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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1780	2	In recent years the endangered species Biological Opinions for protection of delta smelt, longfin smelt and Chinook salmon have resulted in massive cutbacks in exports of over 1.5 million acre-feet per year. Without the BDCP, further cuts of another 1.0 million acre-feet per year could occur with new endangered species listings according to the BDCP briefing documents. This situation is untenable and a solution must be found to stop the rapid deterioration of this critical foundational water supply to Southern California. The BDCP is the best hope we have and it must be approved and implemented in a timely and cost-effective manner.	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/S.
1780	3	Moulton Niguel Water District strongly support the BDCP Preferred Alternative (No. 4) and oppose the No Action Alternative: It is critical to the state's economy and environment that both the State and Federal government expeditiously follow through with the decision for adopting and implementing the BDCP.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1780	4	Co-Equal Goals: The BDCP must be implemented in a manner consistent with the co-equal goals adopted by the State. Preferred Alternative (No. 4) is consistent with the Delta Reform Act of 2009's co-equal goals.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1780	5	New Facilities and In-Delta Operational Flexibility: The modernization of the Delta conveyance system is essential in order for habitat restoration and conservation to have their intended effect. Moulton Niguel Water District prefers the 15,000 cubic feet per second (cfs) alternative with regards to supply reliability but we support the Preferred Alternative (No. 4), which incorporates the 9,000 cubic feet per second (cfs) three intake, twin tunnel conveyance system, in order to compromise between the balance of operational flexibility and modernizing the conveyance system for environmental benefit and water supply reliability.	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/S. .
1780	6	Reduced Future Reliance: The 2009 Delta legislation called for water agencies to reduce future reliance on the Delta, not to become 100 percent "self-reliant". While our major efforts in these areas will continue, it is important to note that "reduced reliance" does not equate to and was never intended to require a move to 100 percent "self-reliance" and the notion of co-equal goals was never intended to result in a future with significant reduction in exports from levels achieved before the 2008 Biological Opinions.	The proposed project is aimed at addressing many complex and long-standing issues related to the operations of the SWP and CVP in the Delta. It is important to note that the BDCP/California WaterFix is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation as well as other water supplies such a stormwater capture and recycling (as described in Section 1.C.3 of Appendix 1C, Demand Management Measures).
1780	7	Plan Implementation and Regulatory Assurance: The BDCP must provide the needed implementation and regulatory structure and assurances to help achieve the co-equal goals. In particular, allowances for changed circumstances and adaptive management that minimize the impact on future water supplies is critical to ensure an effective return on the multi-billion investment that Californians will be making.	Please see response to comment 1533-7.
1780	8	Sound Science. Decisions to implement and adopt the BDCP must be based on sound science. We strongly support the inclusion of independent scientific investigation and	Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as

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		research to be included in the BDCP process.	it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e,g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process. Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. Under the revised Preferred Alternative, adaptive management, monitoring, and research would all be pursued through a Collaborative Science and Adaptive Management Program described in a biological assessment and biological opinion reflecting outcomes of an interagency consultation between Reclamation, USFWS, and NMFS.
1780	9	Cost Allocation: We support the "beneficiary pays principle" as a basis to allocate cost among all responsible parties and beneficiaries.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. The proposed project is costly, but proponents have assessed the benefits as described in the funding sources. Notably, the water contractors benefitting from the proposed project and their constituents will bear all costs associated with constructing new conveyance facilities and mitigating for the impacts of those facilities. Expenditures of public money from other sources would be limited to restoration activities beyond those needed to mitigate the impacts of facility construction. 2013 Public Draft Chapter 8, which deals with cost issues, and cost-benefit analysis information are available on the BDCP website. Please see Master Response 5 for more information on project costs and funding.
1780	10	Implementing Agreement: The Implementing Agreement is a contractual, legally-binding agreement that spells out the commitments and assurances as well as the terms and conditions for on-going implementation of the BDCP. Clarity in this agreement is essential as well as the balance in implementation of the co-equal goals.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1780	11	Economy. Environment and Water Management: The SWP is critically important to the Orange County economy, environment and water management. Implementing the BDCP is critical to Orange County's future. Orange County and Moulton Niguel Water District have invested heavily to diversify our water portfolio but the SWP remains a critical source of low salinity water, which is currently jeopardized under the current Bay-Delta system.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS and includes information that is consistent with information in Chapter 2, Project Objectives and Purpose and Need, in the Final EIR/EIS. The regional and local efforts completed by Orange County agencies are included in the Existing Conditions, No Action Alternative, and Cumulative Impact analysis assumptions.

