farms and increasingly for the environment. Aqua members view the BDCP process as a critical step towards fixing the troubled delta and the larger goal of securing a more sustainable system for California. Briefly, I just have a few comments. The need for a more sustainable water system has never been more urgent. Species are in decline and communities are losing jobs and income because of a failing water system. The system we have today was conceived of in a different era, one that did not include consideration of the environment. We have to invest

in a sustainable delta and as part of that we need a comprehensive solution that includes the co-equal objectives of protecting the aquatic environment and providing for a reliable high quality drinking water that our economy needs. We also have to invest in the environmental restoration and fish passage improvements expand watering sufficiency and groundwater management, and increase of surface and ground water storage capacity. And, my final comment is that while the crisis in the delta is clearly a time urgent problem, we must insure that solutions there work for all of California. As solutions take shape, we have to make sure that we do not solve water supply problems south of the delta at the expense of upstream regions. Solutions must respect existing water rights in areas of origin interests. This is of particular interest to our members in the North Sac Valley and demands consideration. Thank you.

Chair: Thank you, others?

Ms. Strong: My name is Susan Strong and thank you for coming to Chico. We do appreciate not having to drive to Sacramento. First of all I'd like to say that I think it's inappropriate to hold a scoping meeting for an environmental document when there is not a plan. I spent about two hours on the Web site for the conservation plan, and it was really

difficult to even determine exactly what is being considered. But, based on that research it looks as if there are two categories of potential impacts that would be of concern in our region. One is the conveyance issue. In doing conveyance improvements by installing the peripheral canal what sort of capacity changes will occur, and the ability to convey water if we increase the ability to convey water, where is that water gonna come from, and what would be the impacts of those changes? What would be the growth inducing impacts of those increases in water supply? If more state ground waters become a portion of this statewide water supply then either three increased conveyance capacity or as a substitute for un-devoted surface water, then we need to look at what would be the impacts on the ground water systems up here. Those will include impacts to public services because we have increased pumping costs, and deepening of loans. It would possibly include increased emissions if we have to pump more to draw ground water for agricultural, municipal and industrial supply. But, most important and for the fisherman's agencies, there is an aqua-form, formation called the lower Tuscan which surfaces along the eastern edge of the Sacramento Valley. And, that is crossed by five (unintelligible)

salmon streams. Butte Creek, Big Chico Creek, Deer (unintelligible) and bridal creek, and that particular aqua first system right now has wells funded to extract 30 thousand acre feet of water between June 1, and October 1, and that was intended for the Sacramento (unintelligible) agreement. So, as a basis of comparison the city of Chico from June 1 to October 1(unintelligible) in '06 extracted about 18 (unintelligible) acre of water (unintelligible) water. We currently are experiencing about 10 feet of ground water to climb every 10 years. We've lost 20 feet since the middle 1980's. We have growing ground water depressions under the city of Chico and under Durham in 2006 they noticed for the first time. So this is a stressed community system, and if this ground water source which is going to affect spring run salmon streams is intended to be used as a substitute for service water that can no longer be devoted, that's really inputting impact. Finally the alternative analysis should look at whether regulation of water party impacts could be doing and not by disallowing surface diversions but, by managing of the toxic inputs at the source.

Chair: Thank you very much. Next?

Female: I just have a few brief questions and then to call the (unintelligible) Groundwater Protection Association and, I'm in the (unintelligible) predominately independently on groundwater.

Chair: I'm sorry if I didn't make myself clear before sort of Q & A, there's this comment.

Female: Oh.

Chair: So, we're just doing comments now, and if you have any questions.

Female: (Unintelligible)

Chair: Then, hopefully to some answers.

Female: Okay, great.

Chair: Okay.

Female: Thank you. One comment is I was under the impression that major projects had a real project alternative workup first. I haven't heard any comment about that. The reason why that comes to mind for me is because I read more and more about the exotic species in the delta, things like the mussel, they have no treatment that may help collapse into things that may, in and of themselves make certain (unintelligible) recovery goes, impact going along one, and the, that brings to mind what kind of risks are you going to impose in the source areas that might provide you alternative solutions for your

adaptive management projects, especially because we have unknowns up here with our aquifer, with our water supplies, with the potential direction of our economy up here and, you know, what kind of our sources we're going to need to respond to our future demands. How would you fund or (unintelligible) this project fund, the research that will be needed to assure us that more solutions aren't coming at the risk of our (unintelligible), thank you.

Ms. Vlamis: My name is Barbara Vlamis. I represent 850 members of Butte Environmental Council. I'm going to start out by saying I really object to your moving protocol. It's terribly unfortunate that you have interested parties here, and not only will you not answer questions for the group, you are telling people that they can't even ask questions (unintelligible). And, I think that's --

Chair: You know, I want to make that clear because I'm not saying don't ask questions, I just wanted to make sure that you knew that these folks are here to listen and if there are Q & A, we'll get into it later. So, I just wanted to make sure that I wasn't miss-representing it.

Ms. Vlamis: -- I think that with in here, and especially with a small audience we should be able to obtain answers, thank you that we can ask questions, that that's clear, but I think we should be able to ask



people questions in a group in here, and group answers, and I find that objectionable. I find no project description, and I don't know what, and I agree with Susan. There's nothing to scope. You know, you have nebulous, down the road HCP and NCCP. There is no project, so I don't know how you can proceed with Sequa and NEPA at this point. I think, you know, you have your priorities eschewed and I have never yet encountered an HCP and NCCP that started the environmental review before they've even got to the purpose and need, and what are you doing? And, there's no initial study provided, at least that's acknowledged that that isn't provided to the public which would have at least given us a little more, I hope to balance off of. And, I really think that if you ever get to a project description so that the public would want something to analyze and comment on, I hope you'll come back because I think this should all be repeated. Because, it's terribly pre-mature, but I would hope that as you look at creating a project description that you will consider the terrestrial and aquatic species and, habitat that is outside of your study area. Clearly the tributaries are crucial to what happens in the delta and so, I don't think that you can only consider a project area that was at least good to read that you may consider that. But, I

think you absolutely must consider it, and that's all for now. Thank you.

Chair: Thank you. Is there anyone else?

Ms. King Moon: I'm Laura King Moon with the State Water Contractors and I represent 27 agencies, water agencies up and down the state that byline from the state water project. And, I'd just like to observe that this year due to restrictions under the Endangered Species Act we've had to give up 600 thousand acre feet of water already, about a 20 percent (unintelligible) on our average water supply for the year. And that's just, you know, (unintelligible). As a result of that, and that those restrictions are in place because of the way the water is moved through the delta. And so, we're very much supporting this conservation plan which we hope will lead to a much more (unintelligible) water and a conservation plan that will address a lot of the other problems that are affecting those species so that we aren't doing the knob to turn in response to their problems. I think that land that this plan will do; it will put a lot less pressure on the water resources here in the north if we're able to move the water that's in the reservoirs and that won't be ratcheted down so severely as we are right now. So, I'm very happy to see, interested to hear

the comments that this is too soon from the (unintelligible), usually it seems to me that you want to (unintelligible) anyway so people will have a chance to provide input, and I certainly learned a lot from three of you tonight. So, I appreciate you coming up here and doing this, thank you.

Chair: Is there anyone else? It looks like we have another one.

Ms. Dunlap: I just have a quick comment. My name is Marty Dunlap and I just want to dovetail a little bit on, in the part of the project as it goes forward that it has to do with establishing a water reliability and the movement of water, you know, south. That the growth inducing impact creating environments or communities that are going to be dependent on this water is going to create a never dependent need. And I really want to make sure that that's taken into account because that available water might not always be possible, and then there's, we've created this expectancy that this is going to be moving down there and not necessarily gonna be feasible.

Chair: Okay, are there any others? Okay, so hearing that I think we'll adjourn this part of the meeting but please feel free to stay. We have plenty of time; go take a look at the stations again. All of the staff members will stay and answer your questions.

Female: (Unintelligible)

Chair: Okay, sure. Thank you all very much.

**-- MEETING ADJOURNED --**

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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**CLARKSBURG**

**Clarksburg:**

Ms. Vick: I am Jan Vick. I am a member of the Rio Vista City Council. I also filled out a Speaker Card so you can ignore it when you come to it.

Um -- we -- the City Council is very concerned and interested in all of the processes that are going on in the discussions of the Delta. In my investigations into the BDCP and when I have read your options document -- um -- and looked at the steering committee, and I would like to know where on the steering committee and involved in this process are the Delta stakeholders. There are no residents, farmers, cities or towns, recreation owners, sportsmen, or the Delta Protection Commission. They are -- we in the Delta are not represented on something that is going to impact every single one of us, and our livelihoods. And I really want an answer to that because I think there needs to be someone on the steering committee representing the Delta. Um -- the options that have come out of this -- um -- and also the DRMS is there's a lot of talk about an alternative conveyance, otherwise known as the Peripheral Canal. Um -- I want to know what studies will be done to determine the impact of the moving of significant amounts of water from the -- um -- from the Upper River near Hood. What will the extent of the salinity

intrusion into the Suisun Marsh, the Sacramento, and San Joaquin Rivers. This will impact our agricultural resources and every user of Delta water. Um -- what is the impact on the cross Delta transportation, the gas lines and the electrical lines of any action that is done. And I think you answered partly how will this interface with the Delta Vision Strategic Plan. Um -- it needs to basically be a part of that. There really should only be one plan. Thank you.

Mr. McGowan: Good evening. My name is Mike McGowan, the Yolo County Supervisor representing District 1, which includes the City of West Sacramento and the Community of Clarksburg and welcome to Clarksburg. We hope we provide you with a warm and lively welcome here. I think you'll get that today. My observation representing this area is that you will get very good, very intelligent, and very informed comments that you are looking for. We are frustrated at this point that -- and then in some ways we don't feel that there was really sufficient -- has been sufficient opportunity to participate and certainly to prepare for this meeting, although this large crowd seems to belie that -- that assertion. But nevertheless, we worked hard to get as many folks here to make comments as possible. But it does -- um -- what my observation is, and taking on

from the last speaker -- uh -- there is not a adequate opportunity as I see it, in the process for the -- both the local communities and the local jurisdictions to be directly involved. And whether that's actually at the steering committee level, or in some more formalized work group setting, it is imperative that you create a better opportunity to engage the varied jurisdictions that would be most directly affected and impacted by this. Uh -- one of the frustrations is what we see -- or what we perceive to be -- or perhaps fear is an attitude that there is some many other values that we're concerned about that -- that trump significantly the values of community that we -- that we represent here tonight, and the very important parts of our lives and lifestyles and economies, and the industries down here in the Delta. Clarksburg district is a thriving agricultural community. And Yolo County is working very hard to enhance the opportunities down here for our agricultural -- for the farmers and for the folks who live down here and who support that. What we are afraid of, and I think some of the preliminary suspicions or concerns that we have is that again, there will not be an adequate opportunity to really represent those concerns and help shape this project. I think that's the big -- the biggest function we have. Yolo County has a



general plan underway; much of what I am concerned about would run in direct conflict with our plans to revitalize, enhance, and support and nurture this part of the county. And primarily in an agricultural context. Seeing it become somebody else's water farm, or environmental habitat project at our considerable expense is unacceptable to us here in Clarksburg. I could go on. There are a number of concerns, specific concerns and questions we have. I've put -- I for one am concerned about the impact of additional flows from around -- more flows for a longer period of time along the -- uh -- in the bypass, down the deep water channel, and what those impacts would have in the surrounding jurisdictions, especially here in this particular area. But also for West Sacramento as well. West Sacramento is in the process of an extensive flood control project, and we're very concerned and curious about what other activities would be. Certainly we have concerns about the compatibility or lack thereof of a habitat plan that you all are working on or the one that Yolo County has been working on for a long time. And I think we have different goals in those plans. Certainly we would believe and expect that this particular project -- uh -- this plan would be collaborative work and harmonious with the work that's being done

by Yolo County. And -- uh -- I have someone else here this evening, Maria Wong, from -- uh -- in here to speak to you about that. So actually, in closing, I don't want to take much more time than I should -- I want to urge you to open the dialogue, to actually create a formalized place for places like Solano County, Yolo County, Sacramento County to be at the table. To be formally and legitimately represented in your conversations and your meetings. Um -- whether it's actually a member of the steering committee, which probably should have happened, with all -- and with all -- with all due respect, I look at the list of who we have on your steering committee, there's not one local jurisdiction. It's somewhat of an affront to me to see that it's places like Contra Costa, the Kern County Water District, and not any of the local jurisdictions that are more directly and immediately impacted by -- by what's going on here. So with that -- I thank you for coming. Hang onto your hats. It's going to be a good ride, but it's going to be an interesting one. And you'll learn a lot from the folks here in Clarksburg. So thanks again for taking your time to come down here and be our neighbors.

Chair: Thank you, Supervisor.

(Applause)

District Rep.: I'm at the microphone primarily to identify myself as being present. I'm District Representative for Congressman Mike Thompson who represents Clarksburg and large portions of Yolo County, and as many of you in the room probably know, he is a great champion on resources issues and received a very prestigious award from the Sierra Club just a few months ago. And is concerned both about the resource issues here, but also about the -- um -- the failure so far to engage our local jurisdictions. The process needs to be not just about the fish and the water, but about the land and the people who live here and who have farmed it through generations. So the sooner that the planning effort can become proactive and collaborative, I think that would be a win-win for all concerned. So thank you for allowing me this brief opportunity to speak.

Chair: Thank you very much. Okay, I'm going to go ahead and call names from the speaker cards that I have here. I have Maria Wong, Russell Van Logansells, and Ken Wilson. If you would come up.

Ms. Wong: Good evening. My name is Maria Wong. I'm the Executive Director of the Yolo Natural Heritage Program. And as Supervisor McGowan indicated just a few minutes ago, we're running a parallel process, another HCP and NCCP in Yolo County that the county has

been working on for many, many years, and I just wanted to remind some of the folks in the panel and the folks that are working in the BDCP that we are here, that we are interested in the same footprint that you all are working on, and that we look forward to collaborating and cooperating in the future on both of those efforts. I also wanted to comment very briefly on the content of some of the outreach materials that are coming forward. Um -- as I look at the BDCP Agenda, it's sometimes difficult to tell -- you know -- what the content of the meeting is going to be and where I need to pay attention. So I think the BDCP could do a little better job of indicating what's going to be discussed at the meetings going forward. Thank you very much.

Chair: Thank you.

Male: If I may just briefly. Uh -- he's not going to speak this evening, but I wanted to make sure that folks knew that -- uh -- the City of West Sacramento Mayor Christopher Cabaldo was here. He's also a member of the Delta Protection Commission, and many of my comments he shares. And so I wanted to make sure that you knew he was here.

Chair: Thank you for that. Thank you very much.

Mr. van Lobensels: My name is Russ van Lobensels. I'm a long time Delta resident all my life. And I jotted down just a few concerns that I have as you go forward with this conservation plan. You need to understand that when you put water in the Delta it doesn't stay where you put it. You can put it behind the levee and it pops up on the next island. So as you change -- as you plan to change the hydrology of the area, you need to be very careful about where you put water. You need to look at where -- what uses are on the property now. If it's intense farming, I would -- you know -- I think you should go some place else. There are opportunities in the North Delta to do what you want to do and to put together a good plan without making it very difficult for the intensive farming that occurs. I would encourage you to use boundaries that are known. Boundaries that exist today. And not cut across reclamation districts and create new boundaries. New boundaries bring all kinds of very unusual impacts. We have reclamation districts that operate for flood control and drainage that operate as a unit and they may not operate very well all split up. When you introduce species or create habitat that moves species around in the Delta you -- all you're doing is moving the impacts around from different people. If you move species away from the

water purveyors and you move them up into the Northern or the Western Delta, you create the same impacts for people who are using that water. You need to prepare and provide for mitigation for those impacts that you create for them. There are -- I believe -- opportunities in the Western Delta. You have a large area of public ownership in the bypass. You have an area that has flood easements already. It has water. And I think those are the areas that you should concentrate in the North Delta as your plan is developed. Finally, as you develop this plan, understand that we have many, many -- um -- many, many special districts that are dependent upon tax revenue. Yolo County -- if you make this a dedicated towards public ownership, you will destroy tax base for reclamation districts, mosquito districts, North Delta Water Agency, and Yolo County. So provide for that. Thank you very much.

Chair: Thank you.

(Applause)

Mr. Wilson: My name is Ken Wilson. I'm the president of Wilson Farms. I'm a third generation farmer. Um -- some of our guests here talked about the BDCP and some of the things that they are doing and I'm going to try not to sound too redundant, but -- uh -- what I had -- uh --

already written out beforehand was a little bit about what is the plan to mitigate threatening the endangered species. We have a host of wildlife species here in the Delta. Many animals I've seen -- um -- many animals I've never seen before 20 years ago are all of a sudden kind of showing up and in increasing but small numbers. Now these aren't all endangered, but I'm kind of putting in some other critters out there that are pretty well known as well. Maybe one or two that could be endangered, I'm not sure. But what looks to me like some mink I see trotting across the road once in a while. Otters, tree squirrels, Swainson's Hawks, Cottontail rabbits that disappeared for years, and have now come back. Now 1,000's of animals that live under the ground like snakes and many -- much of their prey. And I find it interesting listening at -- you know -- there are some species that are endangered that are worth taking, and some that aren't worth taking and it just kind of seems like -- uh -- God is among us here in the flesh sometimes. You must have a very extensive EIR on every single species that's out here that might be affected. We need to know of any and all endangered species. I would suspect that it would be -- it would take many years before you have enough data, and factual information being that you'll have

to cover 10's of 1,000's of acres just around our backyard here, and 100,000's of acres throughout the Delta if you're considering flooding. You'll also need to study adjacent lands to this project, because this project will have an enormous impact on these lands as well. We want to see a very detailed report before any of this begins. Thank you.

Chair: Thank you.

(Applause)

Chair: So next up I have Jeff Merwyn, Jane Alshorn -- I'm sorry if I mispronounce your names -- and Tim Waites.

Mr. Merman: Good evening. My name is Jeff Merwyn. I'm a 5<sup>th</sup> generation California farmer, 3<sup>rd</sup> generation here in the Delta. Thank you very much for the opportunity to speak tonight. Um -- I found out about this meeting yesterday, and I concur with what was said earlier about -- uh -- no stakeholders being part of the steering committee. Um -- I think that's unconscionable, frankly. Um -- but -- I'm going to go on. Um -- most of what my comments address have to do with -- uh -- four different options that we saw that actually appear to have been taken out of the Senate. A presentation to the Senate Natural Resources and Water Committee Hearing on the Governor's Delta



Actions by Lester Snow, Director of Department of Water Resources, March 11, 2008. And my understanding, and I'm also a Farm Bureau Director for Yolo County, I should have known about this through that, because they're part of the CFBF. I'm also a Yolo County Planning Commissioner. So I understand the EIR process. Okay, my understanding of the scoping is that we're here to scope the EIR, which is what you talked about. If you're doing an EIR, you already have a rough outline of what you're going to do. The fact that Lester Snow would address the Senate with documents with maps that include our area, scares me. Okay? Here we go. I urge you to cut -- and I'm very serious about this. This is going to sound kind of funny. I read it out loud and it sounded kind of funny, but I urge you to include at the top of your Protected Species List, the California Delta Farmer. Agriculture has co-existed --

(Applause and cheers)

Mr. Merwyn: -- agriculture has co-existed within the Delta environment since the Gold Rush. And all four options proposed as a conservation strategy appear to significantly threaten, if not completely exterminate, this vital species. I was under the impression that the Delta Protection Act was created in large measure to protect Delta agriculture. What

happened to that? I farm about 2100 acres in the Clarksburg area. I'm a -- just a typical farmer, okay? One of the primary crops that I grow is alfalfa for dairy hay. My 1,000 acres of alfalfa enables dairies to produce enough milk to supply 61,000 people their per capita consumption of milk per year. Don't let that 150 people fed by a farmer fool you. My neighbor grows 1,000 acres of processing tomatoes. We supply about 1.5 million people their per capita consumption of tomatoes per year. Clarksburg produces virtually the entire world supply of dichondra seed. In the hood of it, you're not alone. We are the tip of the iceberg. Yolo County is the 5<sup>th</sup> largest agricultural community and the leading agricultural state in the nation. Even though just 5% of Yolo County farming lies in the Delta, it generates more than 20% of this community's agricultural revenue. Not only are we helping to feed people, but we also pay property taxes in assessments on our farm land. So as tax and inputs in personal and corporate income taxes, too. We hire services and buy supplies from companies that help us fertilize, protect, harvest, and haul our crops. The people that help us grow our crops live on our farms. Many with their families. These farms are what make the Delta communities function. And when they hurt us, then

the communities wither. We are environmental stewards of our land and water. We'd be foolish not to be. The land provides our livelihood, and the water is our life blood. We are extremely careful about how we use our water, and we participate in the watershed coalition which monitors and helps improve our use of water. In my lifetime, I have seen a tremendous increase in the diversity of wildlife on my farm. One day last Fall -- last Fall I counted more than 150 Swainson's Hawks in one harvested wheat field that we were discing. We were all hunting. It was the most incredible site I've ever seen in my life. The Delta -- and -- and I didn't see them when I was a kid. They are here now. And I would agree with what Ken Wilson said, the Delta is a vital and an economic engine in a beautiful region to have in Northern California. All of the distinct and unique communities that exist in the Delta continue to exist to support agriculture. Eliminate agriculture to restore native habitat, and you will create the following problems adjacent to and up wind from metropolitan areas like Sacramento. No property tax revenue. No economic production. Increased mosquito pressure, what is now Bird Flu, and virulent encephalitis, malaria, and other insect pressures. The last couple of years out where I live, the minute

pirate bug has become particularly obnoxious to our quality of life. Spore a grain of rice and it fills every nook and cranny when it flies. Putrid odors born on the cooling Delta breeze would arise from lowlands since they dry out seasonally. I know exactly what you have to expect and look forward to. I live 200 yards from the Yolo Bypass, and I live downwind from government owned, managed wetlands.

Chair: Sir, if I could ask you to wrap up, please.

Mr. Merwyn: I'm wrapping it up. Because I love fishing, because of our location I benefit from relatively inexpensive and readily available water. I find it inconceivable that it would be more beneficial to the state to convert my ranch to tully's in order to allow a farm 100 miles from here to exist with much more expensive imported water. Or to even allow even 100 more houses to be built somewhere. Thank you very much.

Chair: Thank you.

(Applause)

Chair: Sir, I'm going to let -- uh -- Ms. Alshorn go. She's right here.

Mr. Waites: Oh.

Chair: Yeah, sorry. You need that.

Ms. Alshorn: Yes, I do, thank you. Good evening. My name is Jane Alshorn and it's perfectly obvious I am physically challenged. I am physically challenged and I want to speak to you tonight about the public health issue of more and extensive wetlands. I am in this wheelchair and have been since 2005 because of one mosquito bite. I contracted West Nile Virus. I will be paralyzed partially for the rest of my life. I can deal with that. What I can't deal with is having other people suffer the same fate. I spoke today with Vector Control. They have absolutely no idea of this entire project. I -- I have been their spokesman for the last three or one of their spokespersons for the last three years. And I cannot -- and there's no way that I can impress upon you the terrible, terrible danger of mosquitoes. It's -- it's far reaching. Your life can literally change overnight. Literally. One day I could walk, the next day I couldn't stand. And it's terribly, terribly important that we get all of the agencies involved that can help us in this sort of a situation. Yes, this is my personal ax to grind, but it's also my obligation to tell you that it could happen to you.

Female: (Whisper) Speak right into the mike because they can't hear you.

Ms. Alshorn: That's it.

(Applause)

Chair: Thank you very much. And Mr. Waites, okay.

Mr. Waite: My name is Tim Waites. I'm -- uh -- representing myself as a local landowner, and also the -- uh -- Clarksburg Association for Wine and Grape Growers and Vendors. Um -- first I want to talk about -- um -- private property. Um -- this area has a lot of large ranches on it, a lot of them farming grapes and alfalfa, and other things like that. And what that allows us to do is to work as a community to do some things that are very important for the area, but also very important for the Delta. I happen to live on a large lake in the area. Lake Winchester. And I selected that as my permanent home site. In fact, I have a foundation for a home going up there now. We work very closely with the people that are managing the water through a rec district. The landowners chip in. We have recreational activity that goes on in that lake through a water ski club. They chip in and maintain the banks on that. We work to keep the reeds and the other problems down jointly. And we get a lot of good things done. And we follow all of the regulations, too, which are becoming quite burdensome, very expensive for permits, and all of those sort of things. I'm sure you'll hear a little bit more about that from some of

the others. Um -- the other thing I want to switch gears to is -- uh -- the wine economy. Un -- our area has recently been named one of the best areas -- uh -- to develop and -- and farm wine grapes. It's -- it's got a lot of the resources that are lacking in other areas. We're not as well known as many of the others, but -- uh -- we produce a very, very fine product. We have about 10,000 acres currently in production, and we have another -- uh -- 2 or 3,000 coming on through long term contracts. Um -- so we have quite an uncommon hill to protect. We have homes. We have farms. We've got people spaced out far enough to where there is breathing room between. We don't want to become a subdivision. And we certainly don't want to become a flood pond. And, believe me, we have the resolve to fight. Whoever would -- would want us to go that way.

Chair: Thank you very much.

(Applause)

Chair: Okay, I have Katherine Merwyn, Andy Wallace, and Bill Worrell.  
Is that right? Okay.

Mr. Worrell: Yes.

Chair: Okay.

Mr. Wallace: I think Kathy Merwyn had to leave, so I'm going to jump in here.

My name is Andy Wallace. I live -- uh -- here in Clarksburg. I'm 3<sup>rd</sup> generation. My -- uh -- kid is right over here -- a 4<sup>th</sup> generation of Wallace's here in this town, and I have 12 acres of apples that are farmed by a local farmer here that -- that I own. So, I have a few procedural comments here. Number one, it is important to the people of Clarksburg and the people who are interested in the project from around the state to keep our comments in the record in their entirety. And not reduce our individual comments into general or combined comments. Number two, the documented and undocumented impacts of this plan directly and indirectly affect the people of Clarksburg. Yet, the people of Clarksburg carry the burdens but get none of the benefits of this project. Number three, this admirable goal for quote, "fixing the Delta" is meaningless if at the end of the day it ends up creating just enough smoke to keep transferring more water to Southern California. There is nothing co-equal --

(Applause)

Mr. Wallace: -- there is nothing co-equal in California water politics. The Delta and its people are always going to come last. Number four, the nature and character of the Delta today is recognized as valuable in



this document, yet our redevelopment interests are specifically rejected by this document, replaced with the unbridled growth of Southern California. This is an arbitrary and capricious attempt to shift the burden of development on the very people who are themselves not able to develop. I'll assess some technical issues. Number one, tidal marsh wetlands have significant odor problems as anyone who has driven by one knows. Thus create objectionable and nuisance odors for the community. How will these be mitigated? With regards to the restoration of these tidal marsh wetlands, Clarksburg has never had this type of wetland. We are too far north, so it would be impossible to restore what we have never had. Number two, by improving habitat for Delta smelt, other listed species could begin using the area, and potentially be creating new legal issues for the community further reducing our ability to exercise our property rights. How will the community be protected from the consequences of this likely impact? Consider this a request for a Clarksburg safe harbor agreement. Number three, if West Nile Virus increases in this area, it is expected to have significant impacts on native birds. How were these impacts analyzed and mitigated for? Number four, water transfer should be deleted from this

process and the health of the water shed should be the primary focus of these efforts. If it could be proven that the species that use the Delta can be managed sustainably over droughts, then you'd begin discussing water transfer. Number five, converting fresh water habitat to brackish water habitat will have negative influences on the ecosystems that have adapted to the upper Delta, leaving this area as one of the last reservoirs of species such as listed turtles and birds. Now the state wants to reduce their habitat for a fish that is largely limited by Southern California's water intakes. The sole purpose of this document is an attempt to comingle the issues of habitat restoration and water supply. Finally, loss of farmland in the Delta will have ripple effects with ag equipment suppliers, truck dealers, seed suppliers, etcetera, where good paying stable jobs will be directly impacted and lost. How will this plan mitigate the losses of those jobs? Thank you.

Chair: Thank you.

(Applause and cheers)

Mr. Worrell: Thank you for -- uh -- letting me speak today. I'm definitely not a public speaker. My name is Bill Worrell. I'm a native of Antioch, California. We're probably like the striped bass, I'm not a real

native, because I've only -- my family has only been here one generation. I'm a fat, disabled old man, probably not safe to drive the Delta roads after dark. I'm representing the Sportsmen's Yacht Club in Antioch, and mainly myself. The reason we're here today is public trust. You folks are -- are trusted or entrusted with the public trust. It's not to do about water. It's not to do about money. It's public trust. You are public officials, public employees, you owe us the trust. Alternative conveyance, Peripheral Canal, or Love Canal, it's wrong. California voters approved a \$4 billion dollar bond issue to repair and improve the levees. This is what the public warrants. Not a cement lined canal. Who cares about the Delta smelt? It's a small ugly fish. It's a barometer for the ecosystem though. Today there's no salmon fishing in California. Folks care about that. It's been forecasted that little guy, the Delta smelt has forecasted it. No salmon fishing in California. This follows no or limited what they call bottom fish in the ocean. Use to be you could catch a gunny sack full of bottom fish. Now you could catch 10, now it's limited. We blame pollution. Blame farming pollution. We even blame the striped bass. We've lost Riparian Water rights in Antioch. Go back to the Gold Rush. The water is not fit to pump. Canal will make

Contra Costa water unable to drink -- unsuitable to drink. We can't take more water. It's public trust. Thank you.

Chair: Thank you.

(Applause)

Chair: Jerry Spain -- is that right? Mark Wilson, and Mary McTaggart.

Mr. Wilson: Mark Wilson, with Wilson Farms and Vineyards in Clarksburg. And as far as the scoping issues, I have some questions. Is the BCDC Plan consistent, or will it be consistent with the Delta Protection Act legislation and management plan in all respects? How much water will this plan consume month by month on an annual basis? How will public health and nuisances from increased insect populations be dealt with, especially considering prevailing wind patterns and proximity to small and large population centers. How will invasive species be reliably excluded from new tidal wetlands and shallow water habitat? What mitigation measures will be taken for each of the known invasive species that already inhabit the Delta if they become established in any new tidal wetlands or shallow water habitat? Considering the increase in the amount of habitat recommended, and the desired current activity of the various habitat types, how will invasive species be reliably excluded from

the tributaries to the Delta? What mitigation measures will be taken for each of the known invasive species that already inhabit the Delta if they become established in any of the tributaries of the Delta? How will the increase in number and concentration of tunneling and burrowing animal species that will derive from the increased available habitat affect infrastructure in and around the edges of the Delta? What are the projected labor requirements and projected costs with and without overhead costs included for the management of the new habitat that is proposed? What formulas and assumptions will be used in calculating these costs? And I'd like to see these -- uh -- these costs -- uh -- going out to 2050, so we can get a better view of -- uh -- the total cost of the proposed actions. What is the financing structure going to be for all phases of the proposed physical and management changes from the BDCP Plan? From its execution onward through the 2050 and out 100 years. Thank you.

(Applause)

Chair: Thank you.

Mr. Wilson: And we turn in questions to who? I've written documents to turn in.

Chair: Yeah -- written comments and questions at the back table where Ms. Wong is.

Mr. Spain: Good evening. My name is Jerry Spain, resident of Clarksburg, Chair of the Clarksburg General Plan Advisory Committee. A couple of things about your -- as I'm watching and listening to this. First comment is, if it wasn't for one of our local citizens hearing about this meeting tonight, you wouldn't have anybody here.

(Applause)

Mr. Spain: That doesn't get us all off to the most trusting starts. Secondly, as we're going through this, even your own information -- uh -- it all points to diversional water. It's almost like this whole -- everything is about diversion. Protect the fish, get a judge off your back, and convey water. Secondly, the model assumptions. Are these the same model assumptions that they're using elsewhere throughout the state? There's several of them. Which one is the right one? DWR has about a 16-inch model assumption if the earth continues to warm. And even that model is suspect. There's a lot of folks that say that it's not warming. So here we are fixing to create a policy that is going to go and stretch out 50 years beyond, out to 100 years? When I was in high school, I remember one of my teachers telling us that the best thing we could do for mankind is figure out how to stop global cooling.

(Laughter)

Mr. Spain: Also, as I'm looking through here, one thing I don't see or in any of this literature, is the human habitants of the Delta. No mention whatsoever.

(Applause)

Mr. Spain: I find that to be a critical oversight, because human beings that have grown up in this Delta and created this Delta have been the stewards of this Delta for 100's of years. It's not the Delta Vision nor is it the BDCP. We have to be very concerned about the direction that you want to take us. Especially when the stakeholders themselves -- there is not an elected official on any of these. They are authorities. They are water agencies and districts. And who are these folks beholding to? It's not the voters. That has a lot of us very concerned when as we read through this stuff, and try to figure out when as the direction of this is ironed out, who answers to who, and who is going to answer if this whole thing turns out to be a huge problem for all of us. You've heard a lot of concerns about vector control, about potential taking of species, I'm concerned about the taking of land, the taking of water, and the taking of a way of life.

Thanks.

Chair: Thank you.

(Applause)

Ms. McTaggart: My name is Mary McTaggart. I'm a resident of Reclamation District 307, which is just north of here. I grew up here. My 96-year-old father and my 90-year-old mother live next door, and my grandparents came here in the 20's. I've just come back recently. I just found out about this meeting, so I can't be quite as articulate as the people who have already spoken, but one thing has been on my mind recently. I was reading in the beginning of the Delta Vision document where it says -- it's talking about the history of the Delta and how it was formed or let's say how the levees were formed, and it says to quote, "when levees were built, most celebrated the new farmland and few thought of what might be lost." And I'm worried about that. Because I see now that there's a new interest in the Delta. It sounds like we want to go back to the way things were, and yet, I don't think people are thinking much about what might be lost, namely the farming land that was produced in the beginning. Um -- today's paper, there's an article in here about a scientist questioning whether so much land should be diverted to raising ethanol. Now it's growers and farmland that are doing that, and yet, the scientists



who are -- um -- they're saying we need to feed our stomach before we feed our cars. Nations need to rethink programs that divert food such as corn and soy beans into fuel, given the burgeoning worldwide food crisis. Um -- you can't grow -- you can grow ethanol on farmland, but you can't grow food on anything else. And so, I'm just worried about the loss of the farmland we have here. Some of the richest farmland in the world. You know -- I think that I read recently that the United States became a net importer of food sometime in the last two years for the first time in its history. Now that's kind of scary. The other thing that I see relative to this is the fact that there's a lot of plans going around, or thoughts going around about turning farmland into habitat, or wildlife friendly farming. I think that's the term that I've seen all the time. And I even understand that the governments are preparing to pay farmers so that they will farm in this way. Okay? But you know -- it bothers me a little bit, and it worries me, because governments can't react to needs like private enterprise. For example, if you drive around this area this year -- right now -- you will see acres, and acres, and acres of wheat. Two years ago you didn't see hardly any. Now how did that happen? Well, there's a need for wheat. But if the government

was involved in deciding whether to farm wheat this year, it might even take 10 years before they could come to that decision. And you know what? I just -- I just can't -- you know -- and as soon as you have an ag conservation easement or wildlife habitat easement on your land, then you have a silent partner that isn't going to be so silent. And I think that the farming industry will be affected by that. Um -- I think that's all I have to say at this point. Thank you.

Chair: Thank you very much.

(Applause)

Chair: Sue Stevenson, Martin Hill, Peter Stone.

Ms. Stevenson: Good evening. Thank you for holding this meeting. My name is Sue Stevenson. I live in Livermore, California. It's a little under 100 miles away from here, so I drove a long way to come and talk to you tonight. I work at Dublin/San Ramon Services District. We're a water, waste water, recycled water, retailer. So I'm very concerned about the State of California's infrastructure water system throughout the entire state on several different levels. Um -- I feel like it's struggling to meet the needs not only of the aquatic life forms, but also the people who want to drink the water that's supposed to pass through this Delta, and the farmlands that need it

for irrigation purposes. So we need a sustainable water system for the entire State of California, and I think a critical part of that sustainable water system is a sustainable Delta. And so we need to improve the Delta. And what that means -- the Delta affects all the other ways that the California water system functions. We recycle water in the Valley. That's a big part of how we're able to maintain our Valley and to have a green valley by recycling water for irrigation purposes. And that's a critical tool, but without a sustainable Delta, that's going to impact things like recycled water and local storage of water, and all other elements that are part of the entire infrastructure. So, in essence, no action is not an option. You need to act -- I always am amazed how long it takes to make things happen with the government. Echoing a little bit of what the previous speaker said. So I encourage you to act and in a thoughtful way. And I also would like to say, at the risk of upsetting most of the people in this room, I think of the Delta as the heart and soul of the entire California water system, and maybe bypass surgery -- maybe a canal, a pipeline, an alternative water conveyance system would be a good thing. And it would make it a sustainable Delta, which would make a sustainable water system. Thank you very

much.

Chair: Thank you.

Mr. Hill: Hi, my name is Martin Hill. I'm a resident here in Clarksburg. I have a few questions. I believe here in the Sacramento Region that - that the gopher snake and the Swainson's Hawk are both on the highest part of the endangered species list. I'd like to know -- I'd like to know with you folks if the endangered species list -- if one species trumps another? Um -- I don't believe that these things could survive in a marsh wetlands. Um -- the other question I understood tonight by listening, that the concerns of a seismic event were almost imperative. The fact of the matter is I don't believe there's ever been a seismic event here in the Delta, and I would like to know where that information comes from. And third, but not least, if this is just another futile way to get water to L.A., why don't we just bypass all of this and you just tell us that that's really the way it is? So -- anyhow, I'm done.

Chair: Thank you.

(Applause)

Mr. Stone: Hello, my name is Peter Stone, and I'm a resident. I live on a farm just across the river, but consider myself a part of Clarksburg, which

is a town that has one of the distinctions of one of the longest running Boy Scout Troops in America, 80 years with 100 Eagle Scouts, two of which are mine. And I consider it a privilege to be a part of this community.

(Applause)

Mr. Stone: Unfortunately as a number of speakers have mentioned, I've only had about 40 minutes before the meeting started to even find out. I had plans tonight. I had to cancel those plans to come here. And so I apologize in advance for the fact that unlike some speakers, my comments won't focus on EIR's and EIS's and BC's and HC's and PC's and things. But actually, the one thing that really got my attention in the -- in the presentation where out of all those letters that I couldn't understand, was the chart that showed the two circles. Conservation of Species, and Water Sources -- equal and one won't trump the other. But I didn't see anything about levees, which sort of tie into preserving the farmland and the people's homes, and sort of what goes on around here. And -- and I'm concerned, because I live on the levee, and I really appreciate the efforts of those folks from State Water Resources Board to drive around trying to take care of our levees. I really appreciate what they do. Have a chance

to talk to a lot of them. Because I'm around. I work at -- at my home. So I'm there all the time. And when they come by, I go out to see them. And I appreciate what they do, but I'm frustrated. Because when I talk to them, just the regular workers, not the guys with any fancy titles, they talk to me about the things that they know should be done to protect the levees, but the other group that's on the other side of the levee won't let them touch -- the Fish and Game won't -- you know -- they're totally on the opposite side of things. So I'm concerned as I hear about all this new planning that's going on. How do we make sure that conflicting assumptions at various federal and state agencies will in fact not just be perpetuating things that don't work, by their own admission. You know -- I'm just concerned, sort of with the notion of, well, it's all about global warming, or is it global cooling, or -- you know -- what's the flavor of the decade. Okay, and with just a couple of other things -- you know -- when I was looking at one of the charts over on the side there, it sounds like -- you know -- there's a big focus on the diversion of water for Southern California. And it sounded like it's - - you know -- the system is broken and so we must fix it. Okay, that's great. But are we gonna fix it where all the fix is required to

come out of reducing the water rights and everything of folks here, versus saying that the Southern California water is inviolate? They get every ounce of whatever it is that they're supposed to get, but it all comes out of the hides of the folks here in the Delta, which means a lack of farming. Another thing I just thought was very interesting - - you know -- and this is just an observation. A lot of these -- these species of animals -- Canadian Geese, Swainson's Hawks, pheasants, Sandhill Cranes, we just love seeing them fly over and they don't read the signs. They stop on our farm. You know -- they just love it. I mean -- huge, huge flocks of these birds, that don't know they're supposed to go over to the Stonelake's Wildlife Preserve. They stop at our farm. We love to see them, and they love it there for some reason. So I think we've got to realize that just what comes up in a text book or a neat study doesn't necessarily mean that that's the way it works.

Chair: Thank you.

(Applause)

Chair: Julia McKiver, D.J. Anderson, and Steve Harringer.

Ms. McKiver: Good evening. My name is Julia McKiver. I'm actually here representing Yolo County. Um -- I wanted to thank you for making

this effort to involve the public in this state and federal planning effort. And I would certainly echo the comments of Supervisor McGowan earlier and add one more point, perhaps. Um -- the county would like it to be very clear to the state and federal agencies and all of the other folks that are involved in creating BDCP that heretofore, local government has been excluded from the process, and that needs to change. You are hearing a lot of -- I think -- very interesting, valid and smart concerns from the folks that are here tonight. Yolo County is involved in the process of a general plan update, and part of that update includes specific proposals to protect the viability of agriculture in this area and enhance the vitality -- the economic vitality of this region. We'll be sending you a letter describing this in a lot more detail for the written record, and we're counting on you to restructure the BDCP development process to make it possible for us to work with you as we move forward.

Thank you.

Chair: Thank you.

(Applause)

Ms. Andreson: Hello. Thank you for listening to me tonight. My name is D.J. Andreson. I've been a resident here for 20 years, and I'm a lucky



survivor of West Nile Virus. Um -- although I still suffer some of the symptoms, I consider myself fortunate because I lived. I understand one in four don't. Uh -- Charles McDowell from Grand Island was not so lucky and he passed away due to a long illness caused by West Nile Virus. It's a devastating disease, and we don't have a handle on it. We still have birds dying out here. We have chickens contracting the disease. And people are getting sick. Building a shallow water refuge here is paramount to creating an incubator for West Nile Virus. And that would infect the entire Sacramento Valley, not just little Clarksburg. Um -- if the proposal is to eradicate the mosquitoes that will come with that water, using the -- uh -- what is it the Evergreen 60-C that we're using now, that will also kill all the other insects, beneficial and otherwise. And the fish that we're trying to save, will die with no food. I urge you to reconsider using our area. Thank you.

Chair: Thank you.

(Applause)

Mr. Harringer: Good evening Committee Members. I'm Steve Harringer, 5<sup>th</sup> of 6 generations of Harringer family to farm Clarksburg soils. Many families in the Delta have farmed multiple generations. And over

the years have grown a large variety of row and field crops. We have had to evolve and adapt our operations in order to maintain economic viability to ensure the sustainability of the family farm for future generations. During the last four decades the growers have planted over 17,000 acres of our Upper Delta Region in premium wine grapes. Our crops have proliferated in quality and yield, and the Clarksburg Delta has earned the reputation of being the Banana Belt for premium wine grapes among California wineries. We have invested heavily in vineyards which have a life expectancy of 25 to 30 years. And can stay economically viable for up to a century. In 2005, the UC Cooperative Extension published cost to establish and produce wine grapes in our region. The study documents the requirement of in excess of \$16,000 per acre to develop a good vineyard. During the past 3 years of dramatically increasing steel, vine, labor, and fuel costs, that investment will easily be in excess of \$20,000 per acre today. That equates to a total investment in vineyards and infrastructure alone exceeding \$340 million dollars in District 17, the Upper Delta Region. The California Association of Wine Grape Growers completed an economic impact study last year of California wine and grape growers contribution to the state and

U.S. economy. Extrapolating those economic impacts to just our 17,000 acres of wine grapes, we create in excess of 11,000 full time equivalent jobs in California, and an additional 13,500 jobs nationwide. This generates \$357 million dollars in California wages and almost \$900 million dollars in wages throughout the U.S.A. Taxes generated from our wine grape acreage exceed \$107 million dollars to the State of California, and an additional \$64 million dollars nationally. In excess of 700,000 visitors with tourism expenditures exceeding \$71 million dollars are attributable to our 17,000 acres of grapes. Our Yolo County Supervisors have partnered with us to keep our unique Upper Delta area agricultural. We adopted sustainability generations ago to ensure the farming and enjoyment of our Delta region for the benefit of all of the people of our great state. We will not now stand by idly as the objects of an environmental experiment based on presumptions. We will, however, stand with you to fully utilize existing flood control infrastructure such as Yolo Bypass to ensure better flood protection for the Sacramento Area. Thank you.

Chair: Thank you.

(Applause and cheers)

Chair: Let's see, I have Peggy -- I'm sorry, I can't read the last name, Peggy. Boehl? Okay. Great, sorry. Uh -- Bob Webber, and Hal Shiplet -- Shipley, thank you.

Ms. Boehl: Good evening. My name is Peggy Boehl. I am not a farmer -- do I -  
- nor do I make any pretenses to know anything about farming.  
However, I was quite concerned when I received that email yesterday stating that Clarksburg and our rich farmland was going to be turned into a tidal marsh. It almost drew me to a flashback when I was shopping in Costco a week ago and I saw rice being rationed. Rice being rationed in the United States of America? It was almost inconceivable. But news reports followed where the same might happen with wheat. There is a world crisis before us in agriculture. For example, in Northern China, wheat production has ceased because of a lack of water. Everyone in this room knows about the human suffering that occurs in Darfur and Somalia because of starvation. So what do we have here in Clarksburg? Under state law, Clarksburg is an agriculturally protected area. The Delta Protection Act of 1992 fathers the Agricultural Uses. The farms in Clarksburg grow so many varied crops, grapes, walnuts, pears, that I probably would use up my 3 minutes in talking about them all. The

yields here are incredibly high due to the rich farming and climactic conditions. These conditions are relatively unknown in other parts of the world in agricultural areas. And it's amazing but Clarksburg represents only 5% of the land area in Yolo County and produces 22% of Yolo's rich production. To deny that production would be devastating to not only the county, but to our farmers. And in conclusion, the question that I ask you to answer when you do your EIR, are you planning to do a cost benefit analysis of these 30 to 40,000 acres taken out of food production for world markets and human consumption if a tidal marsh should be implemented here. I really cannot believe that a tidal marsh concept will ever come to fruition here in Clarksburg with its rich agricultural tradition. There is a place for tidal marsh, but not here. To do it here would be shameful. The Yolo Bypass can be expanded. Liberty Island, and other islands to the south of the Delta are perfect candidates. There is a world food crisis. Humans will surely become an endangered species if we continue to violate our agricultural areas and take rich farmland out of production. Thank you very much.

Chair: Thank you.

(Applause)

Mr. Webber: Good evening. I am Bob Webber. I'm the manager of Reclamation District 999.

Chair: Could you move the microphone up? Yeah -- thank you.

Mr. Webber: So welcome to Reclamation District 999. We have a couple of people that -- uh -- with a one day's notice can provide a little entertainment for you. The Clarksburg District 999 was formed in August 10<sup>th</sup> of 1913. It was formed under the Reclamation Act of 1868. We are very concerned that to convert this area to wetlands would eliminate our district, eliminate flood control as we maintain and operate 33 miles of federal project levees. We maintain and deliver irrigation water to 25,000 acres. And we maintain 260 miles of ditches, which are filled with invasive weeds which just raise heck with us. And if you create any kind of wetlands, and you don't have a solution to the invasive weeds that are coming from Asia and all around the world, you won't get what you think you're going to get. You're going to get a mess. The district is very proactive and environmental friendly. Erosion control projects on our levees. We do brush boxes. We plant tully's along the water's edge. We plant willow trees, and we're really able to let the rivers and byways generate riparian areas along the edge of the water. We've put in a

fish screen this last year that screens for Delta smelt and for salmon. So we divert the water off the Sacramento River, and we are currently screened and we are currently participating in protecting the species that you choose to protect as well. We would ask when you do your EIR process, and your -- as you do your plan, that you carefully consider that you're in compliance with all the federal and state reclamation law. And that you also when you use water for a wetlands, you're gonna be using water, and we ask that you carefully evaluate the current water rights law, and how your plan effects water rights of the people in the Delta. Thank you.

Chair: Thank you.

(Applause)

Mr. Shipley: I'm Hal Shipley I'm a director of the Clarksburg Fire Protection District, and I'm sort of surprised that folks are talking about the lack of time. Our firefighters have a turnaround time of six minutes. So a full day seems very appropriate. I've had an opportunity to review the draft of the Conservation Strategy and the four options that it encompasses. And I have some major concerns. First , I would just like to say that any flooding that would prevent access to our emergency vehicles anywhere in the Clarksburg District would

be very detrimental to the folks who live here. We need access and we can't allow in any way flooding of the farmlands around that area. We have 331 farm units in the Clarksburg District. 243 of those are small farms, 50 acres or less, and quite a few of them are 20 acre farms. We owe these folks -- these farmers a duty of protection, and that's the Fire Protection District's job -- is to provide emergency access to medical care and fire prevention. We have on average 52 medical aid calls a year. About 26 vehicle related calls that's either accidents or fires of vehicles. These numbers seem sort of small, but when you consider that it may be your parents, your sons, daughters, or yourself who has the emergency, then I think you'd consider this probably the most important moment of your life just to have someone respond. And that's what our district is about. Our district has a great need -- a tremendous need for a new firehouse. And we're working on that. But we're looking for a location to build it, and we need funds to build it. Funds have been a major obstacle for our Fire Protection District for many years. We cover an area of approximately 53 miles -- square miles. The Dunn and Bradstreet's Zap Database shows Clarksburg with 70 businesses, 29 of which are agricultural.



These businesses provide employment for 540 employees, which represents about 41% of our population of his district, and about 44% of the income to the Fire Protection District. To provide health, welfare services and the necessary coverages for the district, we cannot allow the district to be flooded. We just can't. Thank you.

Chair: Thank you.

(Applause)

Chair: I'm going to try this one, Don Kenochio? Is that right? Or close?  
And Topper-van Logansels.

Mr. Fenochio: Good evening. Thank you for being here, even though it was short notice. My name is Don Fenochio. I've lived in Clarksburg for over 55 years. My mother's family came to Clarksburg long before that. She was born in our area over 100 years ago. A little history here. Her family farmed, fished, and hunted in this area. My wife and her family have also an equally long history here. I came back to work in the Clarksburg system -- in the school system because I felt I had a dedication to the Delta. A dedication to the small towns, and to the people who inhabit them. I served as an educator for almost 40 years, right here in the Delta, in this very room, from Clarksburg to Rio Vista. The Delta is more than a water shed. It's more than a

delivery system to areas south of us. It's home to a large number of people who have made their homes here. Have made their living here. Have raised their children here. And who have worked hard to make the Delta a wonderful place to live. A wonderful place to raise their children. Incidentally, as I look at all the posters, I don't see any of the most endangered species to which Mr. Merwyn alluded. And that's people.

(Applause)

Mr. Fenochio: The Delta -- the Delta is a location of a number of small historical towns that have survived the difficulties of being in a flood plain. All of the citizens of the Delta have contributed to the preservation of a way of life that has developed into a strong society. Any plan to change these historic places -- these historic towns just appall me. And when I speak of the towns, I'm also speaking of the surrounding farm areas. Those people who farm out there around the little towns are also members of the town. This kind of plan that I see here actually stops any kind of growth and progress that is necessary to maintain the character of these small towns. The plan that I see being presented will destroy the character of the Delta towns. You should, and you must, study plans to protect these existing

communities. The EIR must study the impacts of a myriad of community issues, including but not limited to such issues as declining population, the effect of such plan on schools. The existing community habitats. Health, the existing environment. Social activities including churches, scouting, fire services, libraries, police protection, as well as regular community social activities. These existing Delta communities cannot be discounted. They are an important part of the State of California. Your EIR must address these and other community concerns. How will you protect the people of our important communities? How do you protect -- plan to protect the way of life that has endured for more than 100 years? Please, in your EIR tell us how you will do that. Thank you.

Chair: Thank you.

(Applause)

Mr. Fenochio: Incidentally -- incidentally, I encourage each member of this panel to read this book, *The Great Thirst*, written by Norris Dudley, Jr. And it has to do with all the water wars that occurred in Southern California. The main character here is named Molholland. I hope we don't have someone by that name around here.

Chair: Thank you.

Mr. Fenochio: Thank you.

(Applause)

Mr. van Lobensels: Good evening. As Steve Harringer was up in front of you telling you how many generations of his family -- I began counting on my fingers. Steve, you've got me beat by one generation. My name is Topper van Lobensels, Delta landowner and member of the Delta Protection Commission. There are several commissioners here this evening, and we take our job very, very seriously. And we're charged with many, many things, but some of our key responsibilities are number one, preserve and protect ag lands. Number two, preserve and protect those reclamation districts that allow those ag lands to flourish. Number three, protect tax base, tax base for the county, tax base for the schools, tax base for those districts. And number four, to attempt to minimize flooding in any way we can of Delta lands. And when I got here this evening, I walked over and I looked at Station #4, and that would have tremendous draft negative impacts on all four. And so -- it's one of those things that if you're not familiar with this area, and you live someplace else and you get out a map and you start drawing lines on the map and you don't know what's there, it would be easy to make

the mistake that you've -- you've made. Several in the room here were at an all day Delta Vision Meeting. At the end of the meeting I walked up to the moderator and I said, do you know anything about BDCP? What's this all about? And he said, he wanted me to enter into the public testimony that BDCP and Delta Vision are not related. They are two entirely separate processes at this point. But being realistic, here's my fear, if this gets traction, and it gets a name, and it starts moving forward, this may be merged at some point with Delta Vision. So I think we have to be very, very careful as we -- uh -- as we move forward that we don't give something a name that may never, ever have any traction. So what I -- what I would like to do is recommend to you exactly what the Delta as a place is recommending to Phil Isenberg. Is number one, I don't know and you don't know -- the scientists don't know if what you're proposing here is going to work. So number one, it has to be reversible. It has to be an experiment or a test spot that's reversible. When you remove pear trees, you remove wineries, and you remove trees, that's not reversible. So, I'm going to say to you what I said to the Isenberg committee. Number one, has to be reversible. Number two, you're always going to go to publicly owned property first with

an experiment. And that's federal or state owned property. If you can't find federally or state owned property, you go to where property has a cloud on the title. The cloud is already there via some sort of easement or a flood easement is the perfect example. If that map number four, if this project were moved just a few miles to the west, and if it was in the middle of the Yolo Bypass, you'd have a handful of people in this room. So, maybe somebody is not really familiar with the lay of the land. The other issue that I want to point out to you, the State of California bought 12,000 acres a few miles west of us. The Glide Ranch, owned by the Department of Fish and Game. So I would like to direct you to that parcel to do your experimentation and just remember that we're all concerned about flood control. And so you can do your experimentation there, the way the Vic Fazio Refuge -- if you go and look at that refuge, there's water moving through that refuge, but you have to conduct anything in the bypass so that it's flood neutral. So those are recommendations I'd like to leave you with. Thank you.

Chair: Thank you.

(Applause)

Chair: I don't have any other speaker cards. But I just want to see if there

are any other folks that would like to make a comment that didn't provide a speaker card. So -- um -- Paul, if you would give -- make sure that we get a speaker card.

Ms. Klotz: I really didn't come prepared to say anything tonight. I didn't really have enough time because as my friends around Clarksburg all know, I can usually talk to a post. I have only one question --

Chair: Please state your name first.

Ms. Klotz: -- I'm sorry. Jane Klotz.

Chair: Thank you.

Ms. Klotz: K-L-O-T-Z. And I have just one question to ask of the commission. Uh -- we owned a ranch in Sacramento County. And we were the recipients of eminent domain because the state wanted to put a highway through here. Am I not talking through that? So I-5 divided our ranch in Sacramento County, and naturally we thought they didn't pay us enough. But they said, oh, you're going to have a great piece of property there for commercial. And so you're going to have highway commercial, and you can make up the money that way. Well, obviously we didn't fight it. But, the very interesting thing is, that in developing that small piece of commercial property, it cost \$3,000.00 to relocate one burrowing owl. It took a nest of

Swainson's Hawk and they had a perimeter of 10 acres that had to be accounted for in order to protect the Swainson's Hawk. My question is, where are the burrowing owls going to go, and where are the Swainson's Hawk going to go if we flood all the area where we now have relocated the burrowing owl and the Swainson's Hawk? Thank you.

Chair: Thank you.

(Applause)

Chair: Father Madigan.

Father Madigan: My name is Father Van Madigan. I'm the pastor of the church here in the Delta. I -- sitting here tonight reminded me, I come from a generation -- generations and generations of farmers. I'd like to say something to the farmers tonight. Not to the politicians, not to the people sitting up front. But to you farmers. I came from generations and generations of farmers in a beautiful part of island. And I saw a group of people moving in here like tonight and destroying our beautiful countryside. And they did it by holding a little meeting -- in little meetings that they didn't tell anybody about. And before it really caught on there wasn't a doggone thing you could do about it. In fact, you stand upon that beautiful hill and my farmland and our



farmland and you look down, you saw what happened. I would say here tonight, I listened to all of you speaking, and listened to all the farmers, you were crystal clear in what you had to say. You spoke because you have integrity, you have indecency (sic) and you're for real. People up here, good folks, your staff members and all that, you're out here, and you're kind of -- tonight I heard you kind of almost making excuses you -- for yourself in explaining yourself to these people. You have power. Use your power.

(Applause)

Father Madigan: If you can get here tonight on almost a 12-hour notice, could you imagine what we can do down the way. You are not going to let anybody come in and railroad anything here over the community. Hang in there.

Chair: Thank you.

(Applause and cheers)

Chair: Gary Merwyn.

Mr. Merwyn: Hopefully I can read my own chicken scratch here. I'm the newcomer. I'm just a 3<sup>rd</sup> generation farmer. And I'm a trustee for Reclamation District 999. My understanding the reason we're here, and that these people exist is because the Delta is sick. Our part

where we live right here is beautiful. Especially out where you -- all these plans call for putting my house in a swamp. I love -- I love facts that I read in the paper, and -- uh -- let's look at some facts. Right now we're at 80% snowpack in the Sierras. The dams are only 50 to 60% full. Down south they're cutting back to 35% water. There's more water coming out of the dams right now today than is going in from the snowpack coming off. And we're talking about fixing what broke it. These plans all work on the symptoms like NyQuil. What broke the Delta was trying to just -- is trying to export six and a half million acre feet of water from the Delta that the water shed cannot support. Period. Those are facts.

(Applause)

Chair: Thank you. That looks like we'll wrap things up here in terms of comments with M.P. Albertini.

Ms. Albertini: It's -- people always (inaudible) my first name.

Chair: I'm sorry?

Ms. Albertini: Okay, it's -- it doesn't really matter. Okay, let's see here. I just have a couple of things to say. One is I'm hoping that -- uh -- both the Delta Commission and -- um -- the BDCP or all the other acronyms used for that today. I was waiting for ee-ii-ee-ii-oo.

There were so many of them.

(Laughter and applause)

Ms. Albertini: They don't -- they don't overstep their bounds. We have the Delta Protection Commission who on a whole does a fabulous job. When they were first brought together, one of the things some of the farmers did talking to them when putting the committee together was that they weren't going to stop progress. Weren't going to touch farmland, but they wouldn't stop progress. I know for a fact that they have building housing here in the Delta. So I'm hoping that you two don't overstep your boundaries by saying one thing and doing something else. My family have been -- uh -- farming in the Delta for three years, but I come from a farming family of 10 generations. I'm worried about our livelihood here in the Delta, about our fabulous farmers, about economic growth. Um -- we have -- uh -- Gold Medal wines that they don't even have anywhere else in the country. Those are quality. But I really want to back up again to -- I don't want to see that you overstep your bounds. I don't want to see that there's going to be eminent domain. This is fabulous farmland that if they don't have anywhere else and it needs to be protected. Thank you.

Chair : Hank you.

(Applause)

Chair: That's all I have for speaker -- oh -- we have one more? Okay.

Ms. Beck: Hi -- uh -- my name is Amanda Beck. It used to be Amanda Parr for those who knew me. Um -- I do environmental analysis, so I kind of just came down to see what's going on in my community with -- um -- with this plan. And I guess the first thing that came to mind was really about this conveyance. And about mitigation ratios associated with that conveyance. Um -- other potential alternatives for mitigation ratios. I'd like to see that analyzed. To see -- if you're going to take land, there's going to have to be a Take Permit. Where are you going to get the land? Because that's the big concern that I see -- is -- that land is there, but it's being farmed. So, I guess that's it. That's just a comment.

Chair: Thank you.

(Applause)

Chair: If you have not signed the sign in sheet, please do so, so that the next meeting we can get an email blast to you that gets to you. And I just want to say sincerely thank you all so much for coming. Thank you for taking the time to be here, and to review all the information, and

please, also take a comment card and get your comments -- further comments in by May 30<sup>th</sup>. Thank you all very much.

**-- MEETING ADJOURNED --**

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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**FRESNO**

**Fresno:**

Chair: Would you like to just try to do the summary points and make those?

Okay, but you want to go second? Okay. So Mike Henry, if you can come up please.

Mr. Henry: Mike Henry with the California Farm Water Coalition based in Sacramento. Our membership is devoted entirely to farm water, so that's what I'm going to speak about today. The water that flows through the Delta is the focus of our attention and we believe it's very important to keep that water flowing. It doesn't matter where anybody lives in the state or where their place of business is, they're impacted by the water that flows from the Delta, even if they're in Northern California. Because the water that flows from the Delta helps to underpin the economy of California, and we all benefit from that. When we lose that supply of water that goes out, then our economy suffers. So it's important that we look through the BDCP process that to work the water that's going to flow, to be able to allow it to flow and to continue to flow. We don't need to be divisive in making decisions on this. We don't need to create winners and losers. We see that happening even right now with the court decision from last year. That court decision created winners

and losers. As a result of that action, as of May 1, we're looking at about 800,000 acre feet of water that has not flowed to users that have contracted for that water. Instead that water is going on out through the Bay, to the Pacific Ocean. That's just up to this point. How much more water are we going to lose? We're fearful of that. Already five million people have had their water supply cut. This is not voluntary restrictions, but they've experienced losses, both domestic and on farm, and on farm is my focus. We've seen hundreds of jobs on the farms have already been lost, hundreds of thousands of acres have not been planted, and these job losses are year-round employment. They don't involve the harvest season where we (indiscernible) more workers. When that arrives job losses are going to be even more staggering. We recognize the importance of the Delta and maintaining that environment. We equally recognize the importance of keeping the water flowing through the Delta to those who have contracted for that. When we stop that water flowing, then we start to see winners and losers. We believe that agriculture creates a very important part of our economy. The ripple affect to the transportation, processing, retail industry, people are losing their jobs. More importantly, families are



losing opportunities to live in a lot of these rural communities because of the economic impacts that they've encountered. The current system of moving water through the Delta isn't working. It's resulted in environmental losses, and it's also resulted in interruptible supplies. What the BDCP we encourage that process to resolve that. It's no surprise that we would encourage the BDCP to keep the water flowing, recognizing the value of the role that our farmers play. We also recognize that the Bay Delta environment must be protected. But don't sacrifice one over the other. Not bad, huh?

Chair: Come around this way, and then –

Male: I think it's important – I'm a rancher, okay, and I've been doing it for 40 years, and we grow pistachios.

Chair: (indiscernible)

Male: Okay. And I started in the business in 1968. I think there were 200 acres of pistachios planted in the State of California at that time. Today there's 150,000 acres of pistachios. And we are about to overtake Iran as the leading producer of pistachios in the world. They're falling behind because they have a water problem, which is rather ironic. They've been taking their water from the aquifer.

They have no canals from the mountains to help them out. And so the salt is continuing to rise as the aquifer falls, and the quality of their product is dropping drastically. We have captured the EU market, the European Union market, in the last two years because of Iran's water shortage, by sending top quality product over there. And that's the only way we can maintain our product throughout the world, is to provide our people with top quality product. We're very proud of what we've done., and I speak for the whole industry. And it's been a marvelous journey. Now as far as my ranch is concerned, it's just about 2,000 acres. I'm the manager and administrator. I'm a part owner. And there are six partnerships involved. And we're located right below Kettleman City on I-5. We are bracketed by the California Aqueduct on one border and I-5 on the other border. We watch that water go by every day. And I want to speak particularly to half of the ranch. It's in two parts. We originally bought 933 acres back in 1980, and that's the one I want to talk about. It's totally dependent upon the State Water Project. We have no other source of water. We could've banked some water, but in the last three or four years we haven't been able to bank any water because the shortage has caught up with us year after year. And we can't put

a well down because it's too salty. So we must depend on the SWP for our water. Now the cost of water, as everything else, is going out of sight. And I'll just give you what it costs us. In 2006, our cost of water was \$68.50 an acre foot. For this ranch, \$215,000. Okay. In 2007, with a 60% allocation, last year, the cost for our water was \$156.45. That was more than double the year before, for a total of \$492,000. This year we estimate that, if we can find some more water, it will cost us almost \$1 million, and that's going to be close to \$300 an acre foot. We haven't got that water yet, and every day that goes by the water keeps going up in price. But at any rate, we have to get this water sometime between now and June because we only have 200 acre feet of water to take care of 900 acres, and that just doesn't work. We can probably keep the trees alive, but I hate to think of what the crop's going to look like. So we're in desperate straights right now. By the way, that crop is probably worth, in the marketplace, grower prices, okay, if you will, about \$5 million. And that's about 2.5 million pounds. And the price is up this year because of the worldwide increase in food. So that's about \$2 per pound to us, which is worth \$5 million. So the best scenario is that our cost of water is going to go up again this year at a cost close to

\$1 million, that's the best scenario. The worst scenario is that we lose \$5 million. And if this happens again next year we're going to be out of business. So I want to – I've been researching this thing ever since the Wanger decision back in August. And I've been talking to people that work for the University of California, Davis. There have been over 100 essays done on the Delta smelt. And the most prominent one done took five years, and it was done by William Bennett, not the guy in Washington, D.C., that writes all those books. But he's an ecologist, and he spent five years on this report. And I want to quote you some things from his report, because this did not appear in the Wanger decision at all.

Chair: (indiscernible) comments, your written comments (indiscernible)

Male: Well this is the gist of my whole reason for being here, is to read this to you. It's too short pages, okay.

Chair: I understand, but we've been trying to stay consistent between all of our meetings, and we've asked everyone to stick to three minutes.

Male: Well there's nobody else in back of me. There's not 200 people here or anything.

Chair: (indiscernible)

Male:                   Okay, I appreciate it very much, okay. The taxpayers of California have spent over the years billions of dollars for a statewide water system, second to none in the world, I might add, that services 25 million of its citizens and millions of acres of rich farmland. More than any other occurrence, this water project has unified the citizens of the State of California. Talk of dividing the state into two entities, north and south, is no longer taken seriously. How is it then that what has been accomplished here is now being curtailed in order to save a little three-inch fish? The ensuing damage to the economy, the environment, and the lives of citizens throughout the state is going to be tragic. No one is arguing with the plight of the Delta smelt, which is native to the Delta estuary. But its demise cannot be laid solely at the feet of the pumps, which take water from the Delta and deposit in the California Aqueduct. A myriad of scientific reports reveal that 185 non-native species now occupy the Delta, several prey upon the Delta smelt itself, and also vie for zoo plankton, it's main source of food. The most destructive predator is the inland silver side – and by the way, I've never that in print anywhere, in any magazine or newspaper article, but this comes from a peer-reviewed report – which entered the estuary in 1975 and

is now found in prolific numbers throughout the Delta. It is slightly larger than the Delta smelt, and is also a plankton eater. Under laboratory conditions, these two species of tiny fish were placed together in the same tank for 60 days. The inland silver side thrived, while 30% of the Delta smelt died, and the remaining appeared to be in starvation mode. The foregoing lab experiment and the three following quotes were taken from the most comprehensive report ever compiled on this little fish. It's called The Critical Assessment of the Delta Smelt by William Bennett. It is peer reviewed. And in talking with Mr. Bennett, he told me it took him five years to do this study. There are 125 references to other, some peer reviewed, some not peer reviewed, but scientific reports. Now his quotes – and I want you to really think about this because when Judge Wanger handed down his decision he was making some rather broad assumptions here. The quote, for Delta smelt – and this is from the scientific report – from the Delta smelt it has never been established that reducing water exports at the critical times has any benefits for the population. Second quote, it is currently unclear if losses to the water projects are a major impact on their abundance. And three, numerous data gaps will need to be filled before we can understand

the impacts of water export operations on the Delta smelt population. By ignoring these truths, a federal judge ordered the pumping of water to be sharply curtailed to millions of our citizens. This order took effect in December of '07, and is in force through June 20<sup>th</sup> of this year. I'll skip over this part. At risk is drinking water to 25 million people and the bread basket of the world, over 9 million acres of rich farmland, comprising 350 different species of productive plants. The latter, by the way, is nature's greatest gift to clean air – the Clean Air Act, I love it – and the prevention of global warming through the process of photosynthesis, the conversion of dioxide to oxygen. There are 28 varieties of trees and vines in that 350 species, and three of them, almonds, walnuts, and pistachios, cover a million acres and comprise 120 million trees. Now that's only on one million acres. The other permanent crops comprise another two million acres. So you're talking about close to 400 million plants, versus that little fish. Now that to me is a little out of proportion. In the first three months of this curtailment, 600,000 acre feet of water have already been diverted to the Pacific Ocean, and now it stands at 800,000. That amount of water would meet all the water requirements for the City of San Jose, with a population of

954,000 people for five years. The hardest hit, however, are those who farm millions of acres in our central valleys. Thousands of acres of row crop land will go fallow this year or nonproductive, and believe me, people are going to pay with their lives for this, because if you recall, there was a horrible accident last year, it was a 151 car pile up in the valley. It was caused by a dust storm. And if you've ever driven into a dust storm, you can't see your hand in front of your face. It appears just immediately, and it's gone just about as fast.

Chair: (indiscernible) are you just about through?

Male: Yeah, just about through. So also there are wells that are being drilled. It's a waiting list to get a well down there. One of my neighbors is putting down four wells. He's got 6,000 acres of pistachios, and the water will be somewhat salty. And also water transfers are taking place all over the place with the Metropolitan Water District being the biggest buyer. This state is being subjected to a giant experiment that flies in the face of peer-reviewed, scientific evidence to the contrary. Likewise, the repercussions to the nation will be huge. On only 4.4% of all the land under cultivation in America, this state provides 50% of the nation's fruits,



nuts, and vegetables. Deny them their water needs, and we all suffer the consequences. One final note to our government leaders and environmental community. Our government is designed to be a republic, where the rights of the individual are sovereign and always protected. The remedies being executed under the Endangered Species Act, in an attempt to save the Delta smelt, are placing millions of people and hundreds of plant species in extreme danger. The utter disregard for their safety is beyond comprehension. The ESA must not be loosely interpreted, but man must never be subservient to lesser creatures, and 350 plant species must never be put at risk for one, or even a few, other species. The laws of nature will endure. The Delta smelt is a victim of the survival of the fittest, which is just one of nature's inconvenient rules. Thank you.

Chair: Thank you. Anyone else? Thank you all very much for coming. And remember that deadline (indiscernible) other comments you'd like to send in, that would be great. Thank you all for coming.

**-- MEETING ADJOURNED --**

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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**LOS ANGELES**

**Los Angeles:**

Chair: Was I even close?

Ms. Gagnon: Good afternoon. My name is Katie Gagnon and I'm the Public Policy and Legislative Coordinator for the San Gabriel Valley Economic Partnership. We're a non-profit corporation representing both public and private sectors within the San Gabriel Valley. Our mission is to sustain and build the regional economy for the mutual benefit of all 31 cities and chambers, businesses and residents of the valley. The San Gabriel Valley partnership has been closely watching the water issues of our state become worse over the years past. The delta being a supplier of the water to Southern California is important to us. Its preservation and well being is of utmost importance to our region. Because of our interest in the delta the partnership commends efforts of the Department of Water Resources in coordinating the Bay Delta Conservation Plan process. A few months past I visited the delta with the NWD and on this trip I realized the extent of damage and a real threat to our state's water supply. As an individual living and working in Los Angeles County, I know the population needs and the importance of a reliable water supply. From what I saw and learned on this delta trip, this is not a

guarantee. There needs to be a reliable water system for our ever increasing California population. We need a restored delta ecosystem and a reliable conveyance system. As an economic development organization in the State of California the partnership supports ideas and projects that enhance and revive an economic viability of our region. The San Gabriel Valley has over 42 thousand businesses. Our members range from cities and universities to companies and organizations. Each of which is impacted by the state water supply. We at the partnership know the indirect repercussions of water supply levels that are not maintained. Economic impacts resulting from our water shortage would be enormous on businesses and residents of the valley. The Bay Delta Conservation Plan is an essential part of the economic health of California. Because of this the partnership supports the BDCP Conservation Plan Environmental Process and is more than happy to be part of the collaborative effort and support of the Bay Delta Plan Process. Thank you for your time.

Chair: Thank you. Our next speaker is Darcy Burk with the Municipal Water District of Orange County. You had an easy name.

Ms. Burk: Good afternoon. The Municipal Water District of Orange County, oh, I'm sorry. I'm supposed to say my name, huh? Darcy Burk, Municipal Water District of Orange County, sorry about that. The Municipal Water District of Orange County or MODOC is the third largest member agency of Metropolitan Water District of Southern California. We have about 29 client agencies making up the family of Orange County water agencies. We have a service area of over 600 square miles. We serve a population of over 2-1/2 million. Half of the water we use in Orange County is imported and that's approximately 350 thousand acre feet a year, and the southern portion of Orange County is 95% dependent on this imported water. MODOC and the family of Orange County water agencies know that reliable and good quality state water project delivery makes both ground water storage and recycling work in Orange County. We store wet year water for use in dry years. Without a reliable delivery system we can't continue to do that. If your deliveries are cut back in normal or wet years we will not be able to refill our local ground water basins to get through the dry years. In Orange County we recycle 36 thousand acre feet, and with the new ground water replenishment system GWRS we will add another 72 thousand acre

feet a year. GWRS is a state of the art project that cost over a half a billion dollars and took over 10 years to develop. There is not enough time or resources immediately available to build additional GWRS systems that would make up what we have lost from the state water project to date, or any additional losses coming in the future. MODOC supports the effort to develop a comprehensive Bay Delta conservation plan. The fragile delta levee (unintelligible) island system is vulnerable to catastrophic failure due to earthquake or flood, or other unknown disaster. This is not new information. We have been told this for several years now. We must act on this information whether than waiting for a Katrina like disaster to strike California and cripple our state, ruin our economy and jeopardize our future. It is in the best interest of California to find a way to deliver water and protect the delta eco-system. This is what the Delta Vision Task Force also concluded. Therefore, we support the efforts to find ways to reconfigure the delta and our water deliver system to promote reliable water delivers and a healthy eco-system. It's important that efforts to address the health of the delta also include measures to deal with invasive and non-native species,

unscreened and delta diversions, waste water discharges and run off from urban and agricultural sources. Thank you.

Chair: Thank you Ms. Burk. Our next speaker is Joyce Dillard.

Ms. Dillard: Yes, Joyce Dillard. I've been to a couple of events, one at UCLA and one at USC on this in the last couple of years. And what was striking was the loss of about, to the economy that region represents 30% and I think that needs to be brought out in this study.

Conservation and contamination need to be brought together at least on the urban city. We don't see what you see up there. We're a little different area and I cover Los Angeles as a citizen. There's salt water invasion that I remember seeing. Land use is king here, but everyone's forgotten that land use is part of the Health and Safety Code. And, with that they've forgotten what Fish and Game do. I look at a lot of EIR's. They'll bypass that category and not mitigate it at all, and that emphasis needs to go from land use into the housing element. There are general plans and housing elements being done right now. You don't see water mentioned other than we'll conserve water, at least in the one year in LA, and you didn't see it in the report that's going out for the last few years that they have to report to the state. It's just an element missing. That's a sustainable

element isn't it? Isn't, and I think that word needs to come to play. I would really like, here we have an emphasis on population so that when we have the demand, we control the water. I sit through meetings where there are fights over this and it's not the fact. There is definite effect here that needs to be brought out because this region just doesn't get what's going on in Northern California at least on the non-professional water people I'm talking about. I'd love to see on a water shed basis, because we're missing that element in these EIR's. But, we'll settle for eco-regions, something the public can identify with. With this climate change going on and it is an eco-region thing, it's an international eco-region, it's from forest to ocean and I think this needs to be brought into that category. There are groups that are conscious of this but on an end for this particular project was just so critical to California they're not. You need to start lumping water and energy together so I think you can get some public support in this. But I think the terminology needs to be changed; I really think it needs to be changed legally. I think it needs to be included in CQUA. So, I think besides the study, there needs to be some changes with the legislation. Thank you.



Chair: Thank you Ms. Dillard. Our next speaker with the LABC is Michelle Garakian.

Ms. Garakian: That was close enough. Good afternoon. I'm Michelle Garakian with the Los Angeles Business Council; I'm the Director of Policy. I want to begin by saying thank you for hosting this today. This is very informative. The LABC is certainly concerned with the decline of health with the delta. We can not afford the decrease and reliability of key water resources for our economy. Of our 350 plus membership a lot of these members are developers, residential housing developers. Considering the current affordability of affordable housing crisis in Los Angeles and the housing market as it stands right now, it's disconcerting to us that a multitude of current housing projects in Los Angeles County have been put on hold because there can not be a guarantee in water resources and water supply. I don't want to get into the specific numbers of this housing crisis but it is grave and coupling and compounding the water crisis on top of that is very disconcerting for us. However, this plan makes a lot of sense and we certainly commend the Bay Delta Conservation Plan and the collaborative efforts between the State and water agencies, and environmental groups brought today. It is key to

finding a solution for the preservation of the delta and for the current species that exist there. And, it is also key to a reliable, what is also key to a reliable water source is the healthy and restorative efforts for the eco-system and a re-built water conveyance system. So, therefore that we support the BDCP, EIR process today because again, we think that this plan is absolutely vital to the health of Southern California's economy as it takes in the consideration the additional, the, pardon me, indigenous multi-species and finding a solution for a sustainable water source. Thank you very much.

Chair: Thank you. Our next speaker from the Metropolitan Water District is Steve Arakawa.

Mr. Arakawa: Good afternoon. My name is Steve Arakawa and I'm the Manager for the Water Resource Management Group for the Metropolitan Water District of Southern California. The Metropolitan is a wholesaler and provides water from the delta through its state water project and from the Colorado River aqueduct to over 18 million Southern California residents in a six county service area. We've been actively involved in the Bay Delta Conservation Plan from the outset. Thank you for coming to Los Angeles and holding this scoping session today. The success of this process is absolutely

essential in order to create a sustainable eco-system in the delta and a reliable water supply system for California. I'm submitting into the record various policy documents reviewed and adopted by our Board of Directors that have guided Metropolitan's thinking in recent months about the comprehensive fix in the delta that's needed. Metropolitan requests that you embark on this analysis phase of BDCP with these various benchmarks in mind. They frame the dimensions of the challenge. The objective of the BDCP is not solely about eco-system restoration or improvements in water quality, or improvements in water supply reliability, or protections against the unique seismic risks in the delta. A successful plan has to address all of these. As for Metropolitan that is the expectations from the delta. It's important for the Federal and State agencies guiding the BDCP to understand how Met's infrastructure is an important piece of the puzzle. Met has built a network of surface storage and banking programs in order to capture water an average in wet years in order to relieve pressure in the eco-system in dry years. The strategy is to take water in nature's terms. Metropolitan needs a more flexible, adaptable water system in the delta in order to do that. New water from growth will come from water use

efficiency such as conservation, voluntary transfers and new local supplies such as recycling. However, the delta will remain a central baseline supply. While Met's storage and delivery systems provide flexibility when we draw in the delta supplies, both the overall quantity and quality of supply are vital. The BDCP has rightly placed as co-equal the objectives of restored eco-systems and a reliable water system. This effort is one of the most complex and most important tests of habitat planning in our nation's history. It must succeed. Metropolitan looks forward to remaining actively engaged in the process and commenting on various alternatives as they are analyzed in the months ahead. A healthy delta eco-system is essential for a reliable delta water system and healthy state economy. Thank you again for this meeting.

Chair: Thank you, sir. Our next speaker this afternoon is from the Building Industry of Southern California, July Center.

Ms. Center: Thank you very much, it's a long walk. I'm July Center; I'm with the Building Industry Association of Southern California. I'm their Public Affairs Director and, on behalf of the BIA of Southern California I want to thank you for the opportunity to participate in this scoping meeting today on the future of the Sacramento, San

Joaquin Delta. Established in 1923, we are a non-profit trade association representing more than 2,400 companies involved in the planning and building of Southern California's neighborhoods and communities. Our members are involved in all aspects of the building industry from architecture and green building to roofing and general contracting. The states future and economic vitality is linked to a reliable high quality water system. That would require a sustainable plan in the delta that restores the eco-system and improves the water system now and into the future. Today the Department of Water Resources Bay Delta Conservation Plan is at a critical and initial scoping stage that shapes the breadth of issues and alternatives that will undergo the exhaustive analysis that is required under the State and Federal environmental laws. With that in mind, the BIA of Southern California and its members wish to reinforce five specific needs and objectives of this process. The BDCP must stick to its stated goal of placing the needs of the future delta eco-system, and that of the water systems on equal footing. A balanced approach is the only reasonable framework for a successful solution. Both quality and quantity are important needs of the future water system. A source that is low in bromides and organic compounds

will remain necessary in order to successfully blend delta water with other supplies. Third, reliability can not be achieved without the BDCP addressing rising sea levels in the delta and the rising risk of catastrophic levee failures due to flooding or seismic events. Fourth, the strategy to restore the delta should study ways to separate the natural tide fluxuations of the eco-system from the movements of the water system. And finally, our state's economy and the delta environment do not share the same clock. A full analysis of conveyance alternatives is absolutely critical to provide a foundation of fact necessary for historic change in the delta. Time is of the essence. The Department of Water Resources Bay Delta Conservation Plan must stick to its schedules so that a comprehensive plan is in place by the end of 2010. Without it we risk the states economy and the welfare of residents throughout California. Thank you again for holding this important meeting today.

Chair: Thank you Ms. Center. Our next speaker representing the CPPR and D, Mr. Chris Campbell.

Mr. Campbell: I was not the one that filled out the speaker card so for the record and for clarification, the organization's initials are CEPRD, and it

stands for the Coalition for Environmental Protection Restoration and Development. I'm here today in my capacity as its Executive Director and I want to thank you for the opportunity to address you at this early phase of your effort. With regard to CEPRD just as a matter of background, the organization through its predecessor entities has been working for over 20 years with environmental regulatory agencies with the State, Federal, regional and local levels to establish partnership approaches in dealing with some of the challenging environmental issues which confront us all. As a matter of membership, we are a small organization comprised of some of the world's largest corporations and utilities. We are a 501 C-3. We do not lobby, we do not advocate. But, to the extent that we can serve as a resource, it is something we have found has been appreciated and has been helpful as we try collectively to ensure an economy which is both strong and environmentally sensitive. With regards to your efforts today, I would offer just a few thoughts at the outset. You've been tasked with a very aggressive schedule, in particular when it comes to matters concerning environmental document preparation. The integrity of those documents as a matter of their thoroughness and consideration of options and alternatives is

critical if you are to be able to meet those schedules without running into what appears to be the almost inevitable risk of legal challenge. To the extent that you will be developing a document it would be important for you to consider how that document is structured. One of the things that we have found most challenging over the years when it pertains to matters concerning impacts is the science that goes into determining what those potential impacts may be. To the extent that you will be considering a variety of options for obtaining your scientific analysis, we would urge you to spend as much time as possible working with your stakeholder groups and with those who you will be coming in contact with through the course of this scoping process to understand as clearly as possible, what the fundamental issues are and most importantly how those issues can best be articulated through a scientific process. I don't know if in the context of your efforts you have the ability or have made contact with, or given thought to the development of an independent 3<sup>rd</sup> party agreed upon scientific body that could work with you in the formulation of the criteria that you will be developing here. In one of the areas of our involvement over the years, that pertaining to water quality, we found here locally an organization called the



Southern California Coastal Research Project, and I see Dorothy Green out there who has been a friend for many years, who has known about SLURP and other activities as they relate to bringing in the environmental community, bringing in regulatory agencies, and bringing in impacted parties. If a body --

Chair: And sir, you've reached your three minutes. If you'd like to let the next person come up, we'll probably have time at the end for you to finish your comments if you'd like.

Mr. Campbell: -- I'll end it at that, just to say that we appreciate the opportunity to be with you today. Our address is records on file and if you wish to contact us in the future we're available. Thank you.

Chair: Thank you Mr. Campbell. Our next speaker from the Gateway and Bell Garden's Chamber of Commerce, Mr. Dennis Grizzle.

Mr. Grizzle: Good afternoon. I'm Dennis Grizzle. I'm the past President of the Gate Way Chamber's Alliance, a group of 22 Chambers of Commerce. And I'm the Executive Director of the Bell Garden's Chamber of Commerce. We are a young small city. The Bell Garden's community is a population of 45 thousand people, 40% of our residents are at the age of 19. They are solely dependent on ground and imported supplies. In the last census our average

household income was estimated at thirty thousand five hundred per year. At that time that represented as 2/3 of the state average. Our combined retail, wholesale and service sector sales total two hundred and fifty million dollars a year annually. The Bell Garden's Chamber of Commerce realizes the importance of the bay delta to be continued, to the continued economic vitality of the state and our community, and the preservation of the bay delta is utmost important to our region. The Chamber commends the efforts of the Department of Water sources in coordinating this Bay Delta Conservation Plan Environmental Review Process. We desperately need a dependable water system for our ever increasing California population. The economic future of Bell Garden's business community is heavily dependent on the imported bay delta supplies. Additional water supply shortage as a result of seismic activity, climate change, Court Order restrictions and environment needs would impose economic constraints on the already stressed businesses and residents of Bell Garden's. The Bay Delta Conservation Plan is essential to be continued, to the continued economic prosperity of all of California. With that, Bell Garden

Chamber of Commerce gladly adds its name to the support list of the Bay Delta Conservation Plan and process. Thank you very much.

Chair: Thank you Mr. Grizzle. Our next speaker is from the Valley Industry and Commerce Association, Brendon Huffman.

Mr. Huffman: Good afternoon. I'm Brendon Huffman. I'm CEO of VICA, the Valley Industry and Commerce Association. You might have one of the toughest jobs in the state before you and we applaud you for taking on this important issue. Personally the Sacramento Delta, the San Joaquin Delta is one of my favorite places in California to visit. I spend a lot of time there and I'm very sensitive to the environmental needs of protecting the delta environment. At the same time, water is the most critical need for my business organization in the San Fernando Valley. And, we want to be sure that we work with you on a reasonable solution to our water needs. I just want to make a couple of comments and make sure that, first of all we appreciate you being in Southern California today and hope we see more of you in the next two years. Many of the business groups here today already collaborate on water forums and your agencies have been represented in recent months and we hope we can continue that dialogue. And, any time you're ready to provide

some information to the Southern California business community and other stakeholders, we are a resource to help acquaint you with more folks. We would, VICA would also suggest that you consider economic impacts as we move forward. Realistic growth forecasts for population, not just in Southern California but throughout the state, cost efficiency, you know, the state's facing a twenty billion dollar budget deficit. We have passed infrastructure bonds. Sometimes Wall Street looks kindly on our bond rating, sometimes they do not. And, above all, quality is the most important thing. I think everyone in this room and in Southern California would like to see a balance between what is right for the environment but also to maintain a safe and reliable supply of adequate water. Before I close I want to mention one thing about the San Fernando Valley. Since 1980 we have doubled our population. We are 1.8 million people, 800 thousand jobs. Since 1980 we're using the same amount of water today as we did back then. So, we're doing our part to be more sensitive about conservation issues, a lot of investment in water conservation, but also best practices in the home and the workplace to make sure that we're not wasting any water. And, last

but not least let's make sure we stay on schedules so that we can address these critical needs on time, and I thank you.

Chair: Thank you Mr. Huffman. Our next speaker from the LA Chamber, Alex Pugh.

Mr. Pugh: Good afternoon. My name is Alex Pugh with the Los Angeles Chamber of Commerce and Senior Public Policy Manager. I'll keep my comments fairly brief since most of my colleagues have already said what I planned to say. I want to thank you very much for giving us this opportunity to comment on the Bay Delta Conservation Plan. Obviously, this is a very important process, especially to Southern California because we're so dependent on water from the Sacramento, San Joaquin Delta. The Chamber represents over 16 hundred member businesses and over 700 thousand employees. Our mission is to preserve the economic prosperity, and quality of life in Southern California. And, clearly water is a key to that. Specific comments on the Plan, we want to make sure that quality and quantity of water is on equal footing for exports as well as for the environment. And, make sure that the sustainability of the delta doesn't only incorporate environmental sustainability but also economic sustainability. Water quality obviously is a very important

need for Southern California, so making sure that quality water is flowing through the delta to Southern California and other parts of California is critically important. One of the issues that we want to make sure gets addressed is the issue of seismic stability in the delta, but also rising sea levels as it's related to climate change. And, finally I just want to make sure that this process stays on schedule and on time. This is a very sensitive issue for us and everyday that we wait provides the potential for catastrophic disaster. So, we thank you very much for your time and look forward to participating further.

Chair: Thank you Mr. Pugh. Our next speaker is Dorothy Green with the California Water Impact Network.

Ms. Green: Thank you call for coming and holding this public hearing. My name is Dorothy Green. I am Secretary to the California Impact Network, an environmental group that is working for a sustainable water system for the State of California. Although I have not cleared my comments with the Board, I didn't know I was coming until too late to clear my comments. But, I'd like to start with asking a very basic, simple question. Cal Fed has been working on the same syndrome of issues for at least 10 years if not more. What is the

expectations, or what is the possibility of this group doing anything better, or more, or more effectively, or more efficiently, or coming up with any different answers than what Cal Fed was unable to do?

Chair: Ma'am this is not a question and answer --

Ms. Green: Yeah -- well --

Chair: -- so we can't answer the question.

Ms. Green: -- I understand that.

Chair: But, we will have some time afterwards.

Ms. Green: I understand that but I wanted that question to be out there and for everybody to hear it because I really question the successful outcome of what you're trying to do. What you're trying to do is fabulous if it works. It hasn't worked yet. I think it's also really important that you take a look at much more than the designated legal definition of what the delta is. You've got to look upstream. You've got to look to the water sheds and to local agencies, local governments using water much more efficiently than they are now. That is a major, major part of any kind of an efficient reliable water system for the state. Here in Southern California where we are leaders in water use efficiency, doing much better than you folks up North, we still are wasting about half of our water. Starting with the

kinds of plants that we grow, gardening in California has been, find the most exotic plants and add water, and grow them here in California. We can't afford to do that anymore. We can save an enormous amount of water if we can promote changing our, developing a landscape ethic where we use native plants and other Mediterranean plants. Conservation can still save a third of our indoor water use. Of reuse, we've just really begun to do. There's tremendous potential we should be using between 80 and 90% of all of the waste water, should be reused. We got a long way to go. And, we are beginning to look now at capturing storm water where it falls and getting it into the ground so that we can augment our drinking water supply. This is relatively new. There's no numbers yet, but we are beginning to retrofit neighborhoods to capture all storm water and get it into the ground. My time is up?

Chair: Yes, I'm sorry.

Ms. Green: Those are the main comments I wanted to make, thank you very much for hearing me.

Chair: Thank you Ms. Green. Our next speaker representing the SCWC, Joan Dym.



Ms. Dym: I'm Joan Dym. I'm the Executive Director of the Southern California Water Committee. Sorry for the initials. The Southern California Water Committee is about, is 24 years old. It involves 8 counties from Kern all the way over to Ventura, up to Imperial and the other in-counties in between. Our members include business, agriculture, City and County governments as well as water agencies. We're a non-partisan, non-profit organization. We are here today because we do believe there's an urgent need for action in the delta. And, we think the Bay Delta Conservation Plan process is one, is critical for mapping out a comprehensive plan. In fact, I'm going to use the word comprehensive again because we need a comprehensive solution. It needs to improve the sustainability of the delta by improving environmental integrity in the delta. But, as some of the other speakers have mentioned, we think we need to be able to provide reliable, high quality water for our economy here in Southern California and for the state. Your environmental review process calls for a no action alternative. In our opinion that no action alternative will not even preserve the status quo. That no action alternative will actually result in a continuation of the degradation -- degrade -- oops, will continue to degrade, excuse me,

the delta. What we're looking for instead is for you to identify a flexible alternative that will provide as we have said, the needed environmental protections as well as a reliable high quality water supply. Thank you for being here. We appreciate that, thank you.

Chair: Thank you Ms. Dym. Our next speaker is for the Orange County Taxpayers Association, Bob Mueller.

Mr. Mueller: Hi, I'm Bob Mueller. I'm actually going to read into the record a statement by the Orange County Taxpayer's Association, their President, Reed Royalty. Please add the Orange County Taxpayer's Association's list of supporters of a comprehensive environmental review process for the Bay Delta Conservation Plan. The non process we have now works to everyone's disadvantage. For example, people at both ends of the state are willing to support bond financing for new water projects. But, too often the bond initiatives are larded with expensive and regional earmarks disguised as environmental improvements. This creates a Vote No on everything mentality that threatens our ability to provide water for California's future. OC Tax thinks BDCP can be scoped to identify conservation projects and principles that are good for everyone. This could end earmarks and humanurate (sic) regional jealousies enabling the

Department of Water Resources and the other resource districts, and water districts to do their jobs based on science rather than political misconceptions. OC Tax stands ready and will gladly, will do more than its share to bring about this such a result, thank you.

Chair: Thank you Mr. Mueller. Our final speaker, or at least that has signed up on a card if from the Inland Empire Economic Partnership, Mr. Gregory Wright.

Mr. Wright: Good afternoon. Thank you for your time. I have a formal letter here that I'll present you with, so I'll keep my comments brief. I'd just like to note that the Inland Empire Economic Partnership, we fully support the Bay Delta Conservation Plan. And, applaud your efforts to balance the different competing needs that have been discussed today in terms of water supply, reliability and quality, as well as interests between environmental needs and preserving the delta and the full range of statewide needs, particularly in regards to second (unintelligible) development. When you consider just our region along, the Public Policy Institute of California recently released a study of the (unintelligible) empire looking at where our region will be in the next 7 years. We're anticipating about 25% population growth with a million new residents coming to our

region. And, we will continue to out perform the State economy as a whole, and Southern California's economy as a whole contributing quite a bit to the state in terms of tax revenues and general economic returns. And, water certainly given our climate, is a major concern to us and we look forward to your successes. Thank you.

Chair: Thank you. Okay, we've heard from everyone who has signed up. Is there anyone else who would like to provide a comment or expand on their original comments? Going once, going twice. If you'd like another moment to expand on your comment, you may. We still have a few more minutes before the meeting will be adjourned.

Ms. Green: Yes, thank you for this opportunity for adding to my comments. Again, my name is Dorothy Green with the California Water Impact Network. A major source of water that is not being seriously considered and must be considered during this process is the drainage water that is poisoning the San Francisco Bay Delta now. We can't get serious about enforcing water quality standards in the delta unless we deal with the selenium and other salts, and other Ag chemicals that are coming down the San Joaquin River and poisoning the delta and the ground water on the way. The San Joaquin River hasn't been called the colon of the state for nothing.

There is minimally 2 million acre feet of water that could come from that Ag land which is now being irrigated that should not be, should never have been and it was known before a drop of water was put on that land that it should never have been irrigated. And, we subsidized those farmers long enough. So, that is a major source of water also to help deal with the habitat and eco-system problems in the delta. Water quality must be implemented, seriously implemented. Thank you.

Chair: Thank you Ms. Green. Is there anyone else who has a final comment or a new comment? Okay, if not I'd like to remind you that the comment period ends on May 30<sup>th</sup>. There are comment forms on the back left of the room, or at least my back left or your back right that Karen's holding up right now. Feel free to take some with you. Take them back to your office, give them to other representatives or agencies who you feel would like to make a comment or your neighbors even. This will adjourn the formal portion.

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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**SACRAMENTO**

**Sacramento:**

Chair: Go ahead.

Mr. Peterson: My name is Glen Peterson and I'm the President of the Association of California Water Agencies. I'm also the elected director of Las Virgenes Municipal Water District for 21 years, and a member of the Metropolitan Water District board of directors for 15 years. The Association Aqua represents more than 450 public water agencies up and down the state ranging from the smallest of agricultural users to the largest water companies. We serve about 90 percent of the water that is served for M & I use and agriculture use throughout the state. In 2005, Aqua's membership united behind a water policy document. It was called No Time to Waste, a Blueprint for California Water. The document identified key water challenges facing the state and called for a comprehensive suite of actions to address them. Fixing the delta is a central element of Aqua's policy blueprint. Aqua's members view the BDCP process as a critical step towards this goal and the larger goal of securing a more sustainable water system for California. Our membership will be participating throughout these hearings throughout the state because it's of paramount importance to us. We welcome the start of this

environmental review process because there's not a minute to lose. We need to get moving on a solution because everyday we wait, another day of environmental decline and the loss of water supplies throughout the state. We must address the shortcomings of a system that was built largely in the 1950's when societal values were less focused on the environment. Without a more sustainable delta, important tools such as recycling, local surface and groundwater storage can not work efficiently and effectively in other parts of the state. The significant public investment of local programs will be at risk. My agency for example, we recycle 20 percent of the water we use in our district. However, we're dependent 100 percent on Metropolitan Water District and the delta water, the water that comes through the delta. We have a well in our community, it's called Old Stinky, and it tells you something about our water quality. This environmental review process will study the impacts of four potential actions, including a no action alternative. This is simply unacceptable for the environment and for the water uses throughout the state. In our view, no action alternative carries some significant impacts including serious implications for interests outside the delta. Water pressure on other supply sources such as groundwater will



increase, and we know about the over draft groundwater in the state. These impacts must be assessed as part of the review. Aqua strongly supports the comprehensive solution that improves the sustainability of the delta for the benefit of the entire state. We must improve the delta so our water supply system can be co-equal objectives with protecting the aquatic environment and providing a reliable high quality water for our state. Thank you.

Chair: Thank you.

Mr. Minton: Good morning, I'm Jonas Minton with the Planning Conservation League. We have the interest of others in findings solutions to the delta's many problems as quickly as possible. With that in mind we have six observations for you today. The first is that recovery should be the first objective. We are somewhat disturbed in seeing initial work by BDCP starting off with attempts to in essence maximize how much water can you take from the delta, export from the delta and still have an okay environment. We think that moving to our second point, what you would need to do the same as if you were doing any other HCP, is first determine the environmental requirements of the eco system. Specifically, what flow regimens are needed in terms of water quantity, water quality, temperature,

flow direction, annually, inter-annually, intra-annually to restore those species. The third point is that as part of the NCCP process scientific input is required. And again, we urge the BDCP process, which is the basis for the EIR-EIS, to fully incorporate scientific input, not just scientific review. So, as we understand it the requirement is that scientific independent experts are asked for their views as options are being formulated, not just to review them after they are presented. The fourth point is that upstream actions should be part of the area that you look at. Not only because it's fairly obvious that anadromous fish go upstream, but that several of the potentially regulated entities, DWR and the Bureau of Reclamation have projects upstream that effect the flows going into the river and then, into the delta. Under your list of conservation activities I did not see a reference to water conservation, water recycling, storm water capture, groundwater clean up, in areas served by exports from the delta as well as upstream areas. And, we believe that those will be key to any successful restoration plan. The last plan I have to offer for you is that we again, share your interest in finding these answers as soon as possible. However, it will not serve any of us well if we try to expedite that process beyond what is feasible, by

which I mean specifically the schedules for completion of the BDCP itself and the EIR-EIS, we note coincide with some political milestones that are upcoming, changes in state administration and it would be a terrible waste if we jumped over some steps or we did not do the due diligence required and find that in two and a half years a new administration decides they have to restart. So, we hope that doesn't happen and we hope to succeed. Thank you.

Chair: Thank you.

Ms. Lorentz: Hello, Shawna Lorentz, San Juan Water District and General Manager. And, I'm making my comments in cooperation with Aqua's. Thank you for the opportunity to provide input into the Bay Delta Conservation Plan process. I support the broad goals of the Bay Delta Conservation Plan and would like to add a few comments on additional items to be considered as part of the process. I think you're hearing from all of us urgency is definitely, there's an urgent need for action. The solutions must include actions to insure the environmental sustainability of the delta, that's reached that day where even the water agencies are saying that we have to be environmentally sustained. The solutions need assurances that adequate and reliable water supplies are available for all beneficial

uses up stream and down stream of the delta. The solutions must be based on best science which is becoming rapidly available and changing consistently. Solutions that do not reflect the most recent science will result in money and time spent with ultimate failure. A one size fits all conservation target for urban agencies will not work. There's way too many diverse factors to take into consideration. That said I'm very pro water conservation. I just think a straight across the board uniform conservation reduction quantity isn't going to work. Development and operation of delta conveyance infrastructure must provide environmental protection and water supply reliability in a matter that does not affect upstream water suppliers and the same may not benefit one stakeholder at the expense of another stakeholder. Development of additional surface water storage supplies is a necessary component of any delta solution for both environmental and urban water supply and Ag supply uses. Investment is necessary in conjunctive use programs and coordination among regulatory agencies must be sufficient to allow such programs to be implemented. That said, good luck.

Chair: Thank you. Are you waiting? Go ahead.

Ms. Collins: Jackie Collins, I am a long time delta citizen and resident. My concern, one, is that the vision of circle where you have the two entities of the delta habitat restoration and the water users with an overlap is not a clear vision. It is the same circle. I mean, everything that goes on in the delta is within one sphere, and it's not an overlap that you can deal with a slice in between. My other concern is that during the process of peripheral canal process, the people of the delta fought very hard to have the delta recognized as an actual entity as it was recognized by the original Cal-Fed authorities. Ron Ott and I discuss this a lot. The delta entity as itself still exists, that people raise families, they do business, they live their lives there in the delta yet there's no mention of the impact, and it will be, I know it will be mitigated and it will be mentioned. But, there's no mention of the impact to people's lives that depend upon the delta for their businesses, their recreation, that the delta as the entity pre-described in previous Cal-Fed statements still exists. And yet, it's not part of the steering committee and it hasn't been mentioned in any of the considerations today. And, that's a big mistake. There are many, many people and many, many elements involved that just don't deserve to be ignored. Thank you.

Chair: Thank you.

Ms. Duerig: I'm gonna hold this separately, is it on?

Chair: Yeah, yeah.

Ms. Duerig: I'm Jill Duerig. I'm the General Manager of Zone 7 Water Agency. Zone 7 serves the residents, businesses and agriculture in eastern Alameda County down in the Bay Area. We're sort of a crossroads community if you will; on the eastern end of our service area is agriculture that we serve water from the state water project to. On the western we have some high tech businesses and a lot of residents. In fact, the south bay aqueduct that you see on some of the conveyance concepts drawings is really the aqueduct that takes the water down into the Silicon Valley. It serves almost, well over two million people in the Bay Area. Our population in Zone 7 is actually more closer to 200 thousand residents, but we rely on delta water, water conveyed through the delta to the tune of about 80 percent of our water supply. Our local ground water basin is not large enough to supply the water that we need. However, we do use that ground water basin to store water during wetter years and then during dryer years we can use it as an extra storage when there's reduced pumping. We are really concerned as everybody else in the

room I'm sure is, about the fish population crash. And, we understand that the current operation of the State Water Project by court order rather than using a scientific approach is not appropriate and certainly not the best way to run things. Recent water supply cuts ordered by, or under consideration by the courts impacts Zone 7's ability to provide adequate long term drought protection for its customers. We are now in a second consecutive dry year and are no longer able to make use of the ground water storage that we have to offset future dry years. We are highly supportive of, and as you heard active participants in the bay delta conservation plan because we believe it is the best opportunity to establish a plan that can stabilize both water supplies, and fish species in the delta. Neither can afford to wait. Increasingly efficient use of our water supplies is obviously critical, and we're asking our customers to conserve by 10 percent this year because of the dry conditions and the reduced pumping. In Zone 7 service area, we not only utilize ground water storage to make the most of our supplies, we also have a lot of regional recycling that is also done. However, regardless of our actions we will never be fully independent from delta conveyed water supplies in meeting the health and safety requirements of our

customers. Our participation in the BDCP is about protecting existing water supplies in terms of reliability and quality. And, embracing the most environmentally sustainable ways of doing that, the co-equal objectives of the process, thank you, and we'd like you to continue what you're doing.

Chair: Thank you. I think you can just hand that back, okay.

Ms. King Moon: Laura King Moon with the State Water Contractors. We represent 27 water agencies up and down the state, many urban districts in Southern California, agricultural districts in the valley, and five districts here in the Northern California and the Bay Area. And, you just heard from one of our five Bay Area member agencies. We are facing a crisis. Our system is in crisis today, and we have new species, new fish species crashing just about every month it seems, and our water supplies are fast being eroded by shutting off the pumps to protect the fish species. Some of our most, some of our strongest member agencies with the strongest drought supplies are gonna be out of their drought reserves in a couple of more years if we're not smart about how we're proceeding. And, this is a completely unnecessary situation. We have a comprehensive conservation plan under way. This is what we need to do to fix the



problem. We can't just keep ratcheting down the pumps; we need to find some other knobs. We need to find a comprehensive plan for making the ecosystem and the water supplies that so many people in this state depend on, have co-equal importance. I believe very much in this plan. It is a conservation plan. The benefit of a conservation plan is that there will be a sustaining funding source to carry it out so the species actually can recover. It's the way to go for a smart growth state like California. We need to do this. We need to do it on an expedited time frame, not because of any political agenda but because the state needs us to do this. Thank you very much.

Chair: Thank you.

Mr. Gallagher: Thank you, hello, and my name is Dan Gallagher. I'm the Operations Manager at Dublin-San Ramon Services District. We provide water for the city of Dublin and also portions of unincorporated Contra Costa County. Our area is almost completely reliant on the Bay Delta for our long term water supply. And, we have a very aggressive recycled water program. Last year we provided over 22 hundred acre feet of recycled water for irrigating our parks and schools, and green areas. This year we expect to expand that to about 25 hundred acre feet, so we are using that as a

way to extend our water supply in our area and it will continue to grow each and every year. We support the preparation of the conservation plan and we look forward to a more sustainable water supply for people of the state of California. Thank you.

Chair: Thank you, there you go. Okay, go ahead.

Mr. Broderick: Good morning, Ryan Broderick, Executive Director of the Northern California Water Association and represent about 900 thousand acres of irrigated agriculture in the Sacramento Valley, over 50 agricultural diverters, and I wanted to say congratulations for launching the EIS and the EIR. I look forward to get into the formal evaluation that we think will appropriately identify needs for conservation in the delta water supply for export. However, in saying that I think it's very important that you recognize baseline conditions as it relates to the environment. The Sacramento Valley is distinct from the delta, and yet I think the Sacramento Valley has established over the last 10 years that they will make contributions to the recovery of species. But, there is a concern that recovery of species has an assignment done on effective science as it relates to flows and diversions. Candidly, the delta vision process has raised a specter of beneficial and reasonable use issues that have assigned to

upstream areas without much scientific deliberation as of yet, cause and effect, and we look forward to the BDC process, looking at flows and looking at diversions, I think you should recognize that in the Sacramento Valley the vast majority of water is screened, that there have been commitments to fish passage of very significant proportion. That has been a statewide objective and implemented within the Sacramento Valley probably more aggressively than anywhere else with results that have been good but not to the end result of fixing the issues and schnooks and then in this year finally being the most effective or most recent example. I think it's really important that there be recognition of the area of origin and the water right system, assuming water rights that exist in this state and the fidel (sic) to those assignments will make it easier and actually are fundamental to even having a discussion as to how to provide restoration of delta species. The delta is critical to the Sacramento Valley from the standpoint that any conservation actions we undertake from with the aquatic species, their success is dependent upon a healthy delta. We support the evaluation that's gonna be conducted and I think it's important to recognize the distinction between the delta and the Sac Valley, the map it should be

identified, does that, but we also recognize inter-related and inter-dependent nature of water flows in the Sacramento Valley and those in the delta. However, and the analysis of it could be very important to look at the work that has been done in the conservation that currently occurs on working landscapes in the Sacramento Valley. We look forward to facilitate formal comments about once again issues with respect to the senior water rights or the issues of area erosion need to be considered as a step one in looking at those assignments. And, I think that, in fact I know that the member of my association are prepared to step up and undertake additional conservation actions where the science supports an assignment appropriate to their operations. Jonas Minton mentioned that there are upstream users, or upstream projects related to the state and federal water project, I think its integration of, and recognition that those were junior to the diversions of most of my members, it should be kept in mind and that fidelity to that relationship understood. We're gonna be partners, we're gonna solve the delta. The future in growth of the delta is fundamental to the future grow of the working landscapes in Sacramento Valley. And, I applaud you for getting started in the process.

Chair: Thank you. Is there anyone else who would like to make a comment before we wrap things up? Okay, it's not seeing any other comments; I'd like to thank you very much for coming on behalf of these agencies for taking the time to be here today. I remind you that the comment period ends May 30<sup>th</sup>. If I didn't say it before, there is an E-mail address to send you comments, BDCP Comments at [Water.CA.gov](mailto:Water.CA.gov). And, thank you all very much for coming, we're adjourned.

**-- MEETING ADJOURNED --**

**BUREAU OF RECLAMATION**

**WATER EDUCATION FOUNDATION**

**717 H Street, Suite 317  
Sacramento, CA 95814**

**--ooOoo--**

**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**SACRAMENTO**

**Sacramento:**

Chair: Go ahead.

Mr. Peterson: My name is Glen Peterson and I'm the President of the Association of California Water Agencies. I'm also the elected director of Las Virgenes Municipal Water District for 21 years, and a member of the Metropolitan Water District board of directors for 15 years. The Association Aqua represents more than 450 public water agencies up and down the state ranging from the smallest of agricultural users to the largest water companies. We serve about 90 percent of the water that is served for M & I use and agriculture use throughout the state. In 2005, Aqua's membership united behind a water policy document. It was called No Time to Waste, a Blueprint for California Water. The document identified key water challenges facing the state and called for a comprehensive suite of actions to address them. Fixing the delta is a central element of Aqua's policy blueprint. Aqua's members view the BDCP process as a critical step towards this goal and the larger goal of securing a more sustainable water system for California. Our membership will be participating throughout these hearings throughout the state because it's of paramount importance to us. We welcome the start of this

environmental review process because there's not a minute to lose. We need to get moving on a solution because everyday we wait, another day of environmental decline and the loss of water supplies throughout the state. We must address the shortcomings of a system that was built largely in the 1950's when societal values were less focused on the environment. Without a more sustainable delta, important tools such as recycling, local surface and groundwater storage can not work efficiently and effectively in other parts of the state. The significant public investment of local programs will be at risk. My agency for example, we recycle 20 percent of the water we use in our district. However, we're dependent 100 percent on Metropolitan Water District and the delta water, the water that comes through the delta. We have a well in our community, it's called Old Stinky, and it tells you something about our water quality. This environmental review process will study the impacts of four potential actions, including a no action alternative. This is simply unacceptable for the environment and for the water uses throughout the state. In our view, no action alternative carries some significant impacts including serious implications for interests outside the delta. Water pressure on other supply sources such as groundwater will



increase, and we know about the over draft groundwater in the state. These impacts must be assessed as part of the review. Aqua strongly supports the comprehensive solution that improves the sustainability of the delta for the benefit of the entire state. We must improve the delta so our water supply system can be co-equal objectives with protecting the aquatic environment and providing a reliable high quality water for our state. Thank you.

Chair: Thank you.

Mr. Minton: Good morning, I'm Jonas Minton with the Planning Conservation League. We have the interest of others in findings solutions to the delta's many problems as quickly as possible. With that in mind we have six observations for you today. The first is that recovery should be the first objective. We are somewhat disturbed in seeing initial work by BDCP starting off with attempts to in essence maximize how much water can you take from the delta, export from the delta and still have an okay environment. We think that moving to our second point, what you would need to do the same as if you were doing any other HCP, is first determine the environmental requirements of the eco system. Specifically, what flow regimens are needed in terms of water quantity, water quality, temperature,

flow direction, annually, inter-annually, intra-annually to restore those species. The third point is that as part of the NCCP process scientific input is required. And again, we urge the BDCP process, which is the basis for the EIR-EIS, to fully incorporate scientific input, not just scientific review. So, as we understand it the requirement is that scientific independent experts are asked for their views as options are being formulated, not just to review them after they are presented. The fourth point is that upstream actions should be part of the area that you look at. Not only because it's fairly obvious that anadromous fish go upstream, but that several of the potentially regulated entities, DWR and the Bureau of Reclamation have projects upstream that effect the flows going into the river and then, into the delta. Under your list of conservation activities I did not see a reference to water conservation, water recycling, storm water capture, groundwater clean up, in areas served by exports from the delta as well as upstream areas. And, we believe that those will be key to any successful restoration plan. The last plan I have to offer for you is that we again, share your interest in finding these answers as soon as possible. However, it will not serve any of us well if we try to expedite that process beyond what is feasible, by

which I mean specifically the schedules for completion of the BDCP itself and the EIR-EIS, we note coincide with some political milestones that are upcoming, changes in state administration and it would be a terrible waste if we jumped over some steps or we did not do the due diligence required and find that in two and a half years a new administration decides they have to restart. So, we hope that doesn't happen and we hope to succeed. Thank you.

Chair: Thank you.

Ms. Lorentz: Hello, Shawna Lorentz, San Juan Water District and General Manager. And, I'm making my comments in cooperation with Aqua's. Thank you for the opportunity to provide input into the Bay Delta Conservation Plan process. I support the broad goals of the Bay Delta Conservation Plan and would like to add a few comments on additional items to be considered as part of the process. I think you're hearing from all of us urgency is definitely, there's an urgent need for action. The solutions must include actions to insure the environmental sustainability of the delta, that's reached that day where even the water agencies are saying that we have to be environmentally sustained. The solutions need assurances that adequate and reliable water supplies are available for all beneficial

uses up stream and down stream of the delta. The solutions must be based on best science which is becoming rapidly available and changing consistently. Solutions that do not reflect the most recent science will result in money and time spent with ultimate failure. A one size fits all conservation target for urban agencies will not work. There's way too many diverse factors to take into consideration. That said I'm very pro water conservation. I just think a straight across the board uniform conservation reduction quantity isn't going to work. Development and operation of delta conveyance infrastructure must provide environmental protection and water supply reliability in a matter that does not affect upstream water suppliers and the same may not benefit one stakeholder at the expense of another stakeholder. Development of additional surface water storage supplies is a necessary component of any delta solution for both environmental and urban water supply and Ag supply uses. Investment is necessary in conjunctive use programs and coordination among regulatory agencies must be sufficient to allow such programs to be implemented. That said, good luck.

Chair: Thank you. Are you waiting? Go ahead.

Ms. Collins: Jackie Collins, I am a long time delta citizen and resident. My concern, one, is that the vision of circle where you have the two entities of the delta habitat restoration and the water users with an overlap is not a clear vision. It is the same circle. I mean, everything that goes on in the delta is within one sphere, and it's not an overlap that you can deal with a slice in between. My other concern is that during the process of peripheral canal process, the people of the delta fought very hard to have the delta recognized as an actual entity as it was recognized by the original Cal-Fed authorities. Ron Ott and I discuss this a lot. The delta entity as itself still exists, that people raise families, they do business, they live their lives there in the delta yet there's no mention of the impact, and it will be, I know it will be mitigated and it will be mentioned. But, there's no mention of the impact to people's lives that depend upon the delta for their businesses, their recreation, that the delta as the entity pre-described in previous Cal-Fed statements still exists. And yet, it's not part of the steering committee and it hasn't been mentioned in any of the considerations today. And, that's a big mistake. There are many, many people and many, many elements involved that just don't deserve to be ignored. Thank you.

Chair: Thank you.

Ms. Duerig: I'm gonna hold this separately, is it on?

Chair: Yeah, yeah.

Ms. Duerig: I'm Jill Duerig. I'm the General Manager of Zone 7 Water Agency. Zone 7 serves the residents, businesses and agriculture in eastern Alameda County down in the Bay Area. We're sort of a crossroads community if you will; on the eastern end of our service area is agriculture that we serve water from the state water project to. On the western we have some high tech businesses and a lot of residents. In fact, the south bay aqueduct that you see on some of the conveyance concepts drawings is really the aqueduct that takes the water down into the Silicon Valley. It serves almost, well over two million people in the Bay Area. Our population in Zone 7 is actually more closer to 200 thousand residents, but we rely on delta water, water conveyed through the delta to the tune of about 80 percent of our water supply. Our local ground water basin is not large enough to supply the water that we need. However, we do use that ground water basin to store water during wetter years and then during dryer years we can use it as an extra storage when there's reduced pumping. We are really concerned as everybody else in the

room I'm sure is, about the fish population crash. And, we understand that the current operation of the State Water Project by court order rather than using a scientific approach is not appropriate and certainly not the best way to run things. Recent water supply cuts ordered by, or under consideration by the courts impacts Zone 7's ability to provide adequate long term drought protection for its customers. We are now in a second consecutive dry year and are no longer able to make use of the ground water storage that we have to offset future dry years. We are highly supportive of, and as you heard active participants in the bay delta conservation plan because we believe it is the best opportunity to establish a plan that can stabilize both water supplies, and fish species in the delta. Neither can afford to wait. Increasingly efficient use of our water supplies is obviously critical, and we're asking our customers to conserve by 10 percent this year because of the dry conditions and the reduced pumping. In Zone 7 service area, we not only utilize ground water storage to make the most of our supplies, we also have a lot of regional recycling that is also done. However, regardless of our actions we will never be fully independent from delta conveyed water supplies in meeting the health and safety requirements of our

customers. Our participation in the BDCP is about protecting existing water supplies in terms of reliability and quality. And, embracing the most environmentally sustainable ways of doing that, the co-equal objectives of the process, thank you, and we'd like you to continue what you're doing.

Chair: Thank you. I think you can just hand that back, okay.

Ms. King Moon: Laura King Moon with the State Water Contractors. We represent 27 water agencies up and down the state, many urban districts in Southern California, agricultural districts in the valley, and five districts here in the Northern California and the Bay Area. And, you just heard from one of our five Bay Area member agencies. We are facing a crisis. Our system is in crisis today, and we have new species, new fish species crashing just about every month it seems, and our water supplies are fast being eroded by shutting off the pumps to protect the fish species. Some of our most, some of our strongest member agencies with the strongest drought supplies are gonna be out of their drought reserves in a couple of more years if we're not smart about how we're proceeding. And, this is a completely unnecessary situation. We have a comprehensive conservation plan under way. This is what we need to do to fix the



problem. We can't just keep ratcheting down the pumps; we need to find some other knobs. We need to find a comprehensive plan for making the ecosystem and the water supplies that so many people in this state depend on, have co-equal importance. I believe very much in this plan. It is a conservation plan. The benefit of a conservation plan is that there will be a sustaining funding source to carry it out so the species actually can recover. It's the way to go for a smart growth state like California. We need to do this. We need to do it on an expedited time frame, not because of any political agenda but because the state needs us to do this. Thank you very much.

Chair: Thank you.

Mr. Gallagher: Thank you, hello, and my name is Dan Gallagher. I'm the Operations Manager at Dublin-San Ramon Services District. We provide water for the city of Dublin and also portions of unincorporated Contra Costa County. Our area is almost completely reliant on the Bay Delta for our long term water supply. And, we have a very aggressive recycled water program. Last year we provided over 22 hundred acre feet of recycled water for irrigating our parks and schools, and green areas. This year we expect to expand that to about 25 hundred acre feet, so we are using that as a

way to extend our water supply in our area and it will continue to grow each and every year. We support the preparation of the conservation plan and we look forward to a more sustainable water supply for people of the state of California. Thank you.

Chair: Thank you, there you go. Okay, go ahead.

Mr. Broderick: Good morning, Ryan Broderick, Executive Director of the Northern California Water Association and represent about 900 thousand acres of irrigated agriculture in the Sacramento Valley, over 50 agricultural diverters, and I wanted to say congratulations for launching the EIS and the EIR. I look forward to get into the formal evaluation that we think will appropriately identify needs for conservation in the delta water supply for export. However, in saying that I think it's very important that you recognize baseline conditions as it relates to the environment. The Sacramento Valley is distinct from the delta, and yet I think the Sacramento Valley has established over the last 10 years that they will make contributions to the recovery of species. But, there is a concern that recovery of species has an assignment done on effective science as it relates to flows and diversions. Candidly, the delta vision process has raised a specter of beneficial and reasonable use issues that have assigned to

upstream areas without much scientific deliberation as of yet, cause and effect, and we look forward to the BDC process, looking at flows and looking at diversions, I think you should recognize that in the Sacramento Valley the vast majority of water is screened, that there have been commitments to fish passage of very significant proportion. That has been a statewide objective and implemented within the Sacramento Valley probably more aggressively than anywhere else with results that have been good but not to the end result of fixing the issues and schnooks and then in this year finally being the most effective or most recent example. I think it's really important that there be recognition of the area of origin and the water right system, assuming water rights that exist in this state and the fidel (sic) to those assignments will make it easier and actually are fundamental to even having a discussion as to how to provide restoration of delta species. The delta is critical to the Sacramento Valley from the standpoint that any conservation actions we undertake from with the aquatic species, their success is dependent upon a healthy delta. We support the evaluation that's gonna be conducted and I think it's important to recognize the distinction between the delta and the Sac Valley, the map it should be

identified, does that, but we also recognize inter-related and inter-dependent nature of water flows in the Sacramento Valley and those in the delta. However, and the analysis of it could be very important to look at the work that has been done in the conservation that currently occurs on working landscapes in the Sacramento Valley. We look forward to facilitate formal comments about once again issues with respect to the senior water rights or the issues of area erosion need to be considered as a step one in looking at those assignments. And, I think that, in fact I know that the member of my association are prepared to step up and undertake additional conservation actions where the science supports an assignment appropriate to their operations. Jonas Minton mentioned that there are upstream users, or upstream projects related to the state and federal water project, I think its integration of, and recognition that those were junior to the diversions of most of my members, it should be kept in mind and that fidelity to that relationship understood. We're gonna be partners, we're gonna solve the delta. The future in growth of the delta is fundamental to the future grow of the working landscapes in Sacramento Valley. And, I applaud you for getting started in the process.

Chair: Thank you. Is there anyone else who would like to make a comment before we wrap things up? Okay, it's not seeing any other comments; I'd like to thank you very much for coming on behalf of these agencies for taking the time to be here today. I remind you that the comment period ends May 30<sup>th</sup>. If I didn't say it before, there is an E-mail address to send you comments, BDCP Comments at [Water.CA.gov](mailto:Water.CA.gov). And, thank you all very much for coming, we're adjourned.

**-- MEETING ADJOURNED --**

**BUREAU OF RECLAMATION**

**WATER EDUCATION FOUNDATION**

**717 H Street, Suite 317  
Sacramento, CA 95814**

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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**SAN DIEGO**

**San Diego:**

Chair: Our first speaker will be Tom Warnum from the San Diego Economic Corporation followed by Mark Weston at Helix's Water District and followed by Tim Quinn from Aqua.

Mr. Warnum: Good evening lady's and gentlemen. My name is Tom Warnum and I'm Chair of the San Diego Economic Corporation. I also have the honor of being a member of, or Director of the San Diego Water Authority, which I have the honor of serving as the Chair of the Administrative and Finance Committee. So, with all of that all of us say hello. Lady's and gentlemen, simply put the bay delta is broken. It's broken as a sustainable habitat for fish and wildlife and it's broken as a water delivery system. The age of its levees and their growing vulnerability to breaches make the entire system a statewide disaster waiting to happen. While that's a simple assessment to make, putting together a plan to address the bay delta's problem is far from simple. I applaud the considerable time and effort you and the other agencies involved are contributing to this plan. And, to its environmental review and process to make sure it gets done right. This plan is not a silver bullet that will address all of the bay delta problems and issues, nor does it intend to be. But, I strongly support

this plan because it is on the right track for addressing the most pressing and critical issues impacting the delta. And, in turn the reasons like San Diego County. Given the fact that 25 million Californians from the bay area to San Diego rely to some degree on water deliveries from the bay delta, addressing water conveyance must be a top priority. This plan realizes the equal importance of rebuilding the water conveyance system as habitats are restored. The stakes for California could not be greater. Reduced bay delta water reliability will take a toll on San Diego's economy and competitiveness. It will also take a toll on the economy and competitiveness of the entire state. If that is allowed to happen, reduced tax revenues will further strain already strapped state and local government resources and services. That could spread the pain to every man, woman and child living in this state. That clearly is not the future that any of us desire. The success of this plan is critical for all of us. Without it our water system and our economy will become increasing subject to the mercy of whether, and to regulatory and judicial restrictions. We need to take action and we need to take action now. I urge you to move this plan forward in a timely manner. Thank you again for the opportunity to speak.



Chair: Nicely done, thank you. You did good.

Mr. Warnum: And again, thank you all.

Mr. Weston: My name is Mark Weston. I'm the General Manager for Helix Water District. Helix's Water District serves 260 thousand people their drinking water everyday. We're located just east of San Diego; headquarters are in the city of La Mesa. I'm speaking today as the General Manager and I want to speak to the reliability of water that we import from the delta. We use about, 85% of our water is imported, the two sources of the Colorado River and the delta. Due to a variety of changes in hydrology, climate change, legal decisions and environmental issues Southern California has lost one million acre feet of reliable water supply. That's out of a total water supply of about three million acre feet. So, I as a General Manager who will be serving people their drinking water every day know that our reliability is greatly decreased. The delta is broken. We have, it is broken biologically and it's broken hydro-logically and, it's broken as a flood control system. We strongly support a solution in which the biology and the hydrology and the hydraulics are balanced. The State of California relies far too greatly on the delta working correctly. We as residents in Southern California rely greatly on the

water supply. The economy of California is dependent on the reliable water supply from Northern California, and we can no longer continue to believe that the delta will work in the future. Anyone who's been in the delta knows that the levees are substandard and will fail. All analysis says that the delta levees will fail in the future. That will be a disaster to us as water suppliers and it's going to be a disaster to the biology of the delta. So, we strongly support a balance approach to solving the problems in the delta. We also strongly support methods that will provide reliable water conveyance around the delta so that we in Southern California and the economy that's based in Southern California will be able to continue and serve the public. We have over 18 million people in the metropolitan service area, and I've heard anywhere from 23 to 25 million people depend on water being conveyed through the delta. We need to solve that problem. Thank you.

Mr. Weston: My name is Mark Weston, General Manager of Helix Water District. I'm speaking for Tim Quinn, Executive Director of Aqua. I'm an Aqua Board Member. I've been asked to provide these comments and an Aqua statement. Aqua is the Association of California Water Agencies. Time is not on our side. The need for a more sustainable

water system has never been more urgent. We have to invest in sustainability. We need a comprehensive solution that improves the sustainability of the system. We have to invest in the environmental integrity of the system so it can meet the co-equal objectives of protecting the aquatic environment and providing the reliable high quality water our economy needs. Comprehensive means comprehensive. We also have to invest in water use efficiency, water recycling and other strategies, and expand our surface and groundwater storage capacity. Impacts already are being felt up and down the State of California. San Diego area is already feeling the effects of reduced water deliveries through the delta. Without a comprehensive delta fix, shortages will continue to ripple through the south lands economy causing water rates to rise, and effecting jobs, agriculture, construction and other economic activity. No action doesn't mean that there will be no impacts. The environmental review process for BDCP will study the impacts of four potential actions including the no action alternative. No action carries its own set of impacts. The environmental review process must assess the ways in which the system will continue to degrade putting both species and our water supplies at risk if we simply

continue the status quo. Alternatives carry high costs and we accept that. San Diego's economy runs on water that is conveyed through the delta as well as pumped hundreds of miles from the Colorado River. Alternatives to these sources such as stepped up recycling and desalination require energy and also carry environmental impacts. We strongly urge the activities of the study to occur as quickly as possible and we need to impress upon the people performing the study that this is absolutely urgent, and we have no time to waste. We all believe we will be in some sort of mandatory water reduction as early as next year. Thank you.

Chair: Thank you. The next three speakers are, Dennis Majors from the Metropolitan Water District, followed by Fern Steiner from the San Diego County Water Authority, followed by Ruben Barrales from the San Diego Regional Chamber of Commerce.

Mr. Majors: Thank you. I am Dennis Majors. I am the Program Manager with the Metropolitan Water District of Southern California. The Metropolitan provides water from the delta through its state water contract and the Colorado River through its Colorado River aqueduct to 18 million people in Southern California in six areas. We've been actively involved in the BDC program the very beginning and I

just wanted to thank all of you for coming here today. It's a long trip down here and I appreciate it. The success of this process though, the BDCP is essential in order to create a sustainable ecosystem in the delta and a reliable water system in California. Now, the objective of the BDCP is not solely about ecosystem restoration or improvements to water quality, or improvement to water reliability or, protections against unique seismic risks in the delta. A successful plan has to address all of these collectively. Metropolitan has built a network of surface reservoirs and ground water banking programs in order to capture water an average in wet years to relieve the pressure on the ecosystem in dry years. The strategy is to take water on nature's terms, and Metropolitan needs a more flexible and adaptable water supply system in the delta to do that. Without having that flexibility we can not move water in the storage when we need it, we have real problems in a multi-year drought for example, and part of that was talked about here. The new water for growth will come from water use efficiency efforts such as conservation, voluntary water transfers and new local supplies such as recycling. However, the delta will remain a baseline source of supply. While Metropolitan's storage and delivery systems provide flexibility of

when we draw the delta supplies, both quantity and quality are vital. The BDCP has rightly placed as co-equal the objectives of a restored eco-system in a reliable water supply co-equal objectives. We think that's great. This effort is one of the most complex and most important tasks of habitat planning in the nation. It must succeed. Metropolitan looks forward to remaining actively engaged in the process and on commenting on the various alternatives that come forth. A healthy delta eco-system is essential for water supply reliability and for the state economy, and I want to thank you for the opportunity to speak.

Chair: Thank you.

Ms. Steiner: Good evening. I'm Fern Steiner and I'm the Chair of the San Diego County Water Authority. The Water Authority serves San Diego region as a wholesale supplier of water from the Colorado River and Northern California. The Water Authority works through its 24 member agencies to provide a safe reliable water supply to support the regions \$157 billion dollar economy and quality of life for three million residents. We all know the ecological, structural and water supply challenges that are faced in the bay delta. Developing and implementing a plan that restores habitat's and provides for the

protection and restoration of water supplies is imperative. It's imperative not only for the health of the delta which is critical, but for the well being of our entire state. When you look at the map, as you know we're way down here, the furthest end away from that water supply, actually from both water supplies and yet approximately 34% of our water is used, that's used in our area that comes from the bay delta. So, it's a critical part of our supply portfolio. The Water Authority's been very aggressive in trying to diversify its water supply here in San Diego, and we've developed a long term plan that we hope will meet our future water demands and maximize our protection from drought and other supply restrictions. We're working with our member retail agencies to develop new local water supplies and to expand conservation and recycling. We have water transfer agreements in place that will significantly increase our water deliveries from the Imperial Valley in 2021 and for generations to follow. We also have implemented a capital improvement plan to increase our emergency storage, our carryover storage and our overall water supply deliver capacity. And, while these are prudent and responsible investments by our agencies and by our Water Authority, we still are dependent on getting that water

from the bay delta. And, we still need to have that work in order for us to be able to supply water to our member agencies and to our customers. Therefore, it's critically important for the BDCP to keep water system reliability an equal priority with restoring the ecosystems as it moves forward. It's also vital that the plan moves forward expeditiously. We're already having ripple effects here in San Diego County from the pumping restrictions, and we truly believe that a potentially severe water supply shortages loom on our states horizon. So, there's no time to waste. I urge the agencies involved in this that you all, to meet that goal to have that plan approved by 2010. And, I thank you for the opportunity to speak and we look forward to working with you on this project. And, at any time that we can help you the San Diego Water Authority will do so. Thank you.

Chair: Thank you.

Mr. Barrales: Good evening. My name is Ruben Barrales. I'm the President of the San Diego Regional Chamber of Commerce. Thank you for coming to San Diego. Feel free to stay and shop, and take advantage of our many amenities here. But, we're actually very glad to have you in San Diego. I wish more San Diegan's were aware that you



were here. So, on behalf of the business community I wanted to let you know that obviously water reliability is very important to us. We also understand though that the sustainability of the bay delta is vital as well. And, we have sent our policy committees up to the bay delta to see for themselves, and want to impress upon you that we understand that balance is important that we hope that as you move forward that that balance is maintained. Obviously we need to sustain our environment. We know it's critical to addressing environmental issues, but at the same time please don't lose fact that water reliability is critical for San Diego. Not just our economy but for the people that live here. And, also reiterating what was just said, keeping on the time line if at all possible is important as well because reliability and sustainability are important. But, we need a certainty in the sense of understanding what we're facing so that we can move forward together and address the issues related to water for San Diego and the rest of the state. Thank you very much.

Chair: Thank you. Okay, the next three speakers are Eric Larson from the San Diego Farm Bureau, Faith Picking from BIOCUM, and Sue Varty the President from the Olievenhain Municipal Water District.

Mr. Larson: Hello, I'm Eric Larson, Executive Director of the San Diego County Farm Bureau and, thank you for taking the time to come here and listen to what we have to say. Outside of our community it's little known that San Diego County probably boasts the 12 largest farm economies amongst all counties in the United States. This has been accomplished by becoming a leading region in the cultivation of high valued crops. This happened through steady growth and investments since the arrival of imported water to our county. With the arrival of that imported water, farmers were able to move beyond the confines of ground water basins and local surface water to such exceptional production areas as Valley Center in Fallbrook. Today, farms are an important part of San Diego County's fabric providing 5.4 billion in economic strength, fresh local farm products, a hedge against continued urban expansion and the environmental values of open space, habitat, and tens of thousands of acres of trees and shrubs. For our farmers to continue to be a part of San Diego County, we require the continuance of a dependable source of imported water. The health of the Sacramento, San Joaquin delta will directly affect the future farming in this community. Protecting the eco-system and avoiding collapse will also protect the farmers of

San Diego County. Somewhere today in San Diego County avocado trees were stumped. In some places citrus trees were cut down and some place else nurseries cut back production in order to comply with the current mandatory 30% reduction in irrigation water use by farmers. Those will serve as short term methods for meeting the reduction in water supplies. But, if long term solutions are not found, the farmers will not be able to sustain their livelihoods. When that happens San Diego County just might lose part of its heritage and charm. We need to harvest the wet years of California and store that water above and below ground. We need to remove impediments, both natural and regulatory to moving water through the delta. We need a delta eco-system that works. We need a comprehensive environmental plan for the delta that the bay delta conservation plan can provide, thank you.

Chair: Thank you.

Ms. Picking: Good evening. My name is Faith Picking and I'm the Public Policy Manager of BIOCOM, which is the largest trade organization for Southern California Life Science Industry. BIOCOM has more than 550 member companies in Southern California. The Life Science Industry in San Diego County alone contributes 8.5 billion dollars to

the economy. Thank you for coming to San Diego tonight and giving me the time to speak to you on behalf of my organization, and on the development of the Bay Delta Conservation Plan. BIOCOM was born in the early 1990's in the midst of the devastating drought. It was born because the Live Science Industry recognized an urgent need to come together and push for actions that would enhance our regions water reliability. Today we once again see need for urgent action. But, this time it's not only for San Diego Counties' water reliability but its California's water system. The issues facing the bay delta are tough and complex, but they need to be addressed and addressed quickly. California's water system can not work without a plan that creates more stable and sustainable delta. And, if California's water systems break down, industries such as ours are at risk of breaking down as well. We support the Bay Delta Conservation Plan because it maps out a comprehensive approach for solving the deltas most critical issues. It does so in a way that puts restoring water supply reliability on equal footing with restoring habitats for fish and wildlife. It is a foundation of a long term solution for meeting the states future water needs. We recommend the Bay Delta Conservation Plan collaborate effort to date among

water agencies and environmental organizations, and State and Federal agencies, and urge your steering committee to make every effort to keep the plan on track for approval by 2010. Over the years BIOCOM has strongly advocated for sound water policies and programs. These include programs, enhanced regional water conservation efforts and expand the use of reclaimed water. Many of our member water companies have embraced conservation and use, and the use of reclaimed water for years. And, many more are taking similar steps to do so now. The Life Science community knows that finding more efficient ways to those who use of the previous resources is the right thing to do for your community and our future. In an ultra competitive industry and one of the few true growth industries in our state, and with many other states funding millions to attract our companies and research institutes, water reliability in California is essential to the survival of the Life Science community. We need your help and leadership to push forward a comprehensive bay delta plan that meets the critical water needs of our industry and our state. Thank you so much for your time.

Chair: Thank you. And, unless we don't have anybody else to sign up to speak, our last speaker for the night is Judy Roland with the Wilderness Society.

Female: She can go ahead.

Chair: Okay. Oh, Sue Varty, yes.

Ms. Varty: Yes, I'm Sue Varty; I'm with the Olievenhain Municipal Water District. We are a retail agency. I am actually an elected official. I represent the rate payers who will bear the costs of all of the things that we're talking about today. We don't, rate payers now, don't object to everything that you're doing. But, we would like to be involved in the planning. We would like to be involved in the public discourse on how much is this gonna cost. We need to know every step of the way what you're gonna expect from us. The Met service area actually has 54% of the states population. 54% of the states rate payers are going to pay for what it is that you come up with. We need to be part of this process. Thank you.

Chair: Thank you. And now Judy Roland, Wilderness Society.

Ms. Roland: I recognize that last name. I have to say that I originally was conscripted to come because my sister is speaking. But, you know, should I be a plant, what should I say, but after listening to everyone

I have several comments. I am a life long resident of San Diego. I was born and raised here actually 64 years ago today I was born here. And, while I've been away this has always been my home. And, I'm speaking not just to you, well, I'm speaking to you but I'm speaking to everyone here. Since I'm the only one that doesn't represent, they asked for some organization, I belong to all of those and what I see is, I'm real impressed that you all came. All of the people that I've been reading about in the newspaper, in the Union for what, the last 3 or 4 years a lot, and before that a good deal. There's no question, we have always had this problem. This is a desert type region and there is no question we need the water. But, I don't see anybody; I had to speak on behalf of and, the eco-system, and the preservation of the fish and the wildlife. Now, you may not, I'm not as eloquent, but, I am going to chastise everyone because I can that there are a lot of you who are around when Jerry Brown was the Governor. And, I don't know if you remember that he had either a referendum or a proposition on the ballot, something would be, you remember this? And, this was about 25 years ago, I can't remember my month. My mind is not as good at these things as it used to be. But, I remember, I hadn't thought about it until I started

getting all of the information about it, and I voted for it. It was soundly defeated. People simply weren't interested in what was going to happen now. And, for those of you who were around that had been interested in this, and I think some of you are equally equal to my age or almost, that now it's happened. And now everyone is crying emergency, and I have to say we could have avoided this and I'm sorry that we didn't. But, I am very pleased to see that you've had these hearings, you're having these hearings and that the people whose names I've heard are here. I'm not sure whose missing. The only thing I haven't heard is Sandag practically, so I guess all of you represent those parts of the cities that are involved. So, I do follow it but I truly believe that we also need to preserve the fish that use these waters and the animals who live on the land and need it to. So, I'm glad you've all voiced this. But, it will impact what we have to do here in San Diego and all of Southern California. So, that's it.

Chair: Thank you. Well, that concludes the public comment portion of the meeting. The team will continue to be here for a few more minutes to answer any questions that you have that came out of the presentation itself. So, if you want to just spend some more time in speaking with the project team you're welcome to. Otherwise, thank



you so much for coming and don't forget, the deadline for comments  
is May 30<sup>th</sup>.

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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**SAN JOSE**

**San Jose:**

Chair: Thank you. Okay, again, I only have these four speaker cards. So I'll start with Walt Wadlow.

Mr. Wadlow: Sounds like I'm live, thank you. Good evening, I'm Walt Wadlow. I'm the Operations Manager for the Alameda County Water District. ACWD appreciates the opportunity this evening to offer comments at this EIR/EIS scoping meeting for the Bay Delta Conservation Plan effort currently underway. The reliability of water supplies conveyed through the Delta, and the health of the Delta ecosystem, are crucially important to the over 320,000 that we serve in the cities of Fremont, Newark, and Union City. Our customers depend on water from Sierra watershed, delivered through the State Water Project and the San Francisco Regional Water System for over half of our distribution system demands. We depend, as much as the Bay Area does, on water conveyed through the Delta and from tributaries to the Delta. And although the BDCP effort is focused on the statutory Delta, it's hard to believe that it will not eventually impact streams tributary to the Delta as well. ACWD believes that developing and implementing the Bay Delta Conservation Plan is a significant and important next step to improving our water supply

reliability and the health of the Delta ecosystem. The district's ratepayers have generously supported development of a diverse water supply portfolio, which includes local service water, desalinization of brackish groundwater, and banked water in semi-tropic water storage district, in addition to Sierra supplies. Ratepayers have also supported extensive water conservation efforts. Nevertheless, the district relies upon water conveyed through the Delta and from our Delta tributaries to supply our drinking water treatment facilities and to recharge our groundwater basin. As documented by numerous studies, the work presented tonight, and including the PPIC report on the Delta, the Delta is indeed broken. It can no longer support its water supply function, nor function as a healthy ecosystem for numerous wildlife species that depend on it. For these reasons, ACWD supports the Bay Delta Conservation Plan effort, and urges DWR and all the participants to dedicate the necessary resources to complete this important effort in a timely manner. As identified in the Delta Vision process, ACWD urges the BDCP effort to consider new Delta conveyance as part of the reasonable range of alternatives for the Delta. In addressing the ecosystem needs, ACWD urges that the effort look beyond the

existing pumps to evaluate the full range of impacts from other stressers affecting the Delta ecosystem. And further, that the effort consider the full range of potential mitigation strategies to address impacts associated with the covered activities. Finally, ACWD appreciates the continuing open public process being used for the BDCP and encourages the resources agency and DWR to continue what appears to be an effective approach for developing a realistic set of solutions for the problems in the Delta. Finally, on a personal note, I'm nearing the 20<sup>th</sup> year of my own involvement in Bay Delta issues, and I am optimistic for the BDCP effort in a way that I have not been for awhile, primarily for the process reasons that Carl Wilcox outlined, the fact that it is grounded in the HCP and NCC processes which provide, although complex, guidance both statutorily and from an administrative standpoint, so there's a roadmap for the participants this time. Whether you're a water agency, a resource agency, a wildlife agency, an NGO, or a private party, we have a set of guidelines and a set of rules this time to work by. So thank you.

Chair: Thank you. Scott Miller?

Mr. Miller: Good evening. My name's Scott Miller. I'm a member of the Northern California Chapter of the Federation of Fly Fishers. And I kind of represent them. I've represented them in the controversy of the San Luis Low Point Project, which has put us in conflict with the Santa Clara Valley Water District, and kind of leads to the one point I'd like to make tonight without having to get too deep into things. And that is, the problem is is that, as interested public, we don't trust you. And the reason we don't trust you is because we've been through the Cal Fed process and other plans and processes that have gone on before. The Delta didn't get broken in the last couple of years. The Delta got broken a long time ago, and people have been screaming and yelling about it for years. At the same time, the State Water Project people, the California Department of Water Resources, have been babying, kowtowing, to the large water users that I believe are the reason we're having this problem. The problem as far as I'm concerned is Westlands Irrigation District and other large irrigation districts that want water, and they want lots of water, and they want it cheap, and you guys want to give it to them. You want to stand behind the contracts that make no sense economically or morally for the people of California, but they do make sense for a

couple of thousand rich farmers. We're not happy with that. San Luis Reservoir was supposed to have a component for taking care of water usage by the public, recreation, etc., and now Westlands and some of these big districts, the State Water Project set, wants to take the last few drops out of that so that the system can be broken. That's the way the Delta feels. I mean as the Delta was being broken, you people were trying to take more than 6,500 cubic feet per second out of the Delta and raise it to 10,000. Now how can we trust this steering committee. I've got one minute left. The steering committee. Let me read who's on this steering committee. I have a real fear for this. Now I can't read it, my glasses aren't strong enough. Department of Water Resources, Bureau of Reclamation, Santa Clara Valley Water District, Kern County Water Agency, Metropolitan Water District, San Luis Delta-Mendota Water Authority, Westlands Water District, etc., etc., We don't trust these people. They're on the steering committee? They're the strongest voice on the steering committee. They've got the politics. They've got the money. They've got the greed. And we're tired of it. This had better not be Cal Fed all over again or it's a waste of time and it's a waste of money.

Chair: Thank you. Andrew Gear?

Mr. Gear: Good evening. My name is Andrew Gear, and I'm the Chief of Operations for San Jose Water Company, and I'm also the Chair of the Treated Water Subcommittee for the Santa Clara Valley Water District Retailers Association. And I'm here tonight speaking on behalf of both San Jose Water Company and the other retailers served by the district. San Jose Water Company's an (indiscernible) water utility and we're the largest retailer in Santa Clara County. We serve water to over a million people in the communities of San Jose, Los Gatos, Cupertino, Montessorino, Saratoga, and Campbell. Our mission is to provide a reliable supply of drinking water to our customers that meets the highest quality standard as well. And to that end, we're regulated by the California Public Utilities Commission, as well as the California Department of Public Health. About half the water that we supply to our customers in any given year arrives to us through the Delta, and we're keenly aware of the issues facing the Delta and the water supply reliability there, particularly as they're associated with the court rulings that are potentially restricting pumping for the protection of fish. This year, and going back to last year, the district has asked for a voluntary



10% conservation from our customers and all of the customers in the county, in part due to dry conditions, but more so because of uncertainties in the total annual allocations from the state and federal water projects, and possible supply interrupts due to Delta pumping restrictions. Under these challenging conditions, we have to rely more heavily on groundwater reserves that are maintained for drought purposes. In the absence of dependable, imported water supplies, overuse of the basins will ultimately result in basin overdraft, land subsidence, and water shortages, and some of these effects, we think, could be seen after just a few years of over pumping. Although our distribution system is built with considerable flexibility relative to source of supply, San Jose Water Company and several of our fellow retailers here in the Valley, have portions of our service areas that are directly reliant on Delta water supply provided by the district through their three treatment plants. And there's really no alternative supply for these parts of our systems if there were long-term Delta interruptions. So it's just critical that this problem is resolved for the day-to-day service of our customers. We support the water district's efforts to help find a comprehensive, cost-effective solution to Delta problems. We know

that doing nothing is not an option and that time is running out. The Delta needs a long-term, durable fix and it needs one immediately. We highly support the Bay Delta Conservation Plan because we believe it is the best opportunity to establish a plan that can stabilize both water supplies and fisheries in the Delta. Neither can afford to wait. Because the Bay Delta Conservation Plan provides benefits for all of California, it is our hope that the cost to implement the plan will be equitably shared among all the stakeholders. And thanks for the opportunity to comment tonight.

Chair: Thank you. Dale Meyers?

Mr. Meyers: Good evening. Dale Meyers, Livermore, California. In the interest of full disclosure for those of you who don't know me, I was the General Manager of Zone 7 Water Agency, which serves the cities of Pleasanton, Livermore, and Dublin from 1997 to 2007, and have sat in the past at the BDCP table. As a consequence, I'm very much aware that BDCP is not intended to solve all the problems of the Delta. There's not enough money for water agencies to do that, among other things. However, as we also know, there are a number of factors in the Delta, including among other things, wastewater disposal and agricultural drainage, that have impacts on Delta water

quality and on the Delta ecology in varying degrees these impacts, with or without their project's presence or operations. It is critical that this EIR/EIS process identify all of these other factors and assess to the greatest degree possible their individual and collective impacts in the Delta in order to be certain that an accurate assessment of the proportional impacts of the proposed alternative water conveyance and conservation actions that are being proposed will have. Thank you.

Chair: Thank you. William Garbet, did I pronounce that right?

Mr. Garbet: I'm William Garbet, speaking on behalf of the Public. We're an environmental organization. And one of the things that you're doing is, the Delta is a vast project, and you have many good ideas, and I hope that you can implement a good fair share of them. However, the biggest problem that you're going to run into is what we call exigent circumstances, not just political, but weather induced by global warming. You're going to have huge variations where you're going to have torrential droughts and, you know, a few feet away total arid areas. And these are going to change just periodically without any rhyme, reason, or pattern. And a lot of this extends from back in 1958 Project Argos, which kind of destroyed the

ionosphere on to weather modifications, such as the cloud seeding that was done in the Santa Clara Valley Water District up until the floods of 1995, in which case I think they decided the liabilities are not worth it. You have to also look at what the Santa Clara Valley Water District has done. They've been playing the peas under a pod and the shell game, just moving things around on water rights and water transfers, rather than building reservoirs or collection from time to time. And since some large reservoirs are impractical, they haven't even built small ones. You look at recharging of the aquifers. For Freeway 85, is rather than, for instance, recharging into the upper brackish water table, they actually went down in the drinking water levels and then they had to go and disinfect periodically such as they've done over at their San Tomas pumping facility. And therefore, recharging to the deep aquifers is not practical, but in the brackish areas it will filter on down and it will be clean water by the time it gets there. Also the brackish water goes and disinfects any bacteriological agents in the water. We look at what they're doing in the Coyote Valley or attempting to do here in Santa Clara Valley. What they're doing is they're roping off and making a big pond out there for "recreation" for real estate

developers with no outlet, and they're taking the brackish water that is coming from energy power plants and dumping it all in one plant. It's no wonder the Coyote Plant has not flown. And you have to look this water coming down through the Delta and adjust what is going on on the level of salinity as your progress, whether you call it a peripheral canal, or whatever, you will have stages or steps in flood control and tide basins that you're going to have to look at. But I wish you luck on your project, because it's a rather volatile political process, particularly after the legacy of the peripheral canal that's still with us. And I'm sure some of the lessons with Cal Fed you are not going to repeat. And I wish you luck. Thank you.

Chair: Thank you. Bruce Lechevski?

Mr. Lechevski: Close enough, thank you very much. Hi, I'm Bruce Lechevski. Welcome to our valley. I teach environmental studies at San Jose State. Years ago, in the 1980's, I helped set up the first citywide water conservation program for the City of San Jose. So I have some experience with urban water conservation. But urban water conservation in the big picture is really a pretty futile thing to do, because 85% of the water in the state, as I'm sure you know, is agriculture. And so I have to sympathize with the California Fly

Fishermen, even though I don't like to go fly fishing because my daughter embarrasses me because she catches the fish and I don't. And so my issue here is that, one of the problems that we have is that water quality, first of all, is so poor that we have an issue with trihelamethanes, as I'm sure you know, and so we still have to improve the quality of water so that we can reduce trihelamethanes, which are a carcinogen and may become a legal issue certainly in this area. Secondly, we have more water being consumed for alfalfa than all of Los Angeles, all of San Diego, all of San Diego County, all of San Francisco, times two, and that's just fundamentally wrong. And so the four major water using crops, alfalfa, irrigated pasture, rice, cotton, if you look at those things, if those farmers would like to use those crops I think they ought to pay for it. When you look at that agriculture consuming 85% of the water produces about 3% of the state GDP, when you're looking at this valley here that is driving the economy of the state that is the sixth largest economy in the world, there's just something wrong. And when we have this process 100 years? We're going to have an earthquake in the next, what, 30 years, 100% chance that I read in the paper? We can't wait this long. We need to move quicker. We need to get water quality.

We need to deal with these issues much quicker. And if the water districts down there want that water, then let them pay for it. Thank you.

Chair: Thank you. I don't have any other speaker cards. Is there anyone else who would like to make a comment? Oh, here we go. Thank you. Go ahead.

Mr. Long: Thank you. My name's Chuck Long. I represent myself, but I'm a property owner up in Contra Costa County. And I followed the water diversions from a few of the pumping plants and I water ski past them frequently. Carl mentioned something about preferred water conveyance approach. Are you referring to another resurgence of the peripheral canal, and could you explain how some of the newer convergence approaches are going to affect us?

Chair: I'm sorry if I didn't make it clear before. We're not really going to do Q and A here. But if this sort of wraps things up, we're going to stay and we'll be happy to answer a lot more questions. Would you have any more comments that you'd like to make?

Mr. Long: Probably (indiscernible)

Chair: Okay, okay. Okay, are there any other comments for tonight?

Okay, with that we will adjourn the comment session. I want to

thank you all very much for coming and for participating and for taking the time to become familiar with the BDCP and we hope you continue to participate. Thank you very much.

**-- MEETING ADJOURNED --**



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**BAY DELTA CONSERVATION PLAN MEETINGS**

**PUBLIC COMMENTS ONLY**

**FOR:**

**STOCKTON**

**Stockton:**

Chair: I'm sorry if I mispronounce anyone's name. Just correct me and tell me what it actually is. Mel Lidel, San Joaquin County, Donte Nomalini, Jr., and Mike Robinson. So if you three would come up first. And the microphone is right there.

Mr. Lidel: Okay, is that better? My name is Mel Lidel. I'm the Water Resource Coordinator for San Joaquin County. And I'd like to just start out by tonight thanking you for the opportunity to give a few comments. San Joaquin County I think is very much interested in this process and we'll be supplying written comments as well as my oral comments as well. Just to remind this group that the San Joaquin Board of Supervisors over the last number of years has been very much interested in the issues of a Peripheral Canal being installed and constructed in San Joaquin County. And by the process of the BDCP it looks like this alternative is one that's going to be looked at in great detail, and so we want to make sure that our position on this issue is taken in consideration as well as the alternatives that we address. Just for your review, in 1982 the Board of Supervisors passed a resolution opposing the Peripheral Canal as it was first developed. Also again during the Cal Fed Process, the

canal was again opposed in 1992, and again in 1998. Part of the resolution that was recently passed in 2007 brought forth the issue that the state water project has failed to develop the \$5 million acre feet necessary that was promised during the state water project as it was developed from north coast to watersheds. And we feel that that is a very key issue regarding the issues in the Delta primarily due to lack of supply. Conveyance of a new Peripheral Canal does nothing to provide additional supply for the State of California. We feel that that's a very strong thing that we need to look at. Peripheral Canal in San Joaquin County as the supervisors recently developed an additional resolution in 2007 where they again opposed the idea of a peripheral canal being constructed, as well as any isolated conveyance facility -- or dual conveyance facility in the Delta. The construction and operation of a peripheral canal are similar. A facility would require the taking of primary agricultural land and possibly urban areas for the construction of a itself based on its current alignments and the loss of additional acreage from seepage from the canal could cause some severage damage to additional prime agricultural land and sever the impaired utilities, local road systems, and would create significant flood dangers to agricultural

lands in urban areas within the City of Stockton and San Joaquin County, and various other communities. It would adversely affect water rights from water users in San Joaquin County and would circumvent the Delta common pool, and will seriously impair Delta water quality and adequate supply for all beneficial uses here in San Joaquin County. I've got 10 seconds left. Have I gone over 10? Oh, sorry about that.