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1780	12	Orange County relies on the SWP to support groundwater conjunctive use programs and water recycling programs - it is an essential part of our water reliability strategy that sustains our citizens and businesses.	This comment includes information that is consistent with information in Chapter 2, Project Objectives and Purpose and Need, in the EIR/EIS.
1780	13	We support the 9,000 cubic feet per second twin tunnel Preferred Alternative (No. 4) provided reasonable assurances are included regarding governance and future decision-making. The investment and decision-making must be structured to achieve a positive outcome for both public water agencies and the ecosystem in a collaborative manner.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1780	14	State Water Project contractors are accountable for the fixed costs of the State Water Project regardless of deliverables. I t is now time for the State and Federal government to adopt and move the BDCP to implementation in order that we can achieve the 2009 legislation's co-equal goals of ecosystem restoration and fulfill the promise of reliable water.	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/S.
1781	1	The Coalition for a Sustainable Delta is supportive of the BDCP and appreciates the effort that has gone into the draft Plan and DEIR/EIS. The Coalition believes that the Plan can establish a comprehensive solution that achieves California's co-equal goals of improving water supply reliability and enhancing the Delta ecosystem. Specifically, the Coalition supports the BDCP's proposed twin-tunnel conveyance system, which will isolate and protect drinking water supplies and help restore natural flow patterns in the Delta for the benefit of native species. The Coalition also supports the Plan's recognition that changing conditions in the Delta will require ongoing scientific review and real-time monitoring so the Plan can effectively adapt over time to emerging science and the evolving ecosystem. While the current draft of the BDCP details a potentially workable solution to the challenges facing California's water resources and the Delta, key decisions remain relating to cost allocations, operations, outflow ranges, financing and other issues. The Coalition believes the successful resolution of the issues is critical to the ultimate success of the Plan and to solving California's perpetual water supply and Delta ecosystem concerns.	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. This comment addresses Alternative 4 (known also as the BDCP) and the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) has been developed and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed.
1781	2	Regulatory Assurances. The BDCP involves major, long-term commitments of resources by State Water Project (SWP) and Central Valley Project (CVP) contractors to restore and improve the reliability of water supplies in the Delta and to contribute to the conservation of covered species. In light of this fact, the BDCP must include provisions that provide assurances to the SWP/CVP contractors that their permits to operate the SWP and CVP will remain in place for the full duration of the BDCP. Certain sections of the BDCP currently include language indicating that, in the event the United States and/or State fail to fulfill their funding commitments, the BDCP permits may be revoked, even if the permittees (including the SWP/CVP contractors) are meeting their	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. Please refer to Master Response 5 for a discussion of issues related to the BDCP, including funding sources.

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		funding and other obligations. In other words, a shortfall of federal or state funds could put the project in jeopardy despite the fact that the permittees are meeting all of their obligations. The Coalition strongly recommends including language in the BDCP clarifying that the BDCP permits will not be suspended or revoked in the event the federal or State government fails to meet its funding commitments, provided the permittees are meeting their obligations.	
1781	3	As a Habitat Conservation Plan (HCP) under section 10 of the federal Endangered Species Act (ESA) and a Natural Community Conservation Plan (NCCP) under California Fish and Game Code sections 2800 et seq., the BDCP offers a path to regulatory stability for both the SWP/CVP contractors and the federal and state wildlife agencies. Over the past several decades, a variety of regulatory measures and other requirements have restricted water deliveries from the SWP, both in terms of firm yield as well as deliveries to SWP contractors (see chart below) [footnote 1: Available at http://www.sustainabledelta.com/waterwatch.html.] The Coalition is hopeful that the BDCP will end the ongoing trend of declining yield and highly variable deliveries, and instead offer regulatory stability that increases water supply while restoring the Delta ecosystem. To that end, the BDCP should define and describe the regulatory stability that will be achieved through the Plan, and offer a clearer explanation of how this approach differs from the current highly fragmented regulatory system.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. The preferred alternative no longer includes an HCP. Please refer to Master Response 5 for a discussion of issues related to the BDCP and Master Response 3 regarding project objectives, purpose and need.
1781	4	ATT1: Graph Showing Fishery Impacts to SWP Table A Firm Yield	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1781	5	Real-Time Operations. The decision criteria described in section 3.4.1.4.5 for real-time operations need to be clarified. For example, the Plan currently requires real-time adjustments to water operations to maximize both water supplies and ecosystem benefits. However, it is unclear how this dual maximization will be achieved. The Coalition believes this type of language restricts the decisions that can be made by the real-time operations team. The Plan should clarify that real time operations cannot be adjusted to achieve potentially greater conservation benefits at the expense of water supply. Specifically, the Coalition strongly recommends clarifying that adjustments that negatively impact water supplies are inconsistent with the purposes of the Plan. In addition, the decision-making process for real-time operations needs to be revised. As drafted, the Plan provides that real-time operational adjustments will not be made unless there is a consensus. This is not an acceptable approach. As an example, if Old and Middle River (OMR) flows are set at an average of 0 cubic feet per second in response to a delta smelt take event, that determination would remain in effect until the real-time operations	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. Please refer to Master Response 44 regarding BDCP conveyance facility operations and Master Response 28 regarding operational criteria and OMR flows.