Chair: That's all right.

Mr. Lidel: Other than that, we think there's some more viable alternatives that would allow for this sort of thing to happen. We'll supply those comments as part of our written comments to you due on May 30<sup>th</sup>.

Chair: Thank you very much. You don't have to go in order if you don't want.

Mr. Nomalini: Yeah -- Donte Nomalini, Jr., on behalf of the Central Delta Water Agency. And I'll be helping to provide a lot more detailed comments. But just at this juncture one thing that struck me is I don't know how you folks are going to come out with a preferred alternative. I know you will, and I know what it will include, but this is from the Delta Vision Report. I would caution you not to come out with a preferred alternative. Cal Fed I think came out and

just had a bunch of alternatives, then they went back and picked one, but from the Delta Vision -- you know -- it sounds like your preferred alternative is going to be a dual facility. They acknowledge -- this is on November 2007 -- perhaps an isolated facility would enhance the reliability of exports. Perhaps it would create fewer problems for selected species. Perhaps it would be less exposed to seismic risk. And perhaps it would result in higher water quality. But at this point, there's not sufficient specific information to guarantee these outcomes. Same with the dual conveyance, it might increase reliability, and it might capture more high water flows, but again, not enough information is available at this point to ensure this. So -- I mean -- I think it's -- you know -- borderline bad faith to be coming out saying we prefer -- this is our preferred approach to handle this when the information clearly doesn't appear to be there to back it up. So I would say keep your options open. And you're going to hear a lot more of that the Central Delta Water Agency absolutely 100% against any canal and we'll fight it to the end. Just another comment on the objectives, the Cal Fed EIR, there's a huge battle over what were and were not the objectives. So this go around, I would beg and ask that you folks try and be clear

on what are your projects basic objectives, so we don't have to fight over it. And of course, your objectives define what your alternatives are, so it's important that they are clear and that they are not unfairly or narrowly construed when it comes time to reject in alternative approaches. Because you're going to probably get several hundred alternative approaches and Cal Fed, we felt they narrowly interpreted their objectives and rejected alternatives which were on their face clearly consistent with the broad based objectives. Um -- just running out of time here. I would just like to say the common pool, whoever thought of that was a genius to have the projects depend on the same water quality as the Delta fisheries, the Delta farmers, the Delta commercial folks -- to have everybody draw out of the same pool was genius. You folks out there who care about the fish, us who care about the fish, as well as farming, you get that canal built and those projects no longer are going to care. That's the state and federal government with all their power and resources now do not care about the water quality. And the fishery folks, as well as us in the Delta, we're doomed. That's a bad, bad alternative. Thank you.

Chair: Thank you. On deck we have Vince Wong, Steve Moore, and Donte John Nomalini. Go ahead.

Mr. Robinson: Uh -- Mike Robinson, the organization is Restore the Delta. We understand that there are many factors that may be contributing to the declines in the Delta. But we are concerned about the quantity of exports, and to a lesser degree about the timing of those exports. No one has determined the water needs of the Delta, and already we are 5 million acre feet short of promised water from North Coast rivers that was eliminated from the supply equation. Exports in the same time frame exports have continued to increase. Supply has not. Exports were supposed to be surplus water, those waters not needed to maintain the Delta. In the big picture we feel that all diversions need to be evaluated. All diversions that -- diversions that used to flow into the Delta, back to the original. How can you improve the system of the Delta by taking fresh water -- more fresh water -- Sacramento River water away from the Delta. The Delta needs more water, not less water in the system flowing through it. We're opposed to any type of isolated facility, and there are other alternatives in our opinion that would work better. We ask that you read and understand the original contracts of water exports. They

are very specific about what water was to be used for export. Thank you.

Chair: Thank you.

Mr. Wong: My name is Vincent Wong. I'm with Zone 7 of Alameda County Flood Control and Water Conservation district. Sometimes known as the Zone 7 Water Agency. Zone 7 provides wholesale water and we manage local and ground water for 2,000 residents in Livermore, Pleasanton, and Dublin in Eastern Alameda County. We have been receiving deliveries from the State Water Project since 1962 and about 80% of our water supply now comes from the State Water Project. We depend on the State Water Project to provide a reliable high quality supply. But we recognize that in taking deliveries that that delivery must be done in a responsible manner. That is in a manner that protects and maintains the quality and habitat values of the Delta, as well as being able to convey a water supply reliably. Zone 7 has been a major player in conjunctive use and ground water banking. We know the value of stretching our water supply sources. We continue to emphasize and implement increased water use efficiency within our area. However, we know that we will never be fully independent from the Delta in meeting our water supplies. We



are highly supportive and have been participants in the Bay Delta Conservation Plan, because we believe that is our best and maybe last opportunity that we'll have for a long term solution to a sustainable Delta. The BDCP approach to environmental management is much more comprehensive than the piecemeal approach that's been used in the past with regard to Delta habitat protection, and it can stabilize both the water supply and the fish species in the Delta. In evaluating the BDCP, I want to make sure that I've recognized that the BDCP will not address all the stressors of the ecosystem in the Delta, but I think it's important to recognize that there are many stressors and that the impacts of those stressors can be significant. The BDCP will not answer all of those. The overall benefits of the BDCP for water supply reliability, water management, flexibility, Delta water quality, and Delta fishes warrant the development and implementation of the BDCP. Thank you for the opportunity to speak.

Chair: Thank you. Yeah -- uh -- right up there. Go ahead.

Mr. Moore: Good afternoon. My name is Steve Moore. I'm currently serving as the Sheriff of San Joaquin County. In looking at this presentation, one of the things that seems to be missing from our end is how this

will affect our ability to enforce the laws, not only on the waterways, which there are quite a bit here in San Joaquin County, continue to make sure that the resort type recreational things are continued in the Delta, but on top of that, we also responsible when there is levee failures. So with the projects that are looked out on this presentation, I would like to see an evaluation of possibly how law enforcement is going to be able to continue its original mission. But if you are going to add additional responsibilities to this, how are we going to be able to meet those needs. Currently funding will not be available to do that in some steads. The other would be that -- uh -- possibly a study to decide whether or not it would be better to spend the money to develop and maintain the levees as they currently are instead of putting additional monies into an alternative. Thank you.

Chair: Thank you. On deck we have John Banks, Jay Sorenson, and Dave Hurley. Go ahead.

Mr. Nomalini: Donte John Nomalini, another one. Uh -- you heard kind of a technical presentation on the SEQA and NEPA analysis. My concern is with regard to your duty as public officials to protect the public interest and the public trust which you've put up for us is an equivalent of water supply with protection and conservation of the

environmental values of the Delta. That in my opinion constitutes a violation of your public trust responsibility. The export of water from the Delta was supposed to be surplus. You've heard speakers talk about in particular the 5 million acre feet that was supposed to be brought in by the State Water Project to not only provide additional water to meet shortages within the watershed, but to make available the water for the 4-1/4 million acre feet of export. It is not clear under any of the scenarios that we've experienced so far that it's possible to protect the Delta, the fish and wildlife environment, and the uses with the prospect of level of exports. We have been strongly advocating for years that people who evaluate the environmental impact of facilities on the Delta must look at the level of exports. We may very well have to reduce exports to zero except in surplus water years. And of course, if you're not paying attention to the courts that have chastised your fish and wildlife protective responsibilities as being inadequate, then you're not really paying attention to your job. This looks to me like an organized effort to try and circumvent the SEQA and NEPA process for a peripheral canal by setting a narrow focus on your Bay Conservation Plan which equates exports to protection. And I think that's in error, and of

course you will find this challenging that all the way through the process. So I would ask that you broaden that to make it a more comprehensive review of what is needed to protect the Delta and it would appear that it may very well be zero exports if the 5 million acre feet was supposed to come in by the year 2000. It hasn't come in. Logic would tell you State Water Project you can't take 4-1/4 million acre feet. You didn't carry out the plan. Those people that made the plan were maybe not as sensitive as we are today for environmental values but they did attempt to do their responsibility as public officials and of course, we've seen the crash of the pelagic fisheries as an indication that the management that has been shepherded by you and your predecessors has been inadequate. So thank you very much. We'll provide further written comment.

Chair: Great, thank you.

Mr. Banks: My name is John Banks. I'm a member of the California Striped Bass Association. I'd like to speak a little bit historically here, first. Water was originally diverted to support farms and communities basically in Southern California that didn't have enough water for their activities. Now so much water is being diverted that it has become another cash crop for the farmers at the south of our normal

watersheds. And this is at our expense. The only conclusion I can draw from this that if these farmers have water to sell as a cash crop, then they've got too damn much water. Okay. A couple of the reasons -- other reasons that I am against either a single isolated or dual conveyance -- whatever nomenclature you want to put on it, I am afraid that it will increase salinity in our area of the Delta, and we are continually fighting salinity right now, and we don't need more water diversions or water re-routing to lessen the flow and the flushing actions of our natural tides. There will be increased pollution because of the same reasons. There won't be enough water coming down from either direction, north or south, to wash the pollutants out to sea. Or to dilute them. And it will badly impact our natural tidal actions, which traditionally in a watershed have a cleansing and diluting action twice a day. I am therefore, my organization is therefore, solidly against any water conveyance such as the proposed peripheral canals. And we are steadfastly against any other system that will allow more water to be diverted from our Delta. Thank you.

Chair: Thank you.

Mr. Sorenson: My name is Jay Sorenson, one of the founding fathers of the California Striped Bass Association. We're approximately a 35 year old organization. And this organization was primarily formed because of things that we noticed that were taking place out on the Delta. And through the years we have seen problems arise with our fisheries, natural resources, wildlife. The beauty and splendor of the Delta has slowly eroded. What I used to call the Sistine Chapel, it was my personal Sistine Chapel because I spent two or three hundred days a year out on our Delta as a fishing guide. I have noticed a drastic decline in all of our endogenous sport fish. One that hasn't been mentioned is the American Chad on the San Joaquin River side of the Delta. Nobody talks about that species. Most of us used to go out and what we called bump Chad out here in the South Delta. That doesn't take place anymore. We've seen salinity levels in the Delta rise. In 1986 it got up to 3200 parts per million out here on the Delta. The No Zone into the Delta was primarily in the Bay. It moved up to Chain Island, and heavens knows where that No Zone now from the lack of downstream flows that need to flush this system out. And most of you are aware of what's happened to our salmon fishery off the Coast of California and Oregon. Talk about a

loss in the economy. Over 3,000 jobs lost. 300 million dollars taken out of the economy. And a good portion of those salmon ply the Sacramento River, and that's the species that we're talking about now that's having the problems. So whatever you decide to do, I want you to make sure that there's a high priority on our fisheries and natural resources out here in the Delta. Because I'm really -- pardon the expression -- damn sick and tired of seeing what I've seen out here take place over the last 40 years. My first experience out on the Delta was in the 19 -- early 1940's. And if you'd seen the Delta then and compare it now, the thing is almost dead. So please, in your considerations and deliberations, I want you to take a high priority on what has been a great part of my life. And not only mine, but a lot of other people that live around the Delta, take care of it. It is only one Delta and we've got to take care of it. Thank you very much.

Chair: Thank you. And just on deck Alex Hildebrand, Randy Fiereni, and Bill Jennings.

Mr. Hurley: Good evening. My name is Dave Hurley. I'm Secretary of the California Striped Bass Association, Stockton Chapter. I also write for two Internet based fishing on a weekly basis as well as a Fresno

Bee fishing report, so I have a good handle on what's going on, what our state water levels are, and trends throughout the year. And throughout the years. This is a hard choice. No one is going to deny that our Delta is in tremendous trouble. In three generations, and I am very astutely aware of this because my great grandfather was a commercial fisherman on the Delta. My grandfather had the opportunity to work as a commercial fisherman on the Delta until 1958, and then there's me. But we've in three generations we transformed the Delta from the largest estuary on the West Coast, to our current crisis where salmon season has been closed for the first time since 1848 in history, and we have a pelagic fish decline. But this isn't -- what you are proposing is not a hard choice. It's really an easy choice. There are some hard choices that have to be looked at and I would really encourage -- I'm encouraged that you're -- all the agencies are working together. At least there is the veneer of you guys working together. But what underneath it may be the story that you can't tell tonight. But there are some very hard choices that I would encourage you to look at. And I -- we've been transferring water south for over 100 years with disastrous results. And we're requesting to be transferring water south again just a different



method. We all know something has to be done, but there are too many issues. But I kind of compare what you're proposing to placing a bandage on an infected cut. Except this cut is down to the bone. Without addressing these hard choices of what's gone against what I consider to be the American Way, and what I mean by that is we the general public subsidized large businesses to great profits and the sad part is most of us don't even know it. But subsidized water going to agribusiness in the south area is an issue that has to be addressed. I think it has to be looked at how important that water is, what the use is, where it's going, what it's being used for, what good that water is doing for society, and then the other issue that really needs to be addressed, is in terms of municipal use. Conservation. I don't hear any part of this particular plan -- of course it was a short overview -- but without addressing those two issues, all you're doing is this same story just a different way of getting the water down to where it is. So I would encourage you as an agency, you do have our public trust. Unfortunately some of the actions that have been taking place recently haven't provided much trust for the public. We are in a situation of crisis, and it would be my hope that the next couple of generations are going to be able to enjoy the Delta as my

predecessors have. So thank -- please take a look at those hard choices.

Chair: Thank you.

Mr. Hildebrand: My name is Alex Hildebrand. I'm a farmer on the South Delta. I am very active on the San Joaquin Farm Bureau, and then on the South Delta Water Agency. Let me begin by endorsing but not taking the time to repeat much of what you've heard from those organizations and others who oppose the canal. And it takes a few minutes to explain it, but a dual facility is just a fraud. It would not work. Let me go back to March 21<sup>st</sup> when DWR held a meeting to kick off this EIR scoping process. The material handed out at that time, and the remarks of Deputy Director Jerry Johns, made it very clear that this is not really a democratic process that's intended here. They prejudged that the preferred alternative would be whatever comes out of the BDCP. Now that body is an unelected body, unaccountable, and it's steering committee includes nobody from the Delta. It -- and it was all -- and it goes through some motions of any indicating -- it will indicate -- look at something else but it was clear that there was no intention in any alternative to what comes out of the BDCP would be given any serious consideration at all. And I

have an example of that. It said people from within the Delta led by Tom Zuckerman, and by the South and Central Delta Water agencies have proposed specific alternatives which would solve any problems without the canal and all of the havoc that a canal would cost including increased longer stages during floods. The -- also are plunging ahead with this prematurely. The -- it is clear that the -- there has been no analysis -- independent analysis obtained and made public of the increase in salinity in the Delta that would necessarily happen if you build a canal in the Delta. Consequently there is no understanding of the fact that the increase in salinity that the canal would cost would clearly put most of agriculture in the Delta out of business. If the Delta -- if Delta agriculture goes out of business, and the primary maintainers of Delta levees, and that would have to cease then and the levees would become abandoned. In fact, some of the people that are very vocal in this activity, actually proposed that we should abandon the levees and convert the Delta from a channel system to a - an open bay. And I'm not a fishing expert, but I notice that there are no endangered fish that are in the San Francisco Bay. And if you turn the Delta into equivalent

kind of a thing, the same thing would happen to the fish here. Thank you.

Chair: Thank you.

Mr. Theorini: Good evening. I'm Randy Theorini, a peach grower from Turlock, a member of the Turlock Irrigation District Board of Directors, and I'm the immediate, past president of the Association of California Water Agencies. ACWA is very supportive of the Bay Delta Conservation Plan process. ACWA has been a leader promoting a comprehensive solution to California's water supply reliability and ecosystem health challenges. Improving the sustainability of the Delta is the key policy priority for ACWA's 448 member throughout the State. We recognize that California cannot hope to achieve a comprehensive water solution without a plan to reverse the Delta's ecosystem decline. Although emphasis is often placed on what we don't know about the Delta, there is a wealth of knowledge already evident from 50 years of experience, and that knowledge is compelling. We know that the 18 Delta levees are becoming increasingly vulnerable to the catastrophic failure due to flood or a moderate earthquake. We know that we are expecting the Delta to meet the needs of the aquatic environment and provide water for the

economy, but it was never designed to do both. We know the key native fish species are in decline. We know that communities are losing jobs and income because their water system is in crisis. We know that the Delta is unsustainable in its current configuration. And we know that the Delta's deteriorating condition imperils species and waster deliveries to 25 million Californians and 2-1/2 million acres of farmland. Given these facts, we must conclude that the Delta is in ecological crisis that threatens people as well as the environment. If the State doesn't take action to restore and protect the Delta, the repercussions on the environment and the economy will be disastrous. ACWA represents public water agencies in the Delta and above and below the Delta. Solutions must work for local Delta users, and the entire state. As Delta's solutions take shape, we have to make sure that we protect the interest of those who currently use water in the Delta. That means impacts stemming from solutions -- and there will be impacts -- must be addressed and mitigated. We must also ensure that we do not solve problems at the expense of upstream regions. Local economic interests must be respected along with water rights and area of origin interests. It is imperative that the BDCP process address the key issues concerning

the Delta in an expedited manner. Time is not on our side. Thank you.

Chair: Thank you.

Mr. Jennings: Good evening. Bill Jennings representing California Sport Fishing. For text and that we will be submitting written comments, but I'll excerpt a few of them generally speaking. The proposed HCP is the most ambitious and far reaching HCP ever envisioned, coupled with the massive scheme to change the hydrology of the Central Valley. Proposed time schedule is absurdly truncated. CSPA believes the schedule was not only internally inconsistent, but also fundamentally inconsistent which the governor's Delta Vision and the basic Federal and Clean Water Endangered Species laws. The fundamental inconsistency between and HCP with the goal of protecting and restoring listed species and a conveyance plan involving a massive public works project that will change the hydrology of the estuary and its tributary waterways is indeed the plan. It is little more than a Bay Delta Conveyance Plan masquerading as an HCP. As a general principal we do not believe that any HCP should include guaranteed water delivery, and/or changes in infrastructure solutions. HCP should be focused on needed habitat improvements sufficient to

enhance the listed species to the point til they could be Group D listed. We note that consideration of increased guaranteed water delivery or new water diversion to fresh water from the Delta, that would result in increased degradation of water quality are impermissible under the Federal Clean Water Act, and that economic considerations have been found by the courts to be illegal pursuant to Section 10 of the Federal Endangered Species Act. Long term assurances and guarantees are fundamentally inconsistent with any defensible or adaptive management program. One of the reasons the recent Federal by opts were overruled was that scientific staff decisions and recommendations were routinely ignored or overwritten by the Water Operations Management Team. Specifically at a minimum the ERA, EIS must incorporate a comprehensive ecological analysis. No HCP planning should have goals beyond protecting and enhancing targeted species. Must protect tributary -- Delta and tributary waters no matter what. Regardless of cost or consequences. Must identify the areas and species that it is attempting to cover. Evaluate the impacts of meeting the existing proposed water demand to each species covered by the HCP. Identify and evaluate alternative water systems and

delivery systems and prioritize those evaluations on ecosystem water needs. B -- urban water needs and agricultural water needs. Clearly and HCP's first priority must be on ecosystem, followed by urban and agricultural needs. Analyze and quantify the Delta needs. For over a decade DWR and the Bureau have refused to undertake a quantification of how much water this ecosystem actually needs. Sufficient reductions are essential. It must discuss how much water is required for a healthy Delta and how various scenarios on export levels and patterns and timing of upstream diversions will affect targeted species are reiterated. A reduced export alternative must be included and evaluated. Explain how levee improvements, flood plain management, and changes in water circulation and quality will affect each of the targeted species of proposed structural modifications. Provide a detailed analysis of how expansion of wetland habitat and changes in hydrology will affect mercury methylation, and the bio availability and/or bio concentration of mercury, selenium, and other toxic pollutants on the food chain. And I've got one more and I'll finish. All right, so -- describe in detail how the reductions of Delta exports identified in Delta Vision will be accomplished within the California Water Rights Process and



the affects upon senior water rights or holders, junior water rights holders, repairing diverters, and the trust. And I'll just say that the elimination of a similar capacity and the increase in residence time in the Eastern Delta will have enormous and serious water quality implications and they've been pushed under the rug too long.

You're going to have to bite the bullet and examine them.

Chair: Thank you. I have one more speaker card and if anyone else would like to make a comment who hasn't filled out a speaker card yet, let one of the folks know up here at the door. But this last one is Woody Alspa.

Mr. Alspa: Hello, my name is Woody Alspa. I'm not a -- uh -- diploma expert, however, when I was a kid we had a -- our first well we dug was about five feet deep. We had a hand pump, and of course things have changed. I won't go into detail on that. But the reason I'm here is I had a vision -- an idea about a day before this was published in the paper about this meeting. And it's so simple it can be complicated, but not in reality. To raise up the land in the Delta, that would benefit everything. It's got to benefit everything. The levees and so forth and so on. So, in line with this thought, I visited the scavenger recycle place in Stockton and found out what they did

with their so called recycled garbage waste or what have you.

Anything that's worth anything is barreled and shipped off to China and then a mixture of waste and biomass is barreled and then dumped out there. And I say dump -- let me emphasize that -- on -- off of Austin Road. And if you've ever seen it, it's like a war zone out there now. It used to be a beautiful place. There's a lot of pure biomass garbage such as waste from vegetables and such, and over production of certain crops that is wasted. Not to mention, and I forgot to ask about the green bins. That's the lawn clippings and such. They're all dumped out there in the same hole. Now this could be -- you could take one section or an island or whatever terminology you want to use, pump the water out if there's water. You could either mix this biomass in the soil or you could separate a certain amount of the soil, put it in the biomass and then recover it with the existing peat dirt -- peat soil or what have you. And this could be done in stages. And then there could -- that could be flooded so that everything settled down and drained just before the bad winter so we could use as possible a flood control. And have a dam so that at high tide the salt water doesn't come back in. So it would be natural flushing out of the salt water. And this would take

a lot of thought, a lot of product, probably a lot of money, and a lot of people working together. But I think it's a start. You know -- and I think it's so simple that nobody ever thought about it. All that wasted biomass is just going to waste. And we are a biomass -- soil is a biomass that's chemistry, it's carbon, hydrocarbon, very simple. Nothing complicated about it. And just perfect. My time is up.

Chair: Thank you. And John Herrick.

Mr. Herrick: Thank you. My name is John Herrick. I represent the South Delta Water Agency. I'd just like to join in the comments of both Bill Jennings and the two Donte John Nomalini's. Just to make a few brief points, it doesn't seem appropriate to have a co-equal goal and a habitat conservation plan that includes exports. The protection of any level of exports cannot be determined until you determine what it takes to protect the habitat about which the conservation plan is developed. So as soon as you put that in there you've got conflicting goals and that's what Cal Fed did, and that's what ruined fisheries. I'd also like to encourage the process to divulge its preliminary modeling results with regards to the effects of an isolated facility or a dual facility on water quality in the Delta. And to that end, I'm not trying to blind side you, but either December or January I sent the

BDCP a letter asking for the modeling they had done so far on water quality effects, and asked them a number of questions about the assumptions in that modeling. The URS representative contacted me and said, I will answer that if the steering committee directs me to. And I haven't heard anything. So again, I'm not trying to blind side the people here, but this is being sold as a public process, with public involvement and stakeholder involvement. And yet, I can't get the steering committee to answer basic questions about what modeling they've done and what the assumptions are. I hope maybe you can correct that. Anyway, that's all I have. Thank you.

Chair: Thank you. Okay, are there any other folks who would like to make comments? Okay, if not then we will go ahead and adjourn this part of the meeting but feel free to stay and talk to folks. We'll hang around for a bit and answer anymore questions you have. Thank you very much for coming.

1 **APPENDIX J: COPIES OF TRANSCRIPTS OF 2009 BDCP**  
2 **INFORMATIONAL MEETINGS**

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BAY DELTA CONSERVATION PLAN  
ENVIRONMENTAL IMPACT REPORT (EIR)  
AND ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS

MONDAY, MARCH 9, 2009

PUBLIC COMMENTS

6:00 P.M.

CHICO MASONIC FAMILY CENTER

1110 WEST EAST AVENUE

CHICO, CA 95926

REPORTED BY: LISA L. JONES, CSR 12982

<p style="text-align: right;">Page 2</p> <p>1 Bob Vanella, V-a-n-e-l-l-a. Private citizen, local  2 farmer. One comment, the publication of this meeting was  3 next to none. I don't know how far north it is, but  4 there was only the Enterprise Record one time, buried.  5 We have several other counties around here that use  6 District water, I'm going to call it, out of the river.  7 They knew nothing about it at all.  8 Then my comments would be, along with this, I think  9 some of it was answered in the meeting next door, that  10 there is some desalination plants being proposed. I  11 haven't heard anything about them, but it's probably been  12 down south, so again the people of the State should know  13 this stuff, and we're not told, at least it's not in our  14 local paper. Things like this, because water is so  15 important, everybody in the State should know.  16 Reservoirs, I believe we need more reservoirs. And  17 we've got, I understand -- I don't know eight million  18 more people, or something like that, I've heard in the  19 State since the last reservoir has been done, and there  20 have been no more. And everybody wants more water all  21 the time. So I think in this whole proposal, they're  22 dividing the State by little pieces and they're trying to  23 put a peripheral canal type, that's what I would call it,  24 a new canal system through the State, and so because they  25 couldn't get it before, the whole piece, they're putting</p>	<p style="text-align: right;">Page 4</p> <p>1 get the water? Well, through the river systems from up  2 north. Well, if we have zero water today, I can almost  3 guarantee you, if we have zero water, and we have water  4 next year, at let's say 20 or 30 or 40 percent, but they  5 need this water for this 30 to 45 days, they will say oh,  6 well, we can just make the farmer be, instead of at 30 or  7 40 percent, we'll make him take another five percent of  8 his water to save these fish.  9 So now, the farmer is down again. So in this whole  10 project, everything I see in here, when you talk to these  11 people, is coming from the farmers, all the water. It's  12 not coming from the people any place. It's all coming  13 from the farmers. And I think this whole project needs  14 to be looked at in more detail, not just this little plot  15 here, that's what I mean when I say, "divide and  16 conquer." You need to start up north and go to the  17 center and then go down south. What is the whole plan?  18 I think I'll stop there for this time, but I'm hoping  19 we'll have more input.  20 That's all I have for now. Thank you.  21 Ed Coffin, C-o-f-f-i-n. Just the pitiful manner  22 with which this meeting was broadcast, letting us know it  23 was going to happen in the first place. So hardly  24 anybody really knew this was going on tonight. Just  25 really too bad. They need to let people know in a lot</p>
<p style="text-align: right;">Page 3</p> <p>1 little pieces together, called -- I would call it divide  2 and conquer, so you don't do the whole thing. You just  3 do a little piece here and a little piece there.  4 I am a user of the canal system, for my water for my  5 orchards. We are at zero today, water. And I asked the  6 question: Well, if I'm at zero, and I am a tax payer,  7 and a water user, why aren't maybe some of the cities put  8 on zero water, such as the Capitol, so maybe they can  9 wake up to the fact, that we do have a water problem.  10 And maybe we ought to do this in Los Angeles, San Diego,  11 some areas of the State buildings, put them all on no  12 water. So that they can see what's it like to have no  13 water, not the People, but all the government facilities.  14 You know, the Capitol and courthouses, places like this  15 that people will say hey, there's no water, and we're not  16 doing anything about it.  17 In the meeting next door I went to, they were  18 talking about the fish and stuff that they want to  19 preserve and at what cost do we want to preserve these  20 fish versus the people of the State, and they had said  21 that in the Yolo Bypass they have little dark areas on  22 this map. They have that they want to increase the flow  23 into those areas for the saving of the fish another 30 to  24 45 days.  25 My question was to them: Where are they going to</p>	<p style="text-align: right;">Page 5</p> <p>1 better fashion than they did when they're going to have  2 something like this.  3 (Whereupon the meeting was adjourned at 8:40 p.m.)  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>

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PUBLIC COMMENT MEETING  
HDR ENGINEERING INCORPORATED  
THURSDAY, MARCH 26, 2009

Taken at:  
52910 Netherlands Avenue  
Clarksburg, California 95612

ANGELICA R. GUTIERREZ, CSR NO. 13292  
JOB NO. 114785



<p style="text-align: right;">Page 2</p> <p>1 MS. PAM JONES: My name Pam Jones. And I'm the  2 moderator for this evening. I am not an employee of any of  3 the agencies who are here this evening. Some of you may  4 actually know that I have spent 25 years working with the  5 agricultural community. That's said, I would like to not  6 only say welcome -- we've said welcome to other communities.  7 But this is the 12th -- of 12 communities and certainly the  8 community that actually gives evidence that it does care, so  9 compliments to the community that cares. The purpose of  10 tonight is two-fold.  11 Number one, to give you an update about the status of  12 the Bay Delta Conservation Plan. The second one, is to give  13 you the opportunity to have input into the environmental  14 review process that once that plan is completed -- or at  15 least the first draft -- will be handed off to the  16 environmental team, which is staff and consultants of the  17 agencies for them to review in the context of what does the  18 proposed plan do to the ecosystem, to the communities, to  19 the agriculture, to the economy, and to the entire system,  20 not only in the Delta but throughout the water delivery  21 system that the Delta depends on.  22 Many of your comments tonight will be best utilized if  23 you can remember when you leave here -- and there will be  24 time at the end -- to speak to the folks out in the hallway  25 who will take your comments in writing -- and we will also</p>	<p style="text-align: right;">Page 4</p> <p>1 express them here. And third, is kind of rules of the  2 ground rules here. We would like your comments to be  3 constructive. And we would like your behavior to be  4 constructive and not abusive and not illegal. The illegal  5 we kind of have the guidelines. Abusive is a matter of  6 judgment. It's kind of like pornography you know when you  7 see it. With that, I would like to introduce our team up  8 here, our speakers.  9 Starting with Lester Snow, Director of the California  10 Department of Water Resources. John Engbring U.S. Fish and  11 Wildlife Service that's one of the federal partners here.  12 Karla Nemeth, she's with California Natural Resources  13 Agency. She's the BDCP, the conservation plan liaison.  14 Paul Cylinder, is with SAIC, technical consultant. Chuck  15 Hanson, is with Hanson Environmental another environmental  16 consultant. Jerry Johns Deputy Director Department of Water  17 Resources. Who else is going to speak? Keith Coolidge  18 Natural Resources. And we also have some other folks here  19 that will be resources.  20 If you don't get all of your questions answered, these  21 people will be around, they will take your questions as will  22 the staff in the hallway there the technical staff. The  23 staff out there is there to listen not so much to answer the  24 questions because as the official part of the environmental  25 review process, they're trying to get your questions and</p>
<p style="text-align: right;">Page 3</p> <p>1 have a court report -- or you can fill out a comment card  2 because it's the comments in writing about your concerns and  3 what you would like this environmental team to consider when  4 they're doing the environmental review that will actually  5 constructively guide that environmental team. So that's the  6 official, legal purpose of this meeting is to generate those  7 comments. And I think you will probably have some because  8 of the unique character of Clarksburg and the surrounding  9 area.  10 The format that we'll follow tonight is we're going to  11 go about half an hour with some presentations, with the  12 update to the plan. And then we're going to turn it over to  13 you for your questions and your comments. Right now I have  14 almost 30 comments. And my goal is to make sure that each  15 of these 30 people who want to speak get the opportunity to  16 do so, that's my primary goal. And in order to do that,  17 we're going to need some -- to follow some ground rules. So  18 as you're thinking about your comments -- and I have, you  19 know, 30 people here who want to make comments -- the ground  20 rules that we will follow is that you may ask a question and  21 a follow-up question. You may make a comment. We'd like  22 those to be limited to three minutes so that the last person  23 gets the same opportunity as the first person. Again, if  24 you can write your comments about the actual environmental  25 review, write them down, we'd appreciate that. Even if you</p>	<p style="text-align: right;">Page 5</p> <p>1 concerns. These people will answer your questions. Okay.  2 With that I'd like to turn it over to Lester Snow.  3 MR. LESTER SNOW: Thank you, Pam. There's a couple of  4 things I noticed about Pam's comments. One the first  5 sentence was to identify herself as not part of the rest of  6 us, which is probably a good move. And then I also noticed  7 that her last sentence had before introducing me had  8 pornography in the sentence. I'll try not to let that  9 affect me. First, I want to reiterate what Pam said how  10 impressive the turn out this is. It speaks well of the  11 community, and it speaks well of your interest in your  12 community and wanting to understand on what's going on and  13 the issues that it may effect -- and also, the T-shirts I  14 don't know -- the person that designed them here this  15 evening. I mean, they're a wonderful T-shirt. And it shows  16 the kind of solidarity that's intended. There's a lot of  17 people standing. And it looks like there's still people in  18 the hallway. And we have looks like maybe even ten seats  19 still available. Yeah, four there. There's three over  20 here. Another one there. So maybe some of you in the back  21 want to move up here and more people in the hallway can come  22 in.  23 As Pam has already indicated, you know, we have a  24 number of people that can respond in detail to the issues  25 that are before us right now, in terms of the Bay Delta</p>

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1 Conservation Plan on water conveyance, on habitat. What I  
 2 wanted to do is try to provide a little more broader context  
 3 of what's going on in water resources in California, not  
 4 take much time to do that. Water resources -- as many  
 5 people in this room -- I recognize a lot of colleagues and  
 6 friends that have worked on water resources issues for a  
 7 long time. And water resource issues have become more  
 8 complex. The ecosystem, despite investments that have been  
 9 made, we have fish species that have continued to decline  
 10 and have not gotten materially better. At the same time, we  
 11 have seen a a pretty steady erosion of water supply  
 12 reliability in the state. And I'm not just talking about  
 13 the Bay Delta system but on a broader basis and so that's a  
 14 problem that affects ecosystem and it affects the economy of  
 15 the state. So this issue that's here tonight isn't the only  
 16 thing that's going on.

17 And so I want to hit very quickly kind of the  
 18 four-point program that's underway to try to deal in the  
 19 long term basis with water resources in California. And the  
 20 first issue is conservation. Thank you. I'll put it on as  
 21 soon as I'm done. And I owe you 20 bucks -- or was that 50.  
 22 Anyway, the four-point program conservation, that comes up a  
 23 lot in these meetings. It's an essential part of how the  
 24 state is going to move forward and in fact it called for a  
 25 20% reduction in urban per capita use by 2020. We're

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1 seeking legislation to codify that so when we get to the  
 2 future our urban areas are using less water than they are  
 3 today on a per person basis.

4 The second piece of the strategy for the state's future  
 5 water apply is what we call integrated regional water  
 6 management. And what's that? It means that each region of  
 7 the state needs to become more self-sufficient through local  
 8 conservation through waste water recycling through ocean  
 9 desal through local ground water storage projects and ground  
 10 water development -- and we have to invest heavily in that.  
 11 The third element is storage -- statewide storage. You  
 12 probably heard the governor and members of legislation and  
 13 Senator Feinstein talk about needing more storage north of  
 14 the Delta and more storage south of the Delta to capture the  
 15 peak flows that we have and use then in drier years.

16 And then the fourth element, of course, is fix the  
 17 Delta and that means a lot of different things to a lot of  
 18 different people. But fixing the Delta means fixing  
 19 ecosystem issue in the Delta and fixing water conveyance in  
 20 the Delta. So those are the basic elements that are cued up  
 21 to deal with California's future. Now, very briefly. Some  
 22 are at a high level the kinds of issues that we're running  
 23 into. I think the first uniting theme that we hear from  
 24 people is, "You shouldn't be doing this at all." "You  
 25 haven't thought about it." "Stop doing that." "Leave us

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1 alone." Now, that I have your vote, I'm running for  
 2 assembly seat.

3 And then what tends to happen in the next level is, "If  
 4 you have to do something, we're not convinced you've thought  
 5 it through very well. In terms of where you're going to put  
 6 habitat or exactly where you're going to -- how you're going  
 7 to change conveyance." And in the third level it's kind of  
 8 a refinement of that, "If you're going to have to build a  
 9 canal, why are you doing it there?" "That's stupid." "You  
 10 need to do it in this fashion." And then at that third  
 11 level of concern -- and we'll hear that tonight. "If you  
 12 have to do this, you need to think about the impacts you're  
 13 going to have on communities." "You need to think about  
 14 what you're going to do to preserve the lifestyle in the  
 15 Delta." And we know we're going to hear all of those  
 16 levels. "Don't do it." "You're doing it wrong." And, "If  
 17 you are doing it, you need to take care of the impacts that  
 18 you're going to have." So we look forward to hearing that  
 19 from you tonight after the presentations.

20 So I'll come back right before the presentations and  
 21 try to summarize some of the more specific issues that we've  
 22 seen or heard from people. So at this point let me turn it  
 23 over to John Engbring, U.S. Fish and Wildlife Service.

24 MR. JOHN ENGBRING: Thank you, Lester. Yeah, this  
 25 indeed is an impressive turnout. I think I was at the

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1 earlier pre-scoping -- early meeting that we had. And  
 2 there's a lot more people here tonight than there were then.  
 3 And I also heard there's another meeting going on up  
 4 Sacramento. So a lot of interest aren't even represented  
 5 here tonight. So this does represent a huge display of  
 6 the -- this does represent a huge display of the interest in  
 7 the Bay Delta Conservation Plan. Again, my name is John  
 8 Engbring. I am with U.S. Fish and Wildlife Service. I do --  
 9 I spent most of my younger life baleing hay and hoeing  
 10 soybeans, so I know what it's like to make a living off the  
 11 land. I am now the Assistant Regional Director for Water  
 12 and Fisheries with the U.S. Fish and Wildlife Service here  
 13 in Sacramento. I'm going to try to explain as simply as  
 14 possible why the U.S. Fish and Wildlife Service is here,  
 15 which isn't an easy thing to do because the Endangered  
 16 Species Act and these environmental review processes are  
 17 very complex. But I think everybody knows that water is  
 18 moved from the north of the Delta to south of the Delta  
 19 through two very large water projects, the federal and state  
 20 projects. As that water is moved through and pumped out,  
 21 there are endangered species -- endangered fish in  
 22 particular winter-run chinook and Delta smelt that are  
 23 actually killed when these pumps are operating. Now, that's  
 24 not legal under the Federal Endangered Species Act. But we  
 25 do have way to permit that kind of take -- that kind of

<p style="text-align: right;">Page 10</p> <p>1 killing of endangered species. What we do is we ask an  2 applicant. In this case it's DWR Department of Water  3 Resources. And then I think I was described as a partner.  4 But I'm a partner but I'm also here -- and I'm going to be  5 asked to issue a permit to the state for taking these listed  6 species. I'm in a regulatory role here. This permit that  7 we issue -- this incidental take permit -- can be obtained  8 but the applicant has to prepare a Habitat Conservation Plan  9 that describes what DWR -- what the applicant is going to  10 do. How that action is going to affect listed species, in  11 this case Delta smelt, salmon and other covered species.  12 They are supposed to describe various alternatives that were  13 considered and ways that they are going to minimize the  14 impacts to those species, the conservation measure so to  15 speak. When we get that Habitat Conservation Plan, which in  16 this case is the Bay Delta Conservation Plan that's what is  17 being prepared. We have to look at that and make a decision  18 about whether or not the actions, the activities in there  19 actually will threaten or jeopardize the continued existence  20 of those listed species. If we feel that it does jeopardize  21 them, we can't issue the permit. And if there are enough  22 conservation actions and recovery-type actions in that plan  23 that will put those species on an upward trend instead of  24 continuing toward extinction, we can issue the permit. So  25 the end result here is, we will get this Habitat</p>	<p style="text-align: right;">Page 12</p> <p>1 my name is Karla Nemeth. I'm with the California Natural  2 Resources Agency. The Natural Resource Agency -- I'm going  3 to scoot right here so I can operate this machine.  4 The California Natural Resources Agency is convening a  5 steering committee that's helping to shape the Bay Delta  6 Conservation Plan. And that committee is made up of water  7 agencies that provide water supplies from the bay area, all  8 the way down to San Diego, farms throughout the central  9 valley, as well as environmental groups, the California Farm  10 Bureau and other folks who are interested in developing a  11 habitat conservation plan for the Delta. All folks  12 recognize that it's a major challenge to restore an  13 ecosystem in an environment such as the Delta. It's home to  14 half a million folks. Many folks who have been here for  15 generations. It supports a vibrant agricultural economy, a  16 recreational economy. And all of these needs need to be  17 balanced against water supply reliability in the ecosystem  18 restoration goals of this particular plan.  19 The secretary of resources is very interested in  20 engaging the Delta counties in this effort. He's meeting  21 with elected officials from the Delta counties to help lay  22 out a plan for them to be formally engaged in the  23 conservation plan for the purposes of keeping these counties  24 whole as we continue to move through the planning process.  25 As folks indicated, the purpose of this presentation tonight</p>
<p style="text-align: right;">Page 11</p> <p>1 Conservation Plan -- this Bay Delta Conservation Plan. We  2 will have to review it and make a decision about whether or  3 not we issue a permit. In that process, we have to complete  4 an environmental review. Now, we're here completing --  5 beginning the process of this environmental review. Part of  6 the environmental review process is listening to the public  7 to see what you have to say about how this project -- as  8 much as we know about it now and later when we get actually  9 to the draft environmental impact statement, we'll know  10 more. How that project will affect you, ideas you might  11 have about issues, ideas you might have about different  12 alternatives -- "why don't you do this instead of that."  13 Those are all the kinds of comments that we like to hear  14 from you tonight. So I think with that, welcome here again.  15 The table's are out there. They are staffed with  16 individuals that can answer specific questions. So if you  17 do have specific questions, go check out those different  18 tables and stations. There's one on biology. There's one  19 on culture resources. There's one on engineering. There's  20 one on process. So all of the different areas are covered  21 out there. And that's where you should go to provide  22 comments. So with that, again, thank you very much for  23 coming. I'll turn this over to Karla. And she'll give you  24 more information on the Bay Delta Conservation Plan itself.  25 MS. KARLA NEMETH: Thank you, John. As John indicated</p>	<p style="text-align: right;">Page 13</p> <p>1 is to really provide you an update with our current thinking  2 on the plan in the context of this environmental review  3 process. So that we can support with the most up-to-date  4 information as possible, support this scoping session. I'm  5 not going to have all the details for your tonight. But  6 I've got some great folks here.  7 Chuck Hanson, he's a fisheries biologist, who's been  8 working very closely on the plan. And Paul Cylinder over  9 there he's got a lot experience putting these conservation  10 plans. And I really want folks to take advantage of them  11 and ask questions when I finish this presentation.  12 So why are we here? What is the problem that this  13 conservation plan is attempting to solve? As Director Snow  14 mentioned, many folks are very aware that several native  15 species in the Delta have experienced record low population  16 numbers and that is threatening the water supply reliability  17 for about 25 million Californians.  18 Essentially, what the courts have said is that how we  19 convey water through the Delta that is through the  20 Sacramento River down through the heart of the Delta to the  21 state and federal pumps here creates a reverse flow  22 situation that pulls fish into the pumps and under the  23 Endangered Species Law, you cannot operate those pumps to  24 provide the reliable water supplies because of the presence  25 of those fish. So the courts have said you need to reduce</p>

<p style="text-align: right;">Page 14</p> <p>1 your pumping when fish such as smelt are in this part of the 2 Delta. So what typically happens when we have these kinds 3 of conflicts between water supply, or water for human use, 4 and water for environmental needs an entity can go ahead and 5 propose a water supply project and decide to try and offset 6 the damage to individual species one by one by one. 7 But what the Endangered Species Act in the California 8 Natural Communities Conservation planning Act allow for is a 9 different approach to endangered species regulatory 10 compliance. And that is, to put together a conservation 11 plan. And what a conservation plan does is it addresses 12 multiple species. It actually asks folk who are putting 13 them together to contribute to the recovery of species over 14 time, not just to offset damages to one species at a time 15 but to actually come up with a strategy that contributes to 16 their recovery over the long term. 17 And at the heart of conservation planning, is 18 developing a conservation strategy and that is the suite of 19 actions that you need to do the suite of measures that you 20 need that you need to take over time that will contribute to 21 the species recovery. There's a lot of other elements that 22 are critical to the success of conservation planning that 23 are included in a plan. That includes who's going to fund 24 it? And how do we make sure we have adequate funding to 25 implement the whole thing? And that is who governs? That's</p>	<p style="text-align: right;">Page 16</p> <p>1 holistic comprehensive strategy around nine fish species. 2 That includes Delta smelt, longfin smelt, Sacramento 3 splittail, chinook salmon, green and white sturgeon, Central 4 Valley steelhead. And our approach has been to use the 5 decades of science that came out of the CALFED process to 6 start identifying how we might measure the recovery of fish 7 species what are the biological goals and objective of the 8 plan? How do we know they're actually recovering? 9 There are a couple of ways that we're taking a look at 10 this. That is the distribution of these fish throughout the 11 Delta, their mortality rate, their fitness as a fish 12 species. We're also identifying all the things that stress 13 these fish species. I already showed a slide that showed 14 how the operations of the state and federal water project 15 stress fish species with those flows moving through the 16 southern part of the Delta. That's a key issue we need to 17 address in this plan. There are other things that are also 18 stressing the fish species. And that's a lack of adequate 19 habitat for spawning and rearing. It's a lack of food 20 supply for food species. 21 As I also mentioned water quality methylmercury 22 production. The presence of invasive species that compete 23 with native species. It's all of these things that we are 24 working to address collectively with the notion that any one 25 of these things addressed individually would not be as</p>
<p style="text-align: right;">Page 15</p> <p>1 a real critical question. And I know a lot of folks have a 2 lot of concerns about some of the ideas that are being 3 generated -- and that I'll explain in more detail later. 4 It's a critical issue. It has not been resolved. The 5 California legislature is working on it. A lot of folks are 6 working on that. 7 Another critical aspect of conservation planning is 8 this concept of adaptive management and how do we -- 9 specially, in a system like the Delta -- how do we monitor 10 our effectiveness in incorporating new scientific 11 information as we implement the plan through time? So at 12 the end of the day this conservation plan will be a plan 13 that lays out specific actions, habitat restoration, water 14 conveyance and water flows in the , ways to manage water 15 quality and invasive species in the Delta in exchange for 16 endangered species act permits to allow the operation of the 17 state and federal water projects. 18 And in this planning process, we really have two goals 19 and that water supply reliability and a stable and healthy 20 fish population in the Delta. So what I'm going describe 21 for you tonight is really just one piece of an overall plan 22 and that is this conservation strategy. In your packets you 23 have a summary update. It's about 20 pages that will go 24 over a lot of the information in this presentation. 25 So we're building this conservation strategy, this</p>	<p style="text-align: right;">Page 17</p> <p>1 effective as if we're able to address them all together all 2 at once because our goal is to contribute to the recovery of 3 the fish species over time. 4 So I want to say a little bit more about flows and 5 water conveyance in a conceptual way before I get into some 6 of the details of things that we're considering. And that 7 is -- as I mentioned earlier -- water supplies as they're 8 conveyed through Delta now come in through the Sacramento 9 River through the Delta to the state and federal pumps. The 10 San Joaquin River also feeds the system and water is pulled 11 from the San Joaquin River into the pumps there. There are 12 a couple of areas in which we have these reverse flows that 13 affect fish as I mentioned already in this area there are 14 reverse flows. But also water that comes down the 15 Sacramento River and that would otherwise go out to the Bay 16 is also subject to the pull of pumps and comes back into the 17 system here. Also subject to the pull of these pumps are 18 fish species moving down the San Joaquin River. They get 19 pulled into the pumps through these channels here. 20 So what we're looking at to help this flow situaton 21 with the fish is a few things -- and as Director Snow 22 mentioned, we are looking at a canal as part of this 23 conservation plan and in terms of the flows and what we 24 think it will do to change the flows for the fish in this 25 system is that essentially by diverting water north -- at a</p>

<p style="text-align: right;">Page 18</p> <p>1 northern point in the Sacramento River down to the pumps, it  2 relieves the reverse flow pressure in this part of the  3 Delta. It also allows for greater outflows to the Bay  4 because the pumps aren't working so hard and allows some of  5 that water to go out into the San Francisco Bay. It also  6 allows the San Joaquin River to come in through the Delta as  7 well without the pressure of those pumps. There's a lot of  8 important details about how this kind of system would be  9 operated, some of which we have, some of which we have not  10 developed. They're absolutely essential, critical issues.  11 Everyone's concerned about that.</p> <p>12 So some of the ideas that we are thinking about that  13 make up the conservation strategy -- remember I was  14 mentioning the specific actions that we're considering -- in  15 the area of conveyance and flow, in the next five to 15  16 years we're looking at installing gates in the southern part  17 of the Delta to help manage that flow issue that I was  18 describing earlier. Gates that could be opened and closed  19 seasonally depending on the presence of fish in that area.  20 In the long term that is 15 years and out, we are looking at  21 northern diversion points off the Sacramento River and the  22 canal that connects to the pumps here. They're critical  23 aspects to how we determine how water is diverted out of  24 this diversion point or the pumps here, and there are couple  25 of things.</p>	<p style="text-align: right;">Page 20</p> <p>1 restoration could occur in a bigger area but of much smaller  2 target, which would determine how much we need to make the  3 plan successful. And that essentially gives the plan some  4 flexibility in working with public lands and working with  5 willing buyers and willing sellers to implement the habitat  6 restoration piece.</p> <p>7 But I want to point out a couple of specific areas that  8 we are considering for habitat restoration in this five to  9 15 year time frame. And that is in the Yolo bypass area.  10 Essentially, putting an operable gate on the Fremont Weir  11 and allowing Sacramento River water when available to come  12 in and flood a little bit more of the bypass every couple of  13 years for the purposes of creating spawning and rearing  14 habitat for fish. We are also taking a look at tidal marsh  15 restoration in the Cache Slough area and then Suisun marsh  16 and then portions of the West Delta. Also in the near term,  17 that is, the next five to 15 years we're looking at some  18 canal restoration in Steamboat and Sutter Slough area.  19 We're looking at about potentially ten miles of restoration  20 in that area. Potentially deepening the channels and making  21 it safer for fish to migrate through. And Chuck can answer  22 questions about design and how we might be approaching that.</p> <p>23 In the longer term, we're looking at restoring habitat  24 in this eastern part of the Delta here down in the southern  25 Delta and then along the San Joaquin River here. As I</p>
<p style="text-align: right;">Page 19</p> <p>1 One, it's limited by how wet a year it is. Is it dry,  2 critically dry, average or wet. But also key indicators for  3 fish species needs. How much water needs to be flowing by  4 this kind of a diversion point so that fish have enough  5 water in the system to migrate so that there's enough force  6 for food to be transported into the Delta. They're all very  7 important pieces of information that we need to pull  8 together about how we might operate this kind of a  9 dual-conveyance system. The other important measure is how  10 we operate a northern diversion point or a southern  11 diversion point to manage salinity in the Delta for  12 agriculture uses here in the Delta.</p> <p>13 As I mentioned, we also have a need to address the lack  14 of habitat for fish species in the Delta. And we're looking  15 at three different kinds of habitat restoration. One is  16 floodplain restoration. The other is tidal marsh  17 restoration that's growing cattails and tules to create  18 spawning and rearing habitats in food production for fish.  19 The other is restoring the banks of channels to make them  20 safer for migration for fish less subject to predators. And  21 we're looking at doing that in a variety of areas. I know  22 some folks have kind of been around this block before, they  23 seen these green blogs, they're a little frustrated they  24 want us to get more specific about habitat restoration. And  25 what we're really looking at is identifying areas where</p>	<p style="text-align: right;">Page 21</p> <p>1 mention before, the purpose of this plan is to do a whole  2 suite of actions that we think will contribute to the  3 recovery. What we don't want to do is change the flows and  4 develop habitat that -- but do it in a place where the water  5 quality isn't so good. Or where we know there's invasive  6 species. So we're looking at strategically throughout the  7 Delta, supporting programs that can remove invasive species  8 such as Quagga mussel or water-hyacinth, Egeria those sorts  9 of things -- also addressing water toxics in the Delta.</p> <p>10 Where we are in the development is we've put together  11 about 50 conservation measures -- ideas that we're  12 considering. It's all available on our website, which is  13 <a href="http://www.resources.ca.gov/bdcp">www.resources.ca.gov/bdcp</a>. But I would, again, point you to  14 that summary document that's in your packet. There's a lot  15 of good information in there that really represents some of  16 our latest thinking and why we're approaching it this way.</p> <p>17 In terms of where we are, we're here on the left with a  18 lot of different potential conservation measures that we  19 need to evaluate. We need to evaluate them for their  20 biological effectiveness. We need to evaluate them for  21 their practicability. How feasible is it? You know, once  22 we're out in the ground to actually do them, how cost  23 effective they would be? A lot of other measures that we  24 need to think about know that we're getting a sense of  25 scientifically what we think would be the best approach to</p>

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1 help fish species recover. We expect to have a draft plan  
 2 available by the end of 2009 in a public draft form. But  
 3 we're going have a draft of the plan -- a preliminary draft  
 4 of the plan available this summer. Where we've got all  
 5 those pieces, not just the conservation strategy but all  
 6 those other elements that I mentioned in terms of the  
 7 adaptive management, of governance, of funding all these  
 8 kinds of elements of the plan will be available in a  
 9 preliminary plan this summer and expect to bring it out and  
 10 talk to communities about it, get their input on it in  
 11 advance of the public draft, send it out for public review  
 12 and comments, respond to those comments.

13 Our expectation is that we'll do that by the end of  
 14 2009. And then we would have a final conservation plan by  
 15 mid 2010. And then as Mr. Engbring mentioned, the outcome  
 16 of the plan is the state and federal fish agencies decide  
 17 whether or not it passes muster. And they can issue a  
 18 permit for taking endangered species act, pending the  
 19 implementation of the conservation plan. It's moving  
 20 concurrently with EIR and EIS schedule. And the  
 21 environmental review process will actually issue a Record of  
 22 Decision on the conservation plan. So I will now open it  
 23 for questions and comments. I think Director Snow is going  
 24 to make some summary comments as well. Thank you.

25 MR. LESTER SNOW: Pam suggested that I very quickly

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1 summarize -- since this is the 12th of 12. We've heard a  
 2 lot of comments. I'll take less than 60 seconds and go  
 3 through some of the issues that have come up at the other  
 4 meetings. And certainly one has been -- one theme has been  
 5 the whole issue of access per surveys and getting on  
 6 property -- temporary entry permits and what happens in that  
 7 process. A longer term issue of land purchases -- land  
 8 acquisition what happens if you're going to acquire land,  
 9 whether it's for canal or for habitat.

10 Certainly a theme of opportunities for input and  
 11 dialogue -- and not just waiting for government to make a  
 12 decision, but what are the opportunities. And I think  
 13 Karla -- go on the website and you can see when the meetings  
 14 are taking place and there are forms that provide more  
 15 information on that. Certainly a theme in the Delta region  
 16 in the concern that this is all predecisional, decisions  
 17 have all been made and kind of going through the motions on  
 18 this and that's been a theme that's come up in a number of  
 19 places.

20 Concern that the steering committee, the group that's  
 21 guiding the conservation plan, does not adequately include  
 22 Delta interest and specific Delta agriculture salinity you  
 23 change the flow patterns in the Delta you have to ask the  
 24 immediate question what's going on with salinity? And how's  
 25 that going to be dealt with? Impacts on recreation -- you

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1 put barriers gates in whatever they are, how does that  
 2 change recreation patterns in the Delta. Issue of striped  
 3 bass has come up in a number of fashions. It's a predator  
 4 to the endangered species, but it's also an important game  
 5 fish in the Delta.

6 Alternatives -- and I kind of hit that in very broad  
 7 way in my initial comments -- "Can't you do more  
 8 conservation -- and I don't have to worry about this stuff."  
 9 Project cost. "Who's going to pay for this?" "Big price  
 10 tag." "Are the water users genuinely going to pay for this  
 11 fix as has been committed to?" "And how do we assure that  
 12 they do?" Concerns that a canal will lead to abandonment of  
 13 Delta issues and Delta priorities. One broad one, of  
 14 course, is a lack of trust and confidence in government to  
 15 make commitments and follow through with you. Let the  
 16 record show, I made a lot of applause tonight. You know, I  
 17 mean, that issue of confidence and trust -- I mean, that's  
 18 not a Clarksburg issue or a California issue. It turns out  
 19 to be a kind of a national issue right now with the economy  
 20 and the condition that it's in.

21 That leads to this issue of governance. I don't know  
 22 if you've been hearing that term. But there's an assumption  
 23 that if you do something like this the existing institutions  
 24 can't govern this. There has to be some other kind of  
 25 structure that will govern facilities and how this gets

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1 done. Mitigation for land impacts, mitigation for economic  
 2 impacts in the region. And one issue that's a theme for --  
 3 and it's maybe more so central and south Delta.

4 You probably have seen some of the studies that have  
 5 been done on earthquake risk and the high risk that there is  
 6 for some of the subsided islands and there's a response that  
 7 people don't believe that. That that's just not true, that  
 8 the risk is not that high. So those are the kinds of themes  
 9 that we've seen from people. And it sounds like we'll hear  
 10 some of those themes here this evening. So with that, let  
 11 me turn it over to Pam.

12 MS. PAM JONES: Right now we have 35 people who have  
 13 indicated that they want to speak. That's about 105  
 14 minutes. So I would like to ask the speakers if you will  
 15 stay until 9 o'clock up here officially answering the  
 16 questions. And then we'll return to a more informal  
 17 discussion. They'll stay, you can speak to them. And you  
 18 can also speak to the folks, specifically, about your  
 19 questions and concerns out there. To get through 35 to 40  
 20 is going to take your cooperation. There's no way we can do  
 21 this, if we have people running on over three minutes. And  
 22 it means that the people at the end of the line will not get  
 23 the attention they deserve. So I'm asking you to, please,  
 24 when you make your comments or questions -- out of  
 25 consideration for the people at the end of the line be as

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1 concise as you can. And then the other ground rule is not  
 2 to be abusive or threatening.

3 Okay. So when you get close to your three minutes,  
 4 I'll kind of wave to give you an idea to wrap up. If you're  
 5 past three minutes, I will ask you to give the microphone up  
 6 to the next person. In order to get through this fast, I'm  
 7 going to call three names at a time to give you time to kind  
 8 of get your thoughts together and get up to the microphone  
 9 right here. So there will be people going in and out, if  
 10 you could just help them get through the system. Before we  
 11 start, we do have some representatives from elected  
 12 officials here. Can you identify yourself, if you are here  
 13 for an elected representative? Back in the back -- and you  
 14 know what, on the left-hand side over here, if you could  
 15 just move forward. There are a few people back there. Keep  
 16 moving forward. Okay. I think it is a representative from  
 17 Mike McGowan; is that correct?

18 MS. JULIA McKEEVER: Correct.

19 MS. PAM JONES: Okay. And your name is?

20 MS. JULIA McKEEVER: Julia.

21 MS. PAM JONES: Okay. Julia is here from Supervisor  
 22 Mike McGowan. Also, I would like to -- oh, yes.

23 REPRESENTATIVE OF MARIKO YAMADA: From Assembly Member  
 24 Mariko Yamada's office.

25 MS. PAM JONES: Assembly Member Mariko Yamada's office.

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1 Anyone else? Okay. I'll call on you in just a minute.  
 2 What I wanted to ask is there anyone here who has to leave  
 3 early due to taking care of children or parents or whatever  
 4 and that would like to speak up front? Is there anyone with  
 5 a real time constraint? Okay. Then I'll go ahead with the  
 6 list as we have it. Julia, did you want to start out?  
 7 Anyone here from the press? Don, and you're representing  
 8 who?

9 DON: With the Madera Tribune.

10 MS. PAM JONES: Don is with the Madera Tribune. Anyone  
 11 else from the press?

12 MS. PAM JONES: Okay. Julia?

13 MS. JULIA McKEEVER: Good evening, Julia  
 14 McKeever(Phonetic). I work for Yolo County. I'm here  
 15 representing Supervisor Mike McGowan, who's the chair of the  
 16 Yolo County Board of Supervisors and also represents the 1st  
 17 district, in which we're all standing -- or sitting as the  
 18 case may be. He's very sorry he couldn't be here tonight.  
 19 He's at a meeting at the Delta Protection Commission so he  
 20 asked me to speak on his behalf. I apologize for not  
 21 bringing enough copies to have one for everyone. So maybe  
 22 you can share with your neighbors. But I'm distributing a  
 23 couple of things.

24 One is a letter that I would like to submit -- I gave  
 25 the copy to somebody back here -- I would like to submit

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1 into the record as our comments on the EIR/EIS process.  
 2 This is a letter that actually that we've already sent to  
 3 Secretary Chrisman and to Secretary Scarborough and members  
 4 of the BDCP Steering Committee. And it has attached to it a  
 5 Board Action by the Board of Supervisors of Yolo County  
 6 regarding Delta related policies, which I won't go through  
 7 in great detail. But I wanted to highlight some of the  
 8 concerns that the board has. We feel like Yolo County is in  
 9 the crosshairs of BDCP's current conservation strategies.  
 10 The January 12, 2009 draft of the BDCP contains some core  
 11 elements that -- for example, proposed to inundate -- to  
 12 modify the Fremont Weir it would inundate the Yolo bypass to  
 13 the point where we're concerned that we're going to lose  
 14 agriculture in the bypass entirely. Some of the proposals  
 15 also would obviously stand to cause significant changes in  
 16 the Clarksburg area. We feel this deserves direct written  
 17 assurance from the BDCP Steering Committee that the full  
 18 impacts of these actions will be completely addressed.

19 Wanted you to know that the board has appointed  
 20 Supervisor McGowan as it's lead on Delta issues. He's also  
 21 the board appointed representative to the five Delta County  
 22 Coalition. And though the board and our constituents, feel  
 23 like returning to work with the Bay Delta Conservation  
 24 process, I will say that lately hope is fading that our  
 25 efforts to are generating the respect for the important

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1 issues that have to be addressed, if the proposals are going  
 2 to move forward.

3 We would like to respectfully request that everyone  
 4 remember that the Delta is more than an ecosystem problem.  
 5 People live here and the proposals for fixing the Delta are  
 6 going to have huge impacts on their lives. We believe that  
 7 there should be a third co-equal goal to the Delta vision,  
 8 which is sustaining the intrinsic values of the the Delta as  
 9 a place. The scope of change being proposed is far  
 10 reaching, but nobody is going to be as affected by the  
 11 results as those who live here. Thank you.

12 MS. PAM JONES: And you're welcome to clap in between.  
 13 It does take up a little more time so however you want to  
 14 use your time. Steve Heringer, Brett Baker, and DJ  
 15 Andriessen.

16 MR. STEVE HERINGER: Thank you for the opportunity to  
 17 address questions to the BDC plan this evening. We request  
 18 herewith, that you make all of our comments and questions  
 19 tonight part of the record. And address all of them in the  
 20 final EIR/EIS. I'm Steven F. Heringer, fifth of six  
 21 generations of the Heringer family to farm Clarksburg soils.  
 22 At the Clarksburg meeting one year ago I requested economic  
 23 analysis intended environmental mitigation cross projections  
 24 and intended economic mitigation on the following issues of  
 25 immediate concern to residents in the north Delta. To

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1 summarize, we have 17,000 acres of premium wine grapes in  
 2 the Clarksburg appellation. Vineyard establishment costs  
 3 are in the range of 16 to \$20,000 per acre. Vineyard  
 4 infrastructure costs alone exceed \$340 million in just our  
 5 appellation. There are 11,000 local and 13,500 nationwide  
 6 jobs created by these wine grape acres. There is 357  
 7 million in statewide taxes and 900 -- I'm sorry -- in wages.  
 8 And 900 million in annual wages are paid by these acres.  
 9 Taxes generated statewide are 107 million. 64 million  
 10 additional nationwide. 17,000 agri-tourism visitors spend  
 11 \$70 million annually in the Delta. Please complete the  
 12 requested analysis for the EIR/EIS. As north Delta water  
 13 agency constituents we have paid contractual fees for almost  
 14 three decades to the State of California for specific water  
 15 quality and water quantity parameters. Outlined in the  
 16 EIR/EIS how these quality and quantity parameters will  
 17 continue to be met under your various BDC plan options. As  
 18 our north Delta contract has no sunset date and we will  
 19 fight for proper performance of its provisions. Since the  
 20 native soil material along the western route has been deemed  
 21 unsuitable for levee construction purposes where will the  
 22 estimated 10 million yards of levee material come from? And  
 23 how will it be economically moved and placed on the western  
 24 conveyance project? We have implored all of you involved in  
 25 the BDCP deliberations to consider the Delta as a place in

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1 your planning processes. Outlined in your EIR/EIS report  
 2 the measures that you have taken to consider the communities  
 3 and peoples of the Delta. What considerations of the social  
 4 and economic fabric of the area you have considered in your  
 5 options, what consideration of the businesses that support  
 6 our family farms and ranches. And finally, the  
 7 considerations of the schools that educate our children.  
 8 Letters may save our towns but will not save the Delta  
 9 communities. Yolo County supervisors are partnered with us  
 10 to keep our unique upper Delta agricultural. We adapted  
 11 sustainability generations ago to assure the farming and  
 12 enjoyment of our Delta region for the benefit of all people  
 13 of our great state. Following the authorizations of the  
 14 State Water Project 50 plus years ago the State of  
 15 California reneged on its promise to bring 10 million  
 16 additional acre feet of water to table through additional  
 17 storage capacity and importation of north coast water. We  
 18 will not now willingly sacrifice our heritage, our homes,  
 19 communities and farms to satisfy the state's thirst at our  
 20 sole expense. Outlined in the EIR/EIS how local voices will  
 21 be made a significant part of the governance body that will  
 22 control the future of our Delta. Thank you for the  
 23 attention to these questions.  
 24 MS. PAM JONES: Brett Baker, DJ Andriessen and Andy  
 25 Wallace.

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1 MR. BRETT BAKER: Hello. And thank you for coming to  
 2 Clarksburg. I'd like to thank you in advance for taking the  
 3 time to hear my comments, questions and suggestions. My  
 4 name is Brett Baker. I'm a graduate of Delta High School  
 5 and UC Davis where I received my degree in Wildlife Fish and  
 6 Conservation Biology under the guidance of Doctors Peter  
 7 Moyle and Jeffery Mount, two gentleman who helped craft the  
 8 Delta Vision Report. In addition, I'm a lifelong Delta  
 9 residence. The sixth generation in my family to live and  
 10 thrive on Sutter Island. I would also like to thank my  
 11 fellow community members who stood and will stand to make  
 12 our voices heard. I like to open my comments with an  
 13 excerpt from Cadillac Desert. Every knows there's a desert  
 14 somewhere in California, but many people believe it is off  
 15 in some remote corner of the state, the Mojave Desert, Palm  
 16 Springs, the eastern side of Sierra Nevada, but inhabited  
 17 California, most of it, is by strict definition a  
 18 semi-desert. Los Angeles is drier than Beirut. Sacramento  
 19 is as dry as the Sahara. San Francisco is just slightly  
 20 rainier than Chihuahua. And about 65 percent of the state  
 21 receives under 20 inches of precipitation a year.  
 22 California, which fools visitors into believing it is  
 23 "lush," is a beautiful fraud much like this conservation  
 24 planning effort we're here this evening to discuss. That  
 25 last bit was me.

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1 Speaking with Karla, she hoped I could provide you  
 2 folks with a bit of insight as to why us Deltans are so  
 3 upset and disturbed with this BDCP process. My life  
 4 experience thus far has given me the opportunity to gain a  
 5 bit of insight and understanding of your mindset and the way  
 6 you work. Having been an employee of the resources agency  
 7 with the Department of Fish and Game and having spent the  
 8 last year as the Water and Agricultural Policy Analyst for  
 9 the Lieutenant Governor, I have listened to and observed  
 10 considerable amount of discussions with agency staff, the  
 11 likes of Lester Snow, a man whom I respect and admire,  
 12 please do not take this personally, but to us it is  
 13 personal.  
 14 And the undersecretary of the resources agency Karen  
 15 Scarborough. I -- and I typically refrain from using first  
 16 person examples but this one too good to make an  
 17 exception -- I shall never forget the first time I met with  
 18 Mrs. Scarborough regarding Bay Delta Conservation Plan. As  
 19 I entered her office, I was greeted with and I quote, "You  
 20 must be here about us flooding Clarksburg." To which I  
 21 respond, "I don't find that amusing. I went to Delta High  
 22 in Clarksburg." She then apologizes her comment may have  
 23 come off a bit catty. To which I respond, "Amongst other  
 24 things." The rest of the conversation went -- well, it  
 25 went. I was greatly troubled by a staffer's response to my



<p style="text-align: right;">Page 34</p> <p>1 inquisition regarding the incorporation of south Delta water  2 agency funded independently engineered alternative, noting  3 it was mentioned but not in great detail. To which she  4 responded. And again, I quote, "We have to at least make  5 them think we're listening," followed by a thud, which I'm  6 pretty sure was Karen kicking her under the table. I just  7 want to make sure that made it's way into the public record.  8 We've seen this before. You are striving for a  9 transparent public process. And I commend you on  10 accomplishing this goal, if only one. It is transparent,  11 all right. We see right through it. We didn't fall off the  12 sugar beet truck yesterday. We see this for what it is, a  13 blatant water grab, and attempt to trump centuries old  14 senior water rights with junior water rights because of a  15 temporary appointment to a position of power of a man who is  16 married into the Kennedy's. Take this message back to him,  17 I don't care how much lipstick you put on this pig or how  18 you dress this mutton up as lamb, we're not buying it. All  19 these pretty colored handouts, maps and dog and pony shows,  20 for what? To grow lawns in southern California. David  21 Nahai, Executive Director of Los Angeles Department of Water  22 and Power, the man in charge of asking Los Angelinos to  23 ration their water usage last summer was found to be one the  24 biggest violators of his proposed policy with a daily  25 household water use of up to 2,900 gallons.</p>	<p style="text-align: right;">Page 36</p> <p>1 we're look at taking a new direction. Basically, we're  2 starting again from a ground up, not much process for nine  3 years work. And you're telling us we're supposed to trust  4 our future to a regulatory agency that can't get shit  5 together -- literally. I apologize to the children in the  6 audience and my mother.  7 I would hope that you folks stop and take time to ask  8 yourselves one crucial question. Is this project beneficial  9 in the long term for California's economy and ecosystem? Or  10 is this just the cheapest quick fix to continue the status  11 quo, poorly planned development of the state south of Tracy  12 being pushed by water peddlers whose primary concern is to  13 provide their users with water at the cheapest rates  14 possible? No wonder they had so graciously offered to pay  15 for this project. Need I remind you of your duties to do  16 what is best for the overall long term health of the state.  17 Whether you realize it or not, you're shaping the  18 implementation and development of the Federal and State  19 Endangered Species Acts and CEQA and NEPA. I implore you to  20 uphold the spirit of these laws to accomplish the intentions  21 of their authors.  22 MS. PAM JONES: Do we have someone else willing to give  23 up their time for Brett?  24 UNIDENTIFIED GENTLEMAN: I will.  25 MS. PAM JONES: And your name is?</p>
<p style="text-align: right;">Page 35</p> <p>1 MS. PAM JONES: Brett, could you wrap up, please?  2 MR. BRETT BAKER: Yes. Here he was asking regular  3 citizens to reduce their consumption and he hadn't even  4 bothered to check the timer on his sprinklers in his  5 backyard -- or drain his pool. I google earthed it. He's  6 got a pool along with everyone else on his block. As for  7 State Water Resource Control Board, I've been told they will  8 be the regulatory agency in charge of canal operations.  9 Don't worry Jerry, I'm not bringing up the February  10 scenario. I think Mr. Nomellini did enough the other night  11 in Stockton. I'm just going to give you this one example --  12 MS. PAM JONES: Brett, I'm going to ask you to give up  13 the mic to DJ. Or if someone else -- if they would give  14 their time? Could we have someone who is willing to give up  15 their time?  16 UNIDENTIFIED PERSON: I will.  17 MR. BRETT BAKER: Just one example State Water Resource  18 Control Board incompetence though there are many. Assembly  19 Bill 885 was passed in 2000 requiring the State Water  20 Resource Control Board to develop and implement a statewide  21 standard for onsite waste water management systems, septic  22 tanks. This year they finally got their draft EIR  23 recommendations out, which were met with great public  24 disapproval. They have opted to go for a new rewrite. The  25 project manager at State Water Resource Control Board says</p>	<p style="text-align: right;">Page 37</p> <p>1 UNIDENTIFIED GENTLEMAN: Bob.  2 MR. BRETT BAKER: Not to simply go through a long,  3 expensive drawn out process simply to check the boxes on a  4 laundry list of requirements. It pains me to see the way  5 you have twisted the work of honest scientists to fit your  6 plans. In regards to all of your phony science, I have only  7 these two quotes for you, "Essentially, all models are wrong  8 but some are useful." This is George Box, one of the 20th  9 century's most influential statisticians in regard to his  10 father of modern day modeling. The other is, if I knew what  11 I was doing, people wouldn't call it research," by Albert  12 Einstein.  13 Historically speaking massive water diversions have  14 been the downfall of many empires and this project stands to  15 destroy the World's 6th or 7th largest economy. Mesopotamia  16 spent a great deal too many resources attempting to irrigate  17 salty ag land, and The Roman Empire was plagued with disease  18 for failing to deal with their wastewater issues. There has  19 never been enough upstream diversion in the history of this  20 state that did not result in a major ecological and  21 ecomonical disaster for the people and fish that rely on  22 those systems for their livelihoods. I'm sure all of you  23 are now quite familiar with the parallels between your  24 proposed project and the fate of Owens Valley and Mono Lake.  25 There are real solutions to fixing California's ailing water</p>

<p style="text-align: right;">Page 38</p> <p>1 systems. Storage, you haven't build any substantial storage  2 in the state since the last time you tried to pass this  3 vote. You folks are going to have to bite the bullet and  4 build storage somewhere. The truth is this project adds no  5 new water to the system. A system now over allocated nearly  6 four fold, which was originally design to have 5.5 million  7 acre -- a million acre feet of additional storage than what  8 we have today. And you squabble over three dams sites,  9 Sites reservoir, Los Vaqueros and an addition to the  10 Millerton reservoir complex.</p> <p>11 What about building Shasta dam to their original design  12 capacity? And rest-in-peace Auburn dam. Why don't you  13 finish the project you started over 50 years ago? It was  14 Arnold's uncle-in-law John F. Kennedy who said in 1962, "If  15 we could ever competitively at a cheap rate get fresh water  16 from salt water than it would be a long range interest of  17 humanity, which would really dwarf any other scientific  18 accomplishments." Try not to think of the prograss that  19 could have been made in the past 30 years were the attention  20 focused on this ditch put to work developing sensible  21 desalination practices or how much purple pipe could have  22 been laid during the last population development explosion  23 in southern California. How much water could have been  24 recycled with the dollars spent on the sham of a process.  25 The public will soon have to get over their problem with</p>	<p style="text-align: right;">Page 40</p> <p>1 getting ahead of yourselves in this planning process. I am  2 curious if you already have names picked out for your  3 facilities? May I make this suggestion? As I'm sure this  4 propaganda in our local paper crossed his desk more than  5 once -- if it did not get its beginnings there, Arnold's  6 partner in crime, who held Jeffery Knightlinger's job prior  7 to him and holds Don Zea's leash. As he is the Harvey Banks  8 of his day. I suggest you name it the Timothy Quinn Pumping  9 Plan for your Schwarzenegger Canal. I will be back.</p> <p>10 MS. PAM JONES: Okay. DJ Andriessen, Andy Wallace and  11 Steve Hiromoto. And who was it over here that gave up their  12 time? And what is your name?</p> <p>13 UNIDENTIFIED PERSON: Nikki.</p> <p>14 MS. PAM JONES: And we need one other person.</p> <p>15 MR. MARK MOORE: I'm Mark Moore, and I volunteer to  16 give up my time.</p> <p>17 MS. PAM JONES: Thank you, Mark. Okay.</p> <p>18 MS. DJ ANDRIESSEN: Good evening. I appreciate the  19 opportunity to speak again on this issue. I'm a little  20 nervous so bear with me. My name is DJ Andriessen. And  21 I've only lived here 21 years. I plan to spend the rest of  22 my long life in Clarksburg. I'm a survivor of West Nile  23 Virus. Although I suffer from some of the effects of it, I  24 feel fortunate because I did survive. They're many who did  25 not. Since I was diagnosed, over 9,000 people have been</p>
<p style="text-align: right;">Page 39</p> <p>1 recycled water.</p> <p>2 Honestly, how much kidneys do you think the water has  3 gone through from the time it leaves Redding until it  4 arrives in Tracy? Our focus should be constructing  5 facilities like the wastewater treatment plant in Orange  6 County that received the Stockholm Industry water award this  7 past year, the equivalent of the Noble Peace prize in the  8 world of water. The reverse osmosis used at this plant is  9 the same process that can be utilized to desalinate brackish  10 ground water, which causes no conflict with marine mammals  11 and has been shown to be less energy intensive than  12 conveying water through the State Water Project over the  13 Grapevine. Don't take my word for it. Ask Dr. Robert  14 Wilkinson of UC Santa Barbara. These are imbedded costs  15 that will continually burden the tax payers and water users  16 of our great state. These are things that should be taken  17 into consideration throughout this decision process.</p> <p>18 In closing, I would like to support the concept of  19 regional self-sufficiency and would like to request an  20 extension of the 90 day public comment period upon the  21 completion of this EIR/EIS. My final suggestion -- and I  22 would like to preface this by saying that I respect this man  23 in the upmost. However, I will not give him the advantage  24 of misunderestimating his abilities, craftiness or his  25 political clout. I realize you folks have a propensity for</p>	<p style="text-align: right;">Page 41</p> <p>1 diagnosed in the United States with West Nile Virus. Of  2 that 344 were fatalities. Since 2006 West Nile Virus has  3 increased in California by 25 percent, creating any sort of  4 a water refuge in our area would not only affect us but the  5 Sacramento Valley entirely by creating a West Nile Virus  6 incubator.</p> <p>7 I don't believe this project is to protect the smelt  8 unless we're talking about the smelt that live in southern  9 California. But even if it were -- and we use the processes  10 that we're using now to eradicate the mosquitos that process  11 also kills the phantom midge, which is the main food source  12 of the smelt. So we'd be basically breeding fish to watch  13 them starve to death. The last time we met here, I asked  14 you to take these plans to the drawing board and come up  15 with a better solution to your problem. Tonight I'm here  16 just to say shame on you. Shame on you. In what ethical  17 society -- what democracy is it okay to take any number of  18 homes and any number of livelihoods from people for an  19 experiment about fish. My only consolation is that you  20 weren't around when the dinosaurs were dying out because I  21 know you would need a lot more land to keep them alive.  22 It's evolution get with it.</p> <p>23 MS. PAM JONES: Andy and -- please do repeat your  24 names. Andy, Steve Hiromoto and then Steve Heringer.</p> <p>25 MR. ANDY WALLACE: My name is Andy Wallace. And I live</p>

<p style="text-align: right;">Page 42</p> <p>1 here in Clarksburg with my wife and two sons. Both of my  2 sons attend school in Clarksburg, as did I. And I graduated  3 from Delta High School. My parents live here in Clarksburg  4 and have been part of this community for 45 years, which by  5 Clarksburg standards makes us new comers. A few procedural  6 comments.</p> <p>7 Number one, it is important to the people of the  8 Clarksburg area and the people who are interested in the  9 project from around the state to keep all of our comments in  10 the project, keep all of our comments in the record in their  11 entirety and not reduce our individual comments into general  12 or combined comments. Number two, the document and  13 undocumented impacts of this plan will directly and  14 indirectly affect the people of Clarksburg yet the people of  15 Clarksburg who will carry the burdens of this project will  16 see none of the benefits. Number three, the admirable of  17 fixing the Delta is meaningless if at the end of the day it  18 ends up creating just enough smelt to keep transferring more  19 water to southern California. There is nothing co-equal in  20 California water politics. The Delta and its people are  21 always going to come last.</p> <p>22 Water transfer should be delinked from this process and  23 the health of the watershed should be the primary focus of  24 these efforts. Let's prove that the species that use the  25 Delta can be managed sustainably over drought, before we</p>	<p style="text-align: right;">Page 44</p> <p>1 Invasive species are likely to require tens of millions of  2 dollars in management and direct control and require these  3 efforts in perpetuity. Where is the endowment for these  4 activities. Number six, if West Nile Virus increases in the  5 Delta, it is expected to have significant impacts on native  6 birds such as the Yellow-billed Magpie. How are these  7 impacts analyzed and mitigated for? Number seven,  8 converting fresh water habitat to brackish water habitat  9 will have negative influences on the ecosystems of the upper  10 Delta, leaving this area as one of the last reservoirs of  11 species such as listed turtles and birds. Now, the state  12 wants to reduce their habitat for fish. It is largely  13 eliminated by southern California's water intakes. The sole  14 purpose of this document is an attempt to commingle the  15 issues of habitat restoration and water supply.</p> <p>16 Some engineering issues, number one, what is the  17 technical basis for proposing the flood bypass downstream  18 below the city of Sacramento and how is this not  19 accomplished more efficiently by using the existing deep  20 water ship channel? What is the one difference -- I'm  21 sorry -- what is the difference in cost between using the  22 ship channel and creating new bypass? Number two, creating  23 a new bypass in flood areas -- flooding areas within the  24 existing reclamation districts will constrain or eliminate  25 existing water management through water elevation changes</p>
<p style="text-align: right;">Page 43</p> <p>1 begin discussing water transfer. Number four, the nature  2 and character of the Delta today is recognized as valuable  3 in this document. Yet, our redevelopment interest are  4 specifically rejected by this document, replaced with the  5 unbridled growth of southern California. This is an  6 arbitrary and capricious attempt to shift the burden of  7 development on the very people who themselves not able to  8 development.</p> <p>9 Now, I have some specific questions. Number one, with  10 regard to the comment made by the independent science  11 advisors and the BDCP independent science advisors report,  12 where are their comments addressed? Number two, what are  13 the impacts on rare terrestrial plants such as San Joaquin  14 Shats scale(Phonetic). And how will this project not lead  15 to fragmentation or possible extirpation of these species?  16 Number three, how many acres of rare wetland habitat are  17 jeopardized by the proposed canal construction? And how  18 many acres of this land have been surveyed. Number four, we  19 are concern on several levels that this project would lead  20 to significantly worsening water quality negating any  21 positive ecological values. Number five, anyone who has  22 work in the Delta realizes that invasive species are one of  23 the greatest ecological problems.</p> <p>24 Yet, the likely impacts of invasive species on this  25 plan are just identified or dismissed in a cursory fashion.</p>	<p style="text-align: right;">Page 45</p> <p>1 and underseepage. This will require redesign and operation  2 changes throughout the region causing tens of millions of  3 dollars of infrastructure modifications and loss of  4 agricultural use.</p> <p>5 Number three, the project minimizes the engineering  6 requirements to achieve and maintain water quality in the  7 Delta and ignore the considerable engineering required to  8 establish new flood routing and manage tidal influence  9 wetlands. To realistically achieve what is being described,  10 would require an engineering feet equivalent of the entire  11 country of the Netherlands efforts of reclamation and a  12 management system beyond the capabilities of the Bureau of  13 Reclamation and the Department of Water Resources.</p> <p>14 MS. PAM JONES: Andy, could you wrap up?  15 MR. ANDY WALLACE: I'll wrap up. Instead the  16 engineering and water management is being treated simply as  17 a conveyance problem needed to maximize water transfer --  18 some social issues. Number one, by improving habitat for  19 Delta smelt other listed species could be using the area and  20 potentially be creating new legal issues for the community  21 further reducing our ability to exercise our property  22 rights. How will the community be protected from the  23 consequences of this likely impact? Number two, loss of  24 farmland in the Delta will have ripple effects with Ag  25 equipment, suppliers, truck dealers and etc., where good</p>

<p style="text-align: right;">Page 46</p> <p>1 paying, stable jobs will be directly impacted and lost. How 2 will this plan mitigate for the loss of those jobs? And 3 finally, who is running the economic analysis? On what 4 basis will the analysis be completed? Which models will be 5 used and why? Thank you.</p> <p>6 THE COURT: Steve Heringer, I'm sorry, I reshuffled you 7 back into the deck. But after Steve Hiromoto is Peter Hunt.</p> <p>8 MR. STEVE HIROMOTO: Thank you for the opportunity to 9 speak this evening. My name is Steven Hiromoto fourth 10 generation farmer and resident of the Clarksburg community. 11 My family had witness the building of these levees and were 12 instrumental in the reclamation of many of these acres. My 13 great-grandfather's diligence and hard work paved the way 14 for the following generations to reap a livelihood from 15 these soils. Each generation took pride in providing food 16 for our country's tables. And a prosperity ensued for us. 17 We generously gave back to our community. Only during the 18 years following the outbreak of World War II and of course 19 the evacuation of Japanese American citizens was our family 20 away from Clarksburg.</p> <p>21 As you work at your jobs or careers, you choose to put 22 your money into a bank. You assume that you will retain the 23 right to do what you want with that money -- when you want 24 it. My family chose to reinvest it in Clarksburg farmland. 25 We assumed that taking care of this land would take care of</p>	<p style="text-align: right;">Page 48</p> <p>1 conditions in the Clarksburg area enabled growers to produce 2 high quality Dichondra seed on a consistent basis. 3 Safflower seed is another important crop in the Clarksburg 4 area. Most of today 's commercially grown Safflower seed 5 were first developed and reproduced in the Clarksburg area. 6 Because of the unique soil and high water table, Clarksburg 7 area farmers are successful and prosperous today because 8 they have learned how to adapt and to stay on the cutting 9 edge. Cal/West and its growers fear that the plans may 10 develop by the BDCP and the Delta Vision Committees will 11 destroy this region of the Delta and its growers way of 12 life.</p> <p>13 Question number one, have you considered or studied the 14 changes to the Clarksburg region hydrology that would result 15 from the proposed conveyance or habitat restoration 16 projects? Question number two, what will be the effects to 17 water quality in the Delta or the north Delta on a 18 year-round basis from the proposed conveyance or habitat 19 restoration projects? Will the salt water intrusion 20 ultimately make the north Delta a region where agriculture 21 will no longer survive? And then I'd like to concluded by 22 reading two quotes. And I apologized to Steve before this. 23 The first quote, "I can run wild for six months, after that, 24 I have no expectation of success." The second quote, "I 25 fear all we have done is awakened a sleeping giant and</p>
<p style="text-align: right;">Page 47</p> <p>1 us later. My folks are aging now. And the time is now when 2 that land needs to be liquid. Simply put it out for sale 3 and cash out? Well, when this fiasco about flooding our 4 homes and farmland began, all hopes of simply selling came 5 to a dead halt. Realtors were suddenly saying to me, "Hey, 6 who wants to buy land that's going to be under water?" For 7 whatever reason you give, for this to take place, it's just 8 not the right thing to do. You're just telling me that my 9 family just wasted 100 years for nothing? In closing, 10 Arnold, before you swipe that card in your wallet issued by 11 L.A. Metro Water, think about the families like mine and 12 what you'll be doing to them.</p> <p>13 MS. PAM JONES: So Peter Hunn, Dave Stirling and Martin 14 Hill.</p> <p>15 MR. PETER HUNN: Good evening. I'm Peter Hunn. I'm a 16 third generation farmer from Clarksburg. I'm here tonight 17 to speak as an elected board member of a Woodland based 18 company Cal/West Seeds the oldest seed co-op in California. 19 I would like to make a short comment and end with two 20 questions. For more than 70 years Cal/West has been a 21 producing and supplying seed grown in the north Delta to 22 customers across the country and in more than 30 foreign 23 countries, most recently China. For the past 45 years 100% 24 of the world's supply of Dichondra seed has been produced in 25 the Clarksburg region. The unique soil and climate</p>	<p style="text-align: right;">Page 49</p> <p>1 filled him with a terrible resolve." Both these quotes are 2 by -- were made by Emperor Yamomoto. The first quote was 3 made a year before the attack on Pearl Harbor. The second 4 quote was made immediately after the attack on Pearl Harbor. 5 I would wish you would heed those fears and resolves from 6 us. Thank you very much. And I wish you would direct these 7 questions and answers to the EIR/EIS. Thank you.</p> <p>8 MS. PAM JONES: Dave VanMartin and Dave Kopp.</p> <p>9 MR. DAVE STIRLING: Good evening members of the Bay 10 Delta Conservation Panel. I'm Dave Stirling, a 23 year 11 residence with my family in Walnut Grove. I'm proud to wear 12 this Delta Care shirt tonight. I'm actually representing an 13 organization called Save Our Delta's Future. And it's an 14 organization of homeowners and property owners and business 15 people, many of whom have lived and worked in the Delta for 16 several generations and many of them are here this evening. 17 Yolo County Board of Supervisors Chair, Mike McGowan, 18 speaking for the board of supervisors of the five Delta 19 counties recently wrote in a Sacramento Bee commentary -- 20 and I quote, attempts to address Delta issues will be 21 unsuccessful without local involvement and ultimately without 22 relying those at the local level to help make it happen. We 23 want the entire state to understand that the Delta is not a 24 blank slate. People live here. People work here. We are 25 those people. While we recognize that the Delta and Delta</p>

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1 waters can be improved and we support that, we're not  
 2 prepared to see the Delta completely rearranged so as to  
 3 return it to the its natural state. As some hardcore  
 4 environmentalist groups clamor for. The time is long ago  
 5 passed for the restoring the Delta to what it was before the  
 6 hundreds of invasive species made the Delta their home.  
 7 We're not prepared to see the public trust doctrine expand  
 8 it so as to alter or abolish presently held water rights.  
 9 We're not prepared to see a government stucture imposed on  
 10 our Delta region that's made up of appointed and  
 11 unaccountable political appointees, similar to the coastal  
 12 commission with no effective locally elected representatives  
 13 with equal voice in Delta affairs. We support that third  
 14 tri-equal goal to protect and enhance the social, economic  
 15 and physical viability of the Delta as home for the sake of  
 16 maintaining good relation of all regions and people of the  
 17 State of California. Please, don't throw those of us who  
 18 call the Delta home under the bus. If you do, as a member  
 19 of -- many members that are attending these meetings in the  
 20 Delta demonstrate, your mission may become so embroiled in  
 21 regional, political and legal ill will that nothing positive  
 22 comes out of this effort and that would be a shame. Thank  
 23 you all for being here.  
 24 MS. PAM JONES: Martin, Dave and then Bob Kirtlan.  
 25 MR. MARTIN HILL: Good evening. My name is Martin

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1 Hill. First of all, I'd like to thank you for taking the  
 2 evening in our beautiful town that we would like to keep  
 3 this way. I was thinking about this country that we fought  
 4 for over 200 years and the blood that's been shed for the  
 5 right to speak as we're doing tonight. It also came to mind  
 6 that we're able build this country with our labor and our  
 7 own businesses and pay taxes and profit from the fruits of  
 8 our labors. What I do not understand is that we have let  
 9 the government get so powerful that they can come to our  
 10 land and tell us that they're going to start surveying and  
 11 possibly take our land from us. What has this country  
 12 become? I would like to think that our friends and family  
 13 members that are overseas fighting and giving up their lives  
 14 are not giving up their lives for a false sense of security.  
 15 That we're seeing right here and right now. And nothing is  
 16 yours, if the government decides they want it.  
 17 I know that it would be a better idea for this  
 18 community, if this whole project were moved further south  
 19 into the deep water channel. For us, these are our homes  
 20 and businesses that are being affected. And the projects  
 21 being affected are not an issue of not being addressed.  
 22 Some of the problems here are that the local fire  
 23 department, which I'm a part of is losing a portion of their  
 24 operating expenses. They keep this community safe. And  
 25 also keeping our insurance down on a personal level. By

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1 bring this project into our community and not only taking  
 2 our land and our businesses away there are a lot of things  
 3 that I don't think have been addressed. So I think it would  
 4 be wise that you move this. I'm a dad. I'm a husband. I'm  
 5 a firefighter, and a good neighbor in this community. And I  
 6 urge you to take a second look in moving this south and  
 7 pulling this from our community. Thank you.  
 8 MS. PAM JONES: Bob and then Michael Morris.  
 9 MR. MICHAEL MORRIS: I gave up mine.  
 10 MS. PAM JONES: Okay. Bob. Okay.  
 11 MR. BOB KIRTLAN: Good evening. My name is Bob  
 12 Kirtlan, fifth generation Delta farmer, landowner. I'm  
 13 proud to say 7th generation of my family is walking the land  
 14 for ancestors. Life, liberty and pursuit of happiness. Is  
 15 hollow, is without meaning and is subject to interpretation  
 16 of a few now. 159 years ago many of the ancestors of people  
 17 in this meeting tonight voted on a State Constitution that  
 18 granted us inalienable right to acquire, enjoy and protect  
 19 property. 159 years ago, when we became a state, all our  
 20 public lands were granted to the federal government as a  
 21 condition of acceptance.  
 22 In 1856, the Arkansas Swamp and Overflow Act was  
 23 enacted, giving all the swamp and overflow lands back to the  
 24 state under the condition that these lands will be reclaimed  
 25 for productive agricultural purposes and become economic

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1 viability for the counties and the state they were within.  
 2 These lands then came told the state and under our own  
 3 government resource code, had a way of selling them to us.  
 4 Under conditions and under a contract that we would reclaim  
 5 these lands and make them productive and agricultural lands.  
 6 It is in the resource code that the common law of public  
 7 trust was passed to us without it -- without reservation in  
 8 commence navigation and fisheries. I was told that the  
 9 California Coastal Commission has determined that you cannot  
 10 give away the public trust on tidelands. Tidelands are very  
 11 different. It's in the resource code. But I would like to  
 12 say too that in the resource code -- let me go back a little  
 13 bit. I was told I couldn't give it away.  
 14 Arkansas Act was signed by the President of the United  
 15 States, passed by congress. Our resouces code was passed by  
 16 the state legislature. Everyone of our patents, which is  
 17 the foundation for ownership of the land was signed by the  
 18 governor. Now, I do realize that we are one nation under  
 19 God. But if the president, the legislature, congress and  
 20 the governor cannot grant these away, I have not seen an  
 21 11th commandment saying, "Though shall not give away the  
 22 public trust." I am saying to you folks, if you go ahead  
 23 with this project, you're not only in violation of federal  
 24 law, state law -- but you are in breach of contract with all  
 25 of us in this room. It's a mass breach. I would like to

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1 give you another piece of history to wrap up my  
 2 presentation. And it goes back World War II.  
 3 The allies thought they had World War II licked. It  
 4 was a matter of wiping -- cleaning up going to Germany. The  
 5 Germans launched a major offensive. It was called the  
 6 Battle of the Bulge, where they overtook the town of  
 7 Bastogne. We had American troops at Bastogne. The soldiers  
 8 fought brave and hard for what they believed in. When the  
 9 German high command demanded them to surrender, the  
 10 American general responded with "Nuts." This threw the  
 11 German high command in such a disarray, "Nuts." What does,  
 12 "Nuts" mean? We don't know. It delayed what they were  
 13 going to do. When General Patton heard, "Nuts," he said,  
 14 "By God anybody that has such an elegant command of the  
 15 English language has to be saved."  
 16 An eye witness -- one of our neighbors that have been  
 17 passed on that served under Patton told me point-blank  
 18 Patton lead charter himself to save those American soldiers.  
 19 And the soldiers and the patriots before them knew the true  
 20 meaning of life, liberty and the pursuit of happiness. We  
 21 say to this project and to our governor, "Nuts." Thank you.  
 22 MS. PAM JONES: Okay. Did we already have Dave Kopp.  
 23 Okay. Dave, Ken Wilson, Bill Wells.  
 24 MR. DAVE KOPP: First off I'm going to apologize for my  
 25 voice. But when we started off this meeting tonight, I got

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1 out of especially from that one lady that we're worried  
 2 about stressing out the smelt and the salmon. Well, I want  
 3 you people to know tonight I've come to the conclusion the  
 4 reason why my voice is this way is because you guys are  
 5 stressing me out.  
 6 Now, I am going to get to a question. And the question  
 7 is. Throughout the year when this canal -- if you guys get  
 8 it -- how many months out of the year is this canal going to  
 9 have water flowing through it? That's my question. So if  
 10 you want to answer it now that would be fine. But don't  
 11 take too much of my time.  
 12 MR. PAUL CYLINDER: Can't answer that directly, I mean,  
 13 in terms of how many months. But when you look at overall  
 14 currently we take all of our water out of the south Delta of  
 15 the canals. But when we finish, if we are able to do this  
 16 canal business, about two thirds of the water that we export  
 17 would come from the north part of the Delta and about a  
 18 third out of the south part of the Delta. But we do have  
 19 bypass requirements in our proposal that would prevent us  
 20 from diverting water unless certain flows are in the Delta.  
 21 Either 5,000 or 11,000 CFS. Right now it's about 14,000  
 22 CFS, maybe 12. So if it flow below during months we  
 23 wouldn't be able to put water in that the part of the canal.  
 24 We'd be forced to use our diversion works in the south  
 25 Delta. So -- but we can give you the date on exactly how

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1 much -- we have some modeling so we can give you.  
 2 MR. DAVE KOPP: Okay. If the canal was done today, in  
 3 the 2008, how many gallon of water would have gone down this  
 4 canal that you people want to build?  
 5 MR. PAUL CYLINDER: 2008 or 2009?  
 6 MR. DAVE KOPP: Well, 2008 or 2009 whatever you want to  
 7 use.  
 8 MR. PAUL CYLINDER: Don't have any rough time. We can  
 9 give you a comparable dry year in our modeling that we've  
 10 done. I can point you to a website afterwards.  
 11 MR. DAVE KOPP: Now, wouldn't you believe that it would  
 12 be smarter to go up north and build storage instead of  
 13 hoping that we get enough rain where we can fill your pretty  
 14 canal?  
 15 MR. PAUL CYLINDER: Like Lester said, storage is  
 16 something we need to be considering as a state.  
 17 MR. DAVE KOPP: But before you spend our taxpayers  
 18 money, why don't you build the dams, the storage. That's  
 19 putting the horse before cart.  
 20 MR. PAUL CYLINDER: What we found is that if we build  
 21 storage north of the Delta and did not fix the Delta as a  
 22 conveyance system, we couldn't make use of that storage much  
 23 of the time.  
 24 MR. DAVE KOPP: Sure you could. We had a few years  
 25 that we haven't had that much rain. They're going to raise

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1 Folsom Dam -- the projection is to raise it 4 feet. Why are  
 2 they spending all that money to raise the dam, if you guys  
 3 plan putting in this canal? Us taxpayers, we get screwed  
 4 all the way around. So I'm finished.  
 5 MS. PAM JONES: Okay. Ken, Bill and Rick Hennes.  
 6 MR. KEN WILSON: My name is Ken Wilson, third  
 7 generation farmer in the Clarksburg area. And I'm no where  
 8 near as eloquent a speaker as all these other folks we've  
 9 had. I think they've done a great job. But what I'd like  
 10 to do I was going to make another comment or two but after  
 11 listening here this evening at the beginning we've heard all  
 12 them concern about all these species and how concerned you  
 13 are about them. How does taking water from the Delta help  
 14 with recovery of all these species that your so concerned  
 15 about? We're in a drought right now. And before that canal  
 16 and those pumps were put in down south, we were still in  
 17 pretty good shape. But now it's -- the burden is on us to  
 18 provide water for southern California. And my belief is  
 19 that the species are very low on the totem pole and the main  
 20 thing is the transfer of water from our backyard to someone  
 21 else's so they can fill their swimming pools. Thank you.  
 22 MR. BILL WELLS : Good evening. My name is Bill Wells.  
 23 I'm the Executive Director of the California Delta Chambers  
 24 and Visitors Bureau. I would just like to say a few things.  
 25 That Delta agriculture in 2001 was about a \$2 billion

<p style="text-align: right;">Page 58</p> <p>1 business. California's sport fishing is about a \$2 billion  2 per year industry. As Karla mentioned, the Delta is home to  3 about 500,000 people. The Delta also attracts about 12  4 million visitors per year. And the Delta there's  5 approximately 95 marinas and about 11,600 permanent boats,  6 which is a huge industry too. So these are all going to be  7 impacted by these plans, specifically, the canal. You hear  8 all the time that the California Delta is the largest on the  9 west/coast. It's 750,000 acres. That's true.</p> <p>10 The Colorado River Delta was once 1.9 million acres  11 until water was diverted and was destroyed and turned into a  12 desert in the early part of the 20th century. Some of that  13 water taken by Metropolitan Water District who was a  14 recipient of some of the Delta water. So nobody can predict  15 what the outcome of a canal will be. But you have to look  16 at examples. They mentioned here tonight Mono Lake and some  17 others. I'd just like to mention the current National  18 Geographic April issue has got a big article about the  19 Australian drought and they talk about OGA. And the water  20 was diverted from there for agriculture thousands of fish  21 killed and quote, unquote, the economy was left high and  22 dry.</p> <p>23 The Aral Sea in Eastern Europe shrunk 10% of it's size  24 over the last 50 years. Now, it's quote, unquote it's too  25 salty to support fish and vegetation. The water is diverted</p>	<p style="text-align: right;">Page 60</p> <p>1 desalination plan to fix their own water down there.  2 Anyway, I would just like to leave you with another quote  3 from Albert Einstein. "I don't know how big the universe is  4 but human stupidity seems infinite."  5 MS. PAM JONES: Okay. Rick Hennes, Glen Berry, and  6 Jayne Alchorn.  7 MR. RICK HENNES: Good evening. I'm Rick Hennes. I'm  8 the Superintendent of the River Delta Unified School  9 District. Our district covers from the Clarksburg area  10 south to the Rio Vista area. We have ten schools. We have  11 2200 students, and we have 300 employees that I represent  12 tonight. And due to the fiscal irresponsibility of the  13 government we're already in a fiscal crisis with our school  14 district, which is making our board and myself makes some  15 very difficult decisions regarding employment and possible  16 school closures. And I urge you and I want to be very proud  17 of our schools. And we have students anywhere from five  18 years old to 18 years old that aren't here tonight that  19 can't speak for themselves. But they want to go to the same  20 schools as their parents and their grandparents and four or  21 fifth generation. And you'd be doing a great disservice to  22 then if we wouldn't be able to keep our schools. Thank you.  23 MS. PAM JONES: Glen, Jayne Alchorn and then Dominic  24 Dimare.  25 MS. JAYNE ALCHORN: Good evening. You already heard</p>
<p style="text-align: right;">Page 59</p> <p>1 to grow cotton. In -- just a few weeks ago Jean Fuller  2 Assemblywoman in Bakersfield introduced Bill AB1253 and  3 that's game restrictions on stiped bass because they prey on  4 the endangered smelt and salmon. So that's great they're  5 trying save the smelt and the salmon. That's wonderful.</p> <p>6 Okay. The striped bass has co-existed since 1879 with  7 the smelt and the salmon. The only thing that's changed  8 since then is more water has been diverted from the Delta  9 and just coincidentally the U.S. Court had thrown out a  10 lawsuit earlier by the Modesto Irrigation District to  11 eliminate federal protection of steelhead. And  12 coincidentally, the bill that Jean Fuller introduced is  13 actually sponsored by the Modesto Irrigation District and  14 supported by the Kern County Water Agency.</p> <p>15 I left the Westlands Water District which was another  16 huge recipient of Delta water if you look on their own web  17 page you hear these water folks saying they're going to pay  18 for the canal, whatever it takes to provide the solutions.  19 Okay. On their website they say the absence of drainage  20 resulted in harm to district lands. Westlands more than  21 200,000 acres of saline ground water within ten feet of the  22 surface. Many farmers have drainage impacted lands have  23 been able to keep their land in production by improving  24 irrigation efficiency. Okay. If they're willing to pay for  25 a solution, they should be willing to pay right now for</p>	<p style="text-align: right;">Page 61</p> <p>1 about West Nile Virus this evening. I think each and every  2 one of us here is part of an endangered species. I will  3 never walk again, without aid. I now wear a brace from my  4 toes up to my hip. Because of one mosquito bite. Tell me  5 that we should really flood areas. The first meetings,  6 there was absolutely no discussion of public health issues  7 until I opened my big mouth. And it really irritated me  8 because for two years I was a spokesperson for Vector  9 Control. And they have been absolutely wonderful. But  10 their resources are stretched to the limit. They simply do  11 not have the trained personnel to take on anything like  12 these areas that we're discussing having flooded. Come on.  13 Is that what we want? Yes, we turn it to its natural state.  14 Think about it. We are being taught or told that it will be  15 all right. It will be just fine. However, it's going to  16 change our lives. We are going to be part of the endangered  17 species. So think about it carefully. I don't want anybody  18 else that I know or any of these river towns to end up the  19 way I am. To go to bed one night in extreme pain and to  20 find when you get out of bed -- or try to get out of bed the  21 next morning to go to the doctor that you can't stand up.  22 You fall to the floor. And that's what it has been for the  23 last -- almost four years and that is what it will be for  24 the rest of my life. It changed overnight because of one  25 mosquito bite. So what are we going flood people? Don't</p>

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1 you want to return it to the natural state? Don't you want  
 2 to have marsh land? I don't think so. Thank you very much  
 3 for your time.

4 MS. PAM JONES: Did we miss Glen? Glen, are you here?  
 5 Okay. Dominic. And then Sally Christie.

6 MR. DOMINIC DIMARE: Hi, good evening. Thank you folks  
 7 for coming down here. I'm Dominic Dimare a resident here in  
 8 Clarksburg. I live about 120 yards down a little further.  
 9 These are my neighbors. I've been here about five minutes  
 10 compared to many of the people in this town. So I've been  
 11 here about three years. I have three sort of general  
 12 themes. Theme number one, no good deed goes unpunished.  
 13 Yolo County has a very open space in agricultural  
 14 preservation component to this general plan process.

15 I'm on the -- I'm the President of the Advisory  
 16 Committee for the general plan advisory to our supervisor  
 17 Mike McGowan. I've been reading through the updated general  
 18 plan that we are on the verge of approving after 100 years.  
 19 And so for about 100 years -- but a long time. And this  
 20 county has made a commitment to its detriment in many  
 21 instances, particularly, when it comes to generating  
 22 revenues through sales tax in preserving agricultural land  
 23 and making this -- the county the region's open space of Ag  
 24 land leader. And for that good deed, it just so happens  
 25 that we have a lot of attractive open space to site

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1 facilities at. And so what I would ask the resources agency  
 2 and the Department of Water Resources and all the people who  
 3 deliberate over this is please take a look at the economics  
 4 of this particular part of Yolo County and what it means to  
 5 the county and region.

6 You heard earlier some of the very successful winery  
 7 operators and wine grape growers here. The plan is to build  
 8 this into a very viable, successful world renown -- and  
 9 we're already there actually. They're using grapes grown  
 10 here in Clarksburg in Napa Valley wines all the time. So  
 11 think about the economics associated with slicing up large  
 12 chunks of land here in this particular region of Yolo County  
 13 and what it means for the entire county. Issue number two,  
 14 let's bring back an old favorite. Lester will remember  
 15 this. "Let's get better together," which was the theme  
 16 from that hit show CALFED, which is now off the air. And  
 17 not even in reruns actually. Well, actually that's not  
 18 true. A lot of what's going on here has somewhat of a  
 19 CALFED feel to it. I'm sure that the EIR that will be  
 20 produced will be very CALFEDish. So "Let's get better  
 21 together."

22 Personally, this is not my professional opinion. This  
 23 is my personal opinion. I've been working in government --  
 24 in and out of government for almost 20 years and for that  
 25 entirety I've heard, you know, "We're not going to do a dam

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1 or resevoir this year let's just do this bond. Sign out of  
 2 this bond. Will give you some conservation money. We'll  
 3 give you some money for ground water recharge. We'll do  
 4 these -- all these nice things. We're not going to do  
 5 storage this year. Well, I'll argue that if you go back and  
 6 look at the climate action team's report on what's going to  
 7 happen to snow pack, there's no stronger evidence in science  
 8 today and in state public policy then what's going to happen  
 9 as a result of climate change if the scientists are right in  
 10 what happens to snow pack and that's crying out for storage.  
 11 It ain't necessarily crying out for a canal. But it is  
 12 absolutely crying out for storage. So I would submit to you  
 13 that that is somewhere for DWR to go and look at that  
 14 report.

15 And then lastly, the third theme is don't screw up my  
 16 town. I really like it here. I got here in December of  
 17 '05. And by the 10th of January of '06 I was conspiring  
 18 with the locals to put together a charter school and because  
 19 we had a difference of opinion with our school board and  
 20 they shut down the elementary school here. So we started a  
 21 charter school. It's darn difficult to get students because  
 22 this isn't a growing area. Because we as people through  
 23 our representative elected representatives made a decision  
 24 for open space and agricultural preservation, we don't have  
 25 a lot of develoment opportunities here and my great concern

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1 is no matter what we do in terms of facilities, however that  
 2 turns out happens is that metropolitan and the other large  
 3 sponsors of the BDCP and those desires of the canal will  
 4 wash their hands of the actual consequences that come from  
 5 those facilities and not think about the long term viability  
 6 of the communities in the Delta and sustainability of these  
 7 communities. I think that's a very real threat to the  
 8 communities in the Delta.

9 So I would like a feature in whatever final work  
 10 product that comes out that ties the sustainability and the  
 11 viability of these communities to the ondoing operations of  
 12 the facility that is finally selected. And that would be an  
 13 official request from a resident of the Delta. And I thank  
 14 you once again for your time. And thanks again for coming  
 15 down to our town.

16 MS. PAM JONES: Sally Christie, Don Fenocchio and Mark  
 17 Pruner.

18 MS. SALLY CHRISTIE: My name is Sally Christie. I am a  
 19 resident, landowner and parent of two children who are six  
 20 generations Walnut Grove pear farmers. I stand up today as  
 21 a member of the Save Our Delta's future. I am the Walnut  
 22 Grove PTA President.

23 And I want to reiterate the comments of my  
 24 superintendent and also fellow community members Mr. Demare  
 25 and also Mr. Heringer in the beginning about how this will



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1 impact the ability of our communities to educate our  
 2 children when so much land will be taken away and land  
 3 brings job, families, people living in our community. So I  
 4 just want to make sure -- I did not see in the stations --  
 5 and I read every single one that the impact on the local  
 6 school district was address directly and so that is why I'm  
 7 up here for the third person saying this. But I was also  
 8 struck by something else as I was sitting here and I need to  
 9 tell you a story about when we moved back here from  
 10 Seattle -- my husband and I to have our children be raised  
 11 here and attend our schools. When we moved into our home  
 12 that we lived at the time, which was a family home built in  
 13 the early 20s, I was wiping a counter top, a shelf, what  
 14 came down from that shelf was an internment poster from  
 15 World War II. It was scary because it was like, "Oh, my  
 16 God, this is a piece of history." But not piece of history  
 17 I should be proud of. Please, don't let my children see  
 18 these shirts and think, "Oh, my God, look what we did to  
 19 ourselves?" We took out -- the Japanese Americans were  
 20 citizens who had land. They worked the areas. They were  
 21 good citizens. And we thought we were doing the right  
 22 thing. And we were wrong. Let's not doing it again. Thank  
 23 you.  
 24 MS. PAM JONES: Don, Mark and then Nicole.  
 25 MR. DON FENOCCHIO: Good evening. My name is Don

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1 Fenocchio, long time residence of Clarksburg. My mother  
 2 actually was born in Clarksburg. We have little history  
 3 here.  
 4 A lot of discussion has been going on this evening  
 5 regarding habitat and things that are necessary to keep this  
 6 Delta going. I think one thing that you have forgotten and  
 7 as I look at your panel and it's obvious to me. The human  
 8 habitat has actually been forgotten around here, not only in  
 9 Clarksburg but clear down the river. It's important that  
 10 you think very, very seriously about getting another party  
 11 to your organization, maybe Department of Human Resources  
 12 could help you somewhat. I'm very about long term effects  
 13 of whatever project may occur. I really encourage you to  
 14 work very, very hard to including in the EIR long term  
 15 effects on the social, political, and human resources here  
 16 in the Delta.  
 17 I might also say that I am a fisherman. And I am  
 18 concern about the fish habitat. I'm very much concerned  
 19 about what happens with the water and southern California.  
 20 I might mention too -- I forgot the gentleman's name who is  
 21 with the Department of Fish and Game -- fishing has somewhat  
 22 changed in the Delta. I spent two days this week. I caught  
 23 one fish. My license when I was 16 years old cost \$2. I  
 24 bought it about two months ago and it was \$62. In the  
 25 younger days, I caught all kinds of fish. Today, I caught

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1 one.  
 2 Something's wrong with the Delta. And it needs to be  
 3 fixed. And I don't think transferring water from this area  
 4 without thinking about the human part of the Delta, of  
 5 people of the Delta, and you can see very, very clearly that  
 6 the people of the Delta are very concerned. That has to be  
 7 in your EIR. Work on it. Thank you very much.  
 8 MS. PAM JONES: Don, Mark and then Peter Stone.  
 9 MR. MARK PRUNER: That was Don. I'm Mark. First all,  
 10 I want to thank the folks that have come tonight. I know  
 11 you're required by law to be here. But thank you, anyway.  
 12 And thank you -- you know these people that you see in the  
 13 audience are hardworking folks. You heard some of their  
 14 stories. I can tell you that there are hundreds of stories  
 15 beyond what you've heard tonight that are just as moving and  
 16 if not more moving of people that care about the land.  
 17 They've lived here for generations and have something  
 18 attached to and grown into the land other than just a dollar  
 19 sign or something that can be evaluated and purchased.  
 20 I've been to a few of the meetings. I met each one of  
 21 you and spoken with each one of you at length and at  
 22 multiple times. You might be a little tired of hearing from  
 23 me. But let me just ask a question or two and Lester you  
 24 are the highest ranking individual here by the way I agree  
 25 with the comment that the shirt looks great. And if I could

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1 bring one for Karen tomorrow that might be good.  
 2 My information looking at the big picture here is that  
 3 all of this that we're doing, the plans, that binders -- I  
 4 have two boxes of materials are all about a starting point.  
 5 In creating a starting point with the caveat that the  
 6 starting point might be wrong. We might get new information  
 7 that we might learn that we're completely off base. Is that  
 8 a fair statement? I see a nod there of Jerry saying, "Yes."  
 9 MR. JERRY JOHNS: Starting point. And then develop  
 10 alternatives around that really evaluate what -- how we move  
 11 forward.  
 12 MR. MARK PRUNER: And the solution that I've heard is  
 13 that we want to have an adaptive management program. I  
 14 haven't heard anything about Karla -- I missed some of the  
 15 presentation -- but about the adaptive management program,  
 16 which is kind of the -- if we imagine a train, we have the  
 17 starting point going down the track, and then we the  
 18 adaptive management program, which says well, we could be  
 19 completely wrong. So we have to have a system that says  
 20 we'll take new information. We'll evaluate. And maybe  
 21 we'll change some things, throw some things out the window  
 22 and come in with completely new things that haven't been  
 23 discussed tonight. And if the third part of this triad is  
 24 that there will be a government system of three tiers and  
 25 I've seen the charts and the boxes and lines -- and pretty

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1 hard to understand -- those people will be making the  
 2 decisions about whether the point we're starting -- whatever  
 3 that point is -- and the changes are where we end up. Is a  
 4 fair statement?  
 5 MR. JERRY JOHNS: Well, sort of. Okay. Could I take a  
 6 shot at that?  
 7 MR. MARK PRUNER: You can. More than one, if you need  
 8 to.  
 9 MR. JERRY JOHNS: The starting point part is BDCP is  
 10 looking at something differently than it usually has done.  
 11 And it's looking at how do you deal with ecosystem and water  
 12 supply at the same time. So their going to develop a  
 13 starting point. But in the EIR/EIS process -- and one's  
 14 federal and one is state -- really going to look at the  
 15 alternatives. So they'll come up with a starting point that  
 16 the evaluation may say, "You've picked a canal, but we think  
 17 there's a lot of impacts and you're going to have to go  
 18 through Delta with your strategy or you've picked habitat in  
 19 this area but after analyzing, we don't think that's right  
 20 location." So it's a starting point and then you evaluate  
 21 alternatives.  
 22 The point you're making about adaptive management is if  
 23 we've learned anything about water supplies or ecosystem is  
 24 what we know now will be slightly different in the future.  
 25 That does bring out the governance issue. And there seems

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1 to be a general concensus that if your going to build a  
 2 facility like that, which would have dramatic impact it  
 3 probably shouldn't be the Department of Water Resources that  
 4 operates it or the contractor that get the water out in some  
 5 other organization and some mechanism that has broader  
 6 interest then just the water supplies.  
 7 MR. MARK PRUNER: With all that said, and this is  
 8 really getting to one of my main points here. I'm running  
 9 out of time already. But if the government structure -- the  
 10 folks that are going to be making the real decisions down  
 11 the road -- if, would you be in favor of the department,  
 12 would the department be in favor of allowing one or more  
 13 people from the Delta itself -- the people who have the most  
 14 skin in the game -- to have a voice directly in the process,  
 15 not in meetings like this where we give comment and then  
 16 somebody goes into a back room and says, "Well, we just  
 17 heard a comment but we're going to do what we want to do any  
 18 way." But actually of direct voice, a voting voice and we  
 19 think and hope a strong voice in the government structure.  
 20 Is that something the department would support?  
 21 MR. JERRY JOHNS: I have no problem with that. You  
 22 probably are aware the legislature has bills dealing with  
 23 this as we speak. And I think that's going to be a  
 24 consideration of how you come up with the Board of Directors  
 25 for whether it's a Delta conservancy or a utility or

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1 counsel, you know, there's a lot of different versions. We  
 2 have no problem with that kind of configuration. But there  
 3 will be a lot of debate in the legislature. It won't be a  
 4 decision that we make.  
 5 MR. MARK PRUNER: Absolutely but they're not here. And  
 6 I'm just picking on you because you're here. I just want to  
 7 say that what I've learned in the process, my conclusion is  
 8 that what I observed is this -- if I can over simplify but  
 9 still be -- I think it's real truthful to say at baseline  
 10 this is a giant experiment. The canal, the fish, that even  
 11 the experts like Paul from SAIC and Chuck who are experts in  
 12 their fields say, "We don't know if this is going to work or  
 13 not we just kind of think so. We got some data, and we know  
 14 we're missing a lot of information" -- and correct me Paul  
 15 and Chuck if I'm wrong here but -- we just -- this is a --  
 16 you haven't used the word "experiment." But I remember from  
 17 my science class what experiments are and this seems like  
 18 it. I think you could see from people here that we're  
 19 asking for a third leg in the process, not just conveyance,  
 20 not just habitat. But also the people in the place because  
 21 for the people that are here it's not just live and -- it's  
 22 a data point on sheet of paper or spreadsheet. It's about  
 23 lives and history. And we believe that as the Delta, we  
 24 enrich the entire state of California as some of us brought  
 25 out tonight. But we really enrich the state. And the state

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1 will suffer. And state will lose something, if the big  
 2 project rolled through and we were depopulated. We lose a  
 3 base to have schools, we lose a base to have fire  
 4 department. We will suffer. And the state will suffer.  
 5 And that's, I think -- sort of what I believe, I think that  
 6 the great majority of folks believe here as well. Thank  
 7 you.  
 8 MS. PAM JONES: Peter Stone, Tim Waits and Linda  
 9 Robertson.  
 10 MR. PETER STONE: I'm Peter Stone. I live across the  
 11 river, one mile from here and -- with my family. We lived  
 12 here for a number of years. And I agree with so much that's  
 13 already been said. But I don't want to repeat it. So I'm  
 14 going to say some other things that are not nearly as  
 15 important. But I want do make sure that they are brought  
 16 forward. First of all, one of the things that hasn't been  
 17 said about Clarksburg is it's the home of one of the oldest  
 18 Boy Scout Troops in America. It is a troop that has 100  
 19 eagle scouts. I have two of them myself in the Clarksburg  
 20 troop and I consider it to be a privilege to be a part of  
 21 this community. And when we start thinking of terms of  
 22 wringing towns -- where's the town? If you haven't lived in  
 23 the Delta you don't realize that -- "Well, let's see. I  
 24 want to go to lunch. I'll go down to Walnut Grove. It's  
 25 just a few doors down." You know, it's there's something

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1 different. I've lived in the city.  
2 Most people in California don't have a clue that there  
3 is a place such as this. I've also lived in New Orleans.  
4 There's one other Delta community in the United States and  
5 it's down south of New Orleans. But as I've been told, it's  
6 a Delta that flows out to the ocean. There's only one of  
7 these in the United States of America with an inland Delta.  
8 And we're here talking about its destruction -- or maybe not  
9 but as it was just eloquently just said an experiment to  
10 play in the backyard. The only one that exists outside of  
11 China. There is another inland Delta and it's in China.  
12 And if we were talking about something in terms of ecology,  
13 something in terms of anything else where this group of  
14 people was coming to the government to say that we wanted to  
15 do something to mess with the Delta.  
16 There is no way we would be able to do this. And yet,  
17 we are not dealing with the same things that we would be  
18 required to deal with. And so one of my themes here is  
19 consistency. Just simple things like when I go to the  
20 County Planning Department and want to find out if I can  
21 put something up on my property, "Well, as long as you don't  
22 place it within eyeshot of route 160 on the levee because we  
23 don't want to ruin the visual impact." And I'm going -- I'm  
24 looking at all these maps we're talking about we're going to  
25 put thousand foot wide canals. We're going to put

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1 powerlines all down the levee, one of the options. And I'm,  
2 saying, "Hmmm, it's interesting." Not one person in a  
3 yellow shirt in this room could get done anything close to  
4 any of what's going on here.  
5 And then I think about -- I just tried to -- you know.  
6 I don't know about all the big initials, and whatever, but I  
7 just kind of like to think about some simple things like one  
8 thing was really clear this evening. Is -- we are going to  
9 guarantee an EIR/EIS and whatever else we're going to do  
10 that we are going to make sure that every law associated  
11 with a fish is held to the "T." But if it has to do with  
12 human beings, forget it. If it has anything the  
13 constitution grants it's rights for people, forget it. Now,  
14 I don't know a whole lot about all of these other things. I  
15 don't know a lot about the routes and things. I was asking  
16 some folks very helpful explaining things. But we drive  
17 right by the Freeport intake for the East Bay MUD facility.  
18 So I just threw out one thought, "Wow. There's obviously  
19 going to be a pathway for water" -- which when they showed  
20 me, it's going to get right down to the south part of the  
21 Delta. Why couldn't we piggy back on a route that's already  
22 established that doesn't destroy the Delta. Now, I know he  
23 says it needs 50 times as much water. Well, we've got a  
24 route then run 50 times as much capacity that bypasses the  
25 Delta. Why do we have to destroy something -- I mean, I

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1 looked at the drawings out there. The architectural drawing  
2 with thousand foot canal. And it's like crazy to think that  
3 that's going to be a good thing for continuing what's going  
4 on here in this Delta.  
5 And other thing, I've been here long enough dealing  
6 with rising rivers -- when one gentleman talks about  
7 hydrology most people don't have a clue, unless you live  
8 here -- what in the world that means. And what happens --  
9 and they think quick little fixes to things can do things  
10 that just can't. Well, anyway, one other just sort of  
11 practical thing. I live right on the levee. I really love  
12 the Department of Water Resources guys. The guys who  
13 actually come around and try to keep those levees so that  
14 the squirrels don't eat holes through them, to make sure  
15 they're mowed. I really appreciate that. But I'm  
16 frustrated because if I stand at the top of the levee, they  
17 can help me on one side. But they can't help me on the  
18 other side because the fish and game folks won't let them do  
19 this, this and this that will help save the levee from  
20 flooding. Now, my point is a very simple one. If we are  
21 talking about something as complex as this and we have  
22 agencies that don't agree amongst themselves. How are we  
23 going to say that this is nothing but a grand experiment  
24 where each one is going to do in their side pocket what they  
25 want to do, hope it comes together in a document that makes

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1 everybody happy. But even, you know, filter the pumps, you  
2 know, why can't we figure out -- I can't believe we spent  
3 billions and billions of dollars to do all of this -- and  
4 maybe it's been thought of just as the gentleman  
5 said earlier -- but why can't we do something with modern  
6 technology to put things -- to keep the fish out of the  
7 pumps out of there -- and I'm sure that's really naive.  
8 MS. PAM JONES: Peter, could you wrap up, please?  
9 MR. PETER STONE: Sure. And finally, assuming this all  
10 goes through, I'm very concerned that if we wind up losing  
11 and having to lose our properties that we're going to have  
12 happen what happened to my grandparents. When they had the  
13 interstate systems take their property. They had them sold  
14 at eminent domain based upon the values after years of  
15 depression knowing that the properties were going to be  
16 eminent domain. So who's going to buy property that's -- as  
17 it's already been said here in town, if we look at value of  
18 what people will pay for 2, 3 years from now then that will  
19 be just flat out confiscation of property.  
20 MS. PAM JONES: Peter, could you wrap up, please?  
21 MR. PETER STONE: Yeah. So with that, I -- and the  
22 other thing is just, you know, decertification of levees.  
23 And I just can't see, you know, we just need to have some  
24 responsibility put into what's going on here. Thank you.  
25 MS. PAM JONES: Tim, Linda Robertson, and Gary Merwin.

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1 MR. TIM WAITS: Good evening. My name is Tim Waits and  
 2 I'm here representing Clarksburg wine growers and vineyards  
 3 association. I want to talk mostly about the economics of  
 4 the wine, grape crop in this area.

5 And most of what I'm going to say here in the beginning  
 6 is a source from the 2008 CRIS report which came out  
 7 recently and it's done by the USDA. The State of California  
 8 produces 3,061,000 tons of wine grapes last year. And the  
 9 average price per ton was \$594. Our area, which under the  
 10 USDA is called District 17, which pretty much includes all  
 11 of the Delta produced 783,420 tons of grapes. So that's  
 12 about 25 percent of the state as a whole. So it's a big  
 13 business down here. And it has a huge economic impact on  
 14 the people that live here and work here, have businesses  
 15 that sort of thing. What we see here is if you can't relate  
 16 to tons it also would be able 54 -- no. Yeah. 54,839,000  
 17 cases of wine, just what we produced here. A case of wine  
 18 is 12 and a 750 milliliter bottle. So we've got a  
 19 substantial benefit not only to the area but to the state.

20 Wine grapes are one of the -- one of our best exports  
 21 as far as crops in California in terms of value. And last  
 22 year, the value of the red wine crop went up 3 percent. The  
 23 value of the white wine crop went up 12 percent. So it's  
 24 one of the few things that's actually going up instead of  
 25 down in this economy. The plans that have been presented

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1 today would make it very difficult for the average grower to  
 2 survive by chopping up our lands, putting canals and  
 3 diversion systems and all this stuff, you know, right in our  
 4 way essentially, not to mention what it would take out of  
 5 production by having these thing there. So we're very  
 6 concerned about that.

7 The difference between wine grapes and open ground type  
 8 crops is that it's very expensive to put them in and it's a  
 9 very long process to get paid back. Generally, it will take  
 10 about \$10,000 per plant to get it through the growth cycle  
 11 before it begins to produce. You got a long time that you  
 12 have to, you know, show the cost one way or the other. And,  
 13 you know, borrowing money is typically one part of that.  
 14 And so with all of these rumors and plans that are going on,  
 15 it makes it very difficult for us to move forward. Yet,  
 16 inspite of that, our area is considered one of the best  
 17 places in the entire state to develop vineyards, even at  
 18 this point. So we got a lot of interest here in this  
 19 economically, socially.

20 Lastly, I'd like to just mention, you know, I have a  
 21 ranch just down the street here on Willow Point, you know,  
 22 I've developed 140 acres of wine grapes significant cost  
 23 there. I built my house, which is also down there. And you  
 24 know, all of that was done with the proper permits and  
 25 government okays. And you know, looks like a canal -- if

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1 the eastern option is chosen, well, basically go right  
 2 through that new development. And you know, somehow  
 3 there's something about that that didn't seem quite fair to  
 4 me and I would like you to consider those kinds of the  
 5 issues in addition to the fish and the other sorts of things  
 6 that seem to be so important to you. Thank you.

7 MS. PAM JONES: Linda, Gary Merwin and then Russ Van  
 8 Lobensels.

9 MS. LINDA ROBERTSON: Linda Robertson. And I'm not  
 10 from Clarksburg. I'm from Bethel Island. And the changes  
 11 that we've seen in the last four years in our water quality  
 12 are astronomical. When you see jelly fish, when you see  
 13 flounder, when you have seals living near your island on a  
 14 continual basis, salt water intrusion is already there.  
 15 This processed plan is going to probably ruin all the small  
 16 harbors on Bethel Island. While I can appreciate the  
 17 farmers and what they're going through on the south Delta  
 18 where this proposed canals going to be shoved under our  
 19 island. Ten foot diameter pipe is what one estimate was, 42  
 20 miles long. We're a bit concerned about our levees. And we  
 21 do not accept the latest scare tactic about earthquakes.  
 22 Those levees have been there for close to 100 years. The  
 23 earthquake thing, all of us that live on levees it's like,  
 24 "Yeah and so." It's a scare tactic. It's not going to  
 25 work. We are a really small community of 2500. We're

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1 really pissed because it's going to ruin the boats that are  
 2 in my little eight slip harbor that's what I have as my  
 3 retirement income. It's going to ruin the salt water  
 4 intrusion is going to destroy the fishing.

5 We have friends that drive all the way from Nevada to  
 6 fish in multiple black bass tournaments throughout the year.  
 7 They contribute out of state to our little teeny economy on  
 8 Bethel Island. That's going to be destroyed. There won't  
 9 be any black bass left. The salt intrusion was bad enough  
 10 this year, you couldn't find a blue gill with a search  
 11 warrant. We did not see them except for a two-week period  
 12 that's from the salt. I have seals swimming up and down  
 13 past my harbor. That's salt. What you're proposing to do  
 14 is remove so much more water that I'm a little concern that  
 15 I may have to tell the kids whose parents have boats in my  
 16 harbor, "Can't swim today, honey, great white is out."  
 17 Don't do this.

18 We are going to fight in any and every way we can to  
 19 stop the water grab by L.A. That's all this is, nothing  
 20 more. I have one final question that I need to take home to  
 21 our little community. How much money is this department  
 22 going to pay Contra Costa County to put this pipeline in?  
 23 How much money? You don't know?

24 MR. LESTER SNOW: We're still in the planning phases.  
 25 MS. LINDA ROBERTSON: But it's on a map.

<p style="text-align: right;">Page 82</p> <p>1 MR. LESTER SNOW: There's alternatives on the map. But 2 there's been no decision on this. And so there's no money 3 that going to be paid to anybody at this point. 4 MS. LINDA ROBERTSON: Not today. I'm talking when you 5 do this. Because Bradford Island cattle ranchers that have 6 been there 60 years have had you lien their property rather 7 than let you do the survey to take their property. How much 8 money are you going to give the county, when you put this 9 pipeline in? It's not if, we all know it. 10 MR. LESTER SNOW: Well, it's not in. We have not made 11 that decision. 12 MS. LINDA ROBERTSON: Why is it on your map? 13 MR. LESTER SNOW: Because it's an alternative that's 14 being evaluated and the issues that will be evaluated 15 include every thing that you've just raised. 16 MS. LINDA ROBERTSON: But why are you liening property 17 in Contra Costa County. 18 MR. LESTER SNOW: Getting access to do the surveys to 19 get the information that you're talking about. 20 MS. LINDA ROBERTSON: But why are you liening private 21 property for people that don't want to participant in this? 22 MR. LESTER SNOW: You're using a term I'm not real 23 familiar with liening but we're trying to get access to 24 property that is in those different corridors out there. To 25 get the information that people have brought up here where</p>	<p style="text-align: right;">Page 84</p> <p>1 flow of the river which is not a lot of water. It's only 2 all the flow for 3.65 days. But that is not what we're here 3 about. I'm going to do a lot of repetition because 4 everybody else is really made some awesome points that need 5 to be said again because I don't think they're getting 6 heard. Number one -- first one is, there should have been 7 three prong approach to this thing and everybody here knows 8 that. There's no -- there should've been a spot for a third 9 prong, for the social and economic wellbeing of the Delta. 10 And should be an economic impact that goes along with it 11 that has that same representation, that third prong, there 12 needs to be EIR needs to include the impact of building more 13 homes in southern California with increased water supplies 14 from the Delta. Any eminent domain property that gets done 15 around here needs to be valued at a minimum of the same 16 value of the areas that benefit instead of southern 17 California. My final comment is more of a question. I'll 18 start with comment part. Every time I look at a map in this 19 whole process. And I start asking questions usually I get 20 told this is just concept. This doesn't mean anything. 21 When are we going to be looking at something that 22 means something? 23 MS. KARLA NEMETH: Summer. This summer we'll have a 24 preliminary draft of the plan this summer with all the 25 details.</p>
<p style="text-align: right;">Page 83</p> <p>1 there's endangered species, what the soils are like, could 2 you actually build anything, could you actually put a 3 pipeline there, what kind of habitat is already there, 4 what's the water conditions? 5 MS. LINDA ROBERTSON: The water conditions suck now. 6 MR. LESTER SNOW: Pardon? 7 MS. LINDA ROBERTSON: The water conditions suck now. 8 When you get down like I said great white is going to be 9 swimming around my island. I have nothing left to say. 10 Thank you. 11 MR. LESTER SNOW: Thank you. 12 MS. PAM JONES: Gary, Russ and Tim Newharth. 13 MR. GARY MERWIN: I'm Gary Merwin, third generation 14 farmer in Clarksburg. I live in the house my grandfather 15 built before there was a Shasta, Folsom or Oroville dam. 16 We -- our family immigrated here from Sacramento because we 17 came in the gold rush. But before we get started, I want to 18 educate -- I know you guys are here to educate you guys on 19 one thing first. Can you step where you could see the 20 screen? And I know all you people -- all you people think 21 that little dot right there is Clarksburg but when you say 22 Clarksburg everybody back here is pretty much -- that's 23 Clarksburg. So I do want to make a comment on the east Bay 24 MUD Facility that was mentioned earlier you know that only 25 takes when it gets operation only takes one percent of the</p>	<p style="text-align: right;">Page 85</p> <p>1 MR. GARY MERWIN: That's three month period. 2 MS. KARLA NEMETH: Yeah, July. I don't know. We're 3 working on it. But as soon as it's done, it's going to be 4 made available. As I mentioned we'll be back. I know folks 5 really want to get to those details and they're critical. 6 MR. GARY MERWIN: The economics of this area are just 7 hanging in the lurch, you know. 8 MS. PAM JONES: Russ, Time and then Richards Robertson. 9 MR. RUSS VAN LOBENSELS: My name is Russ Van Lobensels. 10 I'm fourth generation farmer. I'm farming some of the same 11 property my great-grandfather did in 1870. I speak to you 12 today as the president of the Sacramento County Farm Bureau 13 and Chairman of the Delta Caucus. I met with some of you 14 over the period and discussed some of the issues that we're 15 dealing with today. One point of order is the comments that 16 were received in the prior scoping session. Are they going 17 to be part of the continuing record? Yes. Okay. Very 18 good. The organizations which I represent have many, many 19 issues that they are concerned about. And we will be 20 sending you those in written form at some point. However, 21 I'd like to bring up 3 or 4 comments this evening. 22 The draft EIR must clearly show how each proposed 23 alternative is designed to operate within the multitude of 24 legal restrictions, water quality requirements and 25 contractual constraints such as the North Delta Water Agency</p>

<p style="text-align: right;">Page 86</p> <p>1 Contact with the State of California, area of origin  2 priorities, Delta salinity standards just to name a few.  3 Second, the draft EIR must identify -- and this question has  4 been asked throughout the process and not answered or the  5 answer has been, "We don't know" -- must identify how much  6 Delta outflow is needed to maintain the health estuary and  7 how each alternative will be designed in order to maintain  8 the appropriate outflow and Delta water quality. That's an  9 absolute must and before you can go forward with any  10 alternative, you must know that.</p> <p>11 The EIR should compare and contrast water flow and  12 water quality from the two main rivers that run into the  13 Delta -- the Sacramento and the San Joaquin -- and compare  14 why the qualities are different. One of the reasons the San  15 Joaquin County does not have the same quality as Sacramento  16 is that major amounts of water are remove before it gets to  17 the Delta and here we're talking about doing the same thing  18 in Sacramento. Then again, you need to answer what flow  19 needs to be maintained in the Delta to maintain a healthy  20 estuary? Export alternatives cannot be developed or  21 evaluated without this critical information. The  22 appropriate size of facilities cannot be evaluated without  23 this information.</p> <p>24 Export quantities cannot be determined without this  25 critical information. And finally, how are even these</p>	<p style="text-align: right;">Page 88</p> <p>1 left is what you convey peripherally -- and that may be  2 nothing. Why propose digging a big ditch that you may not  3 even be able to use? Why do that?</p> <p>4 If the current system of exports has damaged the Delta,  5 then some of the proposed BDCP alternatives, I believe,  6 could devastate the Delta. Thank you.</p> <p>7 MS. PAM JONES: Tim Newharth, Richard and Dan Whaley.  8 MR. TIM NEWHARTH: My name is Tim Newharth. Resident  9 of the Delta and farmer of the Delta. Represent a family  10 that's been here in the Delta since 1948. Long time. Watch  11 a lot of water follow past the levees. But that aside, my  12 concern is the Delta, itself.</p> <p>13 The Delta as has been stated before, is a very unique  14 place, a very unique ecological estuary that is unsurpassed  15 in any place in the western hemisphere. And to think that  16 we are going to continue to tweak with it and mess with it  17 and take water out of it, and move it around with no real  18 assurances of the outcome, to me darn near criminal. How  19 effective -- and I have a couple comments along those lines.  20 How effective can this EIR and EIS be if we haven't a  21 specific plan with specific areas in specific parameters?  22 We've got a western conveyance. We got a through Delta  23 conveyance. We've got an eastern conveyance. And nothing's  24 really been settled as to what is going where and how much  25 and how long and so forth.</p>
<p style="text-align: right;">Page 87</p> <p>1 conceptual ideas being evaluated without this critical  2 information. The draft EIR must show a correlation between  3 tidal wetlands and wetlands and a fish abundance, if it  4 doesn't, we're going into an adaptive process that might try  5 one thing after another, after another and all of them may  6 fail. How do we establish a permit that doesn't have  7 certainty? I challenge the U.S. Fish and Wildlife Service  8 to look at this process and this plan to determine whether  9 it has certainty.</p> <p>10 Finally, the draft EIR must explain why the BDCP  11 isolated facility is designed to convey 15,000 cubic feet  12 per second. Is that volume based upon science to support a  13 healthy Delta? Or achieving maximum exports without regard  14 to the health of the Delta? Now, I understand that they're  15 governance issues that we're suppose to trust the governance  16 issue and so forth. If the maximum export capacity is  17 15,000 cubic feet per second and the preferred alternative  18 is a dual conveyance system, why isn't the capacity of the  19 peripheral part reduced by the conveyance capacity of the  20 through Delta part to give you a combined capacity of 15,000  21 cubic feet per second -- a smaller ditch, please. Wouldn't  22 it be more appropriate to size the peripheral part of the  23 dual conveyance system by starting with that critical amount  24 of water that must pass through the Delta subtract the  25 amount that you're going convey through Delta and what is</p>	<p style="text-align: right;">Page 89</p> <p>1 This scoping is premature and cannot be focused nor  2 thoroughly examined without those specifics. What about  3 other parameters that are not in this scoping? What about  4 the impact of the Sacramento municipal intake that's taking  5 water of the Delta. What about the impact of the sewer  6 treatment plant that's putting high and very excessive and  7 detrimental amounts of ammonia into the system, which is  8 messing up with the food chain in the Delta already. Maybe  9 your smelt needs a little bit more to eat. I don't know.</p> <p>10 What about habitat conflicts? We have agencies who are  11 promoting such as you stated in your presentation about  12 restoring habitat. We have other agencies that say, "No,  13 you can't do that." "We don't want any trees on the levees.  14 We don't want anything on there. Spray it. Burn it. Do  15 whatever." "You know, we have to have a clean levee site."  16 I don't know how those two things get resolved when you've  17 got the left not knowing what the right hand is going. It's  18 a contradiction in terms.</p> <p>19 And I wonder how you can have such a narrow target on  20 species. You talk about smelt. Smelt, smelt, smelt. I  21 swear if I see one, I'm going to give it to the cats. You  22 talk about salmon, you talk about steelhead, and sturgeon,  23 and splittails. What about the other species that are out  24 there we've got striped bass, which is a huge sport fish?  25 The gentleman before said it adds two million to the</p>

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1 state's -- is that -- when is that going to be a native  
 2 species. I think it's here to stay, unless you plan to  
 3 eradicate the entire bunch. I don't think you can do that.  
 4 I don't think it's possible. So when are they going to be a  
 5 native species? Not to mention the thousands of vegetative  
 6 species hawks, egrets, loons, owls, otters beavers, ducks.  
 7 We are on a Pacific fly away and they prefer fresh water not  
 8 salt water.

9 What about human species? Why are we not all on this  
 10 more of inclusive species list? Why is it limited to smelt?  
 11 That's all we hear is smelt. As far as I'm concerned, smelt  
 12 is like the spotted owl. It's just a tool to use to get  
 13 what you want. In your literature you talk about diversion,  
 14 diversion, diversion, and that to me in this scenario is  
 15 robbing Peter to pay Paul. How does the Sacramento  
 16 expect -- Sacramento River expect to survive and the  
 17 northern Delta expect to survive and to improve, if we're  
 18 pulling that much water out of the top and trying to put  
 19 around on the the bottom to make up for water that the San  
 20 Joaquin river no longer can supply? That is robbing Peter  
 21 to pay Paul. And today 's language it's a ponzi scheme.  
 22 That's exactly what this is it's a water ponzi scheme.

23 MS. PAM JONES: Could you wrap up, please?

24 MR. TIM NEWHARTH: Number four, when are these  
 25 diversions supposed to occur? I've heard people say

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1 verbally from your group that this is only going to happen  
 2 when we have excess flows. Okay. That's all good and well.  
 3 But that means last year after spending billions and  
 4 billions of dollars initially and ongoing expenses that  
 5 there wouldn't be diversions made out of the river last  
 6 year. This year, maybe a month, probably less than a month  
 7 we had somewhat of a high water flow not really even a high  
 8 water flow but more flow than usual. That is when we're  
 9 going to use this? We're going to spend all this time and  
 10 effort and that's when we're going to use it.

11 I'll end with this -- and we've talk about quips and  
 12 quotes this evening. Ethan Allen, after the revolutionary  
 13 war was sent to England as an emissary to the English and he  
 14 was the brunt of many a joke from English about the  
 15 revolutionary war and in particular George Washington. He  
 16 was pretty silent about it. He took most of it. They  
 17 decided if they could get his goat they'll hang a picture of  
 18 George Washington in the outhouse, which they did. Ethan  
 19 Allen goes out uses the outhouse doesn't say anything. And  
 20 their waiting, and their waiting doesn't say nothing.  
 21 Finally, they said Mr. Allen, what do you think of George  
 22 Washington's portrait in the outhouse? And he said, "Well,  
 23 I think it's a very appropriate place for it to be." They  
 24 were taken aback, puzzled, befuddled. And they said, "Well,  
 25 explain that." Well, he said, "Nothing would make an

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1 English man so quickly shit as a sight of George  
 2 Washington." I'm hoping that these green shirts and all of  
 3 this comment would make the proponents of this deal have the  
 4 same effect. Thank you.

5 MS. PAM JONES: Richard, Dan and then Peter Finn.

6 MR. RICHARD ROBERTSON: Hi everybody. I'm from  
 7 Brentwood. I've live in the Delta. That's Linda. I've  
 8 been to three of these meetings now. And I haven't been  
 9 popular at a couple of them -- but anyway. Everybody that  
 10 I've seen from Brentwood to that end of the Delta to  
 11 Stockton everybody, all you farmers, have the same  
 12 criterias. They want to live. They want to do their land.  
 13 They want to grow their crops.

14 I used to have a bed and breakfast. I grew lands but  
 15 anyway for Fish and Wildlife Service, there was 7 million  
 16 striped bass in the system before they put these pumps  
 17 southern California. There was salmon. The numbers were  
 18 untold. Okay. They put the pumps in the fish crashed.  
 19 Crash and crash and crash. And here we go again. They're  
 20 going to be pumping water out of the good water, clean water  
 21 from you guys out of the Sacramento River going south. They  
 22 can't pump any more water out of the Delta. It's dirty.  
 23 It's bad. Everybody knows. Salt intrusion. No joke jelly  
 24 fish.

25 You guys, Walnut Grove, flounders last year. What's

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1 wrong with this picture? Salt coming in because they're  
 2 pumping too much water out. There was no water coming into  
 3 the Delta this year. We saw dirt. We see dirt 3 feet down  
 4 from the sides of the channels that they've never seen  
 5 before because there's no water. And here they go again,  
 6 "Okay. We've got no water. Let's go to Sacramento. Let's  
 7 get that good water." Their water quality be better down  
 8 south than we have in the Delta because they're pumping it  
 9 out of here. Okay. I have some numbers and these are  
 10 questions that people have asked. How much water? How much  
 11 water is -- how many gallons are in a cubic foot? Anybody  
 12 know? I do. That was a question asked from Brentwood.  
 13 Nobody had the answer. How about 54.7 gallons per cubic  
 14 foot. That's a lot -- that doesn't sound like much water,  
 15 until you times that times -- this is based on 11,000 cubic  
 16 feet a second. How about 55,000 gallons per second is going  
 17 to go down the canal times that per minute 3,300,000 gallons  
 18 in one minute times that per hour 190,000,000 gallon in one  
 19 hour going down to southern California. In a 24-hour period  
 20 how about 475,200,0000 gallons going down to southern  
 21 California every hour. Our computer wouldn't go any higher  
 22 than that. And I showed my friends this and they said, "I  
 23 can't even read that number." And then you times that 365  
 24 days a year for how long? Every day. And that's low.  
 25 They're basing 14 -- and they told you, well, it might be --

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1 you know, what is it -- 14,000 cubic feet a second. They  
 2 told us in Brentwood, we're going to amp that up, if we  
 3 have -- if there's a lot of water in the Sacramento River.  
 4 These are low numbers. Think about those numbers. That's  
 5 crazy. And you guys are going to get hit. The Delta --  
 6 we're not going to get -- there's gonna be no fresh water  
 7 going through the system. That we -- at least have some.  
 8 They're going to take it all. You think there's salt water  
 9 in the Delta now? As Linda said, great white shark sounds  
 10 funny, right? They had dolphins in the Stockton harbor this  
 11 year. At the boat turnaround. Think about that. A pair of  
 12 dolphins in Stockton in the turnaround basin. And you think  
 13 we're crazy? No, we're not.

14 MS. PAM JONES: Richard, could you wrap up? Thank you.

15 MR. RICHARD ROBERTSON: Thanks guys.

16 MS. PAM JONES: Okay. Dan, before you begin. Before  
 17 you begin. We have about 20 more minutes of comments. We  
 18 said we were going to end at 9:00. Are you willing to stay?  
 19 Okay. The entire session lasts until ten. We had  
 20 originally said 9:00 for comments because the official,  
 21 legal part of this does include the comments out there. And  
 22 it's very important that these comments -- your written  
 23 comment as well as your comments that you want to go for the  
 24 record be shared with the folks out there. They will stay  
 25 to have one on one conversations with you. But we had

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1 agreed at the beginning end up at 9:00. So I'm asking you,  
 2 will you stay? Okay. Thank you. Okay, Dan.

3 MR. DAN WHALEY: I'll be quick. I live on Sutter  
 4 Island. I also have property at Hood. What's important  
 5 here is according to the representatives the EIR/EIS is  
 6 being paid for by the water district in the south state.  
 7 Shouldn't this be an independent study? When somebody's  
 8 paying for a report, often times it's biased. Why should we  
 9 trust the south state water districts when the north state  
 10 has certain water rights that aren't being addressed? How  
 11 do you address the existing contracts?

12 And how do you address existing water rights for the  
 13 people here? All these need to be addressed when your  
 14 project has not yet been defined. Who is Delta Habitat and  
 15 Conservation Program? And what are they paying for? Where  
 16 are the bridges in any of those documents that are showing  
 17 essentially a canal that is bigger than the Sacramento River  
 18 that exists. So think about that. How are you building a  
 19 canal that is bigger than the river that exists now? And  
 20 how does that make any sense? Now, I would reference you to  
 21 a couple of books to read Jerad Diamond's Collapsed, which  
 22 talks about what happens to societies and then within our  
 23 own community here Dave Stirling has written a book called  
 24 Green Gone Wild. Essentially, talks about humans are  
 25 species as well. And they're not being protected.

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1 And then finally, it's very important that everyone in  
 2 this room write comments on a card and turn them in.  
 3 Because as much as these people are down here listening to  
 4 what we're saying, they may not really be listening to what  
 5 we say. But if we make a written comment, it is a permanent  
 6 record and eventually the lawyers may need to protect your  
 7 legal right. So it's very important that everybody make a  
 8 written comment and turn it.

9 And finally people are getting letters that say they're  
 10 threatening to lien your property. There are people like  
 11 Mark Pruner that will talk to you about how you can protect  
 12 yourselves against threats from the Department of Water  
 13 Resources or any other agency that demands to come on your  
 14 property because they do not have the right to do that. And  
 15 they may use that information against us in the future.  
 16 Fight for your rights. Thank you.

17 MS. PAM JONES: Before we have Peter Finn and Kathy  
 18 Hunn and Mary Paula Carvalho, I just wanted to say as to the  
 19 point of whether they're listening, we do have a court  
 20 reporter here taking the comments. And so they will be able  
 21 to read it in addition. The value of going out and making  
 22 your comments there is that it's more directed and more  
 23 specific and you can target those comments that you would  
 24 like. So Peter. And then Kathy.

25 MR. PETER FINN: Good evening. My name is Peter Finn.

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1 I'm a resident of the city of Sacramento. Where we are,  
 2 we're now getting water meters courtesy of the water  
 3 interests that are behind what you folks are doing here. We  
 4 don't need water meters. Los Angeles needs us to have water  
 5 meters. So -- and that's part of what's happening here.  
 6 What's affecting us in the city of Sacramento is affecting  
 7 you folks here too. And I'm here because when I first came  
 8 a year ago to hear this program with the proposals. There  
 9 were four proposals. They varied pretty wildly.

10 But everyone of the proposals had a peripheral canal,  
 11 every one of them. There wasn't a proposal without a  
 12 peripheral canal in it. And I came to conclusion at that  
 13 point. And I walked away pretty frankly disgusted that what  
 14 we had here was a solution that had already been determined  
 15 well before the meeting or the proposal or the research was  
 16 done. The solution was we're going to build a peripheral  
 17 canal. And that solution was handed out to a bunch of good  
 18 folks. And you were told okay. Now, go find us the problem  
 19 that fits with this solution. And I looked at this map up  
 20 here. And what I see, frankly, I consider those blemishes.  
 21 I see a lot farmland, a lot of productive land where people  
 22 live who are in the way of this canal.

23 So part of the conservation program -- and I'm going to  
 24 get to the conservation in a moment -- part of the  
 25 conservation program is, "Let's get rid of these people who



<p style="text-align: right;">Page 98</p> <p>1 are an impediment to this plan." Because all these yellow  2 shirts here, they're in the way. They're in the way. They  3 are an impediment to what is being proposed here. And I'm  4 certain that there's a lot of folks that think, "You know,  5 maybe if we have a few swamps and West Nile Virus to chase  6 people off, that's a good thing. Maybe if we get property  7 values depressed by telling the world that we want to  8 inundate Clarksburg to a depth of maybe here in the  9 summertime -- well, we can chase people away. People will  10 move away. They'll get out of our way. So we can have our  11 way."  12 Now, Bay Delta Conservation Plan. There's no  13 conservation happening here. I don't see any conservation.  14 I see the creation of salt water marshes, where there used  15 to be fresh water marshes. So the fresh water marshes  16 aren't being conserved. The agricultural land is not being  17 conserved. It's going to be inundated by salt water. The  18 communities and the way of life here isn't being conserved.  19 It's going to have to make way for a canal. And then, I  20 mean, conservation. There's no conservation. Again, no  21 conservation. This is the Bay Delta Canal Plan. Please be  22 honest.  23 To illustrate my point of how the information is being  24 thrown out there to justify this any way it can. No offense  25 to you Karla. Yes. You have a tough job. You got up here.</p>	<p style="text-align: right;">Page 100</p> <p>1 of salt water intrusion, the studies we have done indicate,  2 for example, Antioch's water quality actually improved  3 because there's less water coming into the Delta when we  4 pump harder in the summertime. So some parts of the Delta  5 will see improved water quality.  6 MR. PETER FINN: What parts?  7 MR. CHUCK HANSON: But the X2 standards that play out  8 here, they don't change on some of the date we have it  9 indicates it's a very small change in salt water intrusion  10 due to the program we're talking about. All the standards  11 we currently have in place are water right permit standards  12 are all the same, our agricultural standards are all the  13 same and our plans have met those standards. So we don't  14 see as much water intrusion as you think we do. I really  15 encourage you talk to folks outside and look at some of the  16 date we produced.  17 MR. PETER FINN: I looked at some of proposals. And  18 some of the proposals include building gates where there  19 haven't, I mean, gates to prevent salt water intrusion where  20 there hasn't been a problem before. Actually along the  21 Sacramento River there's a proposal that shows gates being  22 built there.  23 MR. CHUCK HANSON: At 3-mile slough you mean?  24 MR. PETER FINN: Yeah.  25 MR. CHUCK HANSON: Yeah, that was to improve water</p>
<p style="text-align: right;">Page 99</p> <p>1 And you told us -- and I'm glad it's on the record you told  2 us how this canal is going to improve flows out of the  3 Sacramento River. And then oh, about five minutes later you  4 told us how we're going to have salt water intrusion coming  5 up the places we haven't seen it before. These are two  6 mutually exclusive concepts. We can't be improving flows,  7 which should help alleviate salt water intrusion. And then  8 later on say, "Well, we're going have salt water intrusion  9 where we haven't seen it before." So we're going to have to  10 plan to mitigate that, which is it?  11 MS. KARLA NEMETH: Chuck, do you want to describe --  12 MR. PETER FINN: Actually, I'm addressing the question  13 to you.  14 MS. KARLA NEMETH: I would actually prefer to have  15 someone who's a little bit more knowledgeable explain our  16 approach to flow management.  17 MR. PETER FINN: Okay. So here is my question. How do  18 we have improved flows that reduce salt water intrusion,  19 when at the same time we know have salt water intrusion  20 problem that has to be mitigated?  21 MR. CHUCK HANSON: Well, the flow part that Karla  22 talked about before were the flows in the southern part of  23 the Delta that tend to entrain fish. We could improve that  24 by simply where we divert water, not change the quantity of  25 water we divert at all in that specific instance. In terms</p>	<p style="text-align: right;">Page 101</p> <p>1 quality in the interior part of the Delta.  2 MR. PETER FINN: Actually, the documentation said to  3 prevent salt water intrusion at that location.  4 MR. CHUCK HANSON: Well, to improve quality, right.  5 MR. PETER FINN: Are you dancing around the subject?  6 There's no salt water intrusion there right now.  7 MR. CHUCK HANSON: There's salt water intrusion --  8 MR. PETER FINN: That needs to be mitigated to that  9 degree. The proposal to build the gates there is to deal  10 with the problem that's going to be created.  11 MR. CHUCK HANSON: We have salt water intrusion  12 problems today. Every day in the Delta we have to push salt  13 water that would come into the estuary, if the flows weren't  14 high enough.  15 MR. PETER FINN: So would those gates need to be built,  16 even if this canal is not built?  17 MR. CHUCK HANSON: Well, actually, these gates at  18 3-mile slough have been planned for seven years. When we  19 were in the CALFED program and we were looking at the Delta  20 facility --  21 MR. PETER FINN: So if the peripheral canal does not  22 get built at all for whatever reason, do these gates go  23 forward?  24 MR. CHUCK HANSON: Well, we'll have to look at those.  25 But they would still be part of the plan potentially to</p>

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1 improve water quality in the Delta.  
 2 MR. PETER FINN: All right. So with that firmly  
 3 established we're talking about salt water intrusion up at  
 4 3-mile slough. We're not talking improved flows coming all  
 5 the way down through to Pittsburg.  
 6 MR. CHUCK HANSON: Yes, we are. We're talking about  
 7 flows of the system that would come through the system to  
 8 help repel sea water.  
 9 MR. PETER FINN: So someone -- yeah -- someone else  
 10 said it. Thank you. So why do we need those gates there?  
 11 MR. CHUCK HANSON: Well --  
 12 MR. PETER FINN: See this is my question. With all due  
 13 respect to Karla. She's pointing down towards the Pittsburg  
 14 area telling us how this going to improve flows down to  
 15 Pittsburg area -- that is where she was gesturing. But  
 16 we're going have to build salt water intrusion gates up at  
 17 3-mile slough.  
 18 MR. CHUCK HANSON: Okay. The flow part we're focusing  
 19 on or flows down here in this area.  
 20 MR. PETER FINN: Oh, I understand. This is what I've  
 21 been saying about this. We're getting information that  
 22 makes this look so great. But then bits and pieces of the  
 23 truth keep coming out here. Why -- I mean, if this is  
 24 improving flows down to Pittsburg, why do we need to  
 25 mitigate salt water at 3-mile slough?

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1 MR. CHUCK HANSON: The issue of improving flows is one  
 2 of the biggest problems that we have is what we're regulated  
 3 on as reverse flows in this part of this system. And Old  
 4 and Middle River, in fact, we have to curtail pumping  
 5 because there's reverse flows that not only affect smelt --  
 6 I know there's no popularity for smelt in the room. But  
 7 also tends to bring in salinity. There's something called  
 8 tidal pumping that occurs at 3-mile slough and that is that  
 9 salt water comes up here more quickly on the tidal surge  
 10 than it does here because the distance is shorter. But  
 11 tends to pump salt water across. That's why this gate  
 12 system that's been identified will go in no matter what  
 13 happens with the canal because it will reduce the tidal  
 14 pumping that not only moves salt water but can move smelt  
 15 and then the issue of improved flows is getting channels to  
 16 flow in the direction they were supposed to flow. And they  
 17 don't currently. There's no question -- one of the issues  
 18 that you've identified that -- we're not hiding from anyone.  
 19 When you divert more water up here, you damn well better pay  
 20 attention to what's going on with overall water quality and  
 21 that's what has to be done in these studies.  
 22 MR. PETER FINN: Well, and in closing, if you get all  
 23 these farmers and all these people out of this area and  
 24 remove them and inundate this area, water quality doesn't so  
 25 much matter for the agriculture any more. It doesn't matter

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1 if we have salt water flows all the way to right here, if  
 2 there's no one affected by it.  
 3 MS. PAM JONES: Okay. Kathy Hunn, Mary Paula Carvalho  
 4 and Jeff Merwin.  
 5 MS. KATHY HUNN: First of all, I would like to say that  
 6 I was rather appalled by one of the first speakers that  
 7 spoke before we started. His statement was, "Tonight we're  
 8 going to here about how a dumb idea we have, tonight we're  
 9 going to hear about the people issues, the job issues. We  
 10 were here a year ago and we're here again. And much of that  
 11 appears to not have been heard.  
 12 My name is Kathy Hunn, and I'm a resident of  
 13 Clarksburg. My husband is a farmer in the area. I wish to  
 14 speak to the human aspect of this proposal being brought to  
 15 us tonight. Many more people -- or many people who are  
 16 being affected are landowners. Far more people who live and  
 17 work here do not own land. Our farming operation alone has  
 18 35 employees, 15 of whom live here year round with their  
 19 families. Once you have taken our land, or have created  
 20 circumstances where the land is no longer farmable those  
 21 families will be left homeless and unemployed. Multiply  
 22 that by the fact that Clarksburg has 331 farming units.  
 23 Then as you move on down the river you have all the farms in  
 24 the towns of Hood, Courtland, Locke, Walnut Grove, Alton and  
 25 further south. The human cost is immeasurable, not to

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1 mention the economic devastation to the area.  
 2 In addition, there are many support businesses which  
 3 will be gravely affected by the destruction of area farming.  
 4 For example, equipment sales, repair companies, fuel  
 5 delivery companies, seed companies, and the list goes on  
 6 from there. My request and my prayer is that you will hear  
 7 all the comments that were made tonight and will work to  
 8 include the residents of the north Delta in the process to  
 9 come up with workable solutions for all of California  
 10 citizens. At the end of the day, you folks are all going to  
 11 go home. You've got your home wherever that might be.  
 12 You're going to experiment with our homes. And 20 years  
 13 from now, when you look back -- 50 years from now when we  
 14 all are gone and our children's children are looking back  
 15 and this a barren area, you still have your homes. Your  
 16 children will still have your homes. We will be relocated.  
 17 Thank you.  
 18 MS. PAM JONES: Mary Paula Carvalho, Jeff and Tony  
 19 Silva Jr.  
 20 MS. MARY PAULA CARVALHO: Good evening. Thank you for  
 21 listening to us once again. And one of these T-shirts  
 22 happens to be my notes and questions, when I passed them  
 23 out. So scribbled on this piece of paper.  
 24 The loss of tourism here in the Delta will be  
 25 horrendous should this canal go through. I worry about the

<p style="text-align: right;">Page 106</p> <p>1 future farmers of America. Across the United States farms  2 are dying. They're not here on the Delta. We have prime  3 Delta property. Prime Delta soil. Let's flood it? That  4 doesn't make sense. The tax revenue that is generated here  5 in this community is great. With a state that has a  6 horrendous deficit. It's amazing that you want to flood it  7 and send that water down south. Not only are you receiving  8 the tax dollar from the farms, from the vineyards that are  9 making wine -- bottling that wine and selling it. It's  10 being taxed again. You're going to lose that. I want to  11 know if all of that is taken into consideration. I don't  12 hear any of that from you. And I want to hear about it. I  13 want to hear about that in the future.</p> <p>14 Pumping stations in this canal. We have a huge pumping  15 station in Freeport. How many pumping stations are we going  16 to need for this canal? This is a little pumping station  17 compared for what's needed. And this is going to be going  18 down California. So how far apart are they going to be?  19 These are questions I need answered. Eminent domain.  20 Somebody brought that up earlier. How many acres? How many  21 acres are you going to be taking through eminent domain?  22 Somebody talked earlier about Clarksburg, which you show as  23 a dot on the map. The hamlet of Clarksburg is quite large.  24 Who determines what part of -- where Clarksburg will stop  25 and the levee will come? When I look at that, another</p>	<p style="text-align: right;">Page 108</p> <p>1 district, which is Reclamation District 99, Clarksburg, Yolo  2 County, more specifically west of Jefferson Boulevard along  3 the eastside of the deep water ship channel and along Duck  4 slough. We're not stupid. Don't even begin to talk to us  5 about habitat restoration solely for enhancement of  6 endangered species. This is utterly and entirely about  7 mitigation of diversion of water for export from the Delta.  8 I predict that if that stopped, the Delta would miraculously  9 improve with no further action. I know that's not  10 realistic. But what is most exasperating to me are the  11 convoluted and equally fixes that are being proposed  12 instead.</p> <p>13 I attended a couple of meetings last year. And I was  14 glad to hear that my comments from last year will stand. A  15 personal that I consider to be brilliant strategy by the  16 water purveyors of southern California and the central San  17 Joaquin Valley in co-opting environmentalist into the fix,  18 if you will. A person that most scared me and offended me  19 last year at a meeting I attended in Walnut Grove was a Fish  20 and Wildlife specialist -- or socialist -- that widely spoke  21 of restoring the Delta as much as possible to it's  22 historical state to benefit fish taking 100,000 acres, in  23 his words, "Perhaps 130, 000 -- or maybe 30,000 acres for  24 habitat restoration." What planet was he born on? That  25 makes him completely free to ignore people and</p>
<p style="text-align: right;">Page 107</p> <p>1 question comes up. You're going to build a levee around  2 these little towns or hamlets. These are new levees.</p> <p>3 But the state doesn't have the money to reinforce the  4 levees we have now. According to you, these are faulty  5 levees. There's going to be an earthquake and they're going  6 to flood. So what happens to Clarksburg and the other small  7 communities -- little islands. Is this part of the plan? I  8 want to know what you guys are thinking about this? And is  9 it really thought through?</p> <p>10 MS. PAM JONES: Mary Paula, if you could wrap up?</p> <p>11 MS. MARY PAULA CARVALHO: One statement I have is, I  12 really suggest that you talk to your personnel. We've  13 overheard several statements out in the hallway about, "The  14 country hick farmers. They're just reiterating statements  15 they've said before. They know we're going to go through  16 with this." Really, keep those thoughts to yourself. We're  17 not "Hick farmers."</p> <p>18 MS. PAM JONES: Jeff, Tony and Mary McTaggart.</p> <p>19 MR. JEFF MERWIN: Good evening. Thank you for your  20 patience and coming and listening to us tonight -- or at  21 least be patient while we say what we have to say. First  22 three iterations that I came up with all ended up in  23 profanity so forgive me I'm going to be jumping around a  24 little bit.</p> <p>25 My name is Jeff Merwin. I farm in the Netherlands</p>	<p style="text-align: right;">Page 109</p> <p>1 constitutional rights to private property ownership and the  2 benefits thereof.</p> <p>3 Wouldn't it be wonderful if the world looked the way it  4 did 150 years ago? Fine. Then let's be fair about it.  5 Start bulldozing housing tracks everywhere including the  6 people that live there and the discussion leading up to the  7 action. It would be an interesting experiment, wouldn't it?  8 The error of drawing lines on maps and shading areas  9 targeted for broad change is long past. Stop it.</p> <p>10 One of my biggest concerns -- I'm going get some  11 questions now real quick -- One of my biggest concerns along  12 this whole process is the lack of detail. And I realize  13 you're attempting your best to refine your detail. However,  14 I mean -- and just to backup -- one of things that I've done  15 is search at length to find maps that indicate what's going  16 to happen, what's going on. Every one in this room -- not a  17 single person here -- by the way -- wants to be here  18 tonight. And I apologize for that. But that's a fact.  19 Maybe neither do you.</p> <p>20 But the fact of the matter here is the maps you have  21 outside, they show four conveyance options. Plus, the  22 through Delta conveyance. And there's actually a fifth  23 conveyance that nobody's even talking about. But I happened  24 to know about it because I mentioned it last year -- and I'm  25 glad to see it's on the map. This one here is just showing</p>

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1 one. What's up with that? And more exasperating is a map  
 2 one month in a community somewhere that's a public meeting  
 3 and I don't know where you find the notice of them are will  
 4 show something they're going to study and the next month or  
 5 two a map will show up and it won't exist. And then a month  
 6 after that it shows up again. So my concern -- I'm going to  
 7 ask some very specific questions right now. And this deals  
 8 with a mitigation issue that I found as FL00.2. It's more  
 9 unaffectionately called the deep water ship channel bypass.  
 10 Is that still a possibility? Is that still in play? As I  
 11 understand it that committee is under the BDCP leadership.  
 12 It's a habitat restoration committee. And I want to know if  
 13 that's still in play. It's not on that map.

14 MR. PAUL CYLINDER: I'd say yes initially. It's in the  
 15 list of potential measures under consideration. We've also  
 16 seen outside that there's an alternative canal route that  
 17 could run that same route. There's the measure that he's  
 18 talking about is a draft that's been in the document. It  
 19 hasn't been removed from the draft. Conceptual measures  
 20 that are in the document right now from October. That same  
 21 route would follow what you seen outside as the alternative  
 22 for canal route on the westside.

23 The concept that you're referring to is to develop a  
 24 flood bypass on the eastside as we already have on the  
 25 westside of the deep water ship channel but as it reads in

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1 the document right now, the only way that that would be  
 2 considered is if the flood control agencies in particular  
 3 the Army Corps of Engineers felt that concept would add to  
 4 the flood control benefits for the towns on the westside of  
 5 the river -- Clarksburg down to Rio Vista.

6 So the way the measure is written right now is that if  
 7 it were a benefit as a flood control measure that we would  
 8 take advantage of that because there's a severe lack of  
 9 floodplain habitat that has been shown to be very beneficial  
 10 to a number of the fish species, particularly the splittail  
 11 and for rearing habitat chinook salmon.

12 MR. JEFF MERWIN: Which gets back to the 100,000 acres  
 13 that this fellow would like to see restored and that the  
 14 Delta vision process recommends doing in our Delta --  
 15 100,000 acres. I guess the 20 or 30,000 acres in the Yolo  
 16 County bypass aren't adequate. They're already there. The  
 17 Sacramento -- where it exists it could be reengineered to  
 18 handle additional flood flows. You don't need to build an  
 19 additional bypass. Let me get real specific about this, not  
 20 only am I a Clarksburg resident. I happen to live on the  
 21 deep water ship channel east levee. Okay. Thank you by the  
 22 way for putting a bridge in on my driveway, in your  
 23 drawings. There's a bridge proposed for the eastern -- the  
 24 western alignment of the peripheral canal.

25 MR. PAUL CYLINDER: Sorry. I'm not the engineer.

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1 They're not my drawings.

2 MR. JEFF MERWIN: I digress. If you want to  
 3 see something that will curl your hair, Google SB12, Senate  
 4 Bill 12. It includes things like language that would change  
 5 water rights to agriculture. It actually has a paragraph  
 6 that is very specific about it. And I recommend that you  
 7 read it and contact your senator. And let's get that thing  
 8 thrown out. That's how they're going to make this happen.  
 9 And these guys will all go, "Oh, sorry."

10 MS. PAM JONES: Jeff, can you wrap up?

11 MR. JEFF MERWIN: Yes, I'm almost done. That fifth  
 12 conveyance that I was talking about, I am not an advocate of  
 13 sending water south. Okay. I agree with everybody in this  
 14 room. However, if we're going to have it done to us, put it  
 15 down the deep water ship channel. It already exists it has  
 16 the most robust levees in the entire Delta. Get  
 17 Metropolitan Water District or the water purveyors to  
 18 finance locks down at the bottom. Increase the storage  
 19 capacity five feet. The port doesn't have to deepen its  
 20 ship channel. They get 8700 acre feet of storage right in  
 21 the Delta. And they can have multiple diversions and all  
 22 that other junk. I don't want to aid the case. But I'm  
 23 trying to help you with a solutions, if you absolutely  
 24 insist. I'm not happy about it.

25 But I'd be far happier with that than ripping out

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1 farmland and habitat down the eastside or right through my  
 2 front yard -- that would be in my backyard. That's  
 3 acceptable there's already water there. It's a man-made  
 4 waterway. I was told in the June meeting last year at  
 5 Walnut Grove, "No, we can't do that there's Delta smelt  
 6 there." What an idiotic thing is that to say. It's a  
 7 man-made waterway. Put the lock in down at the bottom of  
 8 it. And the Delta smelt, they live what a year and then  
 9 they're gone. Put that in your take permit.

10 All right. I want to end right now with a little bit  
 11 of analogy as farmer. Okay. And I want you to ponder this  
 12 very carefully. And I'm sorry if I'm running a little bit  
 13 long. How would you feel as a state worker or federal  
 14 employee, if it was determined that farmers should cut off  
 15 your food? Sounds like an absurd thought, doesn't it. It's  
 16 exactly what they are proposing to do to me. Thank you.

17 MS. PAM JONES: Okay. Tony and Mary, we appreciate  
 18 your comments at the other meetings. And we ask that you  
 19 keep your comments here short so that George Daly can speak  
 20 as our last speaker.

21 MR. TONY SILVA: Okay. My name is Tony Silva, and I  
 22 just happen to be a small farmer from Lodi. I walk through  
 23 all six of your stations and I looked a lot -- I noticed the  
 24 state seems to have an issue with letters. Everything is  
 25 abbreviated -- letters. I noticed BDCP, ESA, EIS, EIR, the

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1 whole bit. Why propose a station 7? And I want to call it  
 2 BPF that's a ballpark figure. How much is all this going to  
 3 cost? Does anybody have an idea? Does anybody read the  
 4 newspapers? We have record furloughs, lay offs,  
 5 foreclosures, car dealerships closing, corporation closing,  
 6 and our state is at a 14 billion dollar deficit. Where are  
 7 you going to get this money? And how much is it going to  
 8 cost? Anybody? Just throw a number out there -- ballpark  
 9 figure. You're taking up my time. I'd appreciate a quick  
 10 answer. I've got another question.

11 MR. JERRY JOHNS: When we look at these costs -- maybe,  
 12 if we have any -- we've been looking at these cost. And  
 13 we're still refining the cost. I mean, last year -- well,  
 14 because it's complicated, right?

15 MR. TONY SILVA: Well, a ballpark.

16 MR. JERRY JOHNS: Last year we estimated the cost for  
 17 the western alignment that you saw at about 8 bill dollars.

18 MR. TONY SILVA: Is that if they give you the property?  
 19 You're paying for property, also?

20 MR. JERRY JOHNS: That was actually both. Just a  
 21 second. Let me finish. And the eastern alignment was  
 22 estimated about 5 billion both of those estimates have gone  
 23 up by quite a bit because we've gotten a lot more detail in  
 24 it. So I would imagine that it would actually be closer to  
 25 11 billion on the west and probably closer to 8 billion on

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1 the east right now.

2 MR. TONY SILVA: Thank you. Sounds like a lot. Can't  
 3 even comprehend it. I've got another statement. In 1961 a  
 4 little town called Freeport, Texas built a desalinization  
 5 plant that's 48 years ago. They managed to produce 1  
 6 million gallons of fresh water a day. During that  
 7 dedication our then president John F Kennedy gave a  
 8 dedication speech. And I'm going to read that again.

9 President JFK, "No water resouces program has a greater  
 10 long range importance than our first to convert water from  
 11 the greatest and cheapest natural resource, our oceans. And  
 12 to water fit for our homes and our industry such a  
 13 breakthrough would end bitter shovel between neighbors,  
 14 states and nations." God what a bright guy. 48 years ago  
 15 he had enough vision for that. And look where we are at  
 16 today. I'm embarrassed.

17 And does anybody -- I would like to address this to  
 18 you. Do you not understand the greatest and cheapest  
 19 natural resource? Is there a question of what that means?  
 20 I guess not.

21 You know, last time I spoke up here, I was very  
 22 intimidated because I look up here and I see a bunch of  
 23 bright people. People with masters degrees, probably MBAs,  
 24 PHDs. I don't have any of that. I have common sense and  
 25 love for the Delta and northern California. That's all I

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1 have. It may not mean much to you. But I want you to do me  
 2 a big favor. I may not speak for everybody in this room or  
 3 everybody in northern California but I'd like for you to go  
 4 down to southern California and tell those people, all 25  
 5 million of them that, "Hey, you chose to build homes in the  
 6 desert. You chose to build businesses in the desert, now  
 7 you're going to build desalinization plants." That's what  
 8 you're going to do. How hard is it? The people in northern  
 9 California are sick and tired of poor planning. We're not  
 10 turning ourselves into a desert. We're not going to do it.  
 11 And especially when you got two-thirds of the planet's total  
 12 area, the ocean, in your back door. Think about it. What  
 13 are you doing? I thought you guys were educated. Thank  
 14 you.

15 MS. PAM JONES: Mary and George. Okay. George are you  
 16 here?

17 MS. MARY McTAGGART: I have a question. I was reading  
 18 the Notice Of Preparation. And the project area part says,  
 19 "Any conservation actions outside the statutory Delta will  
 20 be implemented pursuant to cooperative agreements or similar  
 21 mechanism with local agencies, interested nongovernmental  
 22 organizations, landowners and others. Okay. So that sounds  
 23 like that would be willing participants outside the  
 24 statutory Delta. Does that mean -- is the opposite true  
 25 that inside the statutory Delta it's not going to be willing

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1 participants? Would you please answer that question for me?  
 2 Because that's the way it sounds here.

3 MS. KARLA NEMETH: That's a good question, Mary. Right  
 4 now part of the plan is to put together implementation  
 5 structure to identify that, who implements the plan, how do  
 6 we get input as it moves forward. So for conservation  
 7 measures inside the statutory Delta we are going to identify  
 8 a way in which we work with the local jurisdictions to  
 9 implement the habitat restoration pieces of this.

10 MS. MARY McTAGGART: Well, yeah, but that's what it  
 11 says outside the statutory Delta. So why would that  
 12 statement be made if it weren't different inside? That's my  
 13 question. I mean, it's an honest question.

14 MS. KARLA NEMETH: No, and I appreciate it. I'm not  
 15 sure I fully understand that -- but Paul?

16 MR. PAUL CYLINDER: When the planning agreement was put  
 17 together -- When an HCP is initiated there has to be a  
 18 definition of what the planning area is. The planning area  
 19 was defined then as the statutory Delta with the focus on  
 20 the equatic ecosystem within the statutory Delta. When --  
 21 but the program also recognized because of the species  
 22 involved that may be necessary to look for opportunities  
 23 outside the Delta -- the statutory Delta for -- to identify  
 24 conservation measures to benefit fish. So at this point, we  
 25 looked at two areas outside the statutory Delta and included

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1 concepts for conservation measures for fish in those two  
 2 areas.

3 One is Suisun Marsh, where there's an active management  
 4 conservation plan already under development that the Bay  
 5 Delta program could enhance. And then the other is the  
 6 northern part of the Yolo bypass because any proposal to  
 7 improve habitat conditions for fish in the Yolo bypass would  
 8 include both the north part and southern part. Southern  
 9 part being the legal Delta.

10 MS. MARY McTAGGART: Okay. You still didn't answer my  
 11 question. Does this statement imply then that if the  
 12 conservation measures inside the statutory Delta would not  
 13 be with the cooperative agreements or willing, you know,  
 14 cooperative agreements because that's the way it reads like.

15 MS. KARLA NEMETH: I think I understand that. And no  
 16 it does not imply that. For conservation measures that are  
 17 inside the statutory Delta, we are required to identify an  
 18 implementation structure as part of the plan.

19 MS. MARY McTAGGART: You're not answering my question,  
 20 please.

21 MS. KARLA NEMETH: Yeah, that will outline how we  
 22 interface with local entities under the implementation of  
 23 particular conservation measures.

24 MS. MARY McTAGGART: Well, are you saying then that  
 25 they could be -- they might be voluntarily or they might be

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1 not depending on what kind of implementation structure you  
 2 come up with?

3 MS. KARLA NEMETH: We're working on a willing buyer,  
 4 willing seller basis for the habitat restoration pieces.  
 5 That's policy of the Department of Water Resources.

6 MS. MARY McTAGGART: Okay. Thank you.

7 MS. PAM JONES: Mary, could you wrap up because we need  
 8 to have time --

9 MS. MARY McTAGGART: Yeah, one last thing. Except for  
 10 the map at the end of the hall, it's the first map I've seen  
 11 in all the year that I've been looking at Delta maps that  
 12 lists this area, the names of the two districts that are  
 13 here, the Netherlands district, which is District 999 and  
 14 the Lisbon District, which is to the north. Those names are  
 15 left off -- I'll tell you which maps they're not in.  
 16 They're not in any of the Delta Vision documents. They're  
 17 not in your Notice Of Preparation. They're not in the Delta  
 18 overview document that the DWR has put out. Let's see.  
 19 They're not -- they're not in either of the two PPIC  
 20 reports, which lists 70 some Delta islands but not these  
 21 two. There's a blank space on almost every map you have.  
 22 Could you guys do something about fixing that?

23 This map down here does. I couldn't believe it when I  
 24 saw it. Because it looks like nobody lives there. It's a  
 25 blank -- that -- out of courtesy and out of justice to the

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1 people in this area, can't you give us the same courtesy  
 2 that the people in all these other islands, which most of  
 3 them are no bigger or smaller than where we live. Thank  
 4 you.

5 MS. PAM JONES: Okay. And George, can you head on up.  
 6 And then that will be our last speaker.

7 UNIDENTIFIED GENTLEMAN: I have been here for almost  
 8 four hours. I put my name in that pile of crap you got  
 9 there. My name is not in there so all I've got to say to  
 10 you folks is, I feel sorry for you. I was in The Marine  
 11 Corps for 20 years. The way you done your planning -- you  
 12 would all been dead.

13 MS. PAM JONES: Sir, what is your name?

14 UNIDENTIFIED GENTLEMAN: You don't need to know it.

15 MS. PAM JONES: Okay. Go ahead George.

16 MR. GEORGE DALY: I assure you I'll be brief. Thank  
 17 you very much for your consideration. My comments revolve  
 18 around thinking outside of the pipe for the canal, if you  
 19 will. Fresh water in this state as it is pretty much  
 20 everywhere is a finite resource. You cannot keep taking it  
 21 for whatever purpose. I'm for sharing. And I mean that  
 22 sincerely. We have a great state we ought to share the  
 23 resources. But it's finite. We cannot keep gobbling up  
 24 more but we have to conserve. But I think more importantly,  
 25 we have to look for alternative supplies. And as Tony

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1 mentioned, we have 1,000 miles of coastline. I mean  
 2 southern California or northern California want more fresh  
 3 water, why don't we take this -- a part of umpteen billion  
 4 dollars and construct some desalinization plant? Why are we  
 5 pumping water what four or five hundred miles down south,  
 6 when if you look at a map probably 80 percent of the people  
 7 from Bakersfield south to the Mexican border live within  
 8 50-miles of the border. Crumb put a plant down there.  
 9 Let's enhance. Let's improve desalination process, make it  
 10 a viable option. You have certainly not, in the true sense  
 11 of the word, an infinite supply of the ocean. But my gosh,  
 12 we have far more water there than we have fresh water  
 13 supplies and it's rapidly being eaten up with development in  
 14 the south and in the north. So I -- not beating you people  
 15 over the head with it -- but I encourage you to go to the  
 16 powers that be and say, let's take another look -- Let's  
 17 open our eyes -- like we do with energy. We're trying to  
 18 get way to win. Let's do the same thing with our fresh  
 19 water supply and the sources thereof. I really wanted to  
 20 say this just to make sure it got on the record because we  
 21 are all emotionally involved about what is being proposed --  
 22 couldn't agree with all of you people more. But the point  
 23 is, there is only so much fresh water. We need to look for  
 24 other sources. And it doesn't appear like we're going to  
 25 find it on the moon or Pluto or anywhere else like that so

1 let's develop what we have here. Thank you very much.

2 MS. PAM JONES: Thank you all very much. There is time  
3 left to speak to the folks back there. This isn't your only  
4 chance. If you have comments you want to write them down,  
5 take a comment card, send an e-mail. Thank you very much.  
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1 --o0o--

2 I, ANGELICA R. GUTIERREZ, a Certified Shorthand  
3 Reporter of the State of California, duly authorized to  
4 administer oaths, do hereby certify:  
5 That I am a disinterested person herein; that the proceeding was  
6 reporter in shorthand by me, ANGELICA R. GUTIERREZ, a Certified  
7 Shorthand Reporter of the State of California, and thereafter  
8 transcribed into typewriting.

9  
10 ANGELICA R. GUTIERREZ CSR #13292

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BAY DELTA CONSERVATION PLAN  
ENVIRONMENTAL IMPACT REPORT (EIR)  
AND ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS

THURSDAY, MARCH 26, 2009  
PUBLIC COMMENTS  
6:00 P.M.

CLARKSBURG MIDDLE SCHOOL  
52870 NETHERLANDS ROAD  
CLARKSBURG, CALIFORNIA

REPORTED BY: HE SUK JONG, CSR 12918



<p style="text-align: right;">Page 2</p> <p>1 MR. STEPHEN HAAPT: My wife and I have an  2 organic farm and train driving horses. I arrived at  3 the meeting to find out that our property is in threat  4 of eminent domain. This thing comes to one issue:  5 It's people first, food second, fish last. And let  6 the Federal judge down in Fresno and all of those  7 people that think of fish as more important be DAMNED.  8 If it becomes necessary for a court order to come onto  9 my property, bring the Russian army to serve it. If  10 you come to take my property, decide who's going to go  11 home hurt or dead because this is the retribution to a  12 government that forgets about people and puts more  13 importance on fish.  14 --o0o--  15 ANONYMOUS: One of the biggest concerns that  16 I have -- and I hear repeated in this community -- is  17 that there will be a lot more mosquitos and that that  18 will increase our risk for West Nile. And there are  19 children in this community, there are schools here,  20 there's an elementary, middle school, and high school.  21 And I know that the elementary for next year will have  22 160 students, and I believe there are over 200 in the  23 middle school and about 300 in the high school,  24 collectively, plus the community. There's just a very  25 big concern and a fear that our quality of life will</p>	<p style="text-align: right;">Page 4</p> <p>1 recreation, and tourism. And I hope that any work  2 that takes place for this conservation plan will  3 follow those precepts that were set in 1992.  4 (END OF COMMENTS.)  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>
<p style="text-align: right;">Page 3</p> <p>1 change. And those that remain will be subjected to  2 having to live in their homes, they're always wearing  3 DEET, not being able to enjoy the outdoors because of  4 the increased risk of the mosquitos as a result of the  5 tidal marsh areas that we believe are going to be a  6 part of the conservation plan.  7 I also want to add that this area is very  8 unique and agricultural and the beauty of what's here  9 in the farmlands. It's a safe haven for people that  10 want to come out and just enjoy the country. And, if  11 we flood it, that will be gone forever.  12 --o0o--  13 MS. LINDA DORN: I work for Sacramento  14 Regional County Sanitation District, and I want to  15 point out that there's no scientific evidence that  16 proves the discharge from our wastewater plant is  17 having a detrimental effect in the Delta. We  18 currently meet U.S. EPA guidelines for acute toxicity  19 with ammonia, and, also, we are below chronic toxicity  20 effects for ammonia, according to the U.S. EPA  21 guidelines.  22 --o0o--  23 MS. PEGGY BOHL: I want to say the Delta  24 Protection Act was found in 1992, and it designated  25 this area as being primarily for agriculture,</p>	

1 BAY DELTA CONSERVATION PLAN  
2 ENVIRONMENTAL IMPACT REPORT (EIR)  
3 AND ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS  
4

5  
6 MARCH 18, 2009

7 BDCP PRESENTATION

8 7:00 P.M.  
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11 DAVIS VETERANS MEMORIAL CENTER

12 203 EAST 14TH STREET

13 DAVIS, CA 95616  
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24 REPORTED BY: LISA L. JONES, CSR 12982  
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<p style="text-align: right;">Page 2</p> <p>1 JERRY JOHNS: Thank you very much and welcome  2 to our scoping session for the Bay Delta Conservation  3 Planning Process. I appreciate you all coming out on a  4 week night and listening to this. I know everybody is  5 busy, and I really do appreciate you coming to listen to  6 where we are in that process and kind of where we think  7 we might be going. So thank you for coming.  8 It's good to be back in Davis. I'm an Aggie, like  9 some folks -- like most of my staff is from UC Davis one  10 time or another. I lived in a house not too far from  11 here actually, for a couple of years, very interesting  12 situation, lots of fun.  13 Anyway, my name is Jerry Johns. I'm the deputy  14 director at the Department of Water Resources, and I deal  15 principally in Delta related issues. I've been doing  16 Delta stuff for most of my career, as you can tell by my  17 grey hair, that career is relatively long. I did most of  18 my work working for the Water Resources Control Board,  19 which is a regulatory body in the State of California,  20 that deals with water rights issues. And so much of my  21 time I've been spending my career regulating the two  22 water projects in the estuary, and now I find myself as a  23 Deputy Director of the Department of Water Resources,  24 actually dealing with those two projects. So it's been  25 kind of an interesting job switch for me.</p>	<p style="text-align: right;">Page 4</p> <p>1 the Delta are not going as planned in the CALFED days.  2 We need to be looking at something different. Part of  3 the problem is that the regulatory prospects, that we're  4 under currently with the fish agencies, we look at  5 basically one stressor with Water Project Operations and  6 kind of one fish at a time. And what we saw was other  7 stressors affecting the system and the need to look at  8 this from a more holistic standpoint in terms of  9 regulatory activities and just look at a better way to  10 manage the system.  11 The six and seven permitting process that we're in  12 currently, is pretty restrictive in what we can look at  13 and how we address those. There's another process under  14 the Federal Law, that Karla will talk about, that allows  15 you to develop habitat conservation plans that looks at  16 the system as a whole, not just one species, but the  17 entire ecosystem and how you address those kind of issues  18 in a much more holistic fashion.  19 So we got together in about 2005, had some meetings  20 in 2006, that talked about how we might start that  21 process. And formally began that process in about late  22 Summer, early Fall, 2006, with a planning agreement  23 that's a requirement under the federal law to start that  24 habitat conservation planning process. So that's kind of  25 what started this. And we're looking principally at the</p>
<p style="text-align: right;">Page 3</p> <p>1 I've been the Deputy Director at the Department for  2 about five years now, five or six years, and it's been an  3 interesting process, and we're at an interesting point in  4 that process as we move forward with trying to address  5 issues in the Delta.  6 But really why I'm here is, I'm a member of the  7 steering committee for the Bay Delta Planning  8 Conservation Process. That steering committee is about  9 20 people or so. It incorporates both the water agencies  10 that deal in the Delta, the Bureau Reclamation, the  11 Department of Water Resources, our contractors, both  12 north and south of the Delta, and it has the NGO  13 communities, some environmental groups that are involved.  14 I think we have four or five non-governmental  15 organizations that are involved in the planning process;  16 the fishery agencies, both state and federal, are  17 involved there and other regulatory agencies, like the  18 Water Resources Control Board, Corp of Engineers are  19 involved in this rather large steering committee that's  20 helping to guide this process.  21 I want to spend just a couple of seconds -- and  22 Karla Nemeth is going to talk a little bit more about  23 BDCP. I want to talk a little bit about why BDCP --  24 about 2005 or so, several of us got together, both fish  25 agencies and water folks, and said, you know, things in</p>	<p style="text-align: right;">Page 5</p> <p>1 conflict between fish and water supply issues in the  2 Delta.  3 There's a lot of other stuff going on in the Delta,  4 levee issues, and other stuff going on, but we're focused  5 really on that key piece the conflict between the  6 fisheries, particularly the endangered species and water  7 supply operations and how they can get fixed. But in  8 that, we developed the conservation plan over the last  9 couple of years that looks at all the different  10 stressors, certainly water project operations is one that  11 we got to address.  12 We have some ideas that we talked about in the other  13 room, how we can maybe change how we convey water across  14 the Delta in a much fish-friendly fashion, but it's got  15 to be part of an overall package, and Karla will talk  16 more about that in detail about that package.  17 And where we are in the process is, we're about to  18 the point where we've got kind of an overview document we  19 did in January. We've got the steering committee kind of  20 saying, this is kind of what we think -- kind of the core  21 elements are of that conservation plan. We need to start  22 the EIR/EIS process to start talking about -- okay, what  23 are the concerns we need to address in that process, and  24 how do we get that thing going. And John is going to  25 talk a little bit about that process.</p>

<p style="text-align: right;">Page 6</p> <p>1 So this meeting today is really serving two  2 processes; one is, we're here principally for the scoping  3 part of that EIR process, but we also want to give you an  4 opportunity to hear a little bit more about the overall  5 plan, kind of where it's going, where we think it might  6 end up. But principally, we want to get your feedback on  7 kind of where we are today, in terms of impacts that we  8 need to address, and also alternatives we need to  9 evaluate and we have some ideas out there in the other  10 room.  11 So as we go forward, we're going to have John come  12 up in a minute and talk a little bit about the EIR/EIS  13 process, and Karla is going to talk a little bit more  14 about where we are with BDCP, pretty short, and then  15 we're going to open it up for questions and answers and  16 get comments from folks. And then we encourage you to  17 take time and opportunities, either during this meeting  18 or afterwards, to go back, look at the room over there,  19 and we have people over there to address your specific  20 questions and get your comments as we go through the  21 process. So that's kind of a quick overview.  22 So John, do you want to talk about the EIR process?  23 JOHN ENGBRING: Just a few comments. Again, my  24 name is John Engbring. I'm with the U.S. Fish and  25 Wildlife Service. I'm the assistant regional director</p>	<p style="text-align: right;">Page 8</p> <p>1 prepare a Habitat Conservation Plan, which is, in fact,  2 this Bay Delta Conservation Plan. They submit that to  3 the federal agencies, U.S. Fish and Wildlife Service and  4 actually, National Marine Fisheries Service, who is  5 responsible for the salmon.  6 Is there anybody from NMFS here? I don't know if --  7 oh, there is. Okay. There's somebody from NMFS here.  8 So they would actually issue the permit for salmon.  9 We issue the permit for terrestrial species and Delta  10 Smelt, lower freshwater nonanadromous species. And that's  11 the process we're in now. We are essentially awaiting  12 preparation and delivery of this Habitat Conservation  13 Plan, this Bay Delta Conservation Plan.  14 At that point, we need to analyze the effects on all  15 the listed species in the Delta, for which they have  16 asked to be covered, and it will be probably a sweep of a  17 number of species. We have to analyze those effects. We  18 have to make a determination as to whether or not it will  19 jeopardize the continued existence of any of those  20 species. And if, in fact, we can get to that point, we  21 can actually issue the permit. So our job, the federal  22 agencies, National Marine Fisheries Service, Fish and  23 Wildlife Service, is to review this document. And if, in  24 fact, the conservation measures that are described, and  25 the alternatives that are described, don't jeopardize the</p>
<p style="text-align: right;">Page 7</p> <p>1 for water and fish here, out of the Sacramento Regional  2 Office, actually, the Pacific Southwest Region.  3 Reiterating what Jerry said, thank you for coming  4 here tonight. We are very interested in receiving  5 comments, ideas, that you might have about alternatives,  6 issues -- any comments you have, we will gladly entertain  7 them and write them down. So that's the key purpose here  8 tonight.  9 Unlike Jerry John's, I did not spend my life in the  10 Delta. In fact, most of my career I was surveying  11 pacific island forest birds in Micronesia and trust  12 territories and way out in the Pacific. So I don't know  13 a lot about the Delta, like Jerry and some of these other  14 folks. The experts are at the tables back there, but I  15 have been working with salmon and HCP's for over 15 years  16 now, so -- HCP process and HCP, Habitat Conservation  17 Plan, is what we are doing right now with this Bay Delta  18 Conservation Plan. It all revolves around the Endangered  19 Species Act, when activities are taken like, pumping  20 water from the Delta, that DWR does, there are species --  21 are actually taken when they pump that water.  22 They can continue those activities, but they need a  23 permit to take those listed species, and one of the ways  24 to obtain that permit, and this is what they call Section  25 10 Process under the Endangered Species Act, is to</p>	<p style="text-align: right;">Page 9</p> <p>1 continued existence of the species, we can move forward  2 and issue those permits.  3 Karla is going to describe, in more detail, where  4 DWR is in preparing this habitat conservation plan, the  5 BDCP. The comments are best taken in the next room where  6 we've got all the tables, so there will be, I think, an  7 opportunity to talk into the microphone and ask some  8 questions. But that will be more just clarification, so  9 if you want to speak after Karla talks, it's really  10 questions to clarify what's going on here. But after  11 that, we can move over to the other room and we can  12 continue receiving comments from everybody. So again,  13 thank you for coming and Karla you can let folks know  14 more about the BDCP.  15 KARLA NEMETH: Thank you, John. As John said,  16 my name is Karla Nemeth. I'm with the California Natural  17 Resources Agency. The Resources Agency is the convener  18 of the steering committee that is helping to guide the  19 development of the Bay Delta Conservation Plan. It  20 includes water agencies that provide water to California  21 from the Bay Area, all the way down to San Diego, farms  22 in the Central Valley. It includes folks from  23 environmental organizations, California Farm Bureau, and  24 other organizations that express an interest in preparing  25 a plan.</p>

<p style="text-align: right;">Page 10</p> <p>1 One of the things that folks around that table  2 realize is, that it's a major challenge to restore an  3 ecosystem in an environment like the Delta. There's half  4 a million people that live there. It's home to a vibrant  5 agricultural economy, a vibrant recreational economy and  6 these are important needs that we need to balance the  7 plan against. The secretary of resources is engaging  8 with elected officials to make sure that the Delta  9 counties are made whole as we continue to develop the  10 plan.</p> <p>11 Again, the purpose of this presentation is to  12 provide folks with an update on the development of the  13 BDCP, the conservation plan, that is the proposed action  14 that is under environmental review. I'm not going to  15 have all the details for you tonight because we haven't  16 developed them yet. We do anticipate having a  17 preliminary draft of the conservation plan available this  18 summer. At which time we'll be back out in the  19 communities and having a good discussion about the  20 details and what's in the plan, getting some input on the  21 plan.</p> <p>22 So what's the problem that we're trying to solve?  23 As many folks know, native fish species in the Delta have  24 experienced some of their most record low populations in  25 recent years, that has resulted in decreasing reliability</p>	<p style="text-align: right;">Page 12</p> <p>1 at a time, rather we address the needs of multiple  2 species, we contribute to their recovery and we do it  3 over the long term.</p> <p>4 At the heart of the conservation plan is a  5 conservation strategy, and that's what I'm really going  6 to spend my time talking about tonight, where we are in  7 the development of that strategy, and that's a suite of  8 actions that are designed to help species recover over  9 time. These other aspects of the plan are critical to  10 making sure it's a success. That will be included in the  11 draft plan as identifying the funding sources,  12 identifying the implementation plan, how it's sequences  13 over time, who implements the plan over time. Also, it  14 allows for the introduction of new science as it becomes  15 available into the management of the plan.</p> <p>16 What a plan essentially looks like is, a suite of  17 actions that are implemented over time in exchange for  18 Endangered Species Act permits for the operation of water  19 projects in the State of California. That's the purpose  20 of this plan. Two purposes, water supply reliability and  21 stable and healthy fish population.</p> <p>22 As I mentioned, what I'm going to focus on tonight  23 is the conservation strategy. As you can see, there's a  24 lot of other elements of the plan that we need to  25 develop. Our focus is on product species; Delta Smelt,</p>
<p style="text-align: right;">Page 11</p> <p>1 of water supplies for 25 million Californians and  2 agriculture throughout the Central Valley.</p> <p>3 It is addressed in this conflict between water for  4 human use and environmental use that we are here to  5 resolve. One example of this conflict is, right now as  6 folks may be aware, water enters the system through the  7 Sacramento River into the Delta to the pumps at the  8 southern end and is delivered to various communities in  9 California.</p> <p>10 What the judges have said is, that the flows of the  11 water with this kind of a conveyance system pull the fish  12 towards the pumps in a way that that threatens their  13 survival, and as a result, there's reduced pumping in the  14 southern part of the Delta when the fish are in the area.</p> <p>15 So typically, when we have these kinds of conflicts  16 between people and fish, we propose a project and we  17 mitigate on a species-by-species basis. But the  18 Endangered Species Act allows for something that's called  19 Habitat Conservation Planning, and the state law and  20 Natural Conservation Planning Act also allows for folks  21 to prepare a conservation plan to meet the needs of  22 endangered species and to meet the regulatory  23 requirements of these two laws. What it allows us to do  24 is approach the situation in a much more comprehensive  25 manner, not piecemeal one species at a time, one project</p>	<p style="text-align: right;">Page 13</p> <p>1 Longfin Smelt, Chinook Salmon, Green and White Sturgeon,  2 Central Valley Steelhead and Sacramento Splittail.</p> <p>3 Again, it's this notion of we're trying to address the  4 needs of all of these species in the comprehensive plan.  5 The way we approached it is, there's been decades of good  6 science done in the Delta, and that science is telling us  7 that in addition to the way water moves through the  8 Delta, the facilities and the water conveyance facilities  9 in the flows in the Delta, there are these other things  10 that are stressing the fish species that need to be  11 addressed if we want to reach this recovery goal. That  12 is a lack of suitable habitat for fish species. It also  13 includes other kinds of stressors; like toxics in the  14 water, presence of invasive species that compete with the  15 native species, a whole host of issues.</p> <p>16 So what we've done is we've developed biological  17 goals and objectives that tell us how can we measure the  18 species recovery through time and started to develop  19 specific conservation measures that can address these  20 things that are stressing the species. So when  21 identifying conservation measures, we have taken a look  22 at -- let's first start with the water conveyance  23 facilities in the flow issue.</p> <p>24 As you recall, in an earlier slide, I demonstrated  25 the dynamics with water moving from north to the south in</p>

<p style="text-align: right;">Page 14</p> <p>1 the Delta and the pull of the fish into the pumps. In  2 the near term, that's in the 5- to 15-year range, we are  3 looking at ways we can improve water movement into the  4 southern part of the Delta, that included the potential  5 for gates in this area that would be open and closed  6 seasonally depending on the presence of fish.  7 In the longer term, that is, 15 years from now, we  8 are looking at a canal with an eastern alignment that has  9 diversion points up in the northern Delta, off the  10 Sacramento River, the water supply goes into a canal and  11 connects at the existing Federal and State project pumps.  12 There are several aspects as to how this is operated that  13 are critically important to achieving the recovery goal  14 of the plan. And a big question that we get all the time  15 is, well, how much water does the estuary need? How much  16 water do fish need? And we're looking at how we might  17 operate this system, which we're calling dual conveyance,  18 where we can operate water supplies through a canal or in  19 the southern part of the Delta. We're looking at what  20 kind of flows need to pass by this diversion point to  21 transport food, for example, to provide enough flows for  22 migration needs for fish species. We're also getting a  23 look at outflow needs. How much water needs to be moving  24 through the system and out into the San Francisco Bay.  25 On a consensual level, what we're wanting to do with</p>	<p style="text-align: right;">Page 16</p> <p>1 need a fabric of habitat restoration throughout the  2 Delta, we will be at restoration areas in this eastern  3 part of the Delta and the southern part of the Delta.  4 The third type of restoration we're looking into is this  5 channel margin restoration, the channel banks. This is  6 Steamboat and Sutters sloughs in this area, and down  7 along the San Joaquin some channel margin restoration as  8 well as some flood plain restoration, in the longer term,  9 this is sort of 15 years out.  10 I know some folks have been pretty frustrated to see  11 these gray blocks, but I do want to make a pretty  12 important point about the gray blocks, and that is these  13 are areas that we're looking at that have the potential  14 for a particular kind of habitat restoration. What we're  15 looking to develop is how many acres in this bigger area  16 would be required to work in conjunction with a new flow  17 of the Delta to help the fish species recover.  18 So what will come out of the plan is an acreage  19 number in a general area, and then as we go to implement  20 the plan, we have the flexibility to make sure that we're  21 working with willing sellers.  22 Part of that implementation structure is to identify  23 a way to work with local jurisdictions and local land  24 owners as we look to identify the specific sites for  25 restoration. Those specific projects will require</p>
<p style="text-align: right;">Page 15</p> <p>1 this reconfigured system, is get water moving more east  2 to west in the Delta, a more natural pattern rather than  3 the north/south. In addition to that, as I mentioned, we  4 are considering habitat restoration measures. Again, to  5 achieve this recovery goal, there's three types of  6 habitat restoration that we're pursuing; one is flood  7 plain restoration; one is tidal marsh restoration, that's  8 growing cattails and tule, and the third is ways to  9 restore channel banks, providing debris and shade to keep  10 the temperature cool for fish species.  11 So in the new term, again, in this 5- to 15-year  12 range, some of the conservation measures that we're  13 considering is, up in the Yolo Bypass area, we are  14 considering creating an option to the Fremont Weir, that  15 would allow for Sacramento River water, depending on  16 whether it's a wet, dry or critically dry year, depending  17 on the availability of water, to seemingly inundate a  18 portion of the bypass, that would provide responding  19 rearing habitat for splittail, also food production and  20 transport into the Delta. We are also looking at tidal  21 marsh restoration, again, the growing of tules and  22 cattails in the Cache Slough area. And we're also  23 looking at similar kinds of restoration in Suisun Marsh  24 and in the Western Delta.  25 Over the long term, we're looking at -- because we</p>	<p style="text-align: right;">Page 17</p> <p>1 environmental review in and of themselves. So I want to  2 make sure folks understand that aspect of the plan.  3 Lastly, there's this other stressors that I  4 mentioned earlier, and it's really kind of about common  5 sense. When we're restoring a more natural flow regime,  6 an east/west flow regime, for restoring habitat, we want  7 to make sure that we've conducting those restoration  8 activities in places where we're also managing invasive  9 species, when we're also managing water quality in that  10 area, to give the best opportunity for these species to  11 recover.  12 If there's one take-home message about the entire  13 strategies, we believe that to achieve the goals, to  14 achieve the recovery goals of the plan, we really need to  15 do all these measures together. And that any one of  16 them, taken individually, would not be as effective in  17 achieving this recovery goal.  18 So where we are in the development, in terms of  19 additional measures, we've identified approximately 50  20 individual conservation measures that were -- are  21 undergoing analysis. They are available on our website  22 and in these documents. The website address is  23 <a href="http://www.resources.ca.gov">www.resources.ca.gov</a>. I can provide it to you after and  24 make sure you know where to find it.  25 Where we are in the process is, we've got lots of</p>

<p style="text-align: right;">Page 18</p> <p>1 different conservation measure ideas, but we need to do  2 more analysis to better understand how they might  3 function, how they might achieve some of these biological  4 goals and objectives that I mentioned earlier on. We  5 also need to do an economical analysis; How much does it  6 cost? Critical thing is; How feasible is it to  7 implement? How practical is it to implement these kinds  8 of conservation measures?  9 So the expectation is, we will have a draft  10 conservation strategy by -- as part of, a bigger  11 conservation draft plan by the end of the year.  12 So where we are right now is at a scoping meeting.  13 But we have been working -- the steering committee has  14 been working to develop the elements of this plan that  15 will create a preliminary strategy that we expect to have  16 this summer. At that time, we'll come back out to the  17 community. I understand folks are really wanting to get  18 down to the details and understand what's in it and why,  19 that will be our time to do that. That's in advance of a  20 public review draft of the Bay Delta Conservation Plan.  21 We have a required -- by law, we have to circulate the  22 plan; take comment on it; give people ample time to  23 review it. And then by June of 2010, it's our  24 expectation to have a final of the Bay Delta Conservation  25 Plan.</p>	<p style="text-align: right;">Page 20</p> <p>1 it's now 7:30. We'll go to 8:30, whenever the questions  2 are ended. The questions tonight are meant for  3 clarification from what you heard here. If what you have  4 to say is more of an opinion or a suggestion, it's best  5 directed towards either the court reporter in the next  6 room, to get down what you have to say, a comment card  7 that you want to leave here, or you can go online and  8 make comments, because the technical folks in the other  9 room are looking for your input on what is the breath and  10 the depth of what should be evaluated in the  11 environmental analysis.  12 I will do the questions tonight or comments, you do  13 have some cards, I think they're three-by-five cards.  14 Just put your name on there, and I'll call two or three  15 at a time. If it doesn't look like we have that many,  16 we'll just be casual and raise hands. But let's start  17 with the forms.  18 The goal is to let everyone who wants to make a  19 comment or wants to go over there and make a suggestion,  20 to do so. If you have a question, and it's kind of a  21 clarification and we need to go back and forth, we're not  22 going to really keep time. If it's a statement you want  23 to make, we're going to ask you to limit it to about  24 three minutes, so we can have a concise statement. But  25 you will have the opportunity to make some additional</p>
<p style="text-align: right;">Page 19</p> <p>1 And as John mentioned, the results of the  2 conservation plan is a permit decision by the State and  3 Federal fishery agencies for the incidental take of  4 endangered species.  5 The EIR/EIS process, which analyzes this as a  6 proposed action against lots of other alternatives,  7 makes a decision about the right alternative moving  8 forward to achieve the project objectives.  9 So we spent a lot of time talking about the problem  10 that we're trying to solve; what our approach is to  11 solving it; what some of the ideas are to do that; and  12 where we're headed into the future. I'd like to open it  13 up now, I think, for questions. As John mentioned, the  14 purpose of tonight's meeting is scoping. The purpose of  15 this presentation was to give people the most up-to-date  16 thinking on the Bay Delta Conservation Plan to support  17 this input process that we're engaging in in the EIR/EIS.  18 So with that, Pam is going to be our facilitator,  19 and I have Paul Cylinder, who is developing the plan.  20 He's with Science Application International Corporation,  21 and he's here to help me answer questions. Also, Jerry  22 is here as a steering committee member. He will provide  23 us with some perspective on where we're headed.  24 Thank you very much.  25 PAM: Thank you, Karla. We have time tonight,</p>	<p style="text-align: right;">Page 21</p> <p>1 comments on the comment forms. You can make a comment as  2 long as you want.  3 So do we have some of the cards collected already?  4 And I'll call -- I probably won't need to call two or  5 three at a time, but if we do, I will. But I'm just  6 going to start with your names, and if you think of  7 something in the course of other questions, just look  8 around. We have some other cards, please feel free to  9 write your name down.  10 I am not going to read these questions, unless you  11 want me to read the questions. What I will look for is  12 your name.  13 Okay. Mary, I'm going to let you handle this on  14 your own. But first, let's start with Frazier Shelly.  15 And if you have an organization that you're with, that  16 you want to say what it is, that's fine, but you know --  17 FRAZIER SHELLY: Would you mind if I could  18 borrow that card, because I wrote some things down.  19 PAM: Here you go.  20 FRAZIER SHELLY: So I have several -- my name  21 is Frazier Shelly, and I live here in Davis. And I have  22 several questions related to, in part, to the ESA,  23 comments or sections that were referred to in part to  24 some of the information just related to the planning  25 description that was given.</p>

<p style="text-align: right;">Page 22</p> <p>1 So in particular, there was a Section 7 reference  2 made, which I think I'm going to refer to three sections,  3 maybe one of you all could help other people understand  4 what those are. But the Section 10, take recovery  5 conservation plan decisions that are going to be made  6 first, those are strictly related to take and mitigation  7 willing to take. But there was reference to recovery  8 goals, and so I'd be interested to find out if you're  9 actually pursuing a Section 4 recovery plan as well, or  10 if you're taking the novel path of using HCP as a  11 recovery plan, because that's generally not done, and it  12 would probably be the first example of it.  13 So I wanted to find out, is this just a Section 10  14 HCP, or is this a Section 4 recovery plan?  15 PAUL CYLINDER: Paul Cylinder at SAIC. We're  16 the lead consultant to the project here to the steering  17 committee and all the agencies involved.  18 To answer your question, there are actually a lot of  19 HCPs that contribute to recovery. HCPs, in terms of --  20 and John can quote you a verse on the regulations -- but  21 the requirement of an HCP is to minimize and mitigate  22 your impacts and to get -- to mitigate impacts. But  23 particularly, to the maximum extent practical, that's  24 what the regulations say, but there are many HCPs that go  25 beyond mitigation, and they contribute to recovery. We</p>	<p style="text-align: right;">Page 24</p> <p>1 of a permit. But there isn't -- there's not usually  2 assurance for the species for the habitat or ecosystems,  3 where if there's a default in terms of effectiveness  4 protection, the permit would then be temporarily withheld  5 or even canceled.  6 So I want to find out if this HCP is going to  7 have -- and NCCP -- is going to have a typical assurances  8 clause, in which case you'd have a permit for a take, say  9 for 30, 50 or 100 years, or if it's actually going to not  10 use assurances and no surprises and have adapted  11 management plan? And I put those things in context to  12 each other, because assurances doesn't allow you to do  13 adaptive management.  14 PAUL CYLINDER: I can tell you that everything  15 you mentioned is in process right now, in terms of  16 discussion and development within the steering committee  17 and the various subcommittees of the steering committee  18 to address the questions of -- we definitely are  19 including adaptive management plan. We've got an outside  20 scientific input on adaptive management, and it's  21 certainly an important part of the plan development.  22 Assurance is something and governance, and things  23 like that, and implementation approach, are all things  24 that are being considered. They're really in the  25 development stages, so we -- you know, participate and be</p>
<p style="text-align: right;">Page 23</p> <p>1 are also working under the State Natural Community  2 Conservation Planning Act, and that act requires that  3 contribution to recovery be part of the plan. So it's a  4 voluntary process. The steering committee, at this point  5 in time, has engaged in that voluntary process in  6 pursuing goals that include contributing to recovery of  7 these species.  8 Does that answer your question?  9 FRAZIER SHELLY: Yeah, I appreciate that.  10 Actually, I've been reviewing HCPs for the last 15 years.  11 I wrote one of the first critiques of HCPs in 1997, so  12 I'm pretty familiar with what they do. And from the ones  13 that I've read, including many in this region and from  14 the published literature about HCPs, there has not been a  15 single example of recovery being effective, let alone,  16 mitigating a real goal or a requirement of a plan.  17 So I wanted to ask, related to the HCP Act as well,  18 both the Federal ASA and HCP Act, those assurances as  19 part of the acts -- as part of the act requirement, but  20 they are optional, and often they are pursued as if they  21 are required. And in this case, assurances are  22 assurances for the permit holder. And the permit holders  23 would have assurance that they can pursue the activities  24 and engage in and take -- accompanying the activities, in  25 this case, large conveyance, and that that's a condition</p>	<p style="text-align: right;">Page 25</p> <p>1 part of that, but that's in the process.  2 FRAZIER SHELLY: I'm not going to take too much  3 longer. I have a couple of easier questions for you,  4 maybe. One of them is -- I'm pretty familiar with the  5 Freeport area and several of the alternative intakes are  6 downstream of Freeport, which is also where the Sac  7 Regional County Sanitation District's discharge is, and  8 at low flows, at very low flows, the discharge from that  9 secondary treatment plant is not the majority of the  10 flow, it's a significant part of the flow of the river.  11 That's in the summer, you know, when under draft  12 conditions you might want to withdraw from that water, so  13 why would you choose to have a drinking water facility  14 downstream of a secondary treatment discharge?  15 JERRY JOHNS: Well, we are right now. I mean,  16 but if you -- but if you were to redo it -- part of  17 that -- but in the summer time, like you're talking  18 about -- what we found in our study so far is we're  19 probably using the -- (inaudible) -- in the summer time,  20 water out of the southern part of the Delta to help with  21 water quality in the south Delta. So the flow has to be  22 low enough in the Sacramento River, we may not choose to  23 operate in the north Delta. We may choose to operate in  24 the South Delta.  25 So one of the nice things about -- (inaudible) --</p>



<p style="text-align: right;">Page 26</p> <p>1 you get to decide which one you're going to use. Right  2 now we're talking about preferably operating out of the  3 north Delta, but in the winter time when --  4 (inaudible) -- is they use it for fish, particularly in  5 the December through June period. But in July, August,  6 September period, the fish we're worried about here, are  7 not in the Delta. (Inaudible) -- smelt out here. Most  8 of the salmon pass through the estuary. So the --  9 (inaudible) -- South Delta in the summer time might be a  10 good thing to do, that's kind of some of the operating  11 material that we developed would indicate. So we'll  12 probably look at that issue.</p> <p>13 The other thing we want to talk about is, we do  14 have -- (inaudible) -- Sac Treatment Plant, particularly  15 related to ammonia. We think ammonia may be an issue  16 that's causing some of the destruction that we've seen --  17 we can go into more detail, if you want. So we are  18 working with Sacramento County right now about getting  19 that issue addressed, as part of the process as well.</p> <p>20 FRAZIER SHELLY: Okay. Well, good luck to --  21 (inaudible) -- South Delta. It seems like you might have  22 some -- (inaudible) -- issues at this --</p> <p>23 PAUL CYLINDER: And a lot of the --  24 (inaudible) -- issues because of the flows, we divert  25 right now a lot in the South Delta, the ocean salts in,</p>	<p style="text-align: right;">Page 28</p> <p>1 actually.</p> <p>2 I was wondering about adaptive management, which  3 hasn't really been addressed here, and you've implied  4 that some new science -- or you said that new science  5 would come into play in adaptive management plan, I think  6 is how you put it, and again, under Section 10, there's  7 no requirement for code and there's no requirement for  8 using (inaudible) so what's the impetus for motivation to  9 actually modify water conveyances (inaudible) activities  10 in response to the information about the ecosystem;  11 what's going to contractually obligate the permittee to  12 do that, as opposed to a good faith effort?</p> <p>13 PAUL CYLINDER: Well, a couple things. The  14 section that you -- the Fish and Wildlife Service and  15 National Marine Fisheries Service, in their policies, they  16 encourage HCPs to include adaptive management plans. The  17 Natural Community Conservation Planning Act has a  18 requirement that the Natural Community Conservation  19 Planning includes adaptive management in the plan during  20 the plan, so there are those requirements. But every  21 plan, this plan being a large and complex one, is going  22 to end with a series of agreements and permits and  23 through those agreements and permits is what will  24 determine how this plan will be implemented and who will  25 be implementing the various components of the plan,</p>
<p style="text-align: right;">Page 27</p> <p>1 we divert less quality -- less quantity of water in the  2 summer time. It could be better, you know.</p> <p>3 FRAZIER SHELLY: I had a question about the  4 role of the Natural Resources Agency. You're currently  5 both the lead and the mother agency for the permitting  6 department under the NCCP Act, so how do you resolve the  7 potential conflict between both the proponent for the  8 permit and the permit signer?</p> <p>9 KARLA NEMETH: The Resources Agency is not  10 going to be the permit holder. The Department of Water  11 Resources will be the permit holder. The Resources  12 Agency was created by Governor Brown in 1978 to help  13 government do a better job at managing resources  14 conflicts, and that's the role of the Resources Agency is  15 to convene and look for a solution that's appropriate and  16 legal into the benefit of the fish.</p> <p>17 FRAZIER SHELLY: And DWR is within the agency?  18 KARLA NEMETH: Yes.</p> <p>19 FRAZIER SHELLY: So the permit agency is within  20 the agency that's supplying the permit?  21 KARLA NEMETH: As is the permitter, yes. Fish  22 and Game and DWR.</p> <p>23 FRAZIER SHELLY: Right. Okay.  24 PAM: Frazier, do you have a lot more?  25 FRAZIER SHELLY: Yeah, one last question,</p>	<p style="text-align: right;">Page 29</p> <p>1 including adaptive management process implementation. So  2 that's part of this process, is to develop adaptive  3 management plan as well as adaptive management process  4 and the decision-making process.</p> <p>5 FRAZIER SHELLY: And that actually reminds me  6 of my last question.</p> <p>7 JERRY JOHNS: Let me add a little bit here, if  8 this is taking too long, we can stop. But one of the  9 things we want to do is have this conservation plan help  10 drive permitting in other venues as well. We're working  11 with the Corp of Engineers in locating -- (inaudible) so  12 we want this process to provide those kinds of permits as  13 well.</p> <p>14 In addition, we have a Water Resources Control Board  15 it also deals with this. So we want this plan to help  16 inform all those processes. This is pretty complicated.  17 We have a lot of different parts. We've got three  18 federally agencies -- (inaudible) four lead agencies --  19 three different -- (inaudible) we've got three different  20 sets of consultants working on this stuff and we've got  21 all these other permits and -- we're not going to get it  22 right the first time. I think everybody understands,  23 we're going to take the best shot, with the best  24 information we have, but we're not going to get it right.  25 I've been doing this for 30 years or more, and health</p>

<p style="text-align: right;">Page 30</p> <p>1 rights -- and we got it close. We didn't get it exactly  2 right. We're going to have to realize that's reality in  3 the estuary. The science is changing, about every time  4 we get the science right, we get a new invasion of  5 species that screws up the science and changes the whole  6 system. So we're going to have to adapt to that.  7 But what we're looking at is kind of a range of what  8 the permit would be, and we'll have to have operating  9 criteria that are very specific at -- the fish agencies  10 can give us operating criteria to operate these  11 facilities. But we're going to have to also develop a  12 band around that that says, you know, we can go in or out  13 within this band and still be covered under the permit  14 and the adaptive permit program will help us light where  15 we plan. So the permit will be both specific, but also  16 general enough to cover an adaptive range. And they'll  17 be kind of routine and non-routine changes, but the  18 decisions we make every week on operating the system  19 right now are based on the best science we have from fish  20 studies, where the fish are, how the -- (inaudible), are  21 they going to be effective or not, we change operations  22 weekly on those meetings we have. So right now we're  23 doing kind of routine adaptive management within those  24 ranges of our biological -- (inaudible) that's going to  25 continue. So that's not going to change, but there will</p>	<p style="text-align: right;">Page 32</p> <p>1 and we've done the details modeling to give people an  2 idea and give ourselves an idea of what it might look  3 like in the Delta; water quality, height stages, those  4 kinds of issues, so people get a concept of that. That  5 is, helping to guide some of the more detailed scientific  6 reviews of what we think we might get out of that  7 biologically and that data is currently being done right  8 now, so we're going to have that information to inform us  9 as we move forward.  10 So if you're interested in what it might look like,  11 or the modeling that we've already done, at least in  12 terms of water quality, and Delta outflows and inflows,  13 and river flows and bypass requirements, we have that  14 data currently. We'll refine that over the next, you  15 know, several weeks or several -- couple of months, I  16 guess, to get a draft plan, so you'll have an idea of  17 exactly what the operating criteria are likely to be.  18 FRAZIER SHELLY: I think the question is the  19 draft take permit itself, the draft take permit, when can  20 we see that in relation to the rest of the conservation  21 plan?  22 PAUL CYLINDER: Right. Again, the process --  23 the way the Endangered Species Act process for  24 permitting, is the EIR process run in parallel, is that  25 the draft document -- well, we've been public throughout</p>
<p style="text-align: right;">Page 31</p> <p>1 probably also be a broader range. But we're talking in  2 details here that we still haven't worked out all the  3 details yet, but that's kind of the concept we're trying  4 to enforce.  5 FRAZIER SHELLY: Okay. I have a short-time  6 question, that is, the take permit. It's really  7 difficult to evaluate the conservation measures, the  8 impacts on the farmer, whatever their opinions are,  9 without the take home, and it's pretty -- it's not really  10 fair to ask people to evaluate without knowing what  11 actually is going to be -- what's actually going to  12 happen, what's the operational impact.  13 Can you release the permit, the draft take permit,  14 at the same time that you're releasing this conservation  15 measures and other kinds of descriptions, so that we can  16 really evaluate the conservation measure effectiveness,  17 the effects of family farms in the Delta, whatever the  18 question is, we really need to have that other  19 information in front of us; so when can you do that and  20 can you do that soon?  21 JERRY JOHNS: What I interpret here is kind of  22 like the operating criteria, say for conveyance stuff, we  23 do have some modelings on -- (inaudible) -- that we can  24 reference of what we think the conservation plan will  25 look like, including some habitat operational criteria,</p>	<p style="text-align: right;">Page 33</p> <p>1 this process, so we've had an open steering committee,  2 open sub committees and the public has commented and  3 given comments during those meetings, but the formal  4 process is, and what we're in here in terms of scoping,  5 the next step in the formal process, or one of the next  6 steps, the big one, will be the release of public  7 document. And that public document, the public HCP/NCCP  8 will identify what the applicants are asking for to be  9 included in the permit for authorization for taking of  10 endangered species.  11 So I think that's what you're asking for, is where  12 you will see that request by the applicants for take  13 authorization. At the same time, there will be a  14 release -- the environmental document, the  15 environmental -- (inaudible) -- about impact report that  16 will assess the effects of the conservation plan on the  17 human environment, on all the resources and that might  18 touched and affected in the Delta and people and  19 property.  20 The plan itself, the HCP/NCCP, will have a quite  21 detailed assessment of the affects on the species that  22 are covered by the plan, so all these fish we've been  23 talking about, as well as in addition to species --  24 terrestrial species, involved in the plan, that it would  25 be affected by implementing the plan. So all that</p>

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1 assessment will be there, and it will be in public forum  
 2 formally, with that release to the public draft  
 3 documents, as Karla said, at the end of the year. But  
 4 we're also, as Karla mentioned, looking to release public  
 5 release and drafts of the documents in the summer.

6 FRAZIER SHELLY: When do you expect to see a  
 7 permit?

8 JOHN ENGBRING: There is no draft permit.  
 9 There is no draft permit.

10 FRAZIER SHELLY: Right. I understand that.  
 11 When do you expect to see one from the State?

12 JOHN ENGBRING: Oh, you mean --

13 FRAZIER SHELLY: When do you expect to see a  
 14 draft from the State --

15 JOHN ENGBRING: -- we don't see an ITP from the  
 16 State. We see the draft conservation plan. We issue the  
 17 incidental take permit.

18 FRAZIER SHELLY: Right. And initially --  
 19 (inaudible) -- when did that start?

20 JOHN ENGBRING: Right now. We're providing  
 21 technical advice --

22 FRAZIER SHELLY: Okay.

23 JOHN ENGBRING: -- to these folks as they start  
 24 crafting this habitat conservation plan. When they start  
 25 moving into areas where we feel uncomfortable, we don't

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1 think we can issue a permit for that. That's going  
 2 beyond what we believe these species can manage through.  
 3 They're not going to recover if we issue a permit with  
 4 those kind of -- so our role is to provide technical  
 5 advice as that plan is being developed, but we don't  
 6 actually issue the permit until after the record of  
 7 decision is signed, the final, final document.

8 You have a lot of very specific habitat conservation  
 9 plan questions, you know, no surprises policy, adaptive  
 10 management policies, those are all -- those are in our  
 11 regulations. Talk with me next door, and we can go over  
 12 some of those things.

13 PAM: Thank you very much.  
 14 Mary and then David.

15 MARY: Mary (Inaudible) from Clarksburg. I did  
 16 have one question that came up with Mr. Shelly, and this  
 17 has been on my mind for some time -- (inaudible). It's  
 18 not exactly a question, but maybe it is. The adaptive  
 19 management is predicated on trying things, seeing how  
 20 they work. If they work, do some more of that. If they  
 21 don't work, we'll try something else.

22 What happens when you -- first of all, what happens  
 23 when you abandon something? In other words, you have  
 24 measure, maybe you took somebody's land or somebody gave  
 25 you their land, or they sold it to you, or whatever, now

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1 do they get their land back if it doesn't work, or is it  
 2 left a lot -- kind of like -- (inaudible) -- sitting for  
 3 a while then, you know, what happens there?

4 The Delta is an entity. It has integrity as it is  
 5 now. It's degraded, everybody says that. But if you  
 6 make small changes in the Delta, as I believe some of the  
 7 early modeling was reported on when I went to one of the  
 8 other steering committee meetings, they found out to  
 9 their surprise big changes happened in remote areas they  
 10 didn't expect.

11 So my question is, what happens when adaptive  
 12 management measures are found not to work? That's my  
 13 first question.

14 JERRY JOHNS: Well, one thing, you wouldn't  
 15 want to do that again.

16 MARY: Obviously.

17 JERRY JOHNS: So I think that is part of this,  
 18 we will do the best job we can to identify early on what  
 19 we think the results are going to be before we take the  
 20 action, that's the whole purpose of the environmental  
 21 impact process and the independent review process, but  
 22 we're going to do the best we can.

23 For example, you start a restoration program like,  
 24 Cache Slough, for example, and you start that and things  
 25 are just not turning out the way you thought. We're not

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1 going to go in there and restore the whole thing all at  
 2 once. I don't think we can get the permits to do that  
 3 all at once. And because you don't know, you might want  
 4 to get your foot in the door first, do some restoration,  
 5 see how it responds, and then move forward. Right now  
 6 for example, we're doing some restoration, hopefully we  
 7 get it done, we got a permit out on Dutch Slough, south  
 8 part of -- in the Delta, and we'll learn from that as we  
 9 go forward. So part of this is just to learn and then  
 10 adapt and then implement. But in terms of just  
 11 abandoning it, I don't think we would abandon it. I  
 12 think what we would do is learn from that part. We may  
 13 not want to do more of those, but we would probably keep  
 14 those things -- (inaudible) -- unless we had a good path  
 15 on how to undo it.

16 MARY: Well, your plans do say "abandonment,"  
 17 that's why I asked the question. That word is in there.  
 18 It struck me. That's why I'm asking it. It says that  
 19 plans might be abandoned.

20 JERRY JOHNS: Well, the plan might be.

21 MARY: No, I mean adaptive management measures  
 22 might be abandoned if it didn't work. That's my  
 23 question.

24 JERRY JOHNS: I'll let Paul answer this,  
 25 because he probably wrote this.

<p style="text-align: right;">Page 38</p> <p>1 PAUL CYLINDER: The plan would be -- let's say  2 you were going to restore 5,000 acres in Cache Slough.  3 MARY: (Inaudible) -- that's not a little piece  4 of land.  5 PAUL CYLINDER: But anyway, so maybe you start  6 with 1,000, and you find out that 1,000 just isn't  7 working well, then you would abandon the other four --  8 MARY: What happens to the land that you  9 abandon?  10 PAUL CYLINDER: Right now, I just haven't  11 progressed beyond --  12 MARY: I think you should think about it,  13 because there's only so much of the Delta. It's not a  14 playground for your plans.  15 The other question I had is, what happens if you  16 find it works, how do the people -- 80 percent of the  17 Delta is in private land -- now, I know that most of what  18 you're proposing is, a lot of it is on public land now,  19 okay. But obviously, some of the things you want to do  20 will have to go on private land. So my question is, what  21 happens to those of us who own private land in the  22 Delta -- not me, my parents -- we have to wait and see  23 whether your plans work, and then if they work well,  24 you're going to want more land. So where are the  25 assurances for those of us who own private land in the</p>	<p style="text-align: right;">Page 40</p> <p>1 of restoration can and cannot happen in the Delta.  2 The second piece of that is that implementation  3 structure for the plan. And again, that information is  4 under development. It will be available in the summer,  5 but one of the key issues in the plan, in the  6 implementation structure, is creating a clear path for  7 working with local jurisdictions, working with local land  8 owners on precisely those kinds of issues. How do we  9 implement habitat restoration? How do we manage that  10 through the implementation plan? In that sense, that is  11 the --  12 MARY: -- (inaudible) -- because that's a  13 nine-member commission all appointed, one of whom is from  14 the Delta.  15 KARLA NEMETH: We are evaluating a variety of  16 different structures. But it's a good point. It's  17 something we're thinking about, because we need the plan  18 to work and we need it to be implementable.  19 MARY: Okay. Second question is -- I'll just  20 read it. The BDCP is dealing primarily with water  21 reliability and habitat restoration -- you said that --  22 every single one of the physical measures you are  23 contemplating will, by itself, result in multiple impacts  24 to the integrity of the present Delta; the levee system,  25 the hydrology, the economic environment, the existing</p>
<p style="text-align: right;">Page 39</p> <p>1 Delta? The water contractors are going to get their  2 share. The fish are going to be taken care of, but what  3 about the people who own the land in the Delta, what  4 assurances do they have that this plan won't grow or it  5 won't change, or it won't take on all kinds of  6 ramifications under adaptive management, because that's  7 what adaptive management is all about, changing to --  8 (inaudible) -- until it gets better, because we don't  9 know really what the things are going to do? So that's  10 my question, and my next question is sort of based on  11 that.  12 KARLA NEMETH: I do want to respond to that,  13 Mary, because I think it's a really important point that  14 you're making. There are a couple of ways to look at it,  15 and that is what we're doing right now, which is  16 biological opinion after biological opinion after  17 biological opinion, closed consultation process in which  18 habitat restoration is determined.  19 What we're trying to do, is do it in a much more  20 transparent way, over a longer period of time, get an  21 understanding of what needs to be done for habitat  22 restoration for a multiple set of species that I think  23 can provide, you know -- against what we're doing today.  24 It's a good point -- against what we're doing today --  25 can provide a measure of predictability about what kind</p>	<p style="text-align: right;">Page 41</p> <p>1 habitat, the social fabric, who is responsible for seeing  2 that the integrity of the Delta, as a whole, is  3 maintained throughout and after the measures have been  4 implemented? In other words, who is overseeing the --  5 you guys have your focuses -- the way it looks to us is  6 that your implementing entities are going to have  7 jurisdiction over our Delta protection commission, over  8 our local land use, everything is going to come under  9 those goals. They will be subject to them and there will  10 be no way in which they can deviate from them, so the  11 whole Delta will be made to serve this plan. So that was  12 my question; who is overseeing the rest of it, again,  13 where we live, and where we work and where people  14 recreate, etcetera, etcetera?  15 KARLA NEMETH: The EIR/EIS process assesses the  16 impacts, and as you know, mitigation that's required for  17 human environment socioeconomic. But I do want to  18 emphasize that is of critical importance to the resources  19 agency. The resources secretary, as I mentioned, has  20 been talking to Delta county officials to enter into a  21 cooperative agreement, a formal agreement, to lay out a  22 path to make the Delta counties whole during the  23 development of the plan.  24 MARY: Well, we know the Delta counties are  25 worried about their money essentially. The counties,</p>

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1 they are worried about their money that they are going to  
 2 lose from the habitat, but other than that --  
 3 (inaudible) -- but other than that, I'm not so sure that  
 4 they, you know, those Delta survivors who all live in the  
 5 Delta. In fact -- (inaudible).  
 6 KARLA NEMETH: That's a good point.  
 7 JERRY JOHNS: In terms of the governance  
 8 issues, we're looking at -- there are other things that  
 9 the governance issues in the Delta that need to be  
 10 addressed, levee issues, for example. We're not looking  
 11 at -- (inaudible) for the BDCP to address issues like,  
 12 land use and those kinds of things. There's a broader --  
 13 that's a broader issue that the State of California needs  
 14 to address, and from the Delta Vision Program task  
 15 force there's a concern about that. So we're looking at  
 16 basically that land, Department of Water, fish interface  
 17 part of it and how that moves forward.  
 18 MARY: But levees will all be affected by what  
 19 you guys do.  
 20 JERRY JOHNS: Who's looking out for the Delta?  
 21 The Delta is going to change. I've got a report that  
 22 we're going to release tomorrow about --  
 23 MARY: That's fine.  
 24 JERRY JOHNS: -- and each district is looking  
 25 at those things, and this plan is not going to get

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1 into -- (inaudible) -- levee issues. Certainly levee  
 2 issues for the Department of Water Resources is a big  
 3 deal, because we invest in levees in the Delta, so --  
 4 MARY: Excuse me. (Inaudible).  
 5 PAM: Can you go to the microphone, because  
 6 we're -- the court reporter is trying to record it, and  
 7 we need to hear you.  
 8 MARY: Oh, I gotcha.  
 9 KARLA NEMETH: Did you want to follow up with  
 10 that, Mary?  
 11 MARY: Yes.  
 12 PAM: Okay. And after Mary, it's going to be  
 13 David and then Tim.  
 14 MARY: All I'm saying is, the levees will be  
 15 affected by what you do. You have to think about them.  
 16 The economy will be affected by what you do. You have to  
 17 think about that. And just because you develop an EIR  
 18 and maybe talk about some mitigation, mitigation is, in  
 19 many cases, a crock. It doesn't really, you know, it may  
 20 satisfy you, but it may not satisfy the issue at large.  
 21 Okay. So that's kind of what I'm saying.  
 22 KARLA NEMETH: Thank you.  
 23 DAVID: Good evening. My name is David  
 24 (inaudible). I represent Recreational boaters of  
 25 California, which we have members in Southern California,

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1 Northern California, power boaters, sail boaters, million  
 2 of them -- (inaudible) -- registered by the State of  
 3 California, in addition there are also kayakers and a  
 4 list of many others that enjoy boating.  
 5 Looking at the Delta, it is a place -- looking at it  
 6 probably from a perspective of recreation, as the flows  
 7 are proposed to be changed, my comments would be along  
 8 these following lines, and you've alluded to some earlier  
 9 changes -- (inaudible) -- as well.  
 10 For example, kind of two areas. I'll talk about  
 11 first the proposed barriers, the gates at Three Mile  
 12 Slough, and the ones I've decided, Bacon Island, or an  
 13 assortment of others. We would be looking to have  
 14 assurances on both (inaudible) that are installed and  
 15 constructed, maintained and operated at no cost to the  
 16 boaters for being able to continue to use and enjoy the  
 17 waters of the United States from a mitigation  
 18 perspective.  
 19 And although, not shown on the peripheral canal is  
 20 here, (inaudible) the Delta conveyance facility, which  
 21 would come down another -- same intake down through --  
 22 what we call the meadows area into the North Fork of the  
 23 Mokelumne by going past Tower Park and then down along  
 24 Little Potato Slough, and then crosses over the deep  
 25 water channel and continues to head south. Looking at

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1 the maps this evening, I would again, want to have the  
 2 same assurances we would be looking at some follow-up  
 3 meetings, that as those levees were put in place,  
 4 enhanced, and possibly changed surveying the water ways  
 5 and exactly how boating is going to be accommodated so  
 6 that folks who now transit those gray areas, I just  
 7 described, can do that, as the new flows are shunted, if  
 8 you will, from north to south and how that's going to be  
 9 affecting boaters, I think is a critically important  
 10 item. And I'd like to have that addressed and also like  
 11 to have some follow-up meetings. I have talked to  
 12 several of my colleagues here tonight, because I do  
 13 attend some of the meetings on Friday, but more formerly,  
 14 I need to have these keyed up and some responses. Thank  
 15 you.  
 16 KARLA NEMETH: Thank you. Good comment. I  
 17 appreciate that.  
 18 Tim Newharth.  
 19 TIM NEWHARTH: Tim Newharth, resident of the  
 20 Delta, farmer in that area. Just a general comment, then  
 21 a couple of questions. I see billions and billions of  
 22 dollars going into this project from one end to the  
 23 other. The conveyance system is billions. The habitat  
 24 restoration is multiple millions, if not billions,  
 25 billions for gates, and whatever else you're going to do

<p style="text-align: right;">Page 46</p> <p>1 there.</p> <p>2 So we're building this canal, and I refer back to</p> <p>3 your literature here and it makes a comment under Facts</p> <p>4 About Conveyance. Your bullet point Number 3, altered</p> <p>5 hydrodynamics, water movement in interaction with canal</p> <p>6 beds and banks does not provide the proper nutrients,</p> <p>7 water temperatures, water volume, water (inaudible) or</p> <p>8 water depth to support fish species survival.</p> <p>9 As I understand it, the conveyance, the eastern</p> <p>10 conveyance, is to carry between 15,000 and 25,000 cubic</p> <p>11 feet a second of water. I haven't checked the Sacramento</p> <p>12 River flows in the last few days, but I suspect it's</p> <p>13 running about 15,000 cubic feet a second at the moment.</p> <p>14 So if we're taking that much water out of the system and</p> <p>15 taking it all the way around, I don't understand how</p> <p>16 you're going to change anything to the better, as so far</p> <p>17 as altered hydrodynamics is concerned.</p> <p>18 It doesn't make sense to me that we're going to take</p> <p>19 that much water out of a system that's barely surviving</p> <p>20 as it is. It's already under stress. We already know</p> <p>21 that. You talk about changing flows from the north/south</p> <p>22 direction to an east/west direction. Well, if there's --</p> <p>23 if most of the water is coming down through the north,</p> <p>24 then that's where your water flow should be going through</p> <p>25 the Delta in the first place, not taking it out of the</p>	<p style="text-align: right;">Page 48</p> <p>1 rigmarole, all of this bureaucracy, all of this expense,</p> <p>2 just to maybe have a couple months or so to pull water</p> <p>3 out of the river. Okay. And plus, on top of that,</p> <p>4 altering the Delta far beyond, I think, anybody's</p> <p>5 imagine. I don't care what your computer models say, or</p> <p>6 what you put in there, but it's going to have some deep</p> <p>7 and long-lasting effects that I don't see how they're</p> <p>8 going to be positive for the Delta. I don't see that.</p> <p>9 So that's my comment. My question is, is on your</p> <p>10 other handout, Facts about BDCP's approach to other</p> <p>11 stressors, Bullet Point 3 says, in treatment at water</p> <p>12 intake pumps not operated by SWP or CVP; what do you mean</p> <p>13 by that? Can you be more specific as to what you mean by</p> <p>14 that?</p> <p>15 KARLA NEMETH: Meaning, in Delta diversions</p> <p>16 that are not state and federal project pumps, we're</p> <p>17 considering conservation measures that modify those</p> <p>18 diversions, consolidate those diversions, that also</p> <p>19 centrally make those diversions as fish friendly as they</p> <p>20 can be, that's a measure that's under consideration.</p> <p>21 TIM Newtharth: Well, can you give me a more</p> <p>22 defined term as what you mean by other diversions?</p> <p>23 KARLA NEMETH: Paul?</p> <p>24 PAUL CYLINDER: Like agriculture diversions in</p> <p>25 the Delta. We've got thousands of diversions in the</p>
<p style="text-align: right;">Page 47</p> <p>1 top and running it around the outside to do this.</p> <p>2 In addition, if we're looking at the global warming</p> <p>3 aspect of these things, and we're going to have reduced</p> <p>4 rainfall, and we're going to have reduced snow pack and</p> <p>5 water content and so forth, where is this water coming</p> <p>6 from that's going to go into this thing in the first</p> <p>7 place, and where is it going afterwards? Is there</p> <p>8 additional storage being talked about down south? Is</p> <p>9 there additional storage being talked about up north</p> <p>10 where we would have a chance to collect this water, when</p> <p>11 we have it abundantly, and then run it through this</p> <p>12 canal? I haven't heard that.</p> <p>13 I've also heard recently that we're only going to do</p> <p>14 this take for the peripheral canal when we have abundant</p> <p>15 flows to work with. Well, I've lived down there all my</p> <p>16 life and abundant flows only happen about two months out</p> <p>17 of the year, depending on the year we have. And it</p> <p>18 hasn't happened much in the last three years, so if we're</p> <p>19 going to build all of this -- all of these facilities,</p> <p>20 and it's only going to be used two months out of the</p> <p>21 year, and the rest of the time it's going to be used --</p> <p>22 the function we have now, is going to be in place, I</p> <p>23 don't see the point in doing this in the first place. It</p> <p>24 doesn't make sense to me. It does not make sense to me</p> <p>25 one iota, that we're going to go through all this</p>	<p style="text-align: right;">Page 49</p> <p>1 vibrant thousands of acres of farm land in the Delta that</p> <p>2 have siphons that move water onto those lands, those</p> <p>3 siphons likely collect some fish, so we can mitigate</p> <p>4 those by consolidating where we could or putting fish --</p> <p>5 TIM NEWHARTH: And has anybody ever done any</p> <p>6 studies to see how much fish species go through those</p> <p>7 pumps during the course of the irrigation cycle?</p> <p>8 JERRY JOHNS: Yep.</p> <p>9 TIM NEWHARTH: They have?</p> <p>10 JERRY JOHNS: Yeah. In fact, the Department --</p> <p>11 we have two islands in the Delta that we own, Sherman</p> <p>12 and -- (inaudible) -- and we have screened our facilities</p> <p>13 on those islands.</p> <p>14 TIM NEWHARTH: And studies been done, other</p> <p>15 than the core of the Delta, which was Sherman and</p> <p>16 (inaudible)?</p> <p>17 JERRY JOHNS: Yeah, I think there have been</p> <p>18 studies done particularly on Bacon and Webb, and those</p> <p>19 islands for the Delta (inaudible) for those intakes as</p> <p>20 well.</p> <p>21 TIM NEWHARTH: I think there's a vast</p> <p>22 difference upon what you may see in the middle of the</p> <p>23 Delta say, Highway 12 Corridor, than what you may see</p> <p>24 around the perimeter or the other part of the Delta.</p> <p>25 And then my final comment or question is, we have a</p>

<p style="text-align: right;">Page 50</p> <p>1 lot of these meetings and a lot of things are said at  2 these meetings, and I know that you need to check them  3 off on your list as these are what your requirements are  4 to do by law, to have these public comment meetings.  5 However, we don't see hardly any, if any, of these public  6 comments ever getting into literature or (inaudible) by  7 the agencies of which you represent. So just to let you  8 know.</p> <p>9 JERRY JOHNS: The comments we received on  10 Chapter 3, we're going to post those, the comments that  11 we see there, we are going to post those. Then we're  12 going to move the -- (inaudible) we had it reviewed in  13 the fall. But we are going to get those up on the  14 website, and of course, these will be looked at. And we  15 are -- you may not think we listen to these comments, but  16 we do. We take them very seriously and we want to try  17 and address them. But real quick, and then I'll give you  18 back to Karla.</p> <p>19 You talked about 15 to 25,000 cfs, but (inaudible)  20 in the south Delta. And the key really, in terms of how  21 it's operated, when do you use those facilities and when  22 you do not. So the operating of the plans that we have,  23 that we did in December and January, provide for bypass  24 requirements at different times of the year to help  25 protect the fish as they move past these facilities. And</p>	<p style="text-align: right;">Page 52</p> <p>1 areas -- simply because of how we divert water out of the  2 southern Delta. We could divert potentially more water  3 and still protect Delta Smelt, if we had a diversion  4 point outside of where Delta Smelt are (inaudible).  5 Right now we have a diversion location in basically  6 the Delta Smelt primary -- (inaudible) -- that's not very  7 smart. We need to be looking at alternative ways to  8 divert water that don't affect all the smelt, and by  9 moving the intake is certainly one way to do that.</p> <p>10 TIM NEWHARTH: Yeah, that may be, but you're  11 moving the intake up where the water is coming from  12 normally in the first place, so you know you're --  13 JERRY JOHNS: There aren't any Delta Smelt up  14 there either.</p> <p>15 TIM NEWHARTH: Well, so be it. But what I'm  16 getting at is, that the whole Delta is in jeopardy  17 because what we're doing is taking water around the  18 outside and expecting it to go -- to go against the  19 natural flow from north to south in order to keep the  20 Delta viable. I don't see how it's going to work that  21 way. You're trying to push water uphill. It's not going  22 to happen.</p> <p>23 JERRY JOHNS: Well, we'll talk about it.  24 PAM: Tim, I think there was another question  25 in there, did you want to ask about the public input?</p>
<p style="text-align: right;">Page 51</p> <p>1 what happens is, when those bypass requirements are not  2 met, then you don't divert out of the north Delta, you  3 divert out of the south Delta some place, or you don't  4 divert at all.</p> <p>5 So there are requirements for that. And the test  6 now is, are those adequate? We're doing some very  7 detailed analysis on that right now, and we'll include  8 that analysis and additional analysis in the EIR that  9 will determine the adequacy of those operating criteria.</p> <p>10 TIM NEWHARTH: Well, that's exactly my point.  11 We already have low water flows going through the Delta  12 already. We have a new team facility up in South  13 Sacramento to feed the City of Sacramento. We've got a  14 sewer discharge in Freeport that's putting in bad water,  15 and then we're going to take more water off the top of  16 the Delta. Again, I don't see how that's a positive for  17 the Delta in the long run, and particularly, as it  18 relates to the amount of money that's going to be spent  19 on all of this. It just doesn't --</p> <p>20 JERRY JOHNS: We should talk afterward about  21 what's going on currently in terms of flows in the south  22 Delta, it's a big deal to the fish agencies, to those  23 reverse flows in Southern California. And they're  24 constraining our operations today, in terms of our  25 ability to move water in a drought, to move water to</p>	<p style="text-align: right;">Page 53</p> <p>1 KARLA NEMETH: Yes. Thank you. In terms of  2 public comment, where we are right now, is we have been  3 talking to folks through one-on-one briefings with  4 different organizations, getting their understanding of  5 what their issues are. Some of those are issues that  6 will be addressed in an EIR/EIS setting, some of them are  7 issues that will be addressed in how the conservation  8 measures are drafted. Some of them will be addressed  9 in -- through the implementation process of the actual  10 plans, there's kind of three ways in which comments at  11 this point get considered.</p> <p>12 When we move towards releasing preliminary plan, one  13 of the things that we'll be doing is taking all the  14 comments that we've received, where folks have a real  15 concern about a specific issue and creating kind of a  16 road map or orientation piece where we can point folks to  17 where in a document those issues are addressed in, either  18 a conservation measure or in the implementation plan, and  19 those sorts of things.</p> <p>20 We'll do that as a companion piece to this  21 preliminary draft this summer. We'll do it again as a  22 companion piece to the public draft that's expected at  23 the end of this year. And in that preliminary draft, we  24 have a legal requirement to circulate that, have folks  25 review it, provide comment, and we need to respond to</p>

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1 those comments. So as we continue to kind of get our  
 2 heads around what it's going to take to address these  
 3 multiple fish species needs and do it in a way that  
 4 contributes to their recovery. We start to see what that  
 5 strategy looks like. We're really going to ramp up the  
 6 outreach and the input and how it's reflected in  
 7 subsequent draft plans. But we just don't have the draft  
 8 plan, even preliminary yet.

9 TIM NEWHARTH: You talk about channel margin  
 10 restoration as you show down here in the San Joaquin  
 11 area, can you expand upon that as to what you mean by  
 12 that?

13 PAUL CYLINDER: There's actually a couple of  
 14 conservation measures that are in the drafts that  
 15 identify channel margin enhancement, and there was also  
 16 measures that identify flood planning restoration. And  
 17 channel margin enhancement is mainly working with the  
 18 existing levees and -- (inaudible) along levees for the  
 19 benefit of fish that are using those migration corridors.

20 Flood planning would involve a set back of levees.  
 21 Now, the way the draft measures are described right now  
 22 in the documents is that these type of activities would  
 23 only be conducted in coordination with the Army Corps of  
 24 Engineers and the flood control program in conjunction  
 25 with habitat flood planning restoration program, so you're

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1 setting back a levee of why channel -- (inaudible) -- for  
 2 the benefit of the fish that had to be done in  
 3 conjunction with a flood control program. Those are two  
 4 different things. There's improvement of existing levee  
 5 side, vegetation without affecting the levee, and then  
 6 there's levee setback that would increase flood plain.

7 TIM NEWHARTH: Those are done in the same  
 8 areas? There's a flood plain restoration in the -- and  
 9 the marginal restoration are being considered both in  
 10 these areas that are outlined in red?

11 PAUL CYLINDER: No --

12 TIM NEWHARTH: Or is it one or the other?

13 PAUL CYLINDER: -- along the San Joaquin in the  
 14 south here, the draft measure there discusses the flood  
 15 plain restoration up here at -- up here at southern  
 16 Steamboat slough. We're not really talking about  
 17 changing the levee so much as improving the channels --  
 18 (inaudible).

19 TIM NEWHARTH: So improving the stream by  
 20 habitat restoration; is that what you're talking about?

21 PAUL CYLINDER: Right. And the import of this  
 22 as a corridor that the salmon use and use it to increase  
 23 survivorship of the salmon -- (inaudible) -- habitat for  
 24 the salmon and reducing habitat for predators at the same  
 25 time.

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1 TIM NEWHARTH: Do you have some written outline  
 2 of that process at this point somewhere?

3 PAUL CYLINDER: Yeah. It's in the draft that's  
 4 on the web, there's a discussion in that conservation  
 5 measure that describes the benefit of it, the method of  
 6 it, and the risks of it are all described in that draft  
 7 measure and we'll have some updates of those measures  
 8 coming out soon. But again, these are all in draft stage  
 9 as we work through, and then background -- (inaudible) --  
 10 and those are our conservation measures.

11 TIM NEWHARTH: Thank you.

12 PAM: I don't have any more comment cards.  
 13 This is kind of the last call, if anyone would like to  
 14 ask a question here before Karla wraps up and we move to  
 15 the one-on-one conversations in the next room.  
 16 Anyone else?

17 I just encouraged the folks who spoke, some of your  
 18 questions and comments sounded like they would be very  
 19 appropriate to be written down and shared next door, so  
 20 if you could frame those into issues that you would like  
 21 the environmental team to investigate, that would be very  
 22 helpful to the official scoping process. So we're not  
 23 closing the questions down tonight. We're just going to  
 24 breakdown into one on one.  
 25 Karla, did you want to --

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1 KARLA NEMETH: I just want to say thank you  
 2 very much.  
 3 (Whereupon the meeting was adjourned at 8:23 p.m.)  
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BAY DELTA CONSERVATION PLAN  
ENVIRONMENTAL IMPACT REPORT (EIR)  
AND ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS

WEDNESDAY, MARCH 18, 2009  
PUBLIC COMMENTS  
6:00 P.M.

VETERANS MEMORIAL CENTER  
203 EAST 14TH STREET  
DAVIS, CALIFORNIA

REPORTED BY: HE SUK JONG, CSR 12918

<p style="text-align: right;">Page 2</p> <p>1 Dave Breninger, president of Recreational 2 Boaters of California, 925 L Street, Suite 220, 3 Sacramento, California 95814, (530) 823-4860, 4 dbreninger@pcwa.net.</p> <p>5 MR. BRENINGER: Our issue is looking to 6 sustain accessibility for recreational boats to the 7 waters of the United States in the Delta as changes 8 are proposed.</p> <p>9 A couple of examples where we would very 10 much like to have further discussion: Wherever any 11 gates or barriers are placed across waterways, such as 12 Three-Mile Slough, Bacon Island, and other locations, 13 is that boat locks also be installed and operated at 14 times when the boating public wants to travel through 15 the Delta and that the locks be built and operated at 16 no expense to boaters since they're being placed 17 across waters of the United States.</p> <p>18 The second example we would give relates to 19 the proposed Through Delta Conveyance facility, which 20 basically would be along alignment of existing eastern 21 Delta waterways. And our concern, again, would be 22 that as new levees or barriers are installed across 23 existing waterways, that accommodation for 24 recreational boats, again, be provided and operated at 25 no expense to boaters.</p>	<p style="text-align: right;">Page 4</p> <p>1 neighboring farmland. This needs to be addressed in 2 the EIR process.</p> <p>3 Another point is in the issues and concerns. 4 There is no mention of the Knights Landing Ridge Cut 5 Canal, which flows into the Yolo Bypass just below 6 Fremont Weir. Additional water in the bypass may have 7 significant impacts on the water flows in the canal 8 and cause backup. That needs to be addressed, also, 9 in the EIR.</p> <p>10 The Knights Landing is the outlet of the 11 Colusa drain. One of the items that is mentioned as 12 an issue is effect on other terrestrial species. I 13 feel that this has not been thoroughly discussed in 14 the draft. There are listed species, such as 15 Swainson's hawk, that will be affected by the changes 16 in the bypass and the surrounding lands. In fact, 17 some of the mitigation areas for Swainson's Hawk will 18 be destroyed, perhaps, by additional water in the 19 bypass. So I feel that they are looking at increasing 20 habitat for one type of species that's listed, but, by 21 the same token, they are harming habitat for other 22 listed species, and that needs to be addressed.</p> <p>23 Another point that needs to be addressed in 24 the EIR/EIS process that is not mentioned is the 25 increased sedimentation that will occur in the bypass</p>
<p style="text-align: right;">Page 3</p> <p>1 --o0o--</p> <p>2 Lynnel Pollock, Resident, P.O. Box 468, 3 Yolo, California 95697, (530) 662-3570.</p> <p>4 MS. POLLOCK: I'm going to speak 5 specifically to the core element No. 1, which is to 6 modify Fremont Weir to provide higher frequency and 7 duration of inundation. As a background -- my 8 husband, Herb, and I are here -- we farm in northern 9 Yolo county next to Fremont Weir, so we're directly 10 affected, I feel, by the proposed changes at Fremont 11 Weir.</p> <p>12 There are many issues and concerns 13 delineated in the draft as proposed. The draft is of 14 January '09. That was the last draft that I saw. All 15 of these Issues and Concerns that are stated really 16 need to be addressed in the EIR/EIS process. They are 17 significant, in our minds. There are also some issues 18 and concerns that are not listed that I feel need to 19 be addressed in the EIR and EIS process.</p> <p>20 The No. 1 item that I see as a significant 21 effect of this proposal is seepage water that will be 22 coming from the bypass levees and affecting adjoining 23 farmlands. This is not mentioned, and we know now 24 that when water is in the bypass there is significant 25 seepage that comes through the levees and ends up on</p>	<p style="text-align: right;">Page 5</p> <p>1 with additional water flows. There is no mention of 2 this. It periodically does have to be cleaned out and 3 sediment removed. And if more water is put in, 4 particularly at lower flows, it will cause increased 5 sedimentation. And much of this sedimentation is 6 laden with mercury, so the mercury issue does need to 7 be looked at.</p> <p>8 And I think the final thing that I would 9 like to mention -- a couple of things: The technical 10 details of how more water will be put into the bypass 11 needs to be looked at very carefully. It can be a 12 very expensive process, perhaps because of the levels 13 in the contours of the land there, and ongoing 14 maintenance costs that need to be looked at.</p> <p>15 And, finally, I would like to mention, in 16 talking about increased inundation of the bypass, the 17 availability of water really needs to be addressed 18 because, even if they are talking about winter flows, 19 that water has to come from somewhere. The existing 20 flows are probably deficient to provide the kind of 21 water that they're talking about over the duration of 22 time.</p> <p>23 (END OF COMMENTS.)</p> <p>24</p> <p>25</p>

1 BAY DELTA CONSERVATION PLAN  
2 ENVIRONMENTAL IMPACT REPORT (EIR)  
3 AND ENVIRONMENTAL IMPACT STATEMENT PROCESS (EIS)

4 ---oOo---

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7 THURSDAY, MARCH 25, 2009

8 BDCP PRESENTATION

9 PUBLIC SCOPING MEETING

10 6:39 O'CLOCK P.M.

11  
12 HILTON GARDEN INN

13 2200 GATEWAY COURT

14 FAIRFIELD, CALIFORNIA 94533  
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19  
20 REPORTED BY:  
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22 License No. 11414  
23

24 CALIFORNIA DEPOSITION REPORTERS

25 PHONE (800) 242-1996

<p style="text-align: right;">Page 2</p> <p>1 ---oOo---</p> <p>2 MODERATOR JONES: Good evening, folks. If you</p> <p>3 would like to come to your seats, we're just about to</p> <p>4 start.</p> <p>5 Good evening, my name is Pam Jones. I am the</p> <p>6 moderator for this evening. I am not an employee of any</p> <p>7 of the agencies of the Bay Delta. I'm here today to</p> <p>8 make sure that everyone who wants to speak has an</p> <p>9 opportunity to speak.</p> <p>10 Just as an overview of the evening, we'll have</p> <p>11 about a half an hour of presentation and update on the</p> <p>12 Bay Delta Conservation Plan, and then we'll go to about</p> <p>13 an hour of questions and answers. And then we would</p> <p>14 like to encourage you to go back to the tables and the</p> <p>15 posters in the back of the room because this purpose of</p> <p>16 -- this meeting has two purposes: Number one is an</p> <p>17 update on the Bay Delta Conservation Plan as it is now.</p> <p>18 And when that plan is finished, it gets handed</p> <p>19 over to an environmental team made up of staff and</p> <p>20 consultants. And their job is to take a look at that</p> <p>21 and evaluate the proposed plan in terms of its potential</p> <p>22 impact on ecosystems, the environment, communities,</p> <p>23 et cetera.</p> <p>24 Then they come up with alternatives to that</p> <p>25 plan, some of which are kind of listed on the board</p>	<p style="text-align: right;">Page 4</p> <p>1 specific questions for him.</p> <p>2 We have Chuck Hansen, Hansen Environmental,</p> <p>3 and Paul Cylinder with SAIC. Paul and Chuck are the</p> <p>4 environmental consultants to the project, and they can</p> <p>5 answer some of the technical issues as well.</p> <p>6 With that, I'm going to turn it over to Keith</p> <p>7 for some welcome comments.</p> <p>8 MR. COOLIDGE: Thank you, Pam.</p> <p>9 As she said, I'm Keith Coolidge. I'm with the</p> <p>10 California Natural Resources Agency. I have been</p> <p>11 involved in the Delta since 1986, primarily as a</p> <p>12 stakeholder for 14 years. And then on the other side of</p> <p>13 the microphone, I was reminded of this last night, we</p> <p>14 were in Stockton, which was the tenth stop on this</p> <p>15 12-night tour of Northern and Southern California.</p> <p>16 And we were in the very same room we had done</p> <p>17 scoping sessions for CalFed in the late 1990s. I had</p> <p>18 been in the audience. I had been making comments. Last</p> <p>19 night, I was on the other side. I was fielding them.</p> <p>20 So this truly has been a very long process to try to</p> <p>21 resolve some very contentious issues in the Delta.</p> <p>22 CalFed tried with twin goals of restoring the</p> <p>23 ecosystem and increasing the State's water supply. They</p> <p>24 succeeded to a varying degree. We invested an awful lot</p> <p>25 of money. Half of that was local matching funds. Added</p>
<p style="text-align: right;">Page 3</p> <p>1 tonight. Some of them may not be known yet. And you</p> <p>2 may have an idea about what those alternatives might be.</p> <p>3 So a very important part of your involvement</p> <p>4 tonight is to actually get your comments in writing as</p> <p>5 part of an official environmental impact report,</p> <p>6 environmental impact statement, process, so that it can</p> <p>7 be officially considered by the environmental review</p> <p>8 team.</p> <p>9 Even though we are recording tonight, if you</p> <p>10 would make sure that either you fill out a comment card,</p> <p>11 you speak to the Court Reporter, you put your thoughts</p> <p>12 on one of the flip charts there, that's the most direct</p> <p>13 way to help the environmental team do their analysis and</p> <p>14 come up with suggestions that you want them to take a</p> <p>15 look at.</p> <p>16 So with that, I would like to introduce you to</p> <p>17 the people who will be speaking this evening. We have</p> <p>18 Keith Coolidge, California Natural Resources Agency.</p> <p>19 Keith, you want to raise your hand?</p> <p>20 (Complying.)</p> <p>21 Karla Nemeth, California Natural Resources</p> <p>22 Agency. Karla is the BDCP liaison. John, John</p> <p>23 Engbring. He's with Fish and Wildlife Service. We have</p> <p>24 someone here from the California Department of Fish &amp;</p> <p>25 Game. Scott Cantrell is in the back, if there are</p>	<p style="text-align: right;">Page 5</p> <p>1 about 750,000 acre feet to the State's water supply.</p> <p>2 We made major investments in upstream</p> <p>3 tributaries to the Delta improving salmon habitat and</p> <p>4 putting fish screens on diversions. All of that was to</p> <p>5 a real benefit to the Delta. But the Delta itself</p> <p>6 deteriorated even further in the past seven years.</p> <p>7 And so that prompted the Governor, in 2006, to</p> <p>8 form Delta Vision. You have heard of that. That was an</p> <p>9 effort of Blue Ribbon Task Force to look at how do you</p> <p>10 really pull all of this together. Delta Vision came up</p> <p>11 and said the twin goals ecosystem restoration and a</p> <p>12 reliable water supply are valid. But don't overlook a</p> <p>13 very important third goal which is how do you do that</p> <p>14 with a Delta that is itself a unique and valued place?</p> <p>15 Don't forget that as you work on those goals.</p> <p>16 And then they also said there's some other</p> <p>17 things you have to keep in mind. We are going to have</p> <p>18 to significantly increase our efforts at conservation</p> <p>19 throughout the State of California. That's going to</p> <p>20 have to be foremost in everyone's minds as we move</p> <p>21 forward.</p> <p>22 You are going to have to resolve the tension</p> <p>23 that water in the Delta that is good for fish is not</p> <p>24 necessarily good for drinking water and vice versa. And</p> <p>25 later speaker tonight will talk a little bit about that</p>

<p style="text-align: right;">Page 6</p> <p>1 tension. But water that's high in organics and has  2 variable salinity is not well received by drinking folks  3 and vice versa.</p> <p>4 Water is low in organics, low in salinity  5 isn't necessarily good for the ecosystem. You will need  6 to find a way to separate those if you're going to have  7 success. That was a recommendation from Delta Vision.  8 They said just doing that alone isn't going to work.  9 You're going to have to increase storage so that you can  10 make diversions out of the Delta at different times of  11 the year than you do it now. And you're going to have  12 to move on all of these fronts.</p> <p>13 Now, key to what the Delta Vision recommended  14 and key to what CalFed recommended was the development  15 of a conservation plan, a habitat conservation plan, a  16 multi-species conservation plan in CalFed parlance.</p> <p>17 That's really what we're here to talk about  18 tonight is the conservation plan that is known as the  19 BDCP, the Bay Delta Conservation Plan. And we're going  20 to talk in great detail about what that means. I hope  21 all of you will visit the stations in the back where  22 they are talking about various components of that.</p> <p>23 The purpose of scoping is to get your  24 comments. Are we adequately looking at all of the  25 alternatives? Are we adequately looking at the right</p>	<p style="text-align: right;">Page 8</p> <p>1 process, there are both State and Federal pumps that  2 move that water, there are listed species, species  3 listed under the Federal Endangered Species Act like  4 Delta smelt and Winter-Run Chinook salmon that are  5 actually killed by the pump.</p> <p>6 In and of itself, that's an illegal activity.  7 Agencies that do that and conduct those kind of  8 activities can do that, but they need a permit. They  9 need a permit from the Federal agencies. When I say  10 Federal agency, I mean U.S. Fish and Wildlife Service  11 and National Fishery Service. There actually is someone  12 here from National Fishery Service. Ted Myer is here,  13 and he can answer questions on salmon.</p> <p>14 To receive that permit, the applicant in this  15 case, the Department of Water Resources, must complete  16 what we call a habitat conservation plan. That is what  17 this Bay Delta Conservation Plan actually is. It's  18 being prepared so that they can submit it to the Federal  19 agencies and there's a state equivalent Endangered  20 Species Act and the State will work through their  21 permitting process as well.</p> <p>22 That plan will be submitted to the Federal  23 agencies. And it has to include a description of the  24 activities that are being conducted. It has to include  25 a description of the effects of those activities on</p>
<p style="text-align: right;">Page 7</p> <p>1 things in your view? And are we overlooking anything  2 that you know about that we should know about?</p> <p>3 That's really the purpose of tonight, is to  4 get your comments on both the range of our alternatives,  5 the ideas that we're putting forward and help us as we  6 move forward.</p> <p>7 With that, I turn this over to John Engring.  8 John is with U.S. Fish and Wildlife. He's one of the  9 Federal partners in this effort with the State agencies.</p> <p>10 MR. ENGRING: Thank you, Keith. Again, my  11 name is John Engring. I am with the U.S. Fish and  12 Wildlife Service. I am the assistant regional director  13 for water and fish. And what I'm going to try and do is  14 explain as clearly and simply as I can exactly what  15 we're doing here and why we're here.</p> <p>16 First off, thanks for coming and thank you for  17 your interest. Thank you for your time. We are very  18 interested in hearing what you folks have to say because  19 we are in what is described as the scoping process as  20 part of the environmental review process. It is very  21 early in the environmental review. So we have a number  22 of steps to go.</p> <p>23 I think all of you know that Delta -- the  24 Delta is used as a water transfer from north to south.  25 There are large pumps that move water south. In that</p>	<p style="text-align: right;">Page 9</p> <p>1 listed species. It has to include various alternatives  2 and options that were considered and conservation  3 measures that they the applicant will carry out to  4 complete the conservation plan, implement the  5 conservation plan.</p> <p>6 When we receive it, that conservation plan, we  7 look at it and we make a determination as to whether or  8 not it will jeopardize the continued existence of those  9 listed species. If in fact we decide that it can move  10 forward and those species can in fact survive, hopefully  11 ultimately recover, we can move forward and issue that  12 permit so that they can actually kill some of those  13 species in the Delta as they conduct their otherwise  14 lawful activity.</p> <p>15 That's what we're doing. We're in the early  16 stages of looking at this conservation plan. We are  17 required to conduct environmental review. This is part  18 of that environmental review. It is part of the early  19 scoping process. Part of the scoping process where we  20 are trying to solicit comments from the public.</p> <p>21 We have these stations, tables set up. There  22 are individuals who can answer questions at those  23 tables, very specific questions. If you have questions  24 and they can also take written comments from anybody  25 here that would like to provide comments.</p>

<p style="text-align: right;">Page 10</p> <p>1 Again, I want to thank you for being here.  2 And I'll turn it over to Karla at this point. She will  3 describe in a little more detail what's in this plan at  4 this point.  5 MS. NEMETH: Thanks, John.  6 My name is Karla Nemeth. I'm with the  7 California Natural Resources Agency. The Natural  8 Resources Agency is the convenor of the Steering  9 Committee that's guiding the development of the plan.  10 That includes water agencies that supply water  11 from the Bay Area all the way down to San Diego,  12 Department of Water Resources, the U.S. Bureau of  13 Reclamation, environmental groups, the California Farm  14 Bureau and other folks interested in putting together  15 this plan.  16 Excuse me.  17 All the folks around that table realize what  18 Keith said. It's a major challenge to restore an  19 ecosystem in an environment such as the Delta. It's  20 home to half a million folks. It supports a vibrant  21 agricultural economy, a recreational economy. All of  22 these things are going to be important to balance  23 against the water reliability and the ecosystem  24 restoration needs in the plan.  25 The Secretary of Resources is very concerned</p>	<p style="text-align: right;">Page 12</p> <p>1 experienced record low populations in years. The Courts  2 have essentially said you can no longer continue to pump  3 water supplies because of the status of these fish  4 species. This has threatened water supply reliability  5 for 25 million Californians as well as agriculture up  6 and down the Central Valley.  7 Essentially, what the Courts have said, as the  8 water moves through the Delta through the Sacramento  9 River to the State and Federal water project pumps, the  10 force of those pumps create a reverse flow in the Delta  11 that pull the fish into the pumps. Therefore, to  12 protect these fish, we need to stop pumping water. We  13 need to reduce pumping water when fish are present in  14 this area.  15 Typically, when these kinds of conflicts exist  16 between water for human use and environmental needs, an  17 approach would be to propose a project to support water  18 supply and offset the damage caused to endangered  19 species kind of one by one.  20 But State and Federal endangered species laws  21 allow for something that's called conservation planning.  22 The State has the Natural Communities Conservation  23 Planning Act that creates a conservation plan and  24 fulfill it on State endangered species laws. The  25 Federal Endangered Species Act -- actually, in the Act</p>
<p style="text-align: right;">Page 11</p> <p>1 about how we do that. He is meeting with elected  2 officials from the Delta counties for the purposes of  3 providing a formal way in which we can keep the counties  4 and these communities whole as we continue to develop  5 the plan.  6 UNIDENTIFIED AUDIENCE MEMBER: Meeting when?  7 MS. NEMETH: Friday. He's been meeting with  8 elected officials on a monthly basis for quite some  9 time. We're going to continue to do that. We have  10 heard from folks that there is a desire to have formal  11 engagement in this process, and that's what we're  12 working towards.  13 As our two speakers have indicated, the Bay  14 Delta State and Federal environmental, process, the  15 purpose of my presentation here tonight is to update you  16 on the development of the plan as a proposed action.  17 I'm not going to have all the details.  18 We will provide some information about what we  19 do know at this point, what we're thinking in terms of  20 our approach and specific actions. Our expectation is  21 that the plan itself in a preliminary draft form won't  22 be available until this summer, is to help folks provide  23 good comments in the scoping setting.  24 What is the problem that we are working to  25 resolve? Several native fish species in the Delta have</p>	<p style="text-align: right;">Page 13</p> <p>1 itself -- calls for conservation planning as well.  2 Essentially, what this allows us to do is to  3 address endangered species issues in a much more  4 comprehensive holistic way, less piecemeal, so we can  5 address multiple species all at once with a goal of  6 actually contributing to their recovery and doing that  7 over the long term.  8 At the heart of these conservation planning  9 efforts is a conservation strategy. What that is is a  10 suite of actions that are designed to, implemented  11 together, over time are designed to recover species.  12 While that's the heart of the conservation  13 strategy, there are a lot of other critical elements  14 that ensure its success and implementation. That is who  15 funds it and how much. How do we make sure that the  16 funding is there to implement it over time? How do we  17 govern the implementation of the plan? How do we bring  18 new science into the plan as its developed?  19 The result of this kind of a planning process  20 is an actual plan that lays out a suite of activities  21 that are implemented through time in a particular way in  22 a particular sequence with identified funding in  23 exchange for permits to, in this case, operate the State  24 and Federal Water Project in exchange for the ability to  25 -- as John indicated earlier -- the ability to take</p>

<p style="text-align: right;">Page 14</p> <p>1 endangered species.</p> <p>2 In the Bay Delta conservation plan, we have</p> <p>3 two goals: One is a stable and healthy fish population;</p> <p>4 the second goal is reliable water supplies. What I'm</p> <p>5 going to describe for you tonight is one piece of the</p> <p>6 plan. That is our latest thinking on the conservation</p> <p>7 strategy.</p> <p>8 And as I indicated earlier, there are several</p> <p>9 other very important aspects of the plan that we need to</p> <p>10 create in order to have a draft ready. Again, our</p> <p>11 expectation is that we would have a preliminary draft of</p> <p>12 the entire plan this summer.</p> <p>13 So we're trying to build our conservation</p> <p>14 strategy on the recovery of these fish species in the</p> <p>15 Delta: Delta smelt, Longfin smelt, Chinook salmon,</p> <p>16 Sacramento splittail, green and white sturgeon and</p> <p>17 Central Valley steelhead. Our approach is to build off</p> <p>18 of the decades of science developed about</p> <p>19 the estuary and about fish species, about fish species</p> <p>20 in the Delta.</p> <p>21 And our first stop was to assess how we would</p> <p>22 measure success. How would we measure our ability to</p> <p>23 actually recover fish species? There are several ways</p> <p>24 that we are looking at that. They are biological goals</p> <p>25 and objectives. That includes the distribution of these</p>	<p style="text-align: right;">Page 16</p> <p>1 purposes of water conveyance, as I mentioned, through</p> <p>2 the Sacramento River, through the central part of the</p> <p>3 Delta and down at the pumps. And a couple of things</p> <p>4 happen. Water from the San Joaquin River comes in as</p> <p>5 well. And what essentially happens with the force of</p> <p>6 these pumps is it disrupts the flow of the Delta in that</p> <p>7 it creates a reverse flow in the central part of the</p> <p>8 Delta, that is water moving north to south to the pumps.</p> <p>9 And it also creates water that would outflow</p> <p>10 out to the Bay. It also creates a reverse flow action</p> <p>11 from water from the Sacramento River that would</p> <p>12 otherwise be outflow down to the pumps. And for the</p> <p>13 San Joaquin River, the pull of those pumps also draw</p> <p>14 water and fish species into the pumps through these two</p> <p>15 channels.</p> <p>16 What we're really looking at when we look at</p> <p>17 flows and their impact on fish is how do we create a</p> <p>18 system that can more naturally mimic natural flow</p> <p>19 patterns in the Delta to the benefit of fish.</p> <p>20 What we are considering is this dual</p> <p>21 conveyance that is continuing, when appropriate, to</p> <p>22 operate the pumps at the southern part of the Delta.</p> <p>23 But also to create a new diversion point off the</p> <p>24 Sacramento River that would carry water supplies to the</p> <p>25 pumps. So it's this kind of dual conveyance system that</p>
<p style="text-align: right;">Page 15</p> <p>1 fish species throughout the Delta, their growth rate,</p> <p>2 their mortality and other signs -- other indicators of</p> <p>3 their health in the Delta.</p> <p>4 We then took a look at the things that are</p> <p>5 stressing the fish species because remember our goal is</p> <p>6 to actually contribute to their recovery over time. And</p> <p>7 I described in an earlier slide the stress of the</p> <p>8 operation of the State and Federal water projects on</p> <p>9 fish species as it relates to flows in the estuary and</p> <p>10 fish getting pulled into the pumps.</p> <p>11 But the science has shown there are other</p> <p>12 things that are also stressing the fish species. That</p> <p>13 is a lack of physical habitat, a lack of food to support</p> <p>14 their growth. Other stressors include water quality,</p> <p>15 the presence of invasive species that compete with the</p> <p>16 native species in the Delta. Fish passage issues for</p> <p>17 fish that are migrating through the Delta.</p> <p>18 There's really a whole host of things that are</p> <p>19 stressing the species. And we're creating a strategy</p> <p>20 that can address all of these kinds of stressors at once</p> <p>21 with the notion that addressing each one of these things</p> <p>22 individually would not be as effective at contributing</p> <p>23 to the recovery of species as if we did them all</p> <p>24 together in an integrated holistic way.</p> <p>25 Water currently flows through the Delta for</p>	<p style="text-align: right;">Page 17</p> <p>1 makes important changes to how water moves in the Delta</p> <p>2 and the survivability of fish species.</p> <p>3 And essentially, on a conceptual level, what</p> <p>4 that does is that allows water from the Sacramento River</p> <p>5 to head out to the Bay. It also allows water from the</p> <p>6 San Joaquin River to enter into the estuary because when</p> <p>7 we are operating out of the northern diversion point,</p> <p>8 we've removed the pressure that the pumps are currently,</p> <p>9 as they're operated, are putting on the water flows in</p> <p>10 the estuary. It allows for more east/west movement of</p> <p>11 water in the estuary.</p> <p>12 I'm going to go over a few of the conservation</p> <p>13 measures that we've been focusing on as we develop the</p> <p>14 plan. First, as I mentioned, are these ways to address</p> <p>15 water flows and how water is conveyed through the Delta</p> <p>16 for the betterment of fish species.</p> <p>17 In the near term, that's in the next five to</p> <p>18 15 years, we're looking at ways that we can immediately</p> <p>19 address flow issues in the southern part of the Delta</p> <p>20 with the continued operation of the State and Federal</p> <p>21 pumps. That includes tidal gates in the southern part</p> <p>22 of the Delta that can be opened and closed seasonally</p> <p>23 depending on the presence of fish.</p> <p>24 In the longer term, that is 15 years and out</p> <p>25 into the future, as I mentioned, we're looking at new</p>

<p style="text-align: right;">Page 18</p> <p>1 diversion points off the Sacramento River in the 2 northern part of the Delta with an eastern alignment 3 that sends water around and to the State and Federal 4 pumps. 5 The operation of this kind of a system is 6 going to be critical to the survivability and health of 7 fish species. There are a couple of ways that we are 8 looking at the operations of this kind of a facility. 9 How much water is diverted out of this northern 10 diversion point will be limited by what kind of 11 hydrologic years, in a wet year, a dry year, an average 12 year, a critically dry year. 13 But also, what are the flows that are needed 14 to go into the estuary to support fish species to make 15 sure that there's enough water in the system that fish 16 can migrate through the estuary away, enough water 17 moving through the system that can transport food into 18 the estuary. These are all important considerations for 19 water flows in the estuary and how they support fish 20 species. 21 The other key operational consideration with a 22 new northern diversion point and the pumps at the 23 southern end of the Delta is how do we manage salinity 24 in the Delta to address in Delta water quality issues. 25 It's a critical issue that we need to address and that</p>	<p style="text-align: right;">Page 20</p> <p>1 effectiveness and make decisions as we go. 2 One of the ways we're designing the habitat 3 restoration elements is we've identified these 4 restoration areas, and we're working to really drill 5 down to a specific target or acreages that we need 6 within that bigger area so that as the plan is 7 implemented, we can do it flexibly in partnership with 8 willing buyers and willing sellers. We can focus on 9 public lands and approach the habitat restoration in a 10 way that's in partnership with local jurisdictions. 11 We're also taking a look at channel margin 12 restoration. That is restoring the channel banks in the 13 Delta along the areas of Steamboat and Sutter Slough, in 14 the long-term down here along the San Joaquin River, and 15 additional habitat restoration in the eastern part of 16 the Delta and southern part of the Delta here. 17 And finally, we're also taking a look at ways 18 to address some of these other stressors. What we don't 19 want to do is create this nice habitat and create this 20 nice flow and do it in an area where we have water 21 quality problems or we have invasive species problems. 22 Again, we're identifying areas where we can 23 remove invasive species, address water quality issues, 24 for example, and we can implement all of these 25 conservation measures together with the notion that all</p>
<p style="text-align: right;">Page 19</p> <p>1 we will address as part of the plan. We are doing quite 2 a bit of modeling on that now. We don't have all the 3 answers, but we're working towards them. 4 From a habitat restoration perspective, in the 5 near term, again, in this five- to 15-year period, we're 6 looking at three kinds of habitat restoration in the 7 Delta. One is flood plain restoration. We're looking 8 very closely about in the yolo bypass, and 9 essentially, creating -- inundating the flood plan with 10 water from the Sacramento River periodically to create 11 habitat spawning and rearing habitat for fish species. 12 We're looking at tidal marsh restoration, 13 particularly in the area of Cache Slough, Suisun Marsh 14 and here in the Western Delta. I know folks have been 15 seeing these kind of green blobs on a map for a while. 16 They're getting frustrated. They want us to get more 17 detailed. I want to explain an important point about 18 habitat restoration aspects of the plan. 19 That is, there are some restoration ideas that 20 we have where we have a good amount of science, and we 21 have a real reasonable and confident expectation of the 22 benefit of fish species. Some we have less of an 23 understanding of how fish species are going to respond. 24 And those are ones that, overtime, we will need to test 25 with pilot projects as we continue to monitor their</p>	<p style="text-align: right;">Page 21</p> <p>1 of them together provide the best opportunity for the 2 fish species to recover. 3 Where we are in the development is we've 4 identified about 50 different conservation measures. 5 For further analysis, they're all available on our 6 website <a href="http://www.resources.ca.gov/bdcp">www.resources.ca.gov/bdcp</a>. There are several 7 documents there, and I would be happy to direct folks to 8 information when we're through here. 9 We have quite a bit of work to do. Here we 10 are in the left side with a lot of individual 11 conservation measures that we're taking a look at. 12 We're looking on a lot of biological evaluations to help 13 us understand the expectations for the species', 14 individual species' response to the various conservation 15 measures. But we're also looking at other ways to 16 evaluate these conservation measures. 17 And that includes how practical is it, can we 18 do it when we're out there on the ground, how feasible 19 is the implementation, how much is it going to cost and 20 what is the relative benefit for that cost. All of 21 these things we'll be taking a look at over the course 22 of the next six to nine months as we continue to develop 23 the draft plan. 24 And our expectation is that we will have a 25 public review draft plan by the end of 2009 that will</p>



<p style="text-align: right;">Page 22</p> <p>1 include the conservation strategy and all of those  2 important elements like implementation structure and the  3 cost analysis identifying the funding partners. All  4 those pieces will be part of the plan.  5       So where we are is continuing to develop our  6 first draft of the entire plan in March 2009. We expect  7 to have a preliminary draft of the plan available this  8 summer, as I mentioned. And at that time, we are going  9 to want to get back out to the communities and talk to  10 folks and get some input. We'll have all these details,  11 really important details flushed out in terms of how we  12 will would operate this dual conveyance system, what  13 does it do to salinity in the Delta, how do we propose  14 to manage that, what are the habitat restoration  15 targets. All of those kinds of details will be  16 available this summer.  17       We expect to have a public review draft of the  18 conservation plan available at the end of the year.  19 That's a draft that we need to circulate for public  20 review and comment by law in advance of preparing a  21 final conservation plan, which we expect in June of  22 2010.  23       As John from the Fish and Wildlife Service  24 indicated earlier, the outcome of the plan is a permit  25 decision by the State and Federal fishery agencies for</p>	<p style="text-align: right;">Page 24</p> <p>1 impacts going down into Southern California, a concern  2 that they really want better water quality on their  3 exports, even more so than more water. They are not  4 that interested in more water. They want a defined  5 amount of good quality water so they can do other local  6 projects.  7       We heard in the San Joaquin Valley very much a  8 concern that an entire farming operation system has  9 grown up dependent on water from the Delta, and we  10 shouldn't unwind that. We heard in the Delta very much  11 concern that this is our water, and we shouldn't share  12 it with others until we are sure that our own needs are  13 met; that we very much need to make sure that we have a  14 healthy and vibrant and thriving ecosystem.  15       We heard from recreational boaters concerned  16 that if we're building gates and barriers that they be  17 open and passable for recreational boaters. We heard  18 from sports fisherman very much a need for striped bass  19 in particular, to increase their numbers; to not blame  20 them for the decline of the ecosystem beyond their  21 participation.  22       We heard throughout a need for beneficiary  23 pay. That's a mantra from the CalFed days, the folks  24 who benefit the most would pay the most in proportion to  25 their benefits. And for those where the State benefits</p>
<p style="text-align: right;">Page 23</p> <p>1 the operation of the State and Federal water projects.  2 Concurrently with that, you can see the environmental  3 review process is ongoing, and the environmental review  4 process issues a record of decision on the conservation  5 plan as well in 2010.  6       With that, I just want to recap. We've shared  7 what our approach has been to developing the plan,  8 what's the problem we're trying to solve, how do we  9 propose to solve it, what are the ideas that we're  10 contemplating now and what's our process for completing  11 the draft plan and opportunities for public input.  12       With that, I think we will open up the floor  13 to questions about the plan.  14       MODERATOR JONES: Keith was going to say a few  15 words.  16       MR. COOLIDGE: This was something we tried  17 last night. On behalf of the Secretary, I kind of  18 wanted to do the same thing. He had been out to  19 several, a couple of these other meetings and had been  20 very impressed by the comments and the openness of the  21 folks had in raising questions and asking them.  22       And he sort of wanted to encourage you all to  23 engage in the same kind of dialogue with us. We have  24 heard many comments over these nights from -- up in the  25 Northern Sacramento Valley and concern of redirected</p>	<p style="text-align: right;">Page 25</p> <p>1 as a whole, we would find a way through bonds or through  2 what's left of the State's general fund to try to make  3 that whole.  4       We heard throughout the need for trust and the  5 fact that trust has eroded. We need very much -- there  6 is no way we can compel anyone to trust us, and  7 certainly, a collection of government agencies just  8 sometimes doesn't inspire that. But what we are trying  9 to do, to the best of our ability, is to be open, to be  10 honest with you, to let you in on our decision-making.  11 And I hope that you will understand where we are going  12 and help us get there.  13       Governance is very clearly a big issue for all  14 of this. Who controls, who controls the nods, who makes  15 the decisions. That is going to be a big discussion in  16 State legislature this year: Delta governance, water  17 governance in general. The Secretary has been meeting  18 since, I guess last July, with supervisors from each of  19 the five counties.  20       I notice Supervisor Reagan is here tonight.  21 He has provided a very valuable insight into some of the  22 concerns of his constituents, and we are trying very  23 hard to be responsive and to learn through this process.  24 And so far, he's been a very willing teacher for us.  25 And we hope that you will do the same tonight.</p>

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1 We are here to learn and to listen as well as  
 2 answer questions to the best of our ability.  
 3 Madam Facilitator.  
 4 MODERATOR JONES: Now we are -- excuse me. We  
 5 are about to turn it over to you for your questions and  
 6 comments. It's now a quarter after 7:00. We would like  
 7 to go till about a quarter after 8:00 with the questions  
 8 and comments.  
 9 We do want to give you time to go back and  
 10 speak one-on-one with the folks in the back of the room.  
 11 We are going to use speaker cards so while you're  
 12 passing your speaker cards over or requesting speaker  
 13 cards, I would like to introduce some of the elected  
 14 representatives or their representatives.  
 15 We have at least seven here tonight which is  
 16 quite a big showing. So starting with Supervisor Mike  
 17 Reagan, already acknowledged over there. We also have  
 18 Roger Straw representing Solano County Supervisor Linda  
 19 Seifert. Roger is back of the room.  
 20 Don Lubar (phonetic) from Senator Lois Wolk's  
 21 office, right here. Tom Meyers, City of Rio Vista.  
 22 Kathy Barnes Jones, Solano County. Kathy here? Kathy  
 23 was here. Chris Rogers, Solano County.  
 24 MR. REAGAN: He saw me walk in and left.  
 25 MODERATOR JONES: I guess so. And Tom Wong

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1 who is a representative of Assembly Member Mariko  
 2 D'Amato. Tony, are you here? Tony was here.  
 3 Is there anyone else I missed who is an  
 4 elected representative or official representative, an  
 5 elected official emeritus, any other category you would  
 6 like?  
 7 MR. REAGAN: Former supervisor, former mayor.  
 8 MODERATOR JONES: Sir, what is your name?  
 9 MR. BRANN: Dick Brann.  
 10 MODERATOR JONES: Okay. Good to see you here.  
 11 And mayor of Antioch? Rio Vista.  
 12 MS. COGLIANESE: Marci Coglianesse.  
 13 MODERATOR JONES: Marci, thank you very much.  
 14 I think we have it.  
 15 Our format for this evening, we have speaker  
 16 cards, we'll call these. If you would like to speak,  
 17 even if you haven't given a speaker card -- I only have  
 18 three up here. We would like to get through to you.  
 19 Even if you haven't given a speaker card, you may still  
 20 give a speaker card if the desire strikes you while  
 21 someone else is giving a comment.  
 22 We would like to open it up. You can give  
 23 comments or ask questions. We're going to try and keep  
 24 it to three minutes. But you know, with the amount of  
 25 people we have here, I think there's going to be ample

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1 opportunity to speak.  
 2 Let's just, as the format, go through starting  
 3 with three minutes. And then it looks like there will  
 4 be more opportunity for you to expand and continue on.  
 5 Okay. So what I'm going to do is call your name, and  
 6 I'm going to call the next person. If you choose to  
 7 identify an organization that you're here, that's your  
 8 choice to do so.  
 9 So Joseph Rizzi. And then Bud Tonnesen.  
 10 MR. RIZZI: Hi. Is this on?  
 11 I'm here from Natural Desalination. It's a  
 12 group I've created as a nonprofit organization.  
 13 There's ways of desalination, and they have  
 14 not -- I would really have loved to have seen other  
 15 alternatives of increasing the water supply. Because  
 16 that's one of the key things. In the Bay Area and L.A.  
 17 area, they need water.  
 18 Most of this is trying to divert water from  
 19 another area to get cleaner water. It's not necessarily  
 20 increasing the amount of real water that's actually  
 21 available to the people who actually need it: The  
 22 farmers and residents. Mostly a lot of us, the  
 23 residents.  
 24 So natural desalination is the process of  
 25 being able to utilize the water's own weight in the sea

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1 to be able to desalinate that water without the energy  
 2 usage that is required today. Most of the time when  
 3 people look at desalination, they look at Saudi Arabia.  
 4 Follow them. They have tons of energy. They don't care  
 5 about their energy.  
 6 In California, we care about energy as well as  
 7 water. This is a way of being able to desalinate the  
 8 water. At the same time, you can also use the natural  
 9 gradient of water. If you do a pipeline or horizontal  
 10 pipeline to the shore, you have natural flow of water  
 11 from the plant at sea to the shore.  
 12 That allows everybody to have the water that  
 13 they need, and that saves the Delta because you don't  
 14 have the water needing to be diverted anymore. I really  
 15 would have loved to see more thought into that.  
 16 As well as in Australia, they have ways of  
 17 using the ocean power and the power of river in order to  
 18 desalinate the water. There are other ways of dealing  
 19 with it. And the more you increase the water for the  
 20 users, the less we have to take from the Delta. I  
 21 really would have liked to have seen more that dealt  
 22 with that on there.  
 23 MODERATOR JONES: Bud?  
 24 MR. JOHNSON: Yes.  
 25 MODERATOR JONES: After Bud, Frank Johnson.

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1 MR. TONNESEN: That was my first question.  
 2 You hit it. I didn't hear anything about taking  
 3 saltwater and making freshwater. There was no mention,  
 4 with you, Karla, you did a great job. There was no  
 5 mention back here, I haven't seen anything on it. And I  
 6 think that's the very thing, important thing I think you  
 7 have missed, if you have missed it. I think it's  
 8 extremely important.  
 9 And my other comment -- and this has been in  
 10 the news every day. It's -- I think it's behind Obama.  
 11 He's there every day too. This has to do global  
 12 warming. I have not heard anything about global  
 13 warming, and you've stated that five, 10, 15 years down  
 14 the road into the future, that we will have this thing  
 15 here.  
 16 What happens if global warming is here, and  
 17 they say it is here, and we have 10 or 15 feet increase  
 18 in the water. That might be excessive. Maybe five to  
 19 10 feet. Have you guys considered that at all? Have  
 20 you addressed that? And is it in here someplace we can  
 21 read it?  
 22 MS. NEMETH: That's a good question. I'll  
 23 have Paul answer the way in which the plan is addressing  
 24 climate change issues.  
 25 MR. CYLINDER: We all seem to be getting sick

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1 up here.  
 2 The plan, first of all, there are two major  
 3 effects of global warming on the Delta. One is the  
 4 increase in sea level, and that is the Delta is tidal.  
 5 The entire Delta is tidal. It's all the way up to  
 6 Sacramento over to Stockton.  
 7 And so with sea-level rise, the levels in the  
 8 Delta will rise. Estimates right now are about 55  
 9 inches over the next hundred years. Another effect of  
 10 climate change, at least the models are predicting right  
 11 now, is that we will have more rain and less snow in the  
 12 Sierra Nevada. Sierra Nevada is our big reservoir of  
 13 this State. That's where the water is stored as snow  
 14 and is released into our rivers and captured in our  
 15 dams.  
 16 With an increase in rain and decrease in snow,  
 17 that means we will have more water coming down with the  
 18 precipitation, with rain coming off the mountains as  
 19 opposed to being held in the mountains as snow for  
 20 longer periods. So our hydrograph, how the rivers  
 21 behave will change. Those are two major effects.  
 22 There's also an effect of temperature increase  
 23 on the Delta itself increasing temperatures that has an  
 24 effect on fish. I said two. That's three things. All  
 25 of those we are looking to address in the conservation

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1 plan with our different conservation measures.  
 2 With regard to operations, we need to deal  
 3 with and model how the hydrograph, how the river is  
 4 going to change behavior and therefore how the Delta  
 5 will change behavior and adjust the way we are looking  
 6 to operate the Delta in the near term prior to having  
 7 the separate conveyance, the peripheral conveyance. And  
 8 then in the long-term, with the peripheral conveyance  
 9 that allows for more flexibility in addressing that  
 10 change, hydrograph.  
 11 With regard to sea-level rise, there two major  
 12 components of the plan that address how the sea level  
 13 rises that is going to affect both habitat as well as  
 14 the water supply. With habitat, all those green blobs  
 15 Karla pointed out to you are all areas we're identifying  
 16 is the best potential for habitat restoration. That  
 17 means reflooding the areas that used to be flooded and  
 18 used to be marsh in the Delta. And prior to the levees  
 19 cutting off the Delta, cutting off the water from the  
 20 surface.  
 21 Because the Delta has subsided so much,  
 22 because the land levels are so much lower than they were  
 23 when there was a marsh there, you notice all those green  
 24 blobs are around the edge of the Delta because those are  
 25 the areas where we have the opportunity to flood and get

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1 marsh, shallow water that will create tule marsh,  
 2 cattail marsh as opposed to just open water. Those  
 3 familiar with the Delta know there are levee breaches  
 4 where there's just open water in the middle of the  
 5 Delta. That's not the historic condition.  
 6 The places where we can get habitat for fish  
 7 are along the edges. And the way we deal with climate  
 8 change is to not only look for areas where the  
 9 elevations are proper to reflood and get the marsh but  
 10 also where it rises to an uplift to allow this sea level  
 11 rise the marsh to move. As the water rises, the marsh  
 12 will rise up into the other parts to have that area we  
 13 call an accommodation space, a space to allow for the  
 14 sea level rise to allow the habitats to move up slow  
 15 into the areas where the water is going to be higher.  
 16 So those are the different ways that we are  
 17 dealing, looking to deal with sea level rise in the  
 18 design of the conservation plan. I forgot one other  
 19 thing is water quality.  
 20 As Karla mentioned, the in-Delta pumping, the  
 21 risk of sea water intrusion to the water supply, the  
 22 peripheral canal facility allows for the flexibility to  
 23 take more water, freshwater from upstream and avoid  
 24 threats from the water supply, particularly with regard  
 25 to catastrophic loss. If we had a levee failure that

<p style="text-align: right;">Page 34</p> <p>1 results in drawing sea water into the Delta and  2 threatening water supply out of those south Delta pumps.  3 We can still be taking water through that canal and  4 maintain our water supply through that type of disaster.  5       MODERATOR JONES: Frank Johnson and Steven  6 Chappell or Chappell.  7       MR. JOHNSON: You answered one of my  8 questions, Paul. The other question is: Will there  9 still be guarantees for the Suisun Marsh in regards to  10 water quality, specifically in the spring and the fall?  11       MR. CYLINDER: What we are looking to  12 accomplish here is to maintain water quality for all  13 these multiple uses in the Delta. So as Karla was  14 mentioning, fish have a need for certain quality of  15 water. People and agriculture have a need for different  16 quality of water.  17       There are standards in the Delta right now set  18 by the State Water Resources Control Board. We've been  19 modeling the Delta with water models that allow us to  20 test different ways of operating the system, and we're  21 trying to hit all three of these water goals.  22       One is flows that are beneficial to fish.  23 Another is water quality that allows for good quality  24 export water and reliable export water. And third is  25 maintaining water standards that have been set by the</p>	<p style="text-align: right;">Page 36</p> <p>1 salinity and the conditions that we're looking for.  2       MODERATOR JONES: Steven Chappell. Is it  3 Chappell?  4       MR. CHAPPELL: Chappell.  5       MODERATOR JONES: Chappell. And then June  6 Guidotti.  7       MR. CHAPPELL: Steve Chappell, the executive  8 director of the Suisun Resource Conservation District.  9       My first question is: On the map you show the  10 planning area which is the legal boundary of the Delta.  11 Yet Suisun is so unique, that it's identified as a  12 conservation area. When I look at your list of species  13 -- my first question is: Why is Suisun unique that it's  14 considered a conservation area; yet, all the river  15 systems in the Sacramento Valley are excluded? Because  16 the list of species which you've listed here, four runs  17 of salmon, steelhead, green sturgeon, are using these  18 areas up river; yet, they're excluded. Yet Suisun is  19 included.  20       I would like to know why, how that is legally  21 binding being as you're going to be identifying  22 conservation strategies that are actually outside the  23 scope of your legal planning boundary?  24       Then I have follow-up questions.  25       MR. CYLINDER: Thanks, Steve.</p>
<p style="text-align: right;">Page 35</p> <p>1 Board for areas around the Delta including Suisun Marsh.  2       MR. JOHNSON: That will be part of the plan no  3 matter what?  4       MR. CYLINDER: That is our goal is to continue  5 to meet those. Now, there are activities that we are  6 looking at, conservation measures, that are going to  7 change the -- they could change salinity conditions  8 around Suisun Marsh. If we do habitat restorations of  9 Suisun Marsh and open up areas to tidal action, that has  10 an effect on the surrounding salinity.  11       And the location of the restoration that  12 happens in the marsh has a different -- depending upon  13 where it is, in the southern part of the marsh or  14 northern part of the marsh has a different effect on how  15 it affects salinity in Suisun Bay.  16       MR. JOHNSON: How would you mitigate the  17 property owners in that case?  18       MR. CYLINDER: Again, the goal is to design a  19 program that would balance that. At this point, we  20 don't have -- we haven't worked out the details of how  21 the physical restoration and the operations can fit  22 together with Suisun. That's what we've been modeling.  23       Every time we look at a different physical  24 restoration opening up an area to tidal action, that  25 affects hydrodynamics. We model how to maintain</p>	<p style="text-align: right;">Page 37</p> <p>1       As a habitat conservation plan John described  2 earlier, we do need to start identifying what our  3 planning boundaries are, where we expect to be focusing  4 our conservation.  5       However, two areas have been identified as  6 critical of different species. We've included them in  7 identifying conservation measures. Suisun Marsh being  8 one where it's important -- it's a very important,  9 Suisun Bay in particular, to Delta smelt and longfin  10 smelt.  11       And then the other area outside of our  12 planning area that we've identified is the Yolo Bypass  13 area all the way up to the Fremont Weir. That map  14 doesn't go all the way up. We identified a conversation  15 measure to address operations up Fremont Weir to improve  16 the existing flood plain along the Yolo Bypass.  17       The measure we've identified for Suisun is to  18 help the existing Suisun Marsh management plan in  19 funding and implementing the plan that's being developed  20 already for restoration of Suisun Marsh. That's the  21 core of that conservation measure at this time as  22 described in our plan.  23       Did I answer -- going upstream. Sorry.  24 Really, to put it bluntly, it's not biting off more than  25 we can chew to go upstream and get into the issues of</p>

<p style="text-align: right;">Page 38</p> <p>1 upstream salmon and dam operations and all those types 2 of things. This is a huge undertaking to deal with 3 this. 4       And basically, you have to draw your limit 5 somewhere. The focus here is on the divergence from the 6 Delta and the activities of those, of the agencies that 7 are involved in that, Department of Water Resources, the 8 Bureau of Reclamation and the contractors that 9 (unintelligible) water too. 10       The focus of the plan is on the Delta estuary. 11 And for our focus on those, particularly the upstream 12 fish species, but also the important migration corridors 13 for the salmon and steelhead as well as rearing habitat 14 for salmon and steelhead. The focus really was on the 15 Delta. We didn't go out to the ocean. We didn't go up 16 the rivers. Obviously, we could keep going, but we 17 didn't. 18       MR. CHAPPELL: I'm glad to see we are the area 19 that was been chosen to be chewed upon. I would 20 strongly encourage you throughout your environmental 21 document that you clearly explain why, when the majority 22 of the species that you're identifying, spawning habitat 23 is upstream of your focused area, yet they are directly 24 affected by your take off, why you've segregated those 25 areas outside of your planning area.</p>	<p style="text-align: right;">Page 40</p> <p>1 fish because they're affecting pumps so we're going to 2 reduce their habitat. 3       How do you implement conservation strategies 4 to enhance remaining habitats that remain? 5       MR. CYLINDER: A couple things there. You're 6 right about the trade-off. Because this is conservation 7 plan and we are focused on biological resources. We are 8 also focusing on the terrestrial species. 9       The fish evaluations are out ahead of things. 10 We talked about the nonfish species. We're now up to 37 11 identified species to be covered by the plan. That's in 12 addition to those nonfish plants and wildlife, including 13 plants and wildlife in Suisun. 14       And in fact, on Friday I'm going to be 15 recommending to the Steering Committee a recommendation 16 of the consultant team to add another 18 species of 17 plants and wildlife to the list. It could be affected 18 by these activities that we're proposing here to benefit 19 fish. 20       We have to address those wildlife. We have to 21 make them whole too in terms of mitigating impacts of 22 those plants and animals. With regard to the trade-off, 23 I think the challenge here is that with the fish, we 24 don't have a lot of choices where to go to expand 25 habitat, to improve habitat for the fish.</p>
<p style="text-align: right;">Page 39</p> <p>1       As for the Suisun Marsh plan, I think it 2 should be more clearly explicit that there is an EIR/EIS 3 ongoing with a public draft that's going to be out. 4 It's looking at a range of alternatives. I think the 5 draft that I've seen has selectively only picked the 6 highest range as the target of 97,000 acres. 7       I would remind you there's a five to seven and 8 a three to five which are going to go through the same 9 environmental review and scrutiny about 10 (unintelligible). It does not preclude future actions 11 from going forward if the plan objectives are done. 12       But there's also, there's other components 13 than just tidal restoration of the Suisun Marsh plan. I 14 would focus those direct effects that, in Suisun, you 15 have existing seasonal wetlands, resource values and 16 functions that tidal restoration are going to either 17 result in direct loss of or degradation. 18       And we're starting to now balance one wetland 19 subtidal fish habitat against seasonal wetlands that are 20 supporting other native species, migratory species. And 21 your conservation strategies have not been clear to me 22 how integration of terrestrial species -- those offsets 23 because you're trading now. We're going to trade. 24 We're going to say that water fowl, neotropic migrant 25 shore birds, resident mammals are not as important as</p>	<p style="text-align: right;">Page 41</p> <p>1       We have more flexibility with the terrestrial 2 wildlife and the seasonal restoration and habitat 3 restoration. I know it's a challenge. It's an 4 established use. But we are looking for opportunities, 5 as many as we can find, for these fish that are near 6 extinction. The Delta smelt is near extinction. 7 Longfin smelt is on decline and was just listed. 8       That's the challenge here is to, is to have 9 that balance, as you said, a trade-off between the fish 10 and some of these seasonal wetland species. We're 11 looking to address those seasonal wetland species with 12 regard to the conservation plan also. 13       MR. CHAPPELL: I have several others. I will 14 point out one thing: The legacy of conservation in 15 Suisun Marsh due to the landowners has presented BDCP 16 this opportunity that you have a legacy of water fowl 17 conservationists that preserve and protect those lands. 18       I don't see anywhere in here the 19 acknowledgment that as you move forward in your near and 20 your long-term that all those lands are protected by 21 levees; yet, there is no discussion of the need for the 22 levee maintenance. In Suisun, the majority of those 23 levees are all privately maintained or publicly 24 maintained through Fish &amp; Game. 25       Through your conservation strategy to protect</p>

<p style="text-align: right;">Page 42</p> <p>1 those areas that are remaining, there has to be  2 long-term commitments for levee maintenance of Suisun  3 Marsh and infrastructure. If you increase salinity in  4 the infrastructure and the habitat quality decline, you  5 won't meet your objectives.  6 MR. CYLINDER: Thank you.  7 I would like to point out the relationship  8 between developing a plan that's focused on the  9 biological resources and the effort to enhance fish  10 habitat and enhance wildlife habitat, plant habitat, and  11 the impacts that result on landowners and on human  12 environment.  13 While the HCP is focused on improving the  14 habitat for these species, the environmental evaluation  15 and all those stations you see back there needs to look  16 at the effects on all of the human environment. So if  17 implementing this plan is going to have an adverse  18 effect on levees and adjacent landowners, first, we're  19 trying through this public interaction to identify those  20 and build them into the conservation plan itself.  21 If we don't, this environmental document  22 that's being put together here is going to identify  23 these other impacts and the environmental document may  24 identify additional measures that need to be taken to  25 offset or mitigate those impacts on the human</p>	<p style="text-align: right;">Page 44</p> <p>1 canal. That's never happened.  2 Today is almost 24 years that I have tried to  3 put my parcel back to tidal action. The swamp removal  4 flow 322 certain levees were let out. It would put it  5 back to my 10-foot contour line.  6 Because of Solano County Board of Supervisors,  7 because of the general plan, I have an overlay over my  8 property that I brought you letters that the attorney  9 has wrote that you cannot mitigate private property.  10 You cannot mitigate my parcel because you don't own it,  11 and the County has it for mitigation.  12 You need, from my understanding from  13 Brouchette &amp; Crusela (phonetic), 15,000 acres to  14 mitigate. I heard, when I came here tonight, was the  15 whole Suisun Marsh. I wanted to know what bad thing you  16 were doing that you were mitigating the whole marsh. It  17 turns out that it's over towards Collinsville.  18 Before the Board of Supervisors this week, we  19 tried to stop Vision One in Collinsville. They're  20 hauling in and they're going to put a power plant in.  21 They're doing research. They're going to do all this  22 green waste hauling in. Collinsville at one time had  23 salmon.  24 Moyle did a research from  25 U.C. Davis. My parcel -- there's 32 salmon supposedly</p>
<p style="text-align: right;">Page 43</p> <p>1 environment.  2 That's why it's so important to get your  3 comments here today. That is the big part of scoping is  4 identifying what you feel are issues that we're bringing  5 up because of what's being proposed here.  6 MODERATOR JONES: June is going to speak from  7 her seat, and then Linda Schrupp.  8 MS. GUIDOTTI: June Guidotti, fifth generation  9 in the Suisun Marsh. When I first came here, I was  10 against the diversion of water. I still am. 25 years  11 ago, when Jerry Brown wanted to move that water, I was  12 all for it.  13 Because of what I lived with every day, don't  14 move the water. If you want to start with the Federal  15 sewer plant in Suisun, right now, going before the  16 Oakland Water Quality Board on April the 8th, they have  17 cyanide in the water and two chemicals, one and two that  18 I can't even pronounce the word on, that will kill our  19 fish. They're trying to find out where it's coming  20 from.  21 Originally, on the salt and saline, the fifth  22 of the salt and saline, you never did it. You never  23 connected Denverton (phonetic) to Hill Slough. They  24 were supposed to flush the Suisun Marsh with that sewer  25 water, flush it and take it down to the peripheral</p>	<p style="text-align: right;">Page 45</p> <p>1 there was no oxygen down in the water down in Grizzly  2 Island. I'm thankful that you're coming to Suisun, and  3 you're going to investigate why my parcel, 150 acres can  4 sit in the center of Potrero Hills landfill, that they  5 want to bring the biosolids up there and spread it like  6 feces and take the methane gas out of it. That  7 biosolids is coming directly from that sewer plant.  8 It's running right into the water.  9 40 years ago, we stopped the sportsmen from  10 shooting lead into the ground because of what it was  11 doing to the water. The pharmaceutical drugs that are  12 in this needs to be addressed. Why there's a commercial  13 industrial road leaking toxins going up to Potrero  14 Hills landfill that Steve Chappell can vouch for that  15 under tidal action that goes right over to the hundred  16 year flood, that goes right over to Bud Tonnesen's  17 sister-in-law's parcel that is unlined just like the  18 Solano Garbage Company is unlined.  19 If you don't start cleaning up these areas --  20 that was supposed to be cleaned up, the Solano Garbage  21 Company. Dick Brann can tell you. Back in 1984. He  22 was knowledgeable of what was happening there.  23 Unless you're going to -- there's a blessing.  24 The District of Columbia and Washington DC filed a  25 lawsuit December the 8th. They have to sell Potrero</p>

<p style="text-align: right;">Page 46</p> <p>1 Hills. People have asked that it go back to its natural 2 environment and stop the toxins. The sportsmen filed a 3 lawsuit that they've been hauling toxins into the Suisun 4 Marsh for 23 years. It's a blessing that these lawsuits 5 have come. 6 We have begged. I have begged the Board of 7 Supervisors to please not approve for them to haul 8 biosolids up there and do these biosolids in that 9 landfill. Because they get \$8.5 million for a tipping 10 fee just for hauling the garbage in. Steve Chappell 11 will vouch that he settled his lawsuit for more money 12 hauling garbage in. 13 So until these issues are addressed, how are 14 you going to keep the fish alive when you continue to 15 dump toxins that are killing the water? I mean, it's -- 16 that's why I came here. I want to submit this to -- I 17 guess to your minutes, to be added to the minutes. If 18 you have any questions, my name is on there. 19 I would really -- I saw the list for the 20 Steering Committee. I was a little upset when I knew 21 who was sitting on the Board, when I saw who was on the 22 Board. I'm glad to hear that the Federal is going to 23 step in and maybe take some of our levees out. Maybe we 24 need to restore this marsh and put it back. And good 25 luck on your project. Thank you.</p>	<p style="text-align: right;">Page 48</p> <p>1 the aquatic habitat is because there's been lawsuits 2 protecting the aquatic habitat that has interfered with 3 the operations of the State and Federal pumps. That's 4 why the focus there's the on that. 5 As they're doing HCP and luckily NCCP under 6 the State laws, the NCCP has a provision where under 7 CEQA they have to mitigate the socioeconomic impacts of 8 the mitigations they are putting in place. They have to 9 mitigate the mitigations. 10 For the counties and our communities here, we 11 get no benefit out of the pumps that they're talking 12 about in the south Delta. Our pumps are up here in the 13 Cache Slough that supplies Solano and Napa County. 14 There is an impact of them creating more high saline and 15 more high carbon water next to our water intakes, which 16 hasn't been explained clearly how that's going to be 17 mitigated. 18 There is reason why we have these 19 opportunities for shallow water habitat restoration on 20 the swamp when they overflow is because this county has, 21 like the Suisun Marsh, a history of preserving these 22 areas for their intrinsic values and their production 23 act. What we are talking about is damaging the economic 24 underpinnings of many of the communities in the Delta 25 without a clear mitigation strategy for how they're</p>
<p style="text-align: right;">Page 47</p> <p>1 MODERATOR JONES: Linda and then Mike Reagan. 2 UNIDENTIFIED WOMAN: I had a quick question. 3 She brought it up. Who is on the Steering Committee? 4 How do we find out? 5 MS. NEMETH: In your packets, there's a couple 6 of brochures. On the summary on the inside cover, we 7 list everybody there. Go over it. It's in your 8 materials. Thanks. 9 UNIDENTIFIED MALE: It's not by name. It's by 10 agency; isn't it? 11 MS. NEMETH: Right, by organization. I can 12 show to the website and you can get the exact name who's 13 representing the agency or entity. Thanks. 14 MODERATOR JONES: Mike. Then Jan Rogala. 15 MR. REAGAN: Karla, since last summer, we've 16 been working on this. Secretary Chrisman has been very 17 open and receptive as we basically formed a 18 five-Delta-county coalition to actually engage because 19 what was happening in a different process, the Blue 20 Ribbon Task Force wasn't taking in some of the local 21 comments. 22 The BDCP is one of 50, 60 processes going on. 23 It's just a subset of everything that is going on in 24 trying to figure out how to replumb California. 25 A couple of things: Basically the focus on</p>	<p style="text-align: right;">Page 49</p> <p>1 going to do that. 2 The other thing we have is water rights which 3 are superior to those that are pumped from the south 4 Delta. And that entire concept that the areas where 5 there's natural scarcity waters, ability to draw water 6 is inferior to those whose living communities where 7 water naturally is is something that we, Napa, Yuba City 8 and Butte County and a few others are already in 9 litigation to protect. There will probably be several 10 others who will have to do that as well. 11 One of the things missing from this plan is a 12 current plan that's going on with -- the old Reclamation 13 Board is now called Central Valley Flood Protection 14 Board. They're coming up with a plan for the levees in 15 the Delta. Not just the project levees, but the other 16 levees. 17 Unfortunately much of their focus is to 18 identify which levees to not resuscitate if they fail. 19 For our communities, what provides the protection for 20 the water quality that we use for agricultural in our 21 municipalities is the levees that provides the 22 displacement to keep the freshwater in the area. 23 As we lose those levees, as Frank's Tract 24 (phonetic) is a classic example, the X2 moved inward 25 when that happened. It hasn't been flushed back out.</p>

<p style="text-align: right;">Page 50</p> <p>1 We have to come to some understanding of how you're  2 going to maintain the X2 and provide the Suisun  3 Marsh with the saline you can control on the Montezuma  4 Slough which is part of the State water project, how are  5 you going to keep that freshwater to maintain the  6 functions of that 10 percent of the remaining wetlands  7 in California?</p> <p>8 You've heard this on and on and on. We've  9 done testimony. One -- we have a long and sad  10 experience with government and nongovernment entities  11 operating or owning land that they do a poor job in  12 operating and maintaining because they don't have an  13 assured source of funding to do such.</p> <p>14 The teachable moment is probably the prospect  15 (unintelligible) fish kill which was the Bureau of  16 Reclamation repairing the levees on an island they owned  17 that had failed. Fish had established themselves.  18 Fishermen followed, as is their Constitutional right.  19 We ended up having to do six rescues of fishermen who  20 were capsizing as the tides were rushing off that  21 island.</p> <p>22 The Bureau of Reclamation fixed the levees and  23 pumped the levees dry to mitigate the risk. We're  24 looking at tens, if not hundreds of thousands of acres  25 of what is now agricultural land in the Delta being</p>	<p style="text-align: right;">Page 52</p> <p>1 walls, et cetera. What we really can't get a handle on  2 is how your project, river levee projects, all of the  3 projects are going to affect the river level in the  4 Sacramento River.</p> <p>5 If you put a secondary canal or a bypass canal  6 or whatever, will it lower the flood risk or will it  7 raise it? Will the fixing of the levees lower the  8 river, or will they raise them? Sea water, this is the  9 most definitive word that we've gotten tonight. I'm  10 really grateful. First of all, you told me there will  11 be a report out shortly on sea water and global warming  12 and the affects on the river.</p> <p>13 I'm delighted to hear that. I'm not delighted  14 to hear six feet. But you know, it will have a  15 significant effect. So my question is: What's this  16 Yolo Bypass going to do to the City of Rio Vista? It  17 appears to end just about on our doorstep. You see  18 Isleton makes the corner, comes around. There's the  19 bridge. That's always been farmland. It's been highly  20 productive farmland.</p> <p>21 Rio Vista has an airport. That looks like the  22 airport may be part of the Yolo Bypass. Has a housing  23 development out there. I'm really concerned at the lack  24 of data we have. And I hope you'll keep that in mind.  25 Although I'm here tonight representing the City of</p>
<p style="text-align: right;">Page 51</p> <p>1 converted into something that if it isn't thought  2 through is going to be a nuisance.</p> <p>3 MODERATOR JONES: Jan and Jon Fadhl.  4 MS. ROGALA: Hi. My name is Jan Rogala. I'm  5 a hazard mitigation and flood planner. I have the  6 interesting job of coming up with the floodplan to  7 protect both the cities of Rio Vista and the city of  8 Isleton.</p> <p>9 Last month, I went to a meeting on the levee  10 repair where I learned that 10,000 linear feet of levees  11 were being repaired this year; had been last year;  12 probably next year. And these projects started at  13 Tehama, and they ran all the way to the Bay. Along with  14 that, they gave me a map of erosion areas.</p> <p>15 Your project and those erosion areas intersect  16 dramatically. I don't know if this -- this was called  17 the Sacramento River Bank Protection Project. Our  18 questions at the Bank Protection Project is, of course,  19 you know the lower part of the river floods less if the  20 Yolo Bypass works well, and if a levee or two breaks  21 north of us and takes some of the stress off from  22 Rio Vista.</p> <p>23 Part of the levees they're repairing are  24 across the river from Rio Vista. Rio Vista has no  25 levee. Rio Vista is considering many options, flood</p>	<p style="text-align: right;">Page 53</p> <p>1 Rio Vista, the City of Isleton has the same problem.  2 They are protected by levees. They are  3 considered Delta number two. Not a primary Delta, but a  4 secondary. So they have -- the one thing that we  5 discovered at the last meeting is that the Army Corps of  6 Engineers believes that levees should not have  7 vegetation on them. There's a whole movement opposing  8 that, et cetera.</p> <p>9 But how does that affect your habitat, how  10 does that affect the runoff? I think all the projects  11 need to intercommunicate. And you all need to let us  12 know how it's going to affect these two little tiny  13 cities that I heard described, you know, kind of as Don  14 Quixote tilting at windmills because we are not a  15 priority.</p> <p>16 So that's my comment. I hope you'll keep us  17 in mind.</p> <p>18 MODERATOR JONES: Jon.  19 MR. CYLINDER: Just one comment on the Yolo  20 Bypass and what we've identified as a potential  21 conservation measure there. Right now, the Yolo Bypass  22 serves as a flood bypass protecting a lot of urban  23 areas. And we're not really looking to change that  24 function at all.</p> <p>25 What we're looking to do, though, is to</p>



<p style="text-align: right;">Page 54</p> <p>1 provide more flexibility in the operation of the Fremont  2 Weir. Right now, the Fremont Weir is simply an elevated  3 area that the water can spill over when the Sacramento  4 River gets to a certain stage and flood into the Bypass  5 and take the head off the Sacramento River as it comes  6 down past the city of Sacramento.</p> <p>7 Our proposal, recommended conservation measure  8 at this point, is to put operable gates into the Weir,  9 keep the Weir at the same height. But allow those gates  10 to open such that we could take the head off the  11 Sacramento River at a lower stage to be able to more  12 frequently put water into the bypass for the benefit of  13 fish.</p> <p>14 There's research that has shown that this  15 flood plain habitat, if you can keep it flooded long  16 enough is -- provides tremendous benefit to Sacramento  17 splittail as well as to Chinook salmon. The opportunity  18 here is to take an existing flood plain and re-operate  19 it so that it floods a little bit more frequently and a  20 little big longer period of time without having any  21 adverse effects on the flood control.</p> <p>22 Obviously, we need to work and have been and  23 will continue to work with the Corps of Engineers who is  24 our newest member of the Steering Committee in making  25 sure that nothing we do results in any adverse effect on</p>	<p style="text-align: right;">Page 56</p> <p>1 environment, both positively and negatively.  2 As part of the analyses that are being  3 undertaken as part of looking at the various  4 alternatives as well as the proposed project, those  5 types of modeling tools are being applied. They're  6 being critically reviewed by others involved with flood  7 control risk and those types of issues.</p> <p>8 And they will be part of the environmental  9 documentation that will be available to the public to  10 review to see how those issues were addressed, to see  11 what the results of the various alternatives would be on  12 those kinds of risks, and to see how those risks are  13 being handled as part of the overall conservation  14 strategy.</p> <p>15 MR. FADHL: My name is John Fadhl. I happen  16 to farm and reside within the defined primary Delta.  17 One of the concerns that I have as a Solano County  18 resident, it has become very important to our residents  19 to protect our agricultural lands. Within that  20 protection, we have city-centered growth.</p> <p>21 Consequently, our tax basis within the  22 unincorporated area is far behind those of other  23 counties. When we decided that Solano County is going  24 to become a mitigation sink, bank, whatever you want to  25 call it, we're going to impose and lose some of that tax</p>
<p style="text-align: right;">Page 55</p> <p>1 flood control ability.</p> <p>2 MR. HANSEN: Just to help address your comment  3 a little bit because it is an absolutely important  4 consideration. Flood control is one of those issues  5 that needs to be evaluated as part of this EIR/EIS  6 process. The hydraulics that occur in the Sacramento  7 River are influenced by a variety of factors you point  8 out. Levees, a whole host of land uses.</p> <p>9 One of the things we are contemplating is what  10 would be the effects of various types of habitat  11 modifications that would benefit fish through additional  12 inundated areas, both seasonally inundated as well as  13 permanently inundated, and how will that change the  14 hydrodynamic conditions within the River and the area  15 around Rio Vista, Isleton, that whole reach.</p> <p>16 So as part of our process, there is a whole  17 team of engineers, scientists, modelers, who are all  18 devoting their attention to developing the tools that  19 will allow us to look over a whole period of hydrologic  20 record to evaluate what the effects of these various  21 projects would be on the flood risk as well as the  22 hydrodynamics, the tidal circulation, the salinity  23 patterns, all of those various processes that are of  24 importance to you, but they're also of importance to us  25 to better understand how this program may affect the</p>	<p style="text-align: right;">Page 57</p> <p>1 revenue that is already very valued.  2 I'm sure some of the other five Delta counties  3 are going to see that same thing when the benefit of the  4 counties from the south are going to get that higher  5 water quality that they so desire and need, but coming  6 back to it, we're going to pay that because as residents  7 of these five counties our tax base is going to get  8 eroded, and we've got to make up those funds somewhere  9 else.</p> <p>10 I think that needs to be considered to where  11 those funds are going to come from. Obviously, as a  12 farmer affected by this stuff, I may lose part of our  13 property to pay those kind of impacts. The other thing,  14 I think that some of your government agencies -- I know  15 this was slightly addressed tonight. There's a  16 conflict.</p> <p>17 When I was looking at a USGS, I believe it is,  18 document, they're saying that when you do flood  19 inundation of a Delta levee, that you create an  20 anaerobic environment. I'm trying to understand how a  21 fish can survive, that we are trying to protect, in an  22 anaerobic environment because of the peat soils we have  23 out there.</p> <p>24 The other thing that I have is with this  25 raceway off to the east there taking a lot of that</p>

<p style="text-align: right;">Page 58</p> <p>1 northern Delta water down to the south, it's bypassing 2 the Solano County water intakes. I have grave concerns 3 what that's going to do to my water quality. I see 4 we'll have some sea water intrusion. 5       Likewise, when that water goes down there, if 6 you're saying that the snow pack is going to be less and 7 less and less and we're going to have more water flowing 8 through this region, where is the down-range storage 9 capacity when we have an abundance of this high-quality 10 water. 11       I realize it's outside the project scope, but 12 there needs to be some sort of mention within the 13 project scope that the expectation is that those 14 downstream will all take responsible actions for 15 containing that water when it's good quality. 16       Thank you. 17       MR. HANSEN: Let me address a couple of points 18 you made. I'm going to focus really on the water 19 quality issue, the anaerobic conditions that you 20 describe. When we're looking at these various kinds of 21 restoration projects, the circulation patterns that 22 occur within a seasonally inundated or permanently 23 inundated area are going to be important in terms of 24 dissolved oxygen concentrations, how they affect the 25 growth of tules and other vegetation. What that does to</p>	<p style="text-align: right;">Page 60</p> <p>1 The kinds of comments and the questions you pose are 2 absolutely on target. Part of the purpose tonight is to 3 hear those kinds of comments so they can be incorporated 4 into the analyses for the EIR/EIS, but they can also be 5 incorporated into our thinking as we're looking at the 6 alternatives and fine-tuning and making some of these 7 decisions to help us move forward with avoiding the kind 8 of adverse circumstances that you pose and generating 9 the kind of benefits that we hope this panel will 10 actually achieve. 11       MODERATOR JONES: Okay. Richard Brann. 12       MR. BRANN: I have three questions. And it 13 may have been addressed before. Basically, I want to 14 know what is the authorization for this study? Where 15 did it come from? From the Legislature? From the 16 Executive Administrative Directive or some departmental 17 activity? 18       Second question is: Are you also studying 19 desalination as aggressively as you are studying this? 20 Southern California certainly ought to be using 21 desalination. Israel does. There's no reason why 22 Southern California shouldn't instead of taking Northern 23 California water. 24       My third one is: Are you aggressively 25 studying the interface of -- we're going to have rising</p>
<p style="text-align: right;">Page 59</p> <p>1 the water quality within that specific region as it 2 affects those conditions and habitat suitability for 3 various fish. 4       We don't want to create conditions that are 5 going to be anaerobic for a couple of reasons. One, as 6 you point out, it's not going to provide the kind of 7 fishery benefit that we want. The second issue that 8 gets interrelated here is that in many of these areas, 9 there are legacy constituents like mercury that are 10 endemic to the soils and change their chemical nature 11 under those conditions of anaerobic water. Becomes 12 methylated mercury. Becomes more toxic. 13       Again, that's a circumstance that we're 14 looking at critically in terms of this north Delta 15 habitat, what effects these sorts of projects would have 16 on that. That will all be part of the decision-making. 17       As I mentioned earlier, we're developing 18 hydrologic simulation tools to be able to answer your 19 questions about what will these projects do in terms of 20 changing the circulation patterns in the area of the 21 intake, what will they do in terms of changing the tidal 22 hydrodynamics, and what kinds of outcomes would we 23 expect in terms of salinity as a response to these kinds 24 of conservation measures. 25       So we're in the early part of that analysis.</p>	<p style="text-align: right;">Page 61</p> <p>1 tidal from the earth warming? Are you addressing the 2 concerns there, and how that's going to affect the whole 3 -- 4       MS. NEMETH: In response to your first 5 question, the impetus for this conservation plan is a 6 voluntary process that water agencies essentially signed 7 up to do as a way to seek regulatory compliance under 8 the Endangered Species Act. It's not mandated by law. 9       But folks need to have permits so they have 10 voluntarily chosen to enter into this kind of a planning 11 process to achieve that. 12       MR. BRANN: You are aware that the Peripheral 13 Canal was voted down by the people of California once? 14       MS. NEMETH: I certainly am, sir. In response 15 to developing other kinds of water supplies, Keith might 16 be able to provide some perspective in the bigger 17 California water picture. 18       MR. COOLIDGE: Sure. Southern California is 19 actually actively investigating sea water desalination. 20 There's an ongoing pilot study in Long Beach, another 21 large plant proposed for Carlsbad down in San Diego 22 County working with a private corporation called 23 Poseidon Resources. 24       They have also looked at co-locating a plant 25 in the City of Huntington Beach which is right next to</p>

<p style="text-align: right;">Page 62</p> <p>1 an electric-generating plant. They would like to be  2 able to use both the intake and power plant location to  3 help keep costs down. There was a plant that was put in  4 in there in Santa Barbara during the last drought.  5 They had no other source. They built a  6 desalination plant. When the drought ended it, they  7 dismantled it and tapped into the State water project.  8 So they have come and they have -- it is actively being  9 considered. The State of California through the  10 Department of Water Resources through the Integrated  11 Regional Water Management program has been offering  12 grants to help facilitate these studies.  13 The Metropolitan Water District of Southern  14 California, the large wholesale agency that governs six  15 counties down there, has been offering local assistance  16 to their member agencies to help them study and move  17 forward with desalination. They are also looking not  18 just at sea water desalination but water recycling,  19 taking wastewater, putting it through -- there's a large  20 project that came online in Orange County called the  21 Groundwater Replenishment System.  22 They are taking secondary treated water from  23 the sanitation district. Putting it through reverse  24 osmosis through filters. Treating it with ultraviolet.  25 And just to be triply sure, they are piping it upstream</p>	<p style="text-align: right;">Page 64</p> <p>1 farmer here in Suisun Valley. I have a question for the  2 gentleman over there. I heard you guys do studies and  3 doing the studies up and down mitigating for habitat,  4 everything like that.  5 As a farmer and are you going to go to getting  6 the water up north, bringing it down here and going down  7 south and you said in the future, there's going to be  8 more rain than snow. The snow has more density get down  9 to the dams.  10 If you're not going to have snow, you're going  11 to have more water. That precious cup of glass that  12 you're drinking there, Karla, is the most expensive  13 drink because I wonder -- and that water is going to  14 somewhere. And to say to you, sir, why is the cost of  15 desalination plants versus all the other kinds,  16 reclaimed water versus a dam, and what cost -- I haven't  17 heard about that -- of getting a dam there and catching  18 that water, and we can let it down. Getting nature's  19 water, the cleanest for that.  20 And desalination, what cost is that? I would  21 like to go down to the bottom line. And you're not  22 getting down to the bigger costs. You have all these  23 wonderful things about the habitat. The rain water is  24 the best form. Is it -- which is the best form to  25 clarify and clean: Reclaimed water or desalination or</p>
<p style="text-align: right;">Page 63</p> <p>1 and percolating down into their groundwater basin where  2 it begins to be pulled up no earlier than six months.  3 They're using all kinds of filtration to treat  4 that and pull that out. They really are doing a lot of  5 work down there to be regionally self-sufficient. There  6 plea through the Bay Delta process is to be assured on a  7 amount of water that they can count on from the State  8 and they will go find and develop the rest.  9 MS. GUIDOTTI: Can I have a question to  10 clarify something that Dick Brann said, that the people  11 voted down the peripheral canal? To my understanding,  12 it was approved. But all they had left to do is that  13 the people wanted them to take their own canal. Is that  14 wrong? I mean, they didn't want it -- their own water  15 in a different canal, but it actually was passed?  16 MS. NEMETH: I don't think so, no.  17 MS. GUIDOTTI: I know it was voted down. I  18 think I remember hearing it was approved, but the people  19 wanted them to use their own canal for this water to  20 Southern California. Not true. You don't know?  21 MS. NEMETH: I don't think so.  22 MS. GUIDOTTI: Okay. Thank you.  23 MODERATOR JONES: Okay. Last call. Any  24 questions? Okay. Yes, sir?  25 UNIDENTIFIED MALE: Neil (unintelligible),</p>	<p style="text-align: right;">Page 65</p> <p>1 just cleaning when it's caught by a dammed reservoir?  2 And why aren't we getting more up and down the mountain  3 ranges north and go to L.A. and not take away from  4 Northern California farmers and the people.  5 MR. COOLIDGE: Let me see if I can -- I'm  6 going to address those, I think, in reverse order.  7 When we're talking about relative costs, sea  8 water desalination is about -- the lowest estimates I've  9 seen are about \$1,200 an acre foot. Put that in  10 perspective, a family of five uses an acre foot of water  11 in an urban setting every year. Your water bill is  12 about \$1,200.  13 Plus treatment, plus moving it. That equates  14 to --  15 MR. RIZZI: That's using your existing  16 technology, not using natural desalination.  17 MR. COOLIDGE: Absolutely. That's existing  18 technology, best estimates. The groundwater  19 replenishment program that I talked about taking  20 reclaimed water which has about a tenth of the salts  21 that sea water does, it is easier to treat. That's in  22 the neighborhood of 550 to \$600 an acre foot.  23 When we look at things like brackish water  24 desalination, actually taking groundwater that has a  25 high salt content but less salty than sea water and</p>

<p style="text-align: right;">Page 66</p> <p>1 reclaimed the water, I'm in the neighborhood of 3 to 2 \$400 an acre foot.</p> <p>3       The unblended cost of State Water Project 4 Water in Los Angeles and you pay for the State project. 5 There's a certain component you pay for energy and for 6 just the cost of water and the transportation through 7 the facilities. There's also energy. So Southern 8 California, because they have to pump it over the 9 Tehachapis, pays the most.</p> <p>10       I believe that's in the neighborhood of \$250 11 an acre foot by the time it gets down there. The local 12 sources, the Colorado River Aqueduct was built a long 13 time ago. That's in the neighborhood of \$130 an acre 14 foot. The Los Angeles Aqueduct from Owens Valley, 15 somewhat less than that. And pure pristine groundwater 16 is the cheapest source for them. By the time you figure 17 energy costs, it's around \$100 an acre foot.</p> <p>18       But as Southern California learned early on, 19 groundwater you have to treat very much like your 20 checking account. If you don't make regular deposits, 21 you're not going to be making regular withdrawals. 22 That's why they've gone to diversifying their system.</p> <p>23       MR. FADHL: What is the cost of that water as 24 it enters the Delta estuary? What's the cost coming 25 in?</p>	<p style="text-align: right;">Page 68</p> <p>1 go to the back of the room because many of the comments 2 we heard are exactly the types of questions that should 3 be posed to the environmental crew back there.</p> <p>4       Because of the protocols of the official 5 environmental process, they're not necessarily there to 6 answer your questions. These folks will stay, and they 7 will. But they do want to hear your comments and your 8 concerns. So with that, we thank you and thank you for 9 coming. Continue on in the back of the room.</p> <p>10       (Whereupon, the presentation was concluded at 11 8:19 p.m.)</p> <p>12                               ---oOo---</p> <p>13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 67</p> <p>1       MR. COOLIDGE: It would depend I think to Sac 2 Valley farmers, I am not sure, but it is less than 20 or 3 \$30 an acre foot. And the other thing to keep in mind, 4 as we've talked about, global warming. The loss of 5 Sierra snow pack, perhaps as much as a third of the 6 Sierra snow pack lost over the next 50 years. You are 7 going to see more high-volume floods and more prolonged 8 draughts.</p> <p>9       It really means surface storage, additional 10 surface storage is going to be very important. You need 11 to be able to capture those storm flows when they hit, 12 hold them, and that is surface storage. Slow the 13 releases and allow the percolation of underground 14 storage, below-ground storage, as the Governor like to 15 talk about.</p> <p>16       It's really an interlocking system. We really 17 do have a lot of work to do. This was a Delta Vision 18 recommendation. You're going to have to look at all the 19 pieces of the puzzle. You can't just pick and choose 20 because if the system is going to work, it is dependent 21 on each and every other piece of the puzzle.</p> <p>22       MODERATOR JONES: With that, I thank you all 23 for your comments. They were very insightful. Some of 24 them were even new and unique to this area because it's 25 a unique area. I would like to invite you to remain and</p>	

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PUBLIC COMMENT MEETING  
HDR ENGINEERING INCORPORATED  
THURSDAY, MARCH 19, 2009

Taken at:  
1209 L Street  
Sacramento, California 95814

ANGELICA R. GUTIERREZ, CSR NO. 13292  
JOB NO. 114785

1 MS. LINDA DORN: My name is Linda Dorn, D-O-R-N.  
2 I'm with Sacramento Regional County Sanitation District.  
3 I want assurance that all impacts to the Sacramento  
4 Region caused by the proposed plan will be and must be  
5 fully mitigated.  
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2 I, ANGELICA R. GUTIERREZ, a Certified Shorthand  
3 Reporter of the State of California, duly authorized to  
4 administer oaths, do hereby certify:  
5 That I am a disinterested person herein; that the proceeding  
6 was reporter in shorthand by me, ANGELICA R. GUTIERREZ, a  
7 Certified Shorthand Reporter of the State of California, and  
8 thereafter transcribed into typewriting.

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10 ANGELICA R. GUTIERREZ CSR #13292  
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1 BAY DELTA CONSERVATION PLAN  
2 ENVIRONMENTAL IMPACT REPORT (EIR)  
3 AND ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS  
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6 MARCH 19, 2009  
7 BDCP PRESENTATION  
8 1:53 P.M.  
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24 REPORTED BY: LISA L. JONES, CSR 12982  
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<p style="text-align: right;">Page 2</p> <p>1 KEITH COOLIDGE: My name is Keith Coolidge.  2 I'm the chief deputy director of the Bay Delta Program  3 that involves Cal Fed and Delta Vision Process, part  4 of the development of the Bay Delta Conservation Plan.  5 As I know, looking around the room, many of you have been  6 through all of these as well.  7 We're here today really to focus on a couple of  8 things. This is a scoping session. It's part of the  9 environmental review process, so we are looking for  10 scoping comments to help with the contents and analytical  11 methods for the EIR/EIS. We are looking for comments  12 that will help us identify areas of concern, issues of  13 concern, we want to broaden and better focus potential  14 alternatives. And then lastly, we want to identify other  15 sources of information, so that as we go through this  16 process, we really cover the widest range possible.  17 And you've already been engaging in some of  18 that in the other room, going from station to station,  19 being able to talk with the people who are actually  20 technical experts in each of these areas, and they're  21 taking comments and making them a part of the record.  22 And then what we're going to do in here, is  23 talk a little bit about the broad overview of the Bay  24 Delta Conservation Plan, the development of the  25 conservation plan. And Karla Nemeth, who has been</p>	<p style="text-align: right;">Page 4</p> <p>1 after this presentation, get one of those cards, fill it  2 out, and get it back to Rebecca or Janet, so that we can  3 sort of better arrange how people are going to talk.  4 Again, my name is John Engbring. I am with the  5 U.S. Fish and Wildlife Service. I'm the assistant  6 regional director for water and fish. We, in fact, are  7 one of the agencies that will be reviewing this Bay Delta  8 Conservation Plan, the habitat conservation plan, to  9 eventually -- the desire is to eventually issue a permit  10 to go forward. And on the state side, the California  11 Department of Fish and Game, will also be reviewing this  12 under the -- what's called the NCCP, the state  13 counterpart to the federal process.  14 We are here to gather comments to the greatest  15 extent. We want to try to make sure there's  16 interactions. We want to try to answer questions, but  17 primarily we want to make sure that folks get their  18 comments into us, so that we can use those in the EIR/EIS  19 process. The stations next door is where you can go and  20 speak individually with folks that are familiar with  21 specific issues.  22 The reason we're here is that, as the water  23 projects in the Delta pump and move water through the  24 Delta, there are listed species, threatened and  25 endangered species, like the Delta Smelt and Salmon that</p>
<p style="text-align: right;">Page 3</p> <p>1 working hard on that, is going to go through that in more  2 detail. This is all an effort that's being led by the  3 Department of Water Resources, Bureau of Reclamation,  4 U.S. Fish and Wildlife and the National Marine Fishery  5 Service, they're doing it with the cooperation with Fish  6 and Game, the U.S. EPA, the Army Corp of Engineers, so we  7 are really loaded with lots of bureaucrats here today.  8 They're all representing agencies that are  9 trying very hard to make improvements in the Delta, both  10 for the ecosystem and for the reliability of the State's  11 water supply -- (inaudible) in the State of California.  12 One person who I want to introduce is the  13 Secretary for the California Natural Resources Agency, is  14 Karen Scarborough, in the back of the room. She has been  15 serving as the chair for this effort, and has devoted the  16 last two and a half years of her life to moving this  17 process forward and helping us get where we really all  18 need to be. With that, I want to turn the microphone  19 over to John Engbring. John is with the U.S. Fish and  20 Wildlife Service, federal partners in this effort to talk  21 a little bit about how they're engaging.  22 JOHN ENGBRING: Thank you, Keith. Actually,  23 before I forget, there are comment cards in the audience.  24 I think Janet has got some and Rebecca has some. If  25 anybody wants to come up and comment or ask a question</p>	<p style="text-align: right;">Page 5</p> <p>1 are actually killed by pumping actions and by other  2 activities.  3 It's illegal to kill and threaten our native  4 species, but there is a permitting process where a state  5 agency can apply to the federal agencies, the Natural  6 Marine Fishery Service and the U.S. Fish and Wildlife  7 Service, to get what is known as instant take permit.  8 What it does is authorize that agency to move forward and  9 conduct activities without the threat of lawsuits.  10 Before they can receive that permit, however,  11 one of the requirements is that they prepare a habitat  12 conservation plan, and in that conservation plan, they  13 have to describe the actions that are taken, the effects  14 of those actions on these threatened and endangered  15 species, and what they're doing to lessen those  16 effects -- (inaudible) -- conservation.  17 So we, the Fish and Wildlife Service, and the  18 Natural Marine Fishery Service for salmon, have to look  19 at those actions and we have to make certain that those  20 activities do not jeopardize the continued existence of  21 those species. Once we have gone through that review,  22 that analysis, we can then move forward and issue the  23 permits. So we're very early in the stage right now. We  24 haven't seen the conservation plan yet. We haven't  25 conducted all of the analysis of the plan.</p>



<p style="text-align: right;">Page 6</p> <p>1 I would like to encourage folks after this 2 presentation to move back into the other room, make sure 3 we gather as many of your comments as we possibly can. 4 I think that's -- anything else we need to go 5 over? Again, welcome here, and I'll turn it over to 6 Karla. 7 KARLA NEMETH: Thanks, John. Welcome 8 everybody. I'm glad to be here and glad to see so many 9 new faces coming out in Sacramento. 10 As John mentioned, my name is Karla Nemeth. 11 I'm with the California Natural Resources Agency. The 12 Resources Agency is the convener of a steering committee 13 that's helping to guide the development of the plan. 14 That steering committee includes water agencies that 15 provide water supplies to communities and farms from the 16 Bay Area down to San Diego and throughout the Central 17 Valley. It includes environmental organizations, 18 California Farm Bureau and other folks. 19 Every one around that table has acknowledged 20 that it's a major challenge to restore an ecosystem in an 21 environment such as the Delta. It's home to half a 22 million residences and businesses. It's home to a 23 vibrant agricultural economy, a recreational economy, and 24 we need to be balancing the restoration efforts and the 25 water supply reliability efforts with the needs of folks</p>	<p style="text-align: right;">Page 8</p> <p>1 there in the north, to the San Joaquin, coming in the 2 south and out to the Bay. Water supplies are conveyed 3 through the Sacramento River, through the Delta, down to 4 the state and federal water project pumps. The courts 5 have said, based on these record low populations of fish 6 species, they've identified that the flow of water, 7 moving through the Delta, impacts these fish species. 8 And as a result, for example, we are not allowed to 9 operate the pumps when the fish are in this vicinity here 10 in the Southern Delta. 11 Typically, when we have these kinds of 12 conflicts between water for human use and environmental 13 use, we propose a project and we try to mitigate, we try 14 to off set the damage to a specific species on a species 15 by species basis to meet Endangered Species Act and 16 California Endangered Species Act requirements. But what 17 these laws allow for is what's called conservation 18 planning, and under the Endangered Species Act it's 19 called a Habitat Conservation Plan. California has a 20 separate law, called the Natural Communities Conservation 21 Planning Act, that also allows for conservation planning 22 approach to endangered species compliance. 23 And at the heart of conservation planning, is a 24 conservation strategy, that's a suite of actions 25 implemented over time collectively that contribute to the</p>
<p style="text-align: right;">Page 7</p> <p>1 living in the Delta. 2 The secretary of resources is engaging with 3 elected officials from the Delta counties to get them 4 involved in a formal way in the process, to help keep the 5 counties whole as we continue to move through the 6 development of the conservation plan. Again, as John 7 indicated, the goal of today's presentation is to provide 8 an update on where we are in the development of the plan. 9 I'm not going to have all the details about it for you 10 today. Our expectation is that we will have a 11 preliminary draft of the conservation plan available this 12 summer. So I'm going to do my best to answer your 13 questions. 14 We've got folks who are working on the plan. 15 Paul Cylinder is a lead consultant on the plan. We're 16 going to try and answer your questions about it for the 17 purposes of helping to provide good input into the 18 EIR/EIS process. So why are we here today? As many 19 folks are aware, native fish species in the Delta have 20 experienced some record low populations, and that has 21 threatened the reliability for water supplies for about 22 25 million Californians and hundreds of thousands of 23 irrigated agriculture in the state. 24 Also, as many folks are aware, water naturally 25 moves through the Delta through the Sacramento River</p>	<p style="text-align: right;">Page 9</p> <p>1 recovery of species. It's based on the best available 2 science and allows opportunities for new science through 3 monitoring and adaptive management to inform the process 4 and to inform the implementation of the plan for the 5 betterment of the species. 6 There are lots of other elements that are 7 required in the conservation plan that are critical to 8 its success; that includes funding, how do we provide a 9 stable funding stream to implement the plan over time? 10 Who implements the plan? And again, this issue of 11 adaptive management in making sure that science is 12 continually informing the plan implementation. 13 So at the end of the day what is this going to 14 look like? It's going to look like a plan that outlines 15 specific actions taken over time and implemented in 16 exchange for the commitment and the funding to implement 17 that plan, permitting that John mentioned, would be 18 issued by the federal and state fishery agencies for the 19 take of endangered species. 20 In this plan we have two objectives and that is 21 stable and healthy fish populations and water supply 22 reliability. We're looking to balance the needs of -- 23 for human use with water supply and environmental use of 24 water supplies. The bulk of my presentation today is 25 going to be on what's the heart of the conservation</p>

<p style="text-align: right;">Page 10</p> <p>1 strategy? What's our thinking to date on it? That  2 includes this Chapter 3 up there, which is the  3 conservation strategy, that's one chapter of an entire  4 conservation plan.</p> <p>5 As I mentioned earlier, there's really critical  6 elements that still need to be developed, that will help  7 make the plan successful. The focus of our plan, it's an  8 aquatic conservation plan. The focus of our plan is on  9 several threatened endangered fish species. I'm going to  10 go into some detail on our approach to contributing to  11 the recovery of those fish species.</p> <p>12 We really based this plan on decades of science  13 that have been developed through the CALFED process, and  14 what we've done is, we've taken a look at what are the  15 measures by which we can determine the effectiveness of  16 the plan? What are our biological goals and objectives  17 that will tell us when fish species are actually  18 recovering as a result of the actions we're taking? That  19 includes things like measurement of their survival, their  20 distribution through the Delta system, their growth rate,  21 their mortality. What we've done is identify the  22 stressors on all of those things.</p> <p>23 I mentioned earlier, I had a graphic example of  24 the stress of water conveyance facilities and water flows  25 on the fish species, but science is telling us that it's</p>	<p style="text-align: right;">Page 12</p> <p>1 In the long term, we're looking at a canal.  2 We're looking at adding diversion points off the  3 Sacramento River, in the northern part of the Delta and a  4 canal with an eastern alignment around the Delta that  5 connects to the pumps.</p> <p>6 There are several ways in which we are looking very  7 intensely about how these facilities would be operated to  8 help support the recovery of fish species. And in a  9 general sense, in a conceptual sense, what we're looking  10 at is this north/south movement of water that is  11 currently dictated by the way we convey water from the  12 Southern end of the Delta.</p> <p>13 How do we create a situation that's more  14 natural, that more naturally resemble the flow pattern of  15 the estuary, and that's really an east/west movement of  16 water. There are a couple of key operational measures  17 that we're considering, which help us to answer this  18 question. How much water does the estuary need? How  19 much water do fish need? And the ways in which we are  20 thinking about that is, what's called bypass flows. So  21 how much water would we need to bypass a new diversion  22 point to transport food, to provide enough volume, to  23 maintain the right temperature of water, right salinity  24 of water, as well as appropriate levels for migratory  25 corridors for fish species.</p>
<p style="text-align: right;">Page 11</p> <p>1 a much more complicated process for the fish. If we want  2 to recover them, we're going to need to do other things,  3 and that includes some of the stressors that we've  4 identified, as a lack of suitable habitat for spawning  5 and rearing of fish species, lack of food for fish  6 species. Some of the other stresses include water  7 quality, toxics in the water, presence of invasive  8 species, all of these things taken together, need to be  9 addressed if we are to achieve this goal of contributing  10 to the recovery of species.</p> <p>11 Again, I think the important message here is  12 that we're looking at something that is more holistic, is  13 more comprehensive to achieve the goals of this plan. So  14 some of our ideas to date -- let's take the water  15 conveyance facilities and their operations first. In the  16 near term, we're looking at ways that we can help solve  17 this issue in the Southern Delta, where water is moving  18 through the Southern Delta and creating a problem for  19 fish in a way that the water is being pulled down to the  20 pumps. A couple of conservation measures that we  21 identified, include putting gates in the channels that  22 supply water to the pumps that can be opened and closed  23 seasonally, depending on the presence of fish. That's  24 something that we're looking at doing in the near term,  25 that means in the next 5 to 15 years.</p>	<p style="text-align: right;">Page 13</p> <p>1 We are also looking at out flows. How much  2 water needs to be moving out into the San Francisco Bay?  3 What's required to help fish species recover?</p> <p>4 We are also taking a look at habitat  5 restoration. As I mentioned before -- let me pause and  6 make the point that, the notion is with all of these  7 conservation measures, none of them individually will be  8 as effective as if we did them all together. So what  9 we're really looking at again, is a sweep of individual  10 measures that are implemented systematically through  11 time, together, to achieve this goal of recovery.</p> <p>12 So we're looking at three different kinds of  13 habitat restoration in the Delta. One is flood plain  14 restoration, the other is tidal marsh restoration, that's  15 growing cattails and tules, and the other is providing  16 some restoration along the channel banks in the Delta.</p> <p>17 What we're looking at right now is specific  18 conservation measures in the Yolo bypass area, putting a  19 notch in the Fremont Weir and diverting Sacramento River  20 supplies so that we can inundate more frequently the  21 flood plain in this area to provide spawning and rearing  22 habitat for fish. We're also looking at, in the near  23 term, in this 5- to 15-year time frame, tidal marsh  24 restoration in the Cache Slough, in the Suisun Marsh and  25 here in the Western Delta.</p>

<p style="text-align: right;">Page 14</p> <p>1 Over the longer term, in the next 15 years out,  2 we're looking at restoration in the eastern portion of  3 the Delta, here in the Southern portion of the Delta. In  4 terms of channel margin restoration, that restoration of  5 the banks along the banks in the Delta, we're looking at  6 Steamboat and Sutter Sloughs in this area, some along the  7 San Joaquin River, additional flood plane restoration in  8 the San Joaquin River.</p> <p>9 And common sense would tell us, if we're going  10 through all this trouble of trying to determine how flows  11 and habitat interact with events of fish, we sure don't  12 want to be doing it in a place where there's invasive  13 species that are either disrupting the food web or are  14 predators for the fish species that we're trying to  15 recover. So the key element of this is identifying  16 conservation measures to more aggressively remove those  17 species, for example, or address localized water quality  18 issues that are impacting the survivability of the  19 species. That will be -- those will be completed  20 strategically throughout the Delta as we continue to  21 identify the habitat restoration opportunities.</p> <p>22 So where are we in this process? We've  23 identified approximately 50 conservation measures that we  24 are conducting further analysis on. This information is  25 available on our website, that's <a href="http://www.resources.ca.gov">www.resources.ca.gov</a>.</p>	<p style="text-align: right;">Page 16</p> <p>1 plan. At the end of 2009, we will have a draft public  2 plan, conservation plan, that will include this strategy.  3 Where we are in the process, today we're at  4 scoping meetings, March, 2009. We're doing some ongoing  5 outreach. We have steering committees, and every other  6 week, those are open to the public. We invite folks to  7 come and listen in on the discussion, make comments at  8 the end of those meetings so that folks can get engaged  9 and hear some of the ideas that are being considered.</p> <p>10 Our expectation is that we will have a  11 preliminary draft of the full conservation plan available  12 this summer. We will take that plan out into the  13 communities to help them understand what's in it and why,  14 get some input on that plan. In advance of our  15 expectations for a draft public plan, that we're required  16 by law to release that plan, provide opportunities for  17 comment and respond to those comments.</p> <p>18 Our expectation is that we would have a final  19 draft conservation plan in June of 2010. And as a result  20 of that plan, and the state and federal fishery agencies  21 would make decisions, permit decisions, to allow the  22 operations of the state and federal water projects, based  23 on the implementation of the conservation plan. And as  24 folks have been reminded, we are here in the  25 environmental review setting to provide scoping comments</p>
<p style="text-align: right;">Page 15</p> <p>1 There's several documents here. If you're interested in  2 further reading, if you catch me after, I can make sure  3 you've got all the right information.</p> <p>4 Where we are is continuing to identify and  5 analyze specific conservation measures that will make up  6 this strategy. There are a lot of additional evaluation  7 that we need to complete. We need to understand how cost  8 effective these measures are. Critically important is,  9 biological evaluations of these measures. What can we  10 expect to achieve to -- (inaudible) -- species recovery?  11 How sure are we that we can achieve it?</p> <p>12 Again, this process is based on the best  13 available science. We are going to have some  14 conservation measure where we have a fair amount of  15 certainty, that if we do these actions it will achieve a  16 particular level of recovery. Other measures we know  17 less, and we will need to approach slightly differently.  18 We also need to do an impact assessment. The impact of  19 the facilities that I mentioned, the impact of the  20 restoration, habitat restoration on endangered species  21 and terrestrial species in our planning area.</p> <p>22 Also, a key question is, how feasible is the  23 implementation? How practical is it? When we get on the  24 ground, can we do it? These are all critical questions  25 that we need to answer as we continue to develop the</p>	<p style="text-align: right;">Page 17</p> <p>1 on alternatives, what impacts we need to analyze, how we  2 need to analyze them.</p> <p>3 The expectation is that we will have a draft  4 EIR/EIS coming out at the same time as the draft  5 conservation plan, a final EIR/EIS, at the same time we  6 have the conservation plan. And the EIR/EIS will issue a  7 record of decision on the plan.</p> <p>8 So in summary, I just want to explain to folks,  9 we are here today to provide our updated thinking on the  10 conservation strategy, to provide some details and  11 understanding of the approach taken to date, answer your  12 questions about that approach, recognize in the process  13 we are -- we will have a draft plan available this  14 summer, and we want to get your input on that.</p> <p>15 So with that, I think I will turn it over to  16 Pam, she's our facilitator for today. And again, we've  17 got Paul Cylinder, Paul Marshall here, who are wanting to  18 take your questions about proposed actions. I'm sure  19 some folks will have some comments on alternatives of  20 those sorts of things. You're free to make them. We  21 have a court reporter in the room who is capturing them.  22 There's also an opportunity in the other room to provide  23 your comments, detailed in writing to folks who will be  24 capturing all of them.</p> <p>25 So with that, I want to thank you very much for</p>

<p style="text-align: right;">Page 18</p> <p>1 coming out today. I appreciate your time and attention  2 that folks are paying to the conservation plan. It's  3 pretty important for the State of California. Thank you.  4 PAM JONES: Again, my name is Pam Jones. I'm  5 an independent moderator. I don't work for any of the  6 agencies. And our goal for the Q and A session, is to  7 make sure that anyone who wants to either make a comment  8 or ask a question, has the opportunity to do so. It's  9 about 2:20 right now. Our thought is to go till about an  10 hour, to leave you time to make sure that once you've had  11 the opportunity to think about some questions, that you  12 make sure you go back in the next room and talk to the  13 individuals one-on-one and really make your comments over  14 there.  15 To get an idea of about how many people are  16 going to speak, how many of you would like to speak?  17 Okay. Go ahead and fill out the cards. I'm going to  18 call them in order. What we're going to do, we're going  19 to start with, if you're going to make -- or state a  20 question, ask a question, go ahead and ask your question,  21 and if you'd like to do a follow up, go ahead and do the  22 follow-up.  23 If you're going to make a statement, let's try  24 to keep it to about three minutes to start off with, it  25 forces you to be concise. Looks like we'll have an</p>	<p style="text-align: right;">Page 20</p> <p>1 to be imported into the Mokelumne Hatchery, so that means  2 the Mokelumne has to be self-sufficient. And we know  3 that based on coded wire tag studies by the Fish and  4 Wildlife Service, survival rates on that side of the  5 Delta are roughly one-third of what you would get in the  6 Sacramento River. And it's so much so that, you know,  7 the Delta cross-channel gates are operated to keep fish  8 from entering that portion of the Delta.  9 So we hope that you would consider some  10 structural fixes to keep salmon steelhead from the  11 Mokelumne River from being entrained in the conveyance  12 corridor that would include the South Fork of the  13 Mokelumne River, middle river to the Victorian Canal.  14 And again, I thank you for the opportunity to  15 make comments.  16 PAM JONES: Daniel Jordan, Hoopa Valley Tribe.  17 DANIEL JORDAN: Good afternoon. I have a  18 written statement, I'll leave for the record, if you'd  19 like. I'll just briefly go through it. The Hoopa Valley  20 Tribe is in Northern California on the Trinity River. We  21 have the luxury of being the only river system that  22 actually is diverted and into the Central Valley. The  23 Trinity River delivers several hundred thousands acre  24 feet to the Sacramento River. It affects the Sacramento.  25 It also affects the Bay Delta and water is ultimately</p>
<p style="text-align: right;">Page 19</p> <p>1 opportunity later to go through and have a second round  2 of questions or comments, if you would like to do that.  3 But we have the folks up here to answer your questions,  4 if they can't answer it, you have other folks you can  5 refer to or you're going to -- okay. So first we have  6 Joe Miamoto, East Bay Municipal Utilities District. Go  7 ahead and use the center mic there.  8 MR. MIAMOTO: Okay. Again, my name is Joe  9 Miamoto, East Bay MUD, and I want to thank you for the  10 opportunity to provide public comment. I had already  11 asked some questions during the webinar you had several  12 weeks ago. So instead, I'd just like to focus on my  13 comments based on my own observations of the public  14 participation process.  15 East Bay MUD operates a fish hatchery on the  16 Mokelumne River. For both -- (inaudible) -- salmon and  17 steelhead, and the river also has naturally produced  18 salmon and steelhead, which are covered species under the  19 plan. And we hope that the plan addresses ways to  20 improve the survival of salmon and steelhead from the  21 Mokelumne River. Because under the current situation, we  22 don't believe the run can be self sustained. And it has  23 become even more important recently with the change of  24 Fish and Game policies on egg transfers. No longer are  25 they allowing surplus eggs from say, the Nimbus Hatchery</p>	<p style="text-align: right;">Page 21</p> <p>1 delivered to the west side of the San Joaquin River.  2 The Trinity River Division was originally  3 authorized to divert only 56 percent of the flows from  4 the Trinity River into the Central Valley. The federal  5 government diverted 90 percent. As a result, about 80  6 percent of the Trinity River Fishery was destroyed.  7 Jumping ahead -- just summarizing these are written in  8 our document.  9 The CVPIA in 1992, had a provision --  10 (inaudible) -- of Section 3406, that said that the  11 Secretary of Interior of the Hoopa Valley Tribe, should  12 work with Fish and Wildlife Services and other agencies,  13 work to establish a record of decision. We signed it in  14 December 19, 2000, and it provided a readjustment in the  15 flows by 268,000 acre back to Trinity River, as a trust  16 obligation, conditioned upon a -- and that basically  17 represented a 47 percent flow to the Trinity River, 53  18 percent continued to be going down to the Sacramento and  19 into the Delta and San Joaquin Valley, but it was  20 conditioned upon delivering a restoration program. Today  21 that restoration program has pretty much been a failure.  22 And we have court orders that say that the federal  23 government is in a breach of responsibility to the Hoopa  24 Tribe.  25 The Court of Appeals said that the restoration</p>

<p style="text-align: right;">Page 22</p> <p>1 of the Trinity River is unlawfully long overdue. I'll  2 get to my point. In 2007, we attempted to provide a  3 legislative financial fix for the Trinity River, which  4 was an alternative funding source. Unfortunately, the  5 San Joaquin contractors and the Department of Interior  6 opposed that, so we're back to square one. So the  7 Trinity, 323 of the CVPIA, says that the full funding for  8 restoring of the Trinity River shall be paid by the  9 contractors, that is not being enforced today. It's a  10 matter of basically putting a provision in the contract.  11 So anyway, jumping forward, the Hoopa Tribe is  12 faced with basically a dilemma for the Sacramento and  13 Delta and the water delivery -- water contractors in San  14 Joaquin, where we're going to -- and we're willing to  15 enforce our contract. We're willing to abide by the 53  16 percent of the -- (inaudible) -- provided that the United  17 States fulfill its obligation to restore the Trinity  18 River. Now, failing to do so, we expect our water back,  19 which is going to affect the Sacramento. It's going to  20 affect the Delta, and it's going to affect in the San  21 Joaquin Valley. We have a list of recommendations for --  22 in our document -- the first four is basically to fully  23 implement the record of decision. The contract that was  24 signed with the Hoopa Valley Tribe, as per the  25 congressional mandate.</p>	<p style="text-align: right;">Page 24</p> <p>1 with the funding in the -- (inaudible). The Central  2 Valley Project Improvement Act Program Activity Report  3 clearly says there is insufficient funding to implement,  4 and that's why we have Delta problems. That's why we  5 have salmon problems, and the -- unfortunately, the San  6 Joaquin legislation that we're just -- (cell phone  7 interruption. Inaudible) -- the house has a provision  8 that will further reduce the availability of restoration  9 funds by about 25 percent. And there's nothing in the  10 Act that protects the funding base for any of the CVPIA  11 programs.  12 And there's also another provision to get past  13 this artificial payroll problem that the San Joaquin  14 agreement, the San Joaquin settlement, will provide --  15 will trigger half a billion dollars of new federal  16 expenditures, new federal costs after 10 years, because  17 it's a 10-year window of -- so it just simply triggers it  18 in 11 years.  19 When we look at the Delta, when we look at the  20 Trinity River, we have a real financial crisis. It's not  21 just a water crisis. It's a financial crisis. And we  22 need to seriously look at how all this is going to be  23 dealt with, because to fix Delta Smelt there has to be a  24 funding program, to fix salmon -- ocean fisherman are  25 completely shut down at this point. We were shut down up</p>
<p style="text-align: right;">Page 23</p> <p>1 Another part of it is, that we don't know how  2 the federal government operates with the tribe, with  3 respect to CVP and the California Water Supply. We just  4 was in a meeting with the regional director of the Bureau  5 of Reclamation and Fish and Wildlife Service about two  6 weeks ago, and we specifically asked about this  7 subordination, and we didn't get an answer for it.  8 So one of the problems with California Water  9 Supply is that the 1937 CVP requires the delivery of  10 water to California Indian tribes, yet there is not one  11 contract. So when the United States starts abiding by  12 structural responsibility, those tribes are going to want  13 California water supply. And it's going to come out of  14 the Delta supply, and it's going to come out of  15 Sacramento and that needs to be addressed by the federal  16 government as a trustee, because it's going to affect the  17 water supply here.  18 There's another provision in the 1955 Trinity  19 River Act, that says that another 50,000 acre feet, that  20 over and above the record of decision posed, is  21 deliverable to the Trinity River. We expect the Delta  22 plan to consider that and provide that 50,000 acre feet  23 over and above and back to the Trinity River for  24 fulfilling that legal obligation.  25 Finally, we're all dealing with this problem</p>	<p style="text-align: right;">Page 25</p> <p>1 in the Trinity River. To fix these problems, we now have  2 to have guaranteed funding sources, along with  3 conveyances and all these plans, because there are other  4 parts of the funding, which CVPIA says it's a contractor  5 pay, user pay, but that's not in the process.  6 Just one last comment. We think that there  7 ought to be a tribal trust responsibility committee, or  8 within the federal agency, Fish and Wildlife Service and  9 Bureau of Reclamation, so that we actually have a  10 meaningful mechanism to participate in. We don't have to  11 go to Sacramento. It was San Diego last week or it was  12 Bakersfield the week before, and it was Fresno before  13 that, to comment on things that the federal government  14 has a trust obligation to deliver to tribes. Throughout  15 this process we think there ought to be a trust  16 committee, so that there's a mechanism that is meaningful  17 to Indian tribes, so that they can show up and  18 participate and have meaningful meetings with their  19 trustee agencies. Thank you.  20 KARLA NEMETH: Thank you for your comment.  21 PAM JONES: Can I have Rick Baker and then  22 Pierce Swan. Rick Baker a Delta resident and Pierce Swan  23 Irvine -- (inaudible).  24 RICK BAKER: I just have one quick question. I  25 understand that the State Water Resources Control Board</p>

<p style="text-align: right;">Page 26</p> <p>1 is responsible for the regulatory for all service  2 diversions in the State. What possible recommendations  3 or guidelines or suggestions are you planning to make  4 through this EIR/EIS process, with respect to operational  5 criteria or sustainable flood levels, as well as timing  6 of those exports with operation of that facility?  7 PAUL CYLINDER: One of the things that we have  8 to do in this whole proposals is come up with a set of  9 operational criteria, possibly more than one set of  10 operational criteria for the EIR/EIS process. What we'll  11 be doing is, we'll be looking at those operational  12 criteria, running them through the best models available,  13 and we'll be evaluating how well they perform in a number  14 of different criteria, everything from water quality, to  15 flow stages, and so forth. And we'll be presenting that  16 information to the State Water Resources Control Board  17 for their evaluation as well.  18 They have a, as you pointed out, they do have a  19 process that they have to protect the State water users,  20 and so they'll be looking at all of the information that  21 we present to see if we met that standard.  22 RICK BAKER: So do you plan to come up with a  23 ballpark figure or some sustainable amount of water to be  24 exported from the Delta?  25 KARLA NEMETH: Let me answer that question.</p>	<p style="text-align: right;">Page 28</p> <p>1 printed material. And I'm wondering if you got a little  2 bit in front of the cart, or the cart a little in front  3 of the horses, in doing so, and if you are, you know,  4 coming up with a BDCP that's predicated on an east side  5 alignment, assuming that the people who divert water want  6 to drink the sewage, you know, basically from the Sac  7 Regional Plant, because the intake is right below it.  8 I'm just wondering, so has the EIR/EIS process, you know,  9 come up with a preferred alternative that I'm not aware  10 of.  11 KARLA NEMETH: No, it hasn't. But it's a  12 really important question, and I'm glad you asked it,  13 because there's a distinction that I want to make. In  14 conservation planning one of the things that we need to  15 do is come up with an overall strategy, and we need to  16 assess the impacts of that overall strategy on biological  17 resources. It's more narrow. And so in order to do  18 that, as part of the plan, we need to have and have the  19 discretion to pick, the kinds of facilities that we think  20 we need to achieve the recovery of water supply  21 objectives of the plan. This, as a package, is part of  22 the environmental review process, as a proposed action  23 where all kinds of alignments -- if you go to the other  24 room, you'll see there's lots of different alignments,  25 and the EIR/EIS has not picked a preferred action, so</p>
<p style="text-align: right;">Page 27</p> <p>1 This plan is about how do we optimize water supply  2 reliability with ecosystem restoration. It's not about  3 new water rights. It's not about more water. It's about  4 optimizing the system under current water right  5 obligations to see what we can do to better balance water  6 supplier reliability with recovery. It's not about new  7 water. It's not about additional water, and there are  8 some key ways in which we are looking to help answer that  9 question. The few that I went over today, in terms of  10 what kind of flows are required in the Delta to help the  11 species recovery is a key part of the plan.  12 PAM JONES: Okay. Pierce Swan. And then do we  13 have some other cards, other questions from folks? It  14 won't be your last chance, if you don't speak here. You  15 will have the opportunity to speak one on one next door  16 and share your comments as well.  17 PIERCE SWAN: Yes. I'm Pierce Swan. I am a  18 director at Irvine Water District, but these are my  19 personal comments. I want the record to reflect that.  20 After 30 years in the water industry, also as a former  21 director of MWD and a number of other aspects and other  22 organizations. I was not aware right up front that the  23 EIR/EIS process has selected a preferred alternative for  24 the Delta, and yet you appear to be most certainly  25 planning on the east side diversion, and it shows in your</p>	<p style="text-align: right;">Page 29</p> <p>1 we're -- we're early in the EIR/EIS process, but that's  2 why you're seeing that on the map.  3 PIERCE SWAN: I just want to point out that one  4 of the concerns that my fellows from East Bay Municipal  5 Utility District did is, you know, when they're pumping  6 from their diversion -- their new diversion or new  7 planned diversion, that they wanted to make sure that  8 they were not pumping sewage back into their diversion  9 point, so they were very careful in that, and yet you  10 know, the east side thing, is -- takes it all. And if  11 that's the case, and you're doing the planning, I want to  12 know that you're looking at the impacts of introducing  13 that amount of ammonia, in all the east side tributaries,  14 you know, into the structure that you're planning on  15 doing the analysis of what that will do, what the  16 endocrine disrupters and all the other, you know, things  17 would be to all the fish and wildlife on the east side of  18 the Delta that don't necessarily get that flow at this  19 point in time; is that being taken into consideration?  20 PAUL CYLINDER: Absolutely. I'm not quite  21 clear what you're asking about introducing into the east  22 side. We're not connected to the east side at all in  23 this case. It's a facility that would -- that would be  24 isolated and convey water to the south Delta.  25 PIERCE SWAN: So the original peripheral canal</p>

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1 that I worked on back in the early '80s had the points  
 2 where they released water into each of the tributaries;  
 3 that is no longer in the planning?  
 4 PAUL CYLINDER: It's not part of the  
 5 alternatives that we've been looking at. Well, actually,  
 6 there were earlier scenarios that we looked at that  
 7 included all of these different scenarios that have been  
 8 looked at in the past, and we certainly worked through  
 9 discussions on a lot of those different approaches, but  
 10 the approach you see here does not include that.  
 11 PIERCE SWAN: And in your earlier comments you  
 12 mentioned that the two big diverters from -- and there's  
 13 no argument that there's two big diverters, but there's  
 14 also, you know, three others that are in that area and  
 15 then there's the Delta itself, and I'm sure all of those  
 16 in there -- discharges are being considered in the BDCP?  
 17 I have not followed it that closely, so...  
 18 KARLA NEMETH: Absolutely. Thank you for your  
 19 comments. That was very helpful.  
 20 PIERCE SWAN: Thank you very much.  
 21 PAM JONES: Okay. Ben Swan, CEM Engineering,  
 22 and then Tim Newharth.  
 23 BEN SWAN: Ben Swan, CEM Engineering. I'm not  
 24 representing CEM. I'm not related to Pierce Swan either.  
 25 I'm actually from Northern California, here in

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1 Sacramento. We're actually fine with sending our waste  
 2 water to Southern California.  
 3 UNIDENTIFIED SPEAKER: Yeah, we've been taking  
 4 your shit for years.  
 5 (Audience laughter.)  
 6 BEN SWAN: I actually asked this question next  
 7 door, and they told me to bring it over here and ask you  
 8 guys. The San Joaquin River is on a restoration course  
 9 or a collision course restoration similar to the BDCP,  
 10 what's being done to coordinate those two efforts as you  
 11 move forward?  
 12 PAUL CYLINDER: You know in many ways, it's  
 13 been in separation of where we're focused and where the  
 14 San Joaquin program is focused, so geographically we're  
 15 not touching what the San Joaquin Program is dealing  
 16 with, in terms of habitat restoration. We're focusing on  
 17 the legal Delta as our boundary. In terms of flows from  
 18 the San Joaquin River, we're allowing that program to  
 19 identify what the flow will be. So it's basically a  
 20 matter of coordination through keeping ourselves as close  
 21 as we can, we try to look over to planning, but as close  
 22 as we can with regard to assessing the outcomes for water  
 23 supply and for fisheries from the activities.  
 24 PAM JONES: Tim Newharth, and then Linda Dorn,  
 25 Sacramento Regional County Sanitation District.

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1 TIM NEWHARTH: Can we put up your slide with  
 2 the conveyance and all that? I'd appreciate it if you  
 3 could. Do you have the bigger one? Yeah, I think that's  
 4 the one. There you go. That's close enough. My name is  
 5 Tim Newharth, Delta resident and farmer. My family is a  
 6 long-term people in the Delta. I brought this up before,  
 7 and I continue to bring it up. And I know you've all  
 8 heard me in front, but it's a new crowd and a new day.  
 9 You guys are doing the same thing, right?  
 10 (Audience laughter.)  
 11 TIM NEWHARTH: We're talking about a conveyance  
 12 system that's going to take water from the northern part  
 13 of the Delta, take it around the outside, and take it  
 14 down to the pumps down in -- (inaudible) -- and the  
 15 associates area.  
 16 Right now the river is flowing somewhere around  
 17 15,000 cubic feet a second. It was flowing lower than  
 18 that around 13,000 before we had this rain event that we  
 19 had in the last month. The system that you're intending  
 20 to build carries -- is designed between 15,000 and 25,000  
 21 cubic feet a second. So my question is, is that if we're  
 22 going to take -- and my comment -- if we're going to take  
 23 that much water out of the top of the Delta and take it  
 24 around and shove it down at the bottom, where is all this  
 25 water coming from?

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1 We've got other issues with takes from the  
 2 river, as far as these valleys are concerned. Sacramento  
 3 has just installed a new take system. We have issues  
 4 with the sewage treatment plant, discharging water that  
 5 is not of the quality it is supposed to be in the first  
 6 place, as it relates to ammonia is the big issue these  
 7 days. And the more water we take out of the Delta, the  
 8 more depleted and the more undiluted it becomes. The  
 9 Delta is a very precious ecological resource that has a  
 10 lot more to do with than just fish, and I understand  
 11 we're after the fish. Okay. Fine. But we've got flora  
 12 and fauna. We have bird species. We have all kinds of  
 13 things in the Delta that relate to the Delta.  
 14 The Delta is the Delta because of water.  
 15 Without the water, it ceases to become a Delta. It  
 16 becomes a dried up, or whatever, and we're tweaking with  
 17 the system that has been tweaked with and tweaked with  
 18 and tweaked with, and now we're going to do a big one.  
 19 And I don't think anybody really knows what the long-term  
 20 consequences of that is going to be. You can put up  
 21 whatever kind of models you want to put up, as the other  
 22 gentlemen said from up north, you know, they've got a  
 23 restoration project up there that has had no affect on  
 24 any restoration whatsoever. There's issues with  
 25 availability of funds to do these things, so on and so

<p style="text-align: right;">Page 34</p> <p>1 forth, but we're assuming this is all going to work.  2       Secondarily, I've heard lately that we're only  3 going to pump this water out of the Delta, from the north  4 end, when there's adequate flows to do that. Well, last  5 year there weren't any flows to do that with. We're in a  6 drought cycle, and I think this drought cycle is more the  7 norm in the coming years, rather than the exception.  8       So if we don't have the flows to make this  9 system work in the first place, we're spending billions  10 upon billions upon billions on something that may or may  11 not work and may or may not be workable, depending on the  12 flows coming down the river in the first place. This  13 past rain event we've had, maybe a month of higher than  14 normal water, a month. So is this system going to  15 operate two months out of the year, at best, maybe some  16 years not even operate at all, but yet we're going  17 through all this to do that. This does not pass a common  18 sense test with me, personally. It just doesn't pass the  19 common sense test.  20       You talk about altered hydrodynamics, water  21 movement and interaction with canal beds and banks, and  22 it does not provide the proper nutrients, water  23 temperatures, water volumes, water speed, or water depth,  24 to support fish species.  25       So if we're going to alter hydrologically the water</p>	<p style="text-align: right;">Page 36</p> <p>1 as Tim rightly points out, is how do we operate these  2 facilities? What's the timing of flows? How much flow  3 can be moving through a northern diversion or a southern  4 diversion to help recover fish species, to provide water  5 supply reliability, to manage salinity in the Delta  6 against various hydrologic years, when it's critically  7 dry, dry, average year or wet? These are all kinds of  8 operational parameters for the system that the  9 conservation plan will lay out.  10       PAM JONES: Okay. Linda Dorn.  11       LINDA DORN: Linda Dorn with the Sacramento  12 Regional County Sanitation District, and I just have a  13 comment and also a question. And the comment really goes  14 to -- a few comments have been made about the ammonia  15 discharge, and I just want to be clear that it has not  16 been proven scientifically that that has an impact. I  17 know it's been portrayed publicly that it does. And we  18 are currently working with CALFED and the Regional Water  19 Quality Control Board to determine if there are impacts  20 to the ecosystem from our discharge.  21       And also, what I'd like to know, you said that  22 there will be the proposal out sometime in the summer,  23 and we're particularly interested in the conveyance and  24 from an operation's protective too. So do you have any  25 idea when in the summer? Are we talking later summer,</p>
<p style="text-align: right;">Page 35</p> <p>1 flows that are already going through the Delta, how is  2 that going to be a positive in regards to fish species,  3 or wildlife species, bird species, or anything else, not  4 to mention the people who live there and work there in  5 the agriculture element of the Delta?  6       All I see is this being a way to get clean  7 water down South and to make up for what the San Joaquin  8 River does not supply any longer and probably will not  9 supply in the future, unless you've got more water  10 storage. You've got to have water storage to put in this  11 canal and you've got to have water storage when it leaves  12 the canal, neither of which has been provided for. So we  13 build a ditch and we have no water to put in it. It  14 doesn't make sense to me. Thank you.  15       KARLA NEMETH: Thanks, Tim. I think Tim made  16 several good points that I do want to address. And  17 there's a first point of clarity. The canal that we're  18 contemplating, in terms of capacity, is 15,000 cubic feet  19 per second, and that's the existing capacity of the  20 pumps. The point of contemplating these kinds of  21 facilities is how do we operate them more flexibly so  22 that we can meet the demands, we can optimize the need  23 for water supply reliability with these fish species  24 recovery, so that we are -- let me just make another  25 point of clarification -- what will come out of the plan,</p>	<p style="text-align: right;">Page 37</p> <p>1 mid summer, early?  2       PAUL CYLINDER: We're working on, obviously, a  3 lot of things simultaneously and working with your staff  4 to provide information on -- (inaudible) -- in terms of  5 timing, we're looking at describing the project, the  6 program, what the HCP/NCCP will look like as a plan, in  7 terms of all these conservation plans that Karla has been  8 talking about. But we also have -- and we expect to be  9 developing that through the -- and through -- over our  10 process through the spring, and by summer, to have a full  11 description, not only of the features of the plan, the  12 conservation measures, as we call them, but also chapters  13 describing governance structure of the Bay Delta  14 Conservation Plan for implementation, a description of  15 the cost of the plan for implementing and the funding  16 sources for the plan, so there's a lot of pieces that go  17 into a full document. And we'd love to have that in the  18 summer. We say mid summer, that's the best we can  19 estimate at this point, but our goal is to have something  20 in the July time.  21       LINDA DORN: Thank you.  22       PAM JONES: Last call for any questions or  23 comments during this official part of the question and  24 answer session. Okay.  25       Karla?</p>



1           KARLA NEMETH: Thank you folks for coming out.  
2 It's good to see you all here. Thanks again.  
3           (Whereupon the meeting was adjourned at 2:48 p.m.)  
4                       --oOo--

BUREAU OF RECLAMATION

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BAY DELTA CONSERVATION PLAN MEETINGS

PUBLIC COMMENTS ONLY

FOR:

STOCKTON

BUREAU OF RECLAMATION  
BAY DELTA CONSERVATION PLAN MEETINGS  
March 2009

STOCKTON:

Chair: We're going to have questions and comments. If you have a question, go ahead with your question and a follow-up question. We'd like you, if you can, to keep that to three minutes or so. And if you have a comment, again, three minutes or so. Our goal is to get through everyone who would like to speak at least once. If we have time left over, we're happy to come back and give you another chance to make a comment or a question. So what I'm going to do is I'm going to call your names two or three at a time so you can prepare. If you can come up to the microphone and state your name. If you choose to state an organization

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you're representing, that's fine. But if you can clearly state your name, that will help us. The first one is Blair Hake, and then Jane Wagner-Tyack.

Mr. Hake: My name is Blair Hake. I'm past president for California Delta Chambers, member of Village Race Yacht Club, San Joaquin Delta Power Squatters, and lifelong resident of the Delta. I just have a couple of comments. No questions. First off, I'll start, I look at this and I think it's a fraud. I don't even know why you guys are bothering. You pretty much have made up your mind you're going to build this canal and I see where you're going. I also don't see any representatives from the environmental or agricultural interest here in the Delta on your board. And I could be wrong. Just my observations. Let's get real. This attempt to take the water from the north and ship it south, you probably heard that

last night at your meeting. But that's the way it is and what you're doing. You think it's going to help the Delta recover. And I don't understand how taking water out of one area and shipping it to another area is going to help the Delta in any way. The -- I just look at the track record of the state and federal governments. And anyplace you've done this, be it Mono Lake, Owen's Valley, et cetera, your track record is dismal.

Anyways, I just -- in closing, like I say, I don't trust the government. The promises you made, you've never kept them. If we can go back to the water agreements originally made many years ago and they -- you know, we see what's happening to the Delta smelt today. It's because of that. If you look up ahead or upstream of us here on the San Joaquin, the problems we have there, you took the water. I guess we can go up to the

Trinity and we can look at that and where the salmon runs there nowadays too. Anyways, I think a more viable plan would be self-sufficiency for those regions that need the water. And thank you.

Chair: Jane, and then John Studarus.

Ms. Wagner: My name is Jane Wagner-Tyack. And I'm speaking here on behalf of Restore the Delta, which is a grassroots network of citizens committed to preserving the Sacramento-San Joaquin Delta. We want to express our dismay once again that the BDCP Steering Committee was formed to exclude representatives of Delta communities. You have designed a planning process in which the regulated bodies will, in effect, design the system that will regulate them. We have no confidence in your intention to provide for water quality for any except export purposes, even though a multi-billion dollar economy of

farming and recreational and commercial fishing, with the jobs that the economy provides, depends on ample clean water in the Delta. We have no confidence in the state's ability to plumb this intricate system in ways that sustain Delta habitat and human communities. We question the science on which you have based many of your decisions. We believe you moved precipitantly to consider only an isolated conveyance as a solution to the Delta's challenges. And we think it is a terrible mistake to invest time and resources in planning for more of the kind of infrastructure that has already created unrealistic expectations about water availability and reliability statewide. The state should be putting these resources and efforts toward regional self-sufficiency and the most flexible, resilient systems possible in order to confront unknown

Re: Stockton Public Comments

conditions in the future. Thank you.

Chair: John, and then Dante Nomellini.

Mr. Studarus: First of all, I'd like to say that I agree completely with the prior statements.

Another statement that I would like to present to the governing boards, or whoever, is that in the Sacramento Bee and a lot of the other publications, we've been seeing a lot of statements about the dangers of the levees subsiding in the Delta. The numbers that I have seen are 50 levees failing, and 20 islands flooding if there's a 6.5 earthquake in the Bay Area. In almost 100 years of Delta levees, there's not been one levee that has failed due to an earthquake. That also includes the 1989 earthquake that was 6.9 to 7.1 on the Richter scale that was in San Francisco. Still no levees failed. The water in the Delta, the quality of the water in the Delta for the fish, the wildlife,



and for the humans cannot be improved by taking it out at a higher spot and making the Delta more of a cesspool.

Mr. Nomellini: I'm Dante John Nomellini. I'm one of the attorneys for the Central Delta Water Agency. I share this pessimistic view of your process. In my opinion, this is a preconceived objective to build a peripheral canal. And all of these studies that you've developed are all tainted. And they present a difficulty for any decision-maker to make an honest decision, because you've corrupted the science. Now, one of the basic premises on which water was shipped south in California was the promise that you would only take surplus water. The state water project, as I hope you all know now, was to develop 5-million acre feet on north coast rivers. It was not developed. The state water project today is still dealing with an

entitlement of 4 and a quarter million acre feet. You have no supply for the state water project. Similarly, there's a lack of supply identified for the San Luis unit. Those shortages are on top of the shortages that exist in Northern California watersheds. I think your studies ought to deeply investigate the availability of water. You can see what happened in February when the projects could not meet the X2 requirement. We were in the beginning of the third year of perhaps a six-year dry cycle. We couldn't even make it through this process. So I think you should look at the availability of water. Northern California has the right to recapture the water back from the projects. That's clear in the law. It's liable to happen as time goes on. And therefore, you should make a realistic determination of how much surplus water there is available for export.

Determine what type of mechanism you need to work with in a range of alternatives of what water might be available. There's not 15,000 cubic feet per second that's going to be exported through an isolated facility as time goes on. We support strongly the concept of self-sufficiency, particularly in the urban areas. The earthquake scenario that's been set up in your dream study, in my opinion, is not valid. It's an overstatement of what actually is the risk. The problem with it, it's only one part of the earthquake threat to your water facilities. You should recognize the aqueducts, the pumping plants, the pipelines are all more vulnerable to earthquake than the Delta. So self-sufficiency. Make our urban areas more reliant on their own resources. Desalting. Practice water recycling. Reclamation. That's the way we're going to have to go.

Because the water does not exist in this watershed. Thank you.

Chair: Thank you. David Hurley, and then John Herrick.

Mr. Hurley: Thank you. I'm David Hurley. I watched the movie Chinatown this last week, a 1973 film noir classic. And so I did a little study on the history of L.A. and water use. And in 1860, L.A. was able to -- with 6 percent of the habitable land in the state, but .06 hundreds of the available water, they were able to sustain themselves with diversions from their local canals. Within a generation, they pumped out all the artesian wells and the local streams were mined. So as we know, in 1900, a group of investors prepared a \$25 million dollar water bond and that was to take water from the Owens Valley. On the eve of that water bond, the city of L.A. went to rationing. Of

course, the water bond passed, and a 238-mile canal was brought from the Owens Valley. But it never reached the City of Los Angeles. It only made it to the edge of the San Fernando Valley. And so that water never made it into the city of L.A., and L.A. still was in a shortage. So the next step was to go to the Colorado River, which required a 400-mile aqueduct to be built. And that water made it to the city, but that wasn't enough. In the next subsequent period of time, there were two additional extensions of the Owens Valley up into Mono Lake. But that still wasn't enough. So in the 1950's, water became -- coming from the state water project. At first, it was 1-million acre feet, then it was 1.7, 3-million acre feet, 4-million acre feet, and currently, 7-million acre feet. I think we're like a squirrel on a treadmill that's running around. And all we're

proposing is to add more to the structure without looking at the history of where we've been. If we continue to do what we call now an alternative conveyance instead of calling it what it is, which is a peripheral canal, we're going to stay on that treadmill. And we can say that it's -- we're doing this for conservation. But conservation and exports have never been in conjunction with each other. It's either exports or it is conservation. So please take this into consideration. Look at the history of what has gone on. We know what happened to the Owens Valley. And we can see what would happen to the Delta if this was to take place. Thank you.

Chair: John, and then Dante Nomellini, Junior.

Mr. Herrick: My name is John Herrick. I'm the attorney for the South Delta Walter Agency. The prior commenters have expressed it pretty good.

But let me just make a couple of points. We don't think it's appropriate or legal to ask for scoping comments on a project that has not yet been clearly defined. The purpose of scoping is to get input on what people think you should examine for a specified project. Right now, the project is we want to move forward with investigations, and then decide on something later. So we think that's inadequate. The major problem with the BDCP process is that rather than seeking to develop habitat conservation plans to protect fisheries or the environment, it's an effort to protect species and the environment and having minimum amount of exports. Now, that's not my opinion. We all know that's the studies that have been done. The preliminary modeling. And if any modeling or studying results in, I don't know what it is, somewhere less than 6-million

acre feet average annual exports, then it is discarded and we move on to some other proposal. Now, the fact that the fishery agencies would be involved in a process that has as a starting point a minimum amount of exports before they have determined how much water is available in the system, as Dante recognized, is just inexcusable. Because the result of the process by which you determine what is protective of fish may result in you saying there's only 2-million acre feet available average annual. So if you have a starting process that is to protect exports in a habitat conservation plan, we believe you're in violation of the law. Dante briefly talked about the February incident. And I just want to highlight that. Because as you're examining the impacts of these proposed actions, you have to explain to us how future operations will be regulated. The



outflow in February was 4,000 CFS below the standard. The existing standard. Without any releases from upstream reservoirs, exports were 4,000 CFS. So the current process chose to violate the permits rather than protect the fish. So how do you model future operations if current operations are choices contrary to permit conditions and not even enforced by the State Water Resources Control Board? Finally, let me just remind you that 15,000 CFS canal assumes that you can use 15,000 CFS of the export pumps at the state and federal project. That's not permitted now. And federal law says you can only -- once you go up, increase in exports, the bureau has to have figured out how it's going to meet all of its water quality obligations on the San Joaquin River, and decrease its use of new Melones. (phonetic) that's entirely absent from this.

Let me just -- well, that's enough. Thank you very much.

Chair: Next, Dante Nomellini, Junior and Tony Silva, Junior.

Mr. Nomellini: All right. Dante Nomellini, Junior. You get a double shot with another attorney for the Central Delta Water Agency. And I have to say, every time I see you folks, I think, "These are nice people." You know. Chrisman. Jerry Johns. Karla. But this whole thing is whacked. And it's really a bad process. And I'm just going to mention a couple of things. Like John Herrick said, this is grossly premature. I mean, you made the case in your presentation, and you made it in your notice of preparation. But the BDCP is very much a work in progress. It says in the notice of preparation the BDCP will likely consist of certain elements. It may include. That's not appropriate for a notice of

preparation. It's premature. It was premature when you did it a year ago, and it still is. It talked about a draft being ready at the end of the year. That would be the first time that a notice of preparation could be legally issued. Alternatives, I don't know how else to say it other than it's a joke, like my father said and others. I mean, it's clear to all of us the powers that be, whether it's beyond you folks or what, have made up their mind that the project will be a peripheral canal. And I've asked Jerry Johns before. But I'd like -- it's question and answer. Ask you again. I mean, what's the likelihood that DWR will choose an alternative without an isolated facility? Are we talking a zero chance? Ten percent chance? What would you say?

Mr. Johns: Looking where we are now, we've tried -- in the Cal Fed program, we basically chose

alternative B in the Cal Fed program, which was a through-Delta conveyance system. And that simply isn't working. I mean, we have all the concerns we have currently with the fish agencies in terms of being able to move water and protect fish. So we've tried that for seven years, and it didn't work out well. And so I think we should go back and think about at least plan A, which was, in the Cal Fed program, some sort of isolated conveyance system to help move water across the Delta in a much more fish friendly fashion. Like we mentioned before, this system was designed in the 1940's and 1950's with both science and engineering capabilities at that time. We know a lot more about that, how to build fish screens. We should take advantage of that knowledge and help improve the system, and improve our water supply reliability at the same time.

Mr. Nomellini: So would you say there's no chance DWR

will --

Mr. Johns: I would say, based on experience, very low.

Mr. Nomellini: Very low. That's not good. Because alternative analysis, you're supposed to have an open mind. And if your preferred project includes an isolated facility, it's not very comforting to know that you're not going to look at other alternatives. But speaking about that, this is something that has bothered me for a long time. You talked about the through-Delta system not working. In 2000, Cal Fed tried to solve these same problems. And it said they were going to put state of the art fish screens on the export pumps. And my understanding is, they were supposed to be in place, operational by 2006. And I've never heard a good answer. So I'd like to ask, why aren't those fish screens in place? I'm guessing you didn't want the

through-Delta to look like it works so you can go for the peripheral canal. But --

Mr. Johns: Okay. There were some studies that were done about the fish screen designs and putting screens there. One of the problems we have is when we screen fish at the facilities now, we're at the bottom of the funnel. All the fish are coming to us. We have to separate the fish from the water, and the fish screens help us do that. The issue then is, what do you do with the fish once you've concentrated them? And classically, when you have a conveyance system, you get the fish past your screen, and the fish stay in the river, and they keep going down. And the system we have designed, or people designed before us, we collect all those fish species, all those fish at -- in our Tracy pumping plants, either the state facilities or the federal facilities, and we put them in a

truck. You know. Concentrate them down and put them in a big -- basically put them in a big barrel. A big tank. And then we pull the plug on that tank, much like you do the strainer in your sink. They concentrate down. Come into a little bucket. Pick the bucket up. Put the bucket in a truck. Pick the truck up and put it in the Delta and dump them back in the Delta again. Now, some fish like this ride. Some fish aren't too crazy about the ride up. So no matter what you do, you got a lot of what we call handling of these fish that takes place, and there's mortality involved in that. So you make a more effective fish screen, you still got to handle them and move them someplace. And the studies indicate that you could spend a billion, billion and a half dollars building a better fish screen, you still have all the problems with the

predation that takes place in Clifton Court fore bay because of fish eating other fish in the fore bay, and actually, the birds eating the fish. And you still have the problem of moving these fish back up into the Delta in a safe manner and putting them back in. This is not a very good place to put your pumps, in the south Delta. But that's what we have today. And there are better ways we can do this.

Mr. Nomellini: All right. Well, I appreciate that explanation. I know Chris Newdag, engineer, said he spent a lot of time working on the screens. And I believe they were designed to keep a continuous flow past the screens and be way beyond what the current fish screen, or the trash racks, whatever you want to call it, is. But I hear you saying that they didn't work. And it's interesting that you're talking about screening other intakes



in the Delta. But one of the biggest ones, you're not -- is it part of the current plan to put screens -- new screens on the export pumps? I didn't see it.

Chair: Let's answer that, and then Dante, looks like we're going to have another opportunity to come through once we get through the first round.

Audience: I'll give up my questions. Go ahead.

Chair: We have time.

Mr. Johns: We'll need to look at that as we move forward. But what the fish agencies have suggested to us would be even more effective than better screens would be better ways to decrease mortality on the fish on the way to the screens. Clifton Court fore bay is a place where there's a fair amount of mortality in there, mostly due to because of fish eating other fish. And they want us to concentrate on helping that be more effective as a way to

help protect fish. But the screens we have currently are pretty good for salmon. Not as effective for smelt. And there may be some things we can do there. And that's something we need to be looking at as we move forward.

Mr. Nomellini: I'll get back to you after I research.

I believe the screens that were proposed to be in place by 2006 were very high-tech. Able to handle smelt. Could have alleviated a lot of the problems. Okay. I'll leave with just one more thing. It's a question and answer. The Delta Pool Delta Protection Act of 1959 says that water shall be taken out of a common pool and given to exporters. That common pool concept is critical. It makes common sense, and it's something that we got to fight to hang on to. Because that means everybody who pulls water out of the Delta depends on the quality of that water in the Delta. So when you comes time to think

about how are we going to give assurance that the Delta is going to stay healthy, the best assurance is to make sure everybody who feeds off it has a stake in that health. And my question to you is, how is the Delta going to be protected in an emergency situation, such as just as what happened where the governor just says, "Nope. We're going to ignore all laws. You don't have to pay attention to anything." How are we going to be protected if you folks get a peripheral canal and there's an emergency? Are you telling me that they're going to let sufficient water flow through the Delta? Or are they going to overrule whatever water quality standards are in place? How are they -- I'm not phrasing this well. But let's say -- let's say there are standards in the Delta that preserve a certain level of water quality. You build your peripheral canal.

We have an emergency. What assurance do we have that you're not going to ignore those standards and bypass the water around us? Then I'll stop.

Mr. Johns: Okay. That's a very good question. And I think it's very important for us to be able to answer that. And a couple of things I want to correct is that previous plans for a peripheral canal didn't consider continuing to pump water out of the south Delta. When we look at the studies that we've designed, we're talking like this is dual conveyance. So it has an isolated component and a continuing diversion of the south Delta. And the modeling that we've done based on the proposals that we've looked at so far is about two-thirds of the water would be conveyed through an isolated conveyance system. But still about a third of the water would be pumped out of the Delta.

And what we found is -- so we're not abandoning the Delta. We're still using the Delta as a conveyance system. So the common pool idea is still in place, in my mind. Now, we're taking less. But what we found is that by taking a little bit of water out of the Delta in the summertime, we can improve water quality in the southern Delta at a time that the fish aren't there. So we can do that in a way that's protective of fish, but still helps maintain water quality. Now, on your question of emergencies. Jones Track levee failure. In 2004, the Delta broke. Those standards weren't met. We had water quality -- we had saltwater moving into the Delta. The Anders Island levee flood of 19 -- 1972. Same thing. These standards will not be met if you have a levee failure of that magnitude. That's just the way it -- saltwater comes in in a couple of hours, and

it's going to be there. Now, the question is, how do you operate during the time you're trying to get the saltwater out? And what we've found historically, we can't flush that saltwater out by putting more water in the Sacramento River. It helps if you have a lot of water coming down the San Joaquin. And in 2000 -- in the Anders Island levee flood we had, saltwater got trapped in the south Delta. The only way we got that water out was to pump it out. And we put a lot of that water in the San Joaquin Valley. So in a true emergency like a levee failure, a massive levee failure, we're going to have problems in the Delta. We're still going to be relying on the Delta as a water supply. At least partial water supply. And so we have an interest in helping maintain those levees and maintain that water quality. So we're not abandoning the Delta. The other

question would be in terms of who makes the standards long-term. And I think that's a big question we got to work through. Like Mike mentioned, governance is a big deal here. We're working on a governor's program currently for the BDCP aspects which deals with the water quality/fish concerns. And I think we have some ideas in that that will help satisfy some of your concerns. But I invite folks to look and see what we're doing in the BDCP process. We're going to have a document out pretty quick here that gives some outlines of what that governing structure might look like that includes the fish agencies and the Water Board and other folks.

Mr. Nomellini: Just a tiny ten seconds. Just let me clarify. In a drought emergency. Not levee failures. A drought like we just had where the governor said, "Forget about water

quality." In that situation, what assurance do we have that you're going to honor the water standards in the Delta? With the common pool, you have to keep the Delta fresh. Otherwise, you get bad water quality. But with the canal, you can let the Delta go to hell, and you can take your water from up north. So in an emergency drought situation, what can you say to us to say that that water won't be bypassed around us? That we'll get the water?

Mr. Johns: Well, we are a system of laws. And --

Mr. Nomellini: All right. That's it.

Mr. Johns: I'll leave it at that.

Chair: Tony, are you ready? Tony Silva, Junior, and then Roger Kelly.

Mr. Silva: My name is Tony Silva, Junior. And if I seem a little nervous, I am. I just got a couple of questions here. Don't need to be answered. Just listen. Who's going to pay for this



whole project? I asked a couple of people. Didn't seem to know. What's it going to cost? I mean, it seems like there's going to be a cost there. Anybody pick up a paper? Lot of unemployment out there. Everybody cutting corners. My wife. Furlow. Everything. It's just a mess. And also, where's the money coming for this portion of the process tonight? I mean, I'm sure there is going to be a cost. I have a little letter here I was going to write to the Sacramento Bee and I never sent it. So I just want to read it to you real quick. And maybe we can get something out of it. It's called the Delta Crisis. There continues to be a lot of talk about pumping our Northern California water to Southern California. Building a 43-mile canal to divert the Sierra runoff bypassing the Delta is an unrealistic solution. Over 25 years ago, this was

voted down by the voters. I think 1982 or whatever it was. It's time the governor, our governor there, and Robert Twist, who was -- he was an advisor of some sort from U.C. Berkeley that advises him, come to some type of conclusion. In 1961, Freeport, Texas opened up a desalination plant. We never talked about desalination. It seems to be a bad word around here. You can laugh all you want. It's our water. Anyway, at the plant dedication, they had a guest speaker. Well, that plant put out a million gallons a day. But the guest speaker at that time was President John F. Kennedy. And his statement to the the dedication was, "No water resource program is of greater long-range importance that are effects to convert water from the greatest and cheapest natural resource, our oceans, and to water fit for the homes -- fit for our homes and industry.

Such a breakthrough would be a bitter struggle between neighbors, states and nation.

Now, I was six years old when we lost President Kennedy. And I know there's more to him than Camelot and a good-looking wife. He was a man with visions. And I'm looking at everybody tonight. And I hope tonight before you go to bed you look into the mirror, and you can honestly say, "I have a vision," and you believe in that vision. Because I'm not getting any answers here that I like. Over 7 billion gallons of water daily are desalinated worldwide. Southern California, you do the math. Why do we have to ship large amounts of our fresh water to Southern California when they could pull it out of the oceans? Our large rivers, San Joaquin and the Sacramento, which you plan on diverting, have -- have an intrusion of saltwater that is rarely mentioned. This is due to the fact

that you're stealing nature's fresh water and shipping it to Southern California. Nature uses fresh water to hold back the saltwater. Governor, I don't -- this is supposedly for the Governor. Governor, I don't expect you to listen to my words. But you should listen to your wife's Uncle John's words of wisdom. Thank you.

Chair: Roger Kelly, and then Richard Slezak.

Mr. Kelly: Thank you. I agree with -- the Nomellini's, I think, have said it most eloquently. My name is Roger Kelly. I'm a life-long resident of Stockton, and a member of the Northern California Sea Ray Boat Club. I have a few questions. I really was hoping they'd answer the cost. Because I would like to know what the cost and the benefit is, to see if this is a sustainable project to keep watering the desert. And then next I'd like to know if there's been a study where

you want to make these conveyance dams that, you know, how much recreational boat traffic goes through those areas and how that's going to affect the boating. And some of these non-native species like they talked about wanting to eliminate, like the striper.

That's a viable income for us. It's one of the only fish we can eat out of the Delta after you've destroyed it the way you have, you know, because it doesn't live here and doesn't get all the contaminants. And as far as the water that's going to come up north, how do you keep the fish out of there?

Because once you get them in your tube, they're pretty much stuck, it looks like. And what happens to them when they come out the end of the tube if they make it? And maybe you can answer just one of those.

Ms. Nemeth: Sure. Sure. In terms of the cost for -- I think folks have probably seen in the papers

recently, but also in a study that DWR did last summer, some of the costs for a canal, depending on alignment, range between \$8 billion and \$14 billion roughly. The other pieces of the plan, we have not cost it out. We haven't identified them completely yet. But that will be part of the document that we'll have a first cut at this summer. So all of that will be included in terms of the cost of the plan.

Mr. Kelly: So we can pretty much call it 30 to 50, the way the state budgets things.

Mr. Johns: In terms of the who pays part, the conveyance aspects of this will be paid by the water users who get the water out of it. And they have said that they'll be willing to do that. In terms of who pays for this process, the current water -- the current process is being paid for by -- like the consultants, that are not cheap by the way, are being paid for by

the water interests. The fish agencies' time, because we're helping reimburse them for their time they're spending on this. The fish agencies' time initially for the first two years were paid by the water folks. And now it's being paid for by part of the bond that was passed. There was a provision in the bond to help pay for conservation strategy. So their time is being contributed to that. But the rest of the costs are being paid for by the water folks. You also asked about what do the fish do -- if they get in the pipe, how do you keep them out. Well, the kind of fish screens, and Chuck can talk about this in a little more detail if you want, and maybe off line would be good, but these are what they call positive barrier fish screens. They're fish screens with little teeny holes in them. And fish have a hard time getting into the holes. The

concern would be fish that approach the screen, are they going to approach it to the point where they get stuck against the side, or they stay against the screen too much. So there are criteria, what they call approach velocities you have to maintain and sweeping velocities you have to maintain past the screens. And we've included that in our proposals for what the standards would look like. But basically, the fish wouldn't get in the screens, because the holes would be too small. They couldn't possibly get inside. Now, maybe a little teeny larvae would. And the way to handle that would be, particularly for Delta smelt, maybe you wouldn't divert for a couple of days when the larvae went down. But for salmon, by the time the salmon get down to this location, they're big enough that they can be effectively screened by these screens pretty



well. Or actually, very well.

Particularly -- I mean, the GCID screen, Glenn/Colusa Irrigation District has a screen much like this and it works fine up there.

Mr. Kelly: So far you've done pretty good. How about the traffic where you're going to put up these little dams?

Mr. Johns: Oh, that is a huge concern for a lot of us. We have these temporary barriers in the south Delta. And the south Delta doesn't have much boat traffic. But we help people get around the barriers down there. That's a very valid concern. And we're definitely interested in how to address that.

Audience: You couldn't take either one of our boats over that barrier.

Mr. Johns: Pardon me?

Audience: You couldn't take either of our boats over that barrier.

Mr. Johns: Yeah. That's a good point. And that kind of

issue we've got to address head-on and make sure we address that effectively. And that may be one of the undoing for some of these barrier programs we're looking at.

Mr. Kelly: So you have no study, then, showing how much traffic goes through there?

Mr. Johns: Yeah, we do.

Mr. Kelly: Feasibility? You're just going to throw them up there?

Mr. Johns: No. No. No. We wouldn't do that. We would have to -- we've done -- for example, we've been thinking about a gate on Three-Mile Slough to help with solidity control. And the boat traffic there is huge.

Mr. Kelly: Huge.

Mr. Johns: Just huge. And that's got to be factored in to how we do that. And we've got to figure that out, or we don't do it.

Mr. Kelly: Thank you.

Chair: Okay. Richard Slezak, and then Bill Jennings.

Mr. Slezak: I'll try to make this quick. Bill is quite an authority on these ongoing water battles, And the Nomellini's are top-flight. One of the previous speakers mentioned about desalinization. Well, it's fine for a ship. But for a city, you're going to end up using lots of oil and lots of other resources to desalinize. So it's -- my best hope, as far as I've seen, is up here at the National Ignition facility. They may just take the first step towards nuclear -- controlled nuclear fusion. Putting the genie in the bottle. And if they can do that -- you know. Take your time. Because if they can do that -- I'd love to see fusion reactors at Pearblossom, 150-mile straw out into the Pacific. And that California aqueduct would be filled with desalinized water run by nuclear fusion. And that's my hope. That's my dream. Because this system

that you have here, it's -- well, I'm kind of neutral on it. It's a damned if you do and damned if you don't. Because the current -- what we're doing currently, as you're pointing out, we're killing a lot of fish. Thank you.

Chair: Bill, and then Mike Machado.

Mr. Jennings: Good afternoon. Good evening, I guess by now. A few things preface. Jerry, you know as well as I do that we're relying on '50's technology fish screens at the pumps because state water contractors refused to pay for the new ones and it was dropped. And you know as well as I do that after the Jones Track failure, exports resumed in a couple of days. And you know that while the state water project contractors have offered to pay for conveyance, they've been silent on the mitigation requirements which are likely to be -- approach the cost of conveyance.

Bill Jennings, California Sport Fishing Protection Alliance. We submitted oral and written technical comments during the first round of scoping last May. We incorporated those comments, as well as the comments submitted by NRDC Defenders, EDF, and the Bay Institute. We'll be submitting additional comprehensive comments in the second-round of scoping. And these remarks are more general in nature. As we observed last year, BDCP is essentially a massive water project masquerading as a habitat conservation plan in order to circumvent the Endangered Species Act. It is the most ambitious and far-reaching HCP ever envisioned in the history of this nation. Its proposed time schedule is absurdly truncated. No significantly scaled HCP has ever been completed within a time frame, let alone one coupled with a massive hydraulic modification

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of an estuary. At its heart, BDCP is simply an illegal scheme to allow those in the south valley who own junior water rights to surplus water, water they understood would not be available in certain years, to take precedence over the senior water rights and the public trust needs of Northern California. The purpose of CEPA and CEQA and NEPA is to provide decision-makers with sufficient information to make intelligent, informed decisions. The proponents of BDCP have consistently refused to answer fundamental questions that must be addressed in this EIR/EIS. How much water does the estuary require to maintain ecosystem integrity? How much surplus water is available for exports? What are the economic and environmental consequences of various reduced or no export scenarios? How can a diversion point for junior water rights be

legally changed when it will harm senior water rights users? These must be answered. And unfortunately, BDCP remains a shell game. We still don't have a commitment to comply with the Natural Communities Conservation Planning Act. Evaluate the whole of the project, including upstream reservoir operation and in-stream water quality and flow. Establish a meaningful governance structure for the Delta. We still don't have an acceptable project description with specific details. Sizing, location, capacity, operational protocols, mitigation measures, the assurances and safeguards which are critical, considering the historical failure to enforce existing standards, and the fact that water quality and flow standards and environmental review requirements can be wiped out at the stroke of a pen, like the governor recently did in

the emergency drought proclamation. And who would pay for -- well, we still don't have an acceptable range of alternatives. A PPIC report as refined by Dr. Michael of UOP points out that elimination of all exports has less economic impact to California than from continuing exports. Two to 4 hundredths of 1 percent of the California economy. Three to six cents per day per capita. No export and reduced export scenarios must be evaluated as alternatives. We still don't have an analysis and time schedule of how alternative water supplies could replace Delta exports. California water plan reports by NREC, the Pacific institute of the Los Angeles County Economic Development Corps and others document the existence of viable alternatives that far exceed the present level of Delta exports. We still don't have quantifiable biological targets, objectives,



and consequences. Indeed, 50-year assurances and no surprises are fundamentally incompatible with such objectives. PPIC report points out that salmon and Delta smelt have only, at best, a 30-percent of survival with the old conveyance, a 50 to 40-percent chance of survival respectively with a peripheral canal. And that was based upon a 40-percent reduction in exports. That was based on our peripheral canal sized to -- on the average discharge or export between 1981 and 2000. Since 2000 to 2007, they increased substantially. Under no export scenario, survival is much, much greater. While lead agencies may pass overriding considerations that ignore extinction, responsible agencies such as the State Water Board cannot rely on such findings. New habitat cannot replace identified existing critical habitat. The

recent U.S. Fish and Wildlife Service of Delta biop for Delta smelt identifies outflow as critical habitat. The proposed and speculative habitat cannot replace the certainty of existing habitat. Adaptive management, by definition, does not allow for export assurances, given the history of mitigation. Failures in this estuary, no project can provide for export reliability. Water operations management team decisions must be driven by biological constraints. We still don't have an assessment of likely water quality impacts. Salt is an extremely conservative constituent. It's certainly an inappropriate surrogate for evaluating hydrology changes on the fate and transport of impairing pollutants. And I'm almost finished. Certainly diversion of low salinity Sacramento water in the Delta would increase salinity in the Delta, reducing

yields of farmlands. I know that they suggested that outflow remain the same. But you won't require the carriage flows and whatnot. Other than the horror story anecdotes, we still don't have a realistic evaluation of the effects of water supply on water supply reliability from levee failure due to earthquakes. I mean, all Delta levees have failed, and they will fail again. Levees can be raised and strengthened. Water supply was only disrupted several days following the Jones Track failure. Foundations of levees protecting Delta islands are largely on compacted soils from 150 years of compaction. And certain -- California certainly has sufficient storage to enable them to survive until salinity stabilizes and repairs are made following a breach of multiple islands. The EIR/EIS fails to -- that must address,

comprehensively address these and many other questions that we'll be submitting comments on. But this is a pig in a poke. You know, 15 years ago, we were in that room over there in the -- scoping for Cal Fed. And throughout the Cal Fed process, we saw exports increase and increase, and we saw Delta fisheries collapse. And now largely the same cast of characters is here again to try to finish the job. Thank you.

Chair: Mike, and then George Hartmann.

Mr. Machado: Well, I wanted to follow up with Bill. And I'm Mike Machado. I'm a private citizen. Fifteen years ago, we started hearing the same comments with regard to Cal Fed. And I saw through the development and the record of decision. And then I was part of the oversight of the Cal Fed process. Cal Fed attempted to do many of the same things. And Jerry, you mentioned that the isolated

facility or conveyance issue was one of the alternatives and was left off the table. We spent tens of millions of dollars as part of the Cal Fed process. I worked on several bonds in that process. But what we found in the implementation of Cal Fed, that there was a lack of accountability, there was a lack of matrix to be able to measure the results, and there was a lack of concurrence between the various agencies that sat -- or that had interest in the Delta, particularly between federal and state agencies. Part of the initial funding in Proposition 13 was the funding of tidal barriers on Old River, Middle River, and Grantline. That never happened. And the reason it didn't happen was because state officials and federal agencies couldn't agree on the operation. And what we came down to that led to the failure of Cal Fed was the lack of governance.

There was no accountability. There was no way to bring in concurrence between state officials and federal officials for a common objective. And that hurdle still hasn't been addressed. Until it does, how can we proceed forward and do what we did with Cal Fed and bumble again? And what -- questions have come to my mind at the time that I was in the legislature and you appeared before me and we talked about the accountability. We talked about the compliance with existing law and the inability of the state to do that. And it was that non-compliance with take that led in large part to development of this process. The question I have that goes back to the basics of this. And when you're talking about the considerations of alternatives in this process, in the alternatives being modeled, is one of the alternatives looking at the operation or the health of the Delta if the

Delta is managed under existing law?

Existing law in terms of implementation of water quality, existing law relating to take exports, existing law relating to species? Because it would seem to me that modeling under those circumstances would provide a baseline with which you can then evaluate other alternatives. But I have heard nothing mentioned in terms of the alternatives that we're taking a look at seeing how the Delta would operate if we operated according to the laws that are existing on the books that we have failed to operate by. So without that, how can you effectively look at the alternatives and draw the conclusion that that's better than what's there, particularly if we haven't engaged in the statutory changes that allow the latitude that agencies have been freed to take in the interest of the public good, which sometimes is

questioned, their interpretation of public trust.

Ms. Nemeth: I think that's a good question. Let's talk about the modeling approach taken.

Mr. Johns: Actually, you make a very good point. And the way the California Environmental Quality Act --

Mr. Machado: The point on Cal Fed, or the point on the modeling?

Mr. Johns: The point on the concern about looking at existing conditions. That's exactly the baseline we have to use in our CEQA document.

Mr. Machado: Have you done it?

Mr. Johns: Well, we haven't done it yet, because we haven't finished the CEQA document. But that -- in terms of the alternatives --

Mr. Machado: Is that one of the modelings that's been moved over from the brown and red and orange dots over to the bubble that was on the right-hand side?



Mr. Johns: Well, it will be one of the -- it will be -- we have to have that as a base alternative. Because the way CEQA works --

Mr. Machado: Jerry, you've told me that before. You've been up in front of me in committee, and you said, "We have to. We have to. We're going to." When will we do it, and when will there be a commitment that that exactly is going to happen? And when will you put it out of hypothesis that that, in doing so, will provide the baseline with which we can compare the other alternatives?

Mr. Johns: It will be in the draft EIR at the end of this year.

Mr. Machado: But it's not part of the scoping that was presented today by Karla as what they're looking at in terms of moving the alternatives from the left to the right side.

Mr. Johns: Well, those were conservation measures. We're trying to filter through that part of

it. But --

Mr. Machado: How can you talk about conservation measures and apply them if we don't know what the baseline is to which we want to apply them to?

Mr. Johns: Well, we know what the baseline is. We have that.

Mr. Machado: You just said you're in the process of trying to do that.

Mr. Johns: Well, we know what the baseline is. But in terms of the detailed studies --

Mr. Machado: How do you know what the baseline is? Because you've never followed and operated the Delta according to existing law.

Ms. Nemeth: Let's -- I think the question -- I think the question embedded here is a good one. And that is, in the BDCP process, in the conservation planning process, what has been our approach to modeling. Have we taken into consideration --

Mr. Machado: The operative word that you just used was if.

Is it?

Ms. Nemeth: That's the question I want to answer.

Mr. Cylinder: Paul Cylinder. I'm with the consultant team, SAIC, as a lead. The process that Karla was showing up there, we've been looking at all kinds of conservation measures, as she mentioned, including operations of facilities both with existing facilities and with a new facility. A peripheral canal facility. Dual operations. Different operations using the north Delta and the south Delta intakes. And we've compared them in our modeling runs with operations under existing standards. So that's been our basis of comparison as we've looked for what opportunities can we use with the existing exports in the south Delta and with dual exporting from north and south in order to achieve goals for fish, goals for water quality in the Delta, for agriculture,

and goals for water supply export.

So that's the approach that we've been taking in moving, as Karla was showing, the dots on the left through the filter to the dots on the right.

Mr. Machado: I would go back one step further. You've done it under existing. But we haven't applied water quality standard law to the extent that they should be applied. We haven't governed exports under existing law with respect to surplus waters. If we use -- if we had employed those standards, and if those were the operating conditions, what would be the result, versus taking what has been the operations of the -- the actual operations of the past? I mean, that's a hypothesis of what it would be like if we had applied what we were statutorily obligated to do, in the same way that you're saying, "I'm going to apply these methods to try to

address the problem as it exists today."

What you're saying is you haven't done that.

And so you have assumed an arbitrary baseline based on current operations, not on what would it be if we had --

Mr. Johns: It's not current operations. Whoa. It's not current operations. It's based on our current water right permits we have from the Water Board and the permits we have from the fish agencies on how to operate. That's what --

Mr. Machado: But are you meeting water quality standards according to the statute?

Mr. Johns: Yes. Well, we are. We're meeting them today. We've met them -- almost all the time we meet those water quality standards. Only in very rare instances --

Mr. Machado: Are you exporting from surplus waters?

Mr. Johns: Yes. By defined permit terms in our water right permit, and by the permit terms that

are issued by our take permits by the fish agencies. We're complying with those today.

Mr. Machado: I don't think that you'd have full concurrence on that. And it doesn't seem to me that you've taken a look at what the full -- what the extent of the application of the law would have been on the operations and what those results would be. And that is a baseline. And what I really am afraid of is that this becomes another form of Cal Fed. The only difference is it's become narrower in its application, it's become more focused in its funding, and it's become more directed by the interests who have a stake outside of the Delta rather than those involving the people in the Delta.

Ms. Nemeth: Fair point. Thank you. Thank you.

Chair: George, and then Katie Patterson.

Mr. Hartmann: Is this on? Oh. Good. Hi, Jerry. I'm back.

Mr. Johns: So am I.

Mr. Hartmann: I promise to be nice tonight. In fact, I'm going to do my Denny Crane impersonation with you. For those of you who don't watch Boston Legal, it's a great show. I just had a few simple questions for you. At the last meeting, you said that all the costs for this whole process and some future peripheral canal were going to be paid for by water contractors. State water project. Is that right?

Mr. Johns: Yes.

Mr. Hartmann: The answer is yes?

Mr. Johns: (Nods head.)

Ms. Nemeth: Yes.

Mr. Hartmann: Okay. Is there a reimbursement agreement in place now between any of those responsible entities and with DWR/BDCP?

Mr. Johns: Yes.

Mr. Hartmann: And are funds flowing from those entities to

you for this process?

Mr. Johns: Yeah. Yes.

Mr. Hartmann: And how can we get that information? Is it on the website?

Mr. Johns: Rich?

Mr. Sanchez: Yeah. I would recommend you put in a request -- I'm Rich Sanchez with DWR. I would recommend you put in a request. You can address it to me and we'll follow up with that.

Mr. Hartmann: Okay. Thank you. So is it true, then, that so far, the taxpayers have not incurred any cost with regard to this project? The taxpayers of the State of California?

Mr. Johns: Well, the water users that are paying for this are taxpayers also. So --

Mr. Hartmann: That's a good dodge. But I mean the other taxpayers.

Mr. Johns: The other taxpayers.

Mr. Hartmann: Me taxpayer.



Mr. Johns: Like I mentioned before, the only part so far that has been paid for by bond funds which would be paid for by the general taxpayers has been the last I think it's two years of the fish agencies' activities that they've been involved in this effort. Everything else has been paid for by the water users. Right?

Mr. Hartmann: Okay. And I can get all that information?

Mr. Johns: Right. We can provide that.

Mr. Hartmann: Okay. That's great. Next question. Do you have an authorized project that you're doing this for?

Mr. Johns: Authorized from a --

Mr. Hartmann: Legislatively authorized project for which you're doing all this?

Mr. Johns: Well, Burns Porter authorized the Department of Water Resources to build and complete the state water project. So we believe that we have authorization under current law to move forward with the kind of planning studies

that we're doing currently.

Mr. Hartmann: To build a new project?

Mr. Johns: Yeah. To complete the conveyance part of the system. That's correct.

Mr. Hartmann: Okay. So I understand your position. So this -- whatever it is you're moving toward is part of some prior authorization?

Mr. Johns: Yeah. Based on Burns Porter. Right, Dave? Yeah. Right.

Mr. Hartmann: Okay. Last question. BDCP/DWR recently filed about 60 lawsuits against landowners on the Delta.

Mr. Johns: Well --

Mr. Hartmann: At around -- along these alignments of these potential projects.

Mr. Johns: Well, I wouldn't call them lawsuits. I would call them more like trying to get temporary entry permits.

Mr. Hartmann: Well, they were filed in court, were they not?

Mr. Johns: Yes.

Mr. Hartmann: Okay.

Mr. Johns: Because we couldn't get the landowners to agree cooperatively, so we've taken the next step in terms of trying to get answers.

Mr. Hartmann: Okay.

Mr. Johns: And we're doing studies here.

Mr. Hartmann: That's fine. It's not a lawsuit. We go to court, but it's not a lawsuit. That's okay. And in the fact sheet that you put out for this meeting, you said, "We're out trying to get entry permits. But we're only going to do it voluntarily," et cetera, et cetera. There was nothing in there about the state filing lawsuits to gain entry. Are you familiar with that?

Mr. Johns: No. Refresh me on this part.

Mr. Hartmann: Oh. I don't know. I got it in the e-mail from BDCP. It just sounded like a very friendly process. So now we have 60

lawsuits -- non-lawsuits, sorry, that you filed to gain entry to lands. And my question, this is just the buildup to the question, is, is anything you're doing now with the scoping, and the future EIR, and CEQA compliance and NEPA compliance, is any of that in any way related to these non-lawsuits for temporary entry?

Mr. Johns: Well, yeah. Basically the surveys that we're trying to complete are directly related to our environmental document. That's what we mentioned last year or last fall when we came down and talked to you all. The idea of the entry permits was to gather the kind of data we need to support the environmental document.

Mr. Hartmann: And is any of the data gathering you're going to do in any way invasive? Are you going to dig any holes or bore any holes or dig any pits?

Mr. Johns: Some of it includes that. And we'd be more

than happy to sit down here and show you some videos of examples on the kinds of stuff that we're thinking that we need to get done in order to collect the kind of data you got to do to complete the kind of project --

Mr. Hartmann: Already seen them, Jerry. So --

Mr. Johns: Okay. You said you were going to be nice.

Mr. Hartmann: I am being nice. I'm smiling. George Hartmann. Denny Crane. So to the next point. In the aggregate, for all the miles that you're going to study, have you done any environmental review of the impact of those studies?

Mr. Johns: Well, classically under CEQA, you don't have to get -- there's an exemption process for doing studies.

Mr. Hartmann: Yes. For surveying. But for digging 60 or 600 pits?

Mr. Johns: Well, I'm not sure we're digging 600 pits.

Mr. Hartmann: Well, I don't know how many you're digging.

But you're going to bore holes in levees.

Mr. Johns: Well, I don't think we're boring holes in levees necessarily. We're looking at the soil structure of the lands in this area, which is usually digging holes in the ground that we then cover up again.

Mr. Hartmann: And so your position is that's categorically exempt?

Mr. Johns: I think that's what we've filed for in terms of how we've complied with CEQA.

Mr. Hartmann: No, you haven't. But that's okay. I just wanted clarity. And I thank you. I just want it on the record. Thanks, Jerry.

Chair: Katie Patterson, and Wesley Vierra.

Ms. Patterson: Good evening. Katie Patterson with San Joaquin Farm Bureau. Good to see some of you again. It kind of feels like we're at a roast here. And please don't take it personally. But it is personal for all of us here. There are a number of faces here that

I want you to look good and hard at. Because these are the people that are growing the food that you eat. These are the people that are stewards to your recreation sources out here. And these are the people that live and thrive in the Delta. And what you're telling them here tonight is that the Delta is not thriving the way it is because it's broken. Well, it hasn't been taken care of the way it needs to be. You were supposed to be giving us some promises here. To be stewards of our land here and our water system. And those promises have been broken. And there's been a series of that. You know. We've had plenty of people here talk about it this evening. And that has been the theme. And how do you as an agency, you know, sit up there and believe that, "We're going to come in with a brand new system here. We're going to work it," you know, "as we

tell you it's going to work" when you guys haven't done that in the past? It makes it really difficult to swallow. It makes it very difficult to believe every single one of you in each phase of this process. You know. Temporary entry permits was brought up. And there are 40 to 60 of them in court right now because that is part of the process. Because landowners were required to be a part of this process whether they liked it or not. And whether the ones that liked it or not, you know which ones they are. They're in court right now. And they are required to be a part of this because you guys are using eminent domain proceedings essentially. You know. The Civil Code that you guys are functioning under. So that tells us right now that you've already had that predetermined outcome. You know where you're going with this. Now, some of the



things that I heard tonight in terms of talking about the two-thirds of the water from the Sacramento River going through the canal, or the proposed canal, and leaving one-third of it in the Delta, that tells me that there's not going to be enough water in there for both habitat and for agriculture for the end use Delta users. And that's a very blatant point that was just glossed over. And that needs to be addressed.

Mr. Johns: Maybe if I could clarify that. Really what I was talking about was the water that we exported, two-thirds would be exported directly from the Sacramento River if -- from our studies we've done, and a third would be from the Delta. So I wasn't talking about the water in the Delta. I was talking about the water that would be in the canals.

Ms. Patterson: Okay. But we don't know how much water we need in the Delta yet to sustain. So we

don't know what this two-thirds number is.  
We don't know what this one-third number is.  
We don't know what needs to go out through  
the estuary. But I'm hoping you'll answer  
that.

Ms. Nemeth: And we do need to answer that question. But  
actually, I want to give it to Chuck Hanson.  
He's a fisheries biologist who's been working  
on this issue continuously for the last  
couple of years. And he'll have a  
perspective to share on what our thinking is  
at this point.

Mr. Hanson: And your point is absolutely valid. And it's  
been one of the key elements of some of the  
analyses that have been undertaken to date.  
Not to lead to a final conclusion, but to help  
form the foundation to inform our decisions  
about what would be the effects of different  
operational strategies, different amounts of  
diversion from, say, the Sacramento River

versus the south Delta on the hydrologic conditions occurring within the various channels, as well as the salinity gradients. Because it's that combination of flow and salinity that really affects the quality of this estuary, not only for the fisheries' resources, but for the agriculture and the other land uses.

Ms. Patterson: And that's something that hasn't been operated as it should have been. And I think our Mike Machado here detailed that and delineated that well to the point that we have not seen a system that has been operated the way the law requires. And that's a very, very good point that needs to be addressed throughout this process. Additionally, one of your little posters back here kind of glossed over a question, Williamson Act lands. We had a nice conversation with the Department of Conservation. There are quite

a few lands that are going to be affected by that program there. And what kind of mitigation is going to take place for that? What type of mitigation are you going to do for your habitat conservation that's going to go out there? For agriculture? One of the few places in the world, you know, that we have unique soils, such as the Delta, and one of the few places that we can actually build is in the Delta. That's a primary place for agriculture to take place. And not all agriculture is depleting, you know, the soils, as it's stated, out there grossly. We have rice production out there. You know. We have blueberries. We have asparagus. We have things that are vital across this nation that come right out of that pocket and need to be considered. And there are other programs going on, whether it be USDA's environmental quality assurance programs and

things like that, that you're going to be affecting as you go through there. You're affecting more families than you know by taking a program and saying, "We may want to acquire this piece of land." That's part of their management plan. That's part of their longevity and sustainability of their business. And that needs to be considered as well. Thank you

Ms. Nemeth: Thank you. Thank you very much.

Chair: Wesley Vierra, then Richard Robertson and Tim Neuharth.

Mr. Vierra: My name is Wesley Vierra. I was just wondering. Could you explain to me what you said was a positive flow screen for the fish screens or your tubes for your canal?

Mr. Johns: I'll take a shot and have Chuck correct me here if I screw this up. But basically, they're fixed plates. Not so much with holes. But there are very, very small gaps in these

plates. And they're made out of, you know, good metals and that kind of stuff. But they're what they call a positive barrier fish screen as opposed --

Mr. Vierra: So they like stop the fish from going into the tubes, right?

Mr. Johns: It prevents them from going into the canals. Right.

Mr. Vierra: Okay. Didn't you say before about the south pumps, the fish nets, they weren't effective. Right? You said they didn't work, or that they had to be maintained. So who's going to maintain these fish nets?

Mr. Johns: Well, I didn't actually say that. But --

Mr. Vierra: You said they were ineffective.

Mr. Johns: Well, the difference in design is in the south Delta -- this gets a little geeky. So stop me here if I go too far. But in the south Delta, they're not really screens. What they are are louvers.

Mr. Vierra: Yeah. But they said they -- didn't you just say over here that they're designing new screens to help -- preventing the smelt and everything? And then they were denied that. And so now you're saying that you can put these new high-tech screens in for your canal, but you couldn't do it for the Delta.

Mr. Johns: Well, I did say that it's easier if you can get the fish past the screen and not have to handle them. That's -- the big concern we have in the south Delta is we have to physically collect the fish, put them in a truck, and truck them back into the Delta.

Mr. Vierra: And what are you going to do with the canal?

Mr. Johns: With the canal, all they do is -- once they get past the screens, they're good to go. We never touch them. They stay in the river.

Mr. Vierra: They stay in the river. Because you said that it, like, blocks them. Right? And then you had problems with fish eating fish.

Mr. Johns: Well, we have that everywhere, because fish do that.

Mr. Vierra: Yeah. I mean, I'm just trying to figure it out here. Because you said for the south Delta, it's not working. Even with the new screens, you'd have to, you know, handle these fish. But I mean --

Mr. Johns: No. We don't have to handle them with the new screens. The new screens we --

Mr. Vierra: Then why not just use them for the south Delta if you don't have to handle them? I mean, it's simple, I mean, if you think about it. I mean, it's screens or a canal. Which one's more cost effective?

Ms. Nemeth: I think we need to make some clarifying comments. And I think Paul's probably the best equipped to do that in terms of the approach and some of the differences and how we're looking at that.

Mr. Cylinder: Jerry could be doing it. But I think you're



confusing the answer here. The difference between the south Delta and the north Delta locations for intakes to export the water out of the system, in the south Delta, it's a dead-end slough. The water can only go one way into the pumps. And the fish get pulled to the pumps. And they're then salvaged there, whether -- they're filtered out, as Jerry was saying, put into a basket, the basket is then dumped in the truck, and they're trucked to the Delta. In the north Delta, where we've been investigating locations for intakes, it would be along the Sacramento River where there's flow in the river. And when you have -- so it's not a dead end. The screens would be on the banks of the river or in the river with water flowing by. And that's the big difference.

Mr. Vierra: Would there be like -- I assume there's pumps, right, that would pump it into the

canal?

Mr. Cylinder: Right. But --

Mr. Vierra: So wouldn't the pumps suck in the fish just like the pumps in the south Delta would?

Mr. Cylinder: No. They --

Mr. Vierra: I mean, you're saying it's like a dead end. But they can swim against the current. Or else -- are you saying they're like powerless to swim against the current?

Mr. Cylinder: Yes.

Mr. Vierra: Well, then wouldn't they be powerless to swim against the current of the pumps for your canal?

Mr. Cylinder: No. Because --

Mr. Vierra: Why not?

Mr. Cylinder: Let me finish. The river is flowing -- when a river is flowing past the screens, the screens are perpendicular to the river. The fish are flowing past the screens. So you're pumping the water perpendicular from the

river. The river is flowing past. Okay?  
Just the right angle. The fish, so long as the velocity of the river flowing past that screen, and the term that's used is sweeping velocity, they're literally scraping things off the screen. So long as the velocity of the river flowing past that screen is fast enough, even small fish that just behave like, you know, a particle floating in the water can get past that screen without having to swim, because the velocity of the water is enough to carry them past the screen before the pull of the pumps can drag them to the screen. That's the difference between having a screen on a river, the Sacramento River, and the north Delta, which is where we're talking about looking for opportunities to put the screens to intake for the canal, versus where the intakes are now on the south Delta, which is a dead-end slough.

There's no river sweeping past that. It's just -- it's reversing the flows of all the little rivers of the San Joaquin and pulling that water down to the pumps and pulling fish with it. That's the difference. That's why the north Delta is a better location in order to develop a conservation plan for fish is because you can avoid a lot of that loss of fish by your pumping.

Mr. Vierra: I can see what you're saying about the conservation of fish. But, I mean, we've had all this talk about, you know, saving the environment with all this, blah blah blah. But, I mean, point out the elephant in the room. You guys are building a canal to go down to So. Cal., Southern California, to supply them with water. And it just seems that you guys are using this as kind of an excuse. Kind of a by the way. Kind of like a, "Oh. We're saving the environment, so

we can go build this canal. And all you guys here, you guys can go against it, but it just makes you look even worse." Now, I know you guys are trying to make, like, kind of like an estuary in its own way. But wouldn't you guys be concerned about the saltwater intrusion when you guys are pumping out of the Delta? I mean, you guys are saying it's like perfect leverage and everything. The perfect level. But when you're pumping out of the Delta, it's going to suck seawater into the Delta. Wouldn't that hurt the fish? Wouldn't that hurt our community? Our farmlands? I mean, you guys are saying something about how you're going to take a third out of the Delta. We're already being rationed right now for our water. We're looking at zero percent of our annual water coming in for us for our water rights. And you guys are coming in here and saying,

"We're going to take a third of it now." And then what's next? Next thing you know, there's another population boom in L.A. And it's, "Now we got to take two-thirds of it." I mean, where's the end of this? You guys are just trying to plug holes with your finger. You guys are like, "Oh. Desalinization plants are too expensive. Nuclear reactors are too -- are just too dangerous." I mean, they can go off. Everyone likes to point at Chernobyl. But everyone likes to do this one. "You know what? How about we screw two, three, four, five communities to go and go pump water down to L.A.?" And is this really cost-effective? You guys are making a huge canal. I mean, there's got to be workers. I mean, there's going to be intrusions. You guys are going across the main channel, as I can see that. What are you guys going to do? Put locks in

to stop the flow or what? You guys are flooding over by where I live. And how are you guys going to control the mosquitoes? There's going to be tons of them. Everyone's worried about West Nile and all this. And I just don't see this as being a very valuable resource. And I'm young, and I'm a voter. And you guys are telling me, "We may do this. We might do this. This might happen if. If That. We don't even know the cost of it yet. But don't worry. The people that are stealing your water are paying for it, so don't worry about it." I mean, that's like me saying -- I mean, I can understand why they want to pay for it. I would pay for someone to steal your car. Your hands don't get dirty. So, I mean, you guys, you're all sitting here and you guys hold the velvet glove. But no one really -- these people here aren't stupid. They know what you're

doing. You guys are sitting there -- I mean, I'm looking at all these maps, and I'm asking questions. And I get this one. "So you guys are planning to flood that. What are you guys going to do?" "Well, we're looking into vector control." "Oh. That's cool. So what are you guys going to do?" "Well, we're looking into it." All right. My question never got answered. And they go, "Oh. Write me a letter and I might e-mail it." And I write them a letter, and they say, "LOL. Screw you." Or I never get one back. I mean, you guys are always like, "Oh. Write in a letter." That's funny. Because then you just tell me. Why not just tell the public? I mean, these people -- I mean, we're busy just as much as you guys are. I mean, you guys are out trying to save the world and California. We're just trying to save ourselves here. I mean, let's face it.



People down there in So. Cal., they got more money than us. I know a lot of people don't want to think about it. They got more money. They got more voters. So you guys aren't really worried about it. Because we're going to get screwed anyway. You guys will just be like -- well, this is a formality for you guys, isn't it? I mean, you guys have to do this. You guys have to do a scope program and all this. And you guys have to, I don't know, basically tell us you're taking our water. And, "What do you guys want to do about it?" "What about you don't build a canal?" "Well, we're looking at alternatives. How about we move the canal?" I mean, that's all I'm hearing is canal, canal, canal. I hear desalinization, and it's like I just crucified someone. I mean, I say nuclear power -- I say, "Hey. Why don't we use the ocean?" And then a lot of people,

"Well, if we do a desalinization plant --"  
This came from one of your helpers. "If we  
do a desalinization plant, it is more  
effective capitally. But energy  
cost-wise, it's just not efficient enough, and  
it doesn't have enough --"

Audience: (Unintelligible)

Mr. Vierra: Thank you for whoever said that. I feel the  
same way. Seriously. You guys have an ocean  
right next to you. You guys can't build  
desalinization plants? You guys can't -- you  
can't invest your money -- because we're in a  
deficit. You can't invest your money into  
something else rather than come up here and  
bother us for our day jobs and everything?  
And have us come out here so you guys can  
just tell us that, "We're either going to  
build a canal here or we're going to build a  
canal there. And you can vote on whether you  
want it on the east end or you want it on the

west end. But we're pretty much just going to take it from the Delta." And then you guys are saying Sacramento River. So you're just -- I mean, what are you going to do when you're taking all that water? I mean, it's got to affect the environment. I mean, even if you do all those floods --

Chair: Wesley, I'm going to ask you to wrap it up now. And I'm also going to ask you -- we have five or six -- five -- three or four more. We're about twenty minutes overdue. Will you stay until 9:00 and answer these questions? Okay. So I'm going to ask Richard Robertson, and then Tim Neuharth.

Ms. Nemeth: You know, I do want to respond to some of the issues raised, because I think there are some misconceptions. And I get that there is a ton of skepticism in this room. I mean, that's to put it mildly. I do understand that. But there are a couple of things that

I think we all need to remember. That this isn't about water simply for Southern California. There's a lot of folks up and down the state -- there's a lot of folks up and down the state that rely on water that's currently conveyed through the Delta. And it's important that we recognize all of that.

Audience: We were here first.

Ms. Nemeth: Fair enough. Fair enough. I just want to explain that it is water for folks throughout the state, Bay Area included. So it's not simply a north/south issue. But I appreciate the sentiment and the skepticism absolutely. The second piece of it is, absolutely flow issues are important. And when we're considering a canal as part of this plan, as part of this conservation plan, we are looking at a couple of aspects of it that are essential to helping species recover. And that is simply reducing fish that get trapped

currently in the pumps. Folks mentioned fish screens. And there are ways to do that with fish screens. The other piece of that is flows and how flows move through the Delta in terms of bypassing any new diversion to keep -- to deal with that issue of fish getting trapped in the screens. But it's also about how water moves through the Delta in terms of several aspects of its quality, in terms of its turbidity, in terms of its solidity, the direction that it's moving, its temperature, its volume. All of those things are key parts to the puzzle, and they are things that we are examining as part of this plan. And again, I appreciate the kinds of comments and the skepticism. But I do want to make sure that folks understand that all of this is a part of the analysis moving forward.

Mr. Robertson: Hi everybody. I'm from ground zero.

I don't talk real well until I get going.  
Okay? Okay. We know this pipeline is going to go in. They're talking about how much saltwater is in the Delta. I brought this up last time. I was at the Brentwood meeting. It was interesting. Anyway. Sherman Island. October. Week before duck season. Jellyfish in Sherman Island. How about that? That's a saltwater species. Okay. Walnut Grove. December. No water coming into the Delta. Everybody who lives on the water knows that. Flounders. Two days, three days of three and four-pound flounders at Walnut Grove. Another saltwater species. These are all environmental little guys that aren't supposed to be here. That's how bad the water is in the Delta right now. No flow coming into the Delta. Zero. Behind our docks, I have a harbor. We saw three feet of water of no water. We still see two feet of

no water. Some water come into the Delta. We got a little bit of rain. This water quality is crap. The east bay, East Contra Water District is moving their pumps to beyond Disco Bay. The water coming into Rock Slough is bad. They know it. And they supply a lot of water to -- East Contra County, Diablo Water, East Contra Costa Water District, these all are impacted by this bad flow of water. And they're going to be taking the water out of the Sacramento River before it even gets to the Delta. Impact on islands. Water is going to -- the pipeline is going to be underground that we're never going to see how much water is going down. It's going to go by the Deepwater Channel, come across Twitchell, come across Three-Mile Slough, come across Bradford, come across Bethel Island, come across Jersey Island, and go all the way to

the Byron pump without us ever seeing that water that's in that pipe. The one that's going to go on Highway 5 that you guys are going to see, we're going to see the water in that. We're going to get an idea. But we're not going to see that other water. We don't even know how much water is going to go down. They're not going to tell us. I asked them how much fish were in the Delta in the '50's. There were six to seven million stripers in the Delta at one time. Salmon. It's probably exaggerated. But a lot of them. You could walk across the river. You hear the stories. You run the salmon up the San Joaquin River. How many fish? They say maybe 100,000. There's not even 1,000 salmon going up the San Joaquin River right now because of the pumps. They decimate -- the water diversions, the pumps, everything goes through them. Everything



gets ground up. And they -- "Oh. Wow. We got too many fish." They could put screens on the intakes or that flow that comes into the Byron fore bay. That's possible. They don't want to do it. So this is what's happening. I'm not going to address all of the stuff I talked about last night, because you guys are somebody different. But I'm ground zero. I see what's going on. These people have never been in the ditches. They've never been on that estuary in the places they need to look. They look across the thing and see your beautiful pictures. "Oh. We're going to do this and we're going to do that." But they need to get out and to see what's there. How many of you guys have spent like an early morning out there in the Delta and walked across that and seen what's there? The ducks, the geese, and everything that's going on. You don't do it. You've

never been there. The fishery guy, he's a joke. These other people are jokes. Everything's going to Southern California. Look at the guy picking his fingers right there. He doesn't want to hear what we're saying. They've already got this plan worked out. But when they start taking that water out of the Sacramento River before it even gets to us, before it gets to you -- you guys don't see that water. We do. But all the way up and down. And they want to build more on the Shasta dam. Los Vaqueros reservoir is next. Eighty percent of Los Vaqueros was paid for by L.A. Power and Water. And that's -- they're going to be expanding that within the next few years. So this is what's happening. It's a water grab. Everybody knows it. And we can't do anything about it. Because they took that peripheral canal apart. That agreement we had with them, they took it

apart. And they probably found one word. How bad can that be? What's the difference between may and shall? Huge difference. And that's what it takes to throw an entire agreement out or a vote. They took it apart. Took them 30 years. This year they found that out. And that's why this is happening, because they found it out. It was a closed-door, back-room deal. They took it apart and they found out how to get around it. And this is what we're going through now. And we can't stop it. I'd like to say we can. They're going to put it up for vote for the funding. And we may or may not vote it in. But they're going to pay for it anyway. So I don't know what we can do about it. All we can do is try. And that's what this is about. For us to try. Because they're going to kill us.

Chair: Okay. Tim Neuharth and then Chris Neudeck.

Mr. Neuharth: Could you put up your power point slide that said identify conservation --

Ms. Nemeth: This will take a few seconds or minutes.

Mr. Neuharth: -- identifying conservation measures on your power point? My name is Tim Neuharth. I'm a Delta resident. Delta farmer. Been there a long time. Represent a family that's been there since 1848 and watched the river go -- or watched the water go down the river a lot of times, and watched as I've irrigated over the years from a little kid to the present age, and watching how water flows through my ditches and through the canals and into my furrows and so forth. And although that may be a smaller scale hydrologically, it's the same principle. First of all, I want to thank this crowd. I heard a lot of good things tonight from a lot of different people. A lot of good stuff. A lot of good questions. A lot of good observations. And you really

need to give yourselves a round of applause for being vigilant and being inquisitive. And I thank you for that. Well, while they're getting there, one of the issues that was brought up, or one of the things that were said was public trust. And I think all of these meetings that I've gone to, there's a huge, huge question about public trust. We're being asked to believe that all of this is going to work without a lot of positive facts or figures or whatever. For instance, we have fish screens that supposedly are state of the art, but they don't work. So we're going to use fish screens up on the north end of the Delta to pull two-thirds of the water out of the Sacramento River, if I have that quote right. Two-thirds. That's -- I think that's what you said, Jerry.

Mr. Johns: Let's make this clear. We're talking about the water in the canal. When you look at

how much water -- at the water that's exported, not water that's in the river, but the water that's exported, about two-thirds would be from the Sacramento River, and about one-third would be from the south Delta. So just water that's exported, that's the percentage. What's in the river is way -- is a whole different question.

Mr. Neuharth: Okay. Okay. So we're going to use fish screens up there to screen out fish as well. But the fish screens that we have down here don't work even at this point. So we've had all these years to figure out that technology, and we haven't evidently got there. Because if they did work, we wouldn't have this problem, evidently. Which brings up an interesting point. The easy fix for all this thing is to take the pumps and the screens that go with them out, and we wouldn't have a problem with the smelt to

begin with. That's a pretty cheap fix, if you ask me, rather than building this big canal and doing all this other stuff, blah, blah, blah. So back to the public trust. We've been asked to trust. Well, from the beginning, we've been getting a snow job. One was if we -- when we have this catastrophic earthquake, all the levees, or 50 levees or whatever it is in the Delta, are going to fail. As one gentleman pointed out earlier, there's never been a levee failure due to an earthquake in the Delta ever, historically. You can put your computer models out there all you want to. But if you're just looking at the facts of history, that doesn't pan out. If it did, I think repairing the levees and the water quality issues is going to be the last thing on anybody's list. If we have an earthquake of such a magnitude that the levees are going to

collapse in the Delta, you're going to have city problems and you're going to have freeway problems. You're going to have problems beyond anything that even remotely applies to the Delta. That will be the last thing on the list they're looking at. Number two, we were told that, you know, we have to fix all these levees, and we have to do all this work because look what happened in Louisiana and Katrina. Well, guess what? We don't have hurricanes in California. We don't have 20-foot storm surges in California, and neither do we have a U.S. Corps of Engineers built -- engineered and built wall that failed. We have levees. We don't have a wall that failed. And it wasn't a levee that failed in Louisiana either. So all along this process -- and by the way, I raised this point earlier a long time ago at some meetings in the Delta. And one of the



gentlemen that sat at the tables up here admitted to me that, "You're right. Katrina doesn't really have anything to do with California. However, it does keep it in the public's eye." In other words, it's an emotional issue. So, you know, it's the fear thing. And then -- so now we're being asked to trust that -- now we're getting there. To trust that all of this stuff that we're talking about is going to work. And I don't see it. We're focusing on the smelt, and we're focusing on the splittails, and we're focusing on the salmon. Well, what about the other things that go along the Delta? What about the striped bass, which may be an invasive species, but I don't think you're going to get rid of them. Are you planning to eradicate them totally? I think they're here to stay. When do they become native? In essence, they are native. They're here.

They're not going to be taken away. So what about the catfish? What about the hawks? What about the owls? What about the otters? What about -- I mean, go on and on and on with other species that are in the Delta. So what I'm seeing here is a robbing Peter to pay Paul. We're going to take water out of the north end of the Delta. We're going to ship it south to make up for deficiencies in the San Joaquin River and mess with the flows that traditionally come. And if we're taking that much water out of the north, what happens with the rest of the north Delta? What happens to the flow from there? Where is this water coming from to make this system work? Do we have additional storage up north? Have we raised Shasta dam? Have we built a new dam? No. All of this stuff has been predicated on studies and ideas that were supposed to be put in place in the 19 -- in

the 1940's and '50's. That hasn't happened. But yet we're going to dig this ditch knowing not where the water is coming from, nor are we knowing exactly where it's going. I've been told recently that we're only going to do this when we have excessive flows. Well, we're going to build all this. There's billions there, and billions there, and billions there. And we're going to build all this, and only pump this water when we have excessive flows. Well, last year, that means that we wouldn't have pumped any of this water. Because we didn't have any excessive flows last year. This year, we've had about a month. So, you know. Billions and billions and billions not only on something that's only going to work part time, is what I've been told. I haven't seen that in writing. But it's been verbalized with people here at these different stations.

And plus, no hard data that all of this is really going to work. But we're going to do it in the hopes that it's going to work. We heard from a guy in Sacramento who's from the Hoopa tribe. You know. He was very adamant that the restoration that was supposed to happen on his river, the Trinity, and the funds that were supposed to be provided to make that happen by the users of that water have never materialized. Nobody's ever held them accountable for what's going on up there. And so what I'm saying is there's a whole lot of open questions here. And I just ask that we, as taxpayers and residents and water users and recreationists and so forth, continue to be vigilant, continue to be questioning, continue to be pointed in our remarks. And, you know, they've got to prove it. This isn't our idea taking this water out. You know. It's what they want to do.

And they want to ship it south. So they've got to prove their points and they've got to make this thing work. So I just encourage you to continue to be vigilant and questioning. And, you know, let them prove their points. Thank you.

Chair: Okay. We have Chris Neudeck, then Mary McTaggart. And just before you begin, Chris, I want to invite you, after we break up here in just a few minutes, to stay and talk to the people in the back of the room, particularly those that have spoken here. You had many things that were great questions that would be best utilized if you make sure that they get down in writing for the technical staff there. So Chris?

Mr. Neudeck: All right. Thank you. Just real briefly, I want to clarify something that Dan -- Dante, Junior brought up earlier in the discussion. And it was regarding the fish

screen project that the department undertook around the year 2000 to move the screens out of the dead-end portion of the Clifton Court fore bay. Up on Byron Tract, we went through a very similar process. The department came out, threatened eminent domain on our client. I happen to be a civil engineer that works with the reclamation districts down there. And we were well into schematic design for a fish screen on a live river. On Old River. Now, Paul Marshall in the back of the room give me some general explanations as to why that screen didn't work. But the Reclamation District and the local landowners were told the reason that project failed was the contractors were not going to pay for it, because it was a very expensive screen, unless they got certain assurances out of the project. So after almost two years worth of study and

schematic design and environmental consideration where the screens were on a live channel, we thought it failed just because of cost and not getting a commitment out of the contractors. Does anyone have an explanation why that project isn't being considered or doesn't work? Because it's a screen on a live channel similar to what's being designed on the Sacramento River. Now, Paul indicated to me that the sweeping flows by it weren't enough. But is that the reason why that one is not being considered? Because it's not in the dead end any longer. And it was something that the department proposed and put an awful lot of money and effort into it. Because I was involved in it for several years.

Mr. Johns: You probably ought to talk to Paul. He's probably our best source on this. I don't know if you want to do it now or if you want

to talk to him afterwards.

Mr. Neudeck: Well, I think it's worth clarification.

You've heard a lot of discussion around -- tonight about the screens. We're moving this all because of the screens. Well, here was an alternative screen in the south Delta on a live channel that had flows. Old River is a river that runs up technically north, but it runs typically south.

Mr. Johns: Yeah. And part of the problem with that part of the Delta, of course, is it's tidally driven. So you get fish that move this way past the screen, then they move back. And they move this way and that way.

Audience: Why don't you have the expert answer the question so we get a straight answer?

Mr. Johns: Okay. Paul, you want to -- as Paul's coming up, one thing I might want to indicate. It's not just the screens that are the issue. We have these -- in Old and Middle River, those



two rivers in the middle part of the Delta, that's really what's controlling our operations currently. So even if we had better screens, the fish agencies are still concerned about the fish that are coming into those rivers. And that's -- even if you had better screens, they would still be concerned about the fact that, well, you might bring more fish into the interior Delta, and they would then stay there until the Delta got hot and they would die. So even if you screened it better, they would still be concerned about Old and Middle River flows, even with better screens. I'll let Paul answer the other question.

Mr. Marshall: Yeah. Either way, whenever we're dealing with the screens down in the south Delta, we're looking at a terminal screen. It's like a fish sampler. It's actually pulling in the fish from all around. Our modeling

shows that if we -- when we have the exports going, during the springtime especially, we have a zone of influence that goes out to San Joaquin River and goes up well past Victoria Canal up on Old River. And all of those particles in that area start heading towards the screens, whether they're the State water project or the Central Valley project. Either way. So the facility that you're talking about where we're actually putting screens on Clifton Court fore bay on Old River basically --

Mr. Neudeck: No. They were on Byron Tract. They were outside the fore bay up on Byron Tract levee. We were redirecting Italian Slough. I mean, there was a lot of effort put into that design. This was not just a hocus pocus throw the --

Mr. Marshal: Okay. But we're still bringing water past on Old River. And that water was actually

heading for the CVP pumps. Okay? So that was actually creating that sweeping velocity that Paul was talking about earlier. Some other pumps were creating that sweeping velocity. So you're making it good for some fish but worse for others. You know?

Mr. Neudeck: Because of the Central Valley projects?

Mr. Marshal: So no matter what, you're still -- you still have a terminal screen.

Mr. Neudeck: But wouldn't that be the fed's problem and not the state's problem? I mean, in regards to --

Mr. Marshal: You know, it's the fishes' problem. And that's the whole issue.

Mr. Neudeck: But that sweeping velocity -- you and I started talking about this. That sweeping velocity was adequate to sweep them off the fore bay or the state water project screens. And it's -- because the Central Valley project is sucking them, wouldn't it be the Central

Valley project's screening facility that  
needs to take care of them --

Mr. Marshal: Yeah. But here again --

Mr. Neudeck: -- and not relocate the screens all the way  
to the north?

Mr. Marshal: Here again, they have a terminal  
screen at that point. So they have a  
terminal end.

Mr. Neudeck: But we're moving -- we're building a  
peripheral canal because the Central Valley  
project doesn't have screens.

Mr. Marshal: No. No. In fact --

Mr. Neudeck: I mean, but that's -- you're just telling me  
that that's why the 800 or the 800 screens  
didn't work, because we'd be sweeping them  
down into a terminal facility. I'm telling  
you, the reason they told us is because the  
contractors didn't want to pay for it. None  
of the information you've shared with me in  
the last ten minutes was ever expressed to

the landowners at the time. So this is all news to us. But from what I'm hearing is you're saying, "Well, the sweeping velocity is there. But we're sweeping them down into another set of screens."

Mr. Marshal: Actually, the sweeping velocity still isn't enough. In that kind of an area up on the Sacramento River, the sweeping velocity is pretty good --

Mr. Neudeck: More water in the river.

Mr. Marshal: -- especially for salmon. And if you look at the location of the proposed intakes, that's pretty well outside of a lot of the influence of the Delta smelt. And so we actually wouldn't be affecting smelt hardly at all, especially if we're only pumping more on the ebb tide. So we can actually avoid a lot of our impact, by pumping on the Sacramento River, on the Delta smelt entirely. That coupled with the flood plain and tidal

habitat that's up there in the Cache Slough area would grossly benefit the Delta smelt, the Sacramento splittail, the Sacramento River salmon, the steelhead. It really helps out a lot of these fish. So we're avoiding the conflict between habitat and conveyance by taking our water up there. Plus we're providing habitat that adds food to the system that they desperately need.

Mr. Neudeck: So what velocity sweeping flow do you need by the screens? I'm still a little unclear.

Mr. Marshal: That is actually --

Chair: Chris, after this one, I'm going to ask if Paul will stay and continue.

Mr. Neudeck: Okay.

Mr. Marshal: That's actually something that the biologists have been working on. They're looking at anywhere from 5 to 11,000 CFS of flow going past these screens on the Sacramento River before we can actually start

taking any of the water. So that's the sweeping velocity.

Mr. Neudeck: Okay. Thank you.

Chair: Okay. Paul, you're here afterwards if people want to follow up on that. Last speaker, Mary McTaggart.

Ms. McTaggart: My name is Mary McTaggart. I live in the north Delta near Clarksburg. My first question is about this diagram here that's the second page of your handout. The proposed action is the BDCP. Then it lists some other alternative projects. What are those? Have they already been discarded, or are they going to be evaluated, or --

Ms. Nemeth: Those are the ones that are -- that we're scoping on tonight. Again, the point is to get comments on the range of alternatives that need to be looked at. How we look at those alternatives. How we measure those impacts. All of that. They're not decided.

Ms. McTaggart: Okay. But are these real alternatives that have been put out there, or are they ones that you might make up from hearing from us? The ones that --

Ms. Nemeth: We've got some. We've got some out there that are on some of the boards. But also, we're taking input on a reasonable range of alternatives. So the expectation is that we'll get some alternatives here tonight that will go into the EIR/EIS process.

Ms. McTaggart: Was one of the alternatives the one that was proposed by Tom Zuckerman early in the Delta process? Was that considered an alternative?

Ms. Nemeth: Which alternative is that?

Ms. McTaggart: Was proposed by Tom Zuckerman from down here in this area early in the Delta vision process. A whole alternative to this idea was called -- he focused on self-sufficiency. Regional self-sufficiency and conservation.



Was that being -- has that been considered in your process?

Ms. Nemeth: I think we want input on all those kinds of alternatives.

Ms. McTaggart: No. The question is, has it been considered?

Ms. Nemeth: It is being considered. Absolutely.

Ms. McTaggart: Is it?

Ms. Nemeth: It is. Absolutely.

Ms. McTaggart: Okay.

Ms. Nemeth: That's why we're here tonight.

Ms. McTaggart: I'll look to see it somewhere, then, in print. Maybe you can give me that.

Ms. Nemeth: Yeah.

Ms. McTaggart: Secondly, I'm kind of worried about the science here. I'm looking at the adaptive management section of chapter 3, conservation strategy. And here it says that conservation measures can be discarded if they're found not to work. My question is -- now, they can

be revised. They can be added to. Okay?  
And it says that. It says, "Then the  
marsh --" For example, it says, "Then the  
tidal marsh restoration may be reduced or  
discontinued and its funding diverted to  
additional contaminant reduction actions," et  
cetera, et cetera. So what happens to that  
land that is -- that is not going to be used  
for a conservation measure anymore?

Ms. Nemeth: Great question.

Mr. Cylinder: The habitat -- the physical habitat  
restorations -- the restoration of marshes --  
as you all are, I'm sure, aware that the  
Delta was almost entirely marsh in historic  
times. And so we're looking to restore areas  
back to marsh habitat contributing to food  
supply for the fish. Marine habitat for the  
fish is the purpose of it. But it's  
certainly not 100-percent understood science  
in terms of how these marshes will be -- come

back as we flood areas. So the conservation measure will be written in such a way as you start small and you work up. And with the restorations that you do do --

Ms. McTaggart: How small is small? Excuse me. Someone said 5,000 acres earlier in another meeting.

Mr. Cylinder: Yes. 5,000 acres would be a total within one of those large shaded areas. Somewhere within -- those areas are huge. They're much more than 5,000 acres. So somewhere within that, we would identify 5,000 acres. But any given restoration project might only be several hundred acres in size. And certainly initially, in order to -- to study the outcomes of restoration. So when we talk about discontinuing habitat restoration, it doesn't mean that we abandon a site. If we've restored a site, we would adaptively manage that site to get the most out of that site. But it might turn out that we're not

getting as much benefit to fish as we anticipate. We might get more benefit to fish than we anticipate. At this point, it's not an exact science. We have the best science, and we've been using the best science available. But if we don't seem to be getting enough results for the fish, and it's the purpose of the plan, the purpose of restoring habitat, then we might discontinue doing more restorations. Not give up on that one. We'd get the most out of that one that we could. But we would discontinue doing additional and divert the money then to other conservation measures that are proven to be more effective over time as we implement.

Ms. McTaggart: So my question is, when does this process stop? We live here. We're trying to make livings here. We're trying to make a, quote, viable or vigorous agricultural economy here. And if you're just -- if there's no end to

this adaptive management -- you know. "Well, we'll try this over here. We'll try this over there. Oh. Meanwhile, we've lost some of our funding." And by the way, are the water contractors paying for all of this? Is that part of this too? Or are they off the hook for this once they get their permits?

Mr. Cylinder: The way you described adaptive management is not how adaptive management works. The focus is, first of all, setting the objectives for the plan. The plan has to identify what the eventual goals are in terms of -- and objectives in terms of amounts of habitat restored, how the system would be operated, but with contingencies for adaptive management to allow flexibility. But there has to be some limit to where the plan begins and ends. And that limit is set in terms of --

Ms. McTaggart: Where are the limits?

Mr. Cylinder: Well, that will be described in the  
document.

Ms. McTaggart: So will it be there?

Mr. Cylinder: And we've been working on those --  
describing those limits for different aspects  
of different conservation measures over this  
past year as we've been working. Yeah. So,  
yeah. We'll have a full document.

Ms. McTaggart: Okay. I'll look for them. Secondly, I  
think on other stressors -- no. I will.  
I'll look for that.

Mr. Cylinder: Can I answer your question about the  
funding?

Ms. McTaggart: Well, I -- I don't know. No.

Mr. Cylinder: Did you want me to answer the question about  
the funding?

Ms. McTaggart: Yes, I do.

Mr. Cylinder: Okay. The way these conservation plans  
work, because this plan includes mitigating

the impacts of the water exports as well as going beyond mitigation, contributing to the recovery of these fish species, the funding for implementing a plan, paying for actually doing what -- if this plan comes to be, and permits are issued, and it becomes -- and it starts to become implemented, the funding for that would be shared in terms of the water contractors. Those who are benefiting from this permit by being able to export water. They will be paying for all of the mitigation and some of the contribution to recovery. And any additional contribution to recovery, the state and the federal government would be responsible for some of that also. Because we're working under state and federal laws. Endangered species laws. And the responsibility for recovery of the species goes beyond any given entity or group of -- or individual in terms of offsetting

their impacts on that resource.

Ms. McTaggart: So how will that --

Chair: Mary, could you make a concluding comment,  
and then you can carry on the conversation.

Ms. McTaggart: Okay. Well, then my last comment is I  
wondered if it would be possible to get more  
than 90 days for the public comment period  
when the EIR comes out. I know 90 days is  
probably a long time. But I would think this  
document is going to be huge. And you keep  
telling us that's the time when we really  
need to say what's what. We're not going to  
even have time to read it, let alone think  
about it if there's only -- you know. Ninety  
days isn't very long if it's several thousand  
pages. That's all. My request is for longer.

Chair: Thank you. And with that, I'd like to thank  
all of you who participated either by  
speaking or by listening. And I'd also like  
to invite you to remain. To the extent that



you would like to speak to the folks in the  
back to get your comments in writing, they'll  
be here until 10:00. Thank you and goodnight.  
(The proceedings concluded at 9:20 p.m.)

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CERTIFICATE OF REPORTER

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I, JAMIE LYNNE GUILLES, a Certified  
Shorthand Reporter of the State of California,  
License No. 8086, do hereby certify:

That said proceedings were recorded in  
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That I am not of counsel or attorney for  
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2009.

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BAY DELTA CONSERVATION PLAN  
EIR/EIS PUBLIC SCOPING MEETING  
PUBLIC COMMENTS  
TUESDAY, MARCH 24, 2009; 6:00 p.m. to 9:41 p.m.  
STOCKTON CIVIC MEMORIAL AUDITORIUM  
525 NORTH CENTER STREET  
STOCKTON, CALIFORNIA

REPORTED BY: CELIA A. ZARATE, CSR NO 10769

1 ATTACHMENTS:

2

3 BDCP Speaker Card - EIR/EIS Scoping Meeting:

4 Name: Woody Alspaugh

5 Affiliation: "Citizen" Alspaugh Foundation

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PUBLIC COMMENTS:

MR. ALSPAUGH: Woody Alspaugh, that's A-l-s-p-a-u-g-h.

I've been to many of these meetings, including the BDCP, and spoken at many times at many meetings and as a landowner, property owner, former fireman and dockworker, longshoreman, being that Stockton is an inland seaport how could or would they propose a solution to the ship traffic via the canal if a peripheral canal was built cutting off the ship channel -- shipping channel.

(Whereupon, the meeting was adjourned at 9:41 p.m.)

CERTIFICATE OF REPORTER

I, CELIA A. ZARATE, LICENSE NO. 10769, State of California, certify that the foregoing statement was taken before me at the time and place herein set forth;

That the statement made at the time of the scoping meeting was stenographically recorded by me to the best of my ability and thereafter transcribed by the use of computer-aided transcription;

That the foregoing proceeding, as printed, is a true record of the statement at the time of the proceeding.

Witness my hand this day of 2009.

CELIA A. ZARATE, CSR 10769