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		team or agency directors can achieve consensus on a less restrictive operational regime. This undermines the purpose of the Plan to maximize water supplies. The Plan should be revised to provide that. in the event a consensus cannot be reached, the director of the California Department of Water Resources (DWR) and the regional director of the U.S. Bureau of Reclamation (Bureau) retain authority to make decisions regarding operations of their respective facilities within the parameters set forth in the BDCP.	
1781	6	The draft BDCP establishes a real-time operations team that includes SWP/CVP contractor representatives, but bars those representatives from voting on matters before the team. This arrangement is improper, given both the degree of involvement of the SWP/CVP contractors in the planning, funding, and implementation of the BDCP and the expertise that the SWP/CVP contractors offer. It is typical for permittees (such as the SWP/CVP contractors) to play an important role in the management and implementation of HCPs and NCCPs. For example, the East Contra Costa County Habitat Conservation Plan, which covers approximately 175,000 acres and provides take authorization for 28 special-status species, established a governing board comprised of representatives of all permittees to oversee, manage, and implement the plan. As stated in section 8.1 of the plan, "[p]rimary responsibility for implementing the Plan rests with the Permittees. "See http://www.co.contra-costa.ca.us/depart/cd/water/HCP/archive/final-hcp-rev/pdfs/ch08imp.pdf. Similarly, the Santa Clara Valley Habitat Plan established a separate agency to implement the plan. The agency has two decision-making bodies, a governing board and an implementation board, which collectively represent all permittees. See http://scv-habitatagency.org/31/Governance ("[b]ecause all of the Permittees are responsible for implementing the Habitat Plan, all of the Permittees have a role in the Habitat Agency"). Therefore, the Coalition recommends that the Plan be revised to grant the SWP/CVP contractors voting rights on the real-time operations team, consistent with other HCPs and in light of the level of contribution of the SWP/CVP contractors to Plan development and implementation.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. The preferred alternative no longer includes an HCP. In the new regulatory structure, the fish and wildlife agencies have a similar role as currently implemented providing oversight in water operations. Details of the roles of the SWP/CVP contractors in this process are being developed through the ESA Section 7 process and the state 2081(b) permit process.
1781	7	The current draft of the Plan is problematic with respect to south Delta operations. Specifically, the plan currently does not appear to set operational ranges; instead, it could be interpreted as setting functional caps on water exports with no lower limits. See Table 3.4 .1-1. Under this interpretation, the real-time operations team (which currently operates by consensus and includes no SWP/CVP contractor voting members) would have latitude to restrict or eliminate water exports during nine months of the year. The Plan should be revised to establish ranges for south Delta operations, including lower limits to protect public health and safety, rather than only functional caps on water exports.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. The preferred alternative no longer includes an HCP. Please refer to Master Response 28 for a discussion of operational criteria under Alternative 4A.
1781	8	Decision-Tree Process. The so-called decision-tree process is intended to determine, based on rigorous scientific investigation, whether implementation of specific fall and spring outflow requirements is	Please refer to Master Response 44 for a discussion of the decision tree approach.

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		necessary to comply with legal requirements applicable to permits issued under the Endangered Species Act and the California Natural Community Conservation Planning Act. The premise is that (i) because the BDCP operational criteria will not apply until conveyance facilities are completed, which isn't expected for over ten years and (ii) because of significant disagreement and uncertainty regarding the benefit of fall and spring outflow on the species, the parties to the BDCP propose to engage in a scientific investigation over the next decade to reduce or eliminate that disagreement and uncertainty. The goal is for the parties, through scientific investigation, to form recommendations regarding the efficacy of fall and spring outflow criteria.	
1781	9	It is imperative that the decision-tree process be transparent, neutral, and science-driven. The current draft of the BDCP does not fully achieve these goals. Rather, the current draft injects bias into the process before any scientific investigations have begun. That is, the draft (sections 3.4.1.4.4, 5.5.1.1.2, and 5 .5.2.1.1) presumes that fall outflow and spring outflow provide a benefit to the species, and anticipates what actions the regulatory agencies will take. This is improper. Not only is such language inconsistent with the premise that uncertainty justifies postponing any decisions regarding outflow criteria, but it reflects a bias that has the potential to undermine the entire decision-tree process. In other respects, the Plan provides a biased summary of existing scientific information. For example, section 5.5.1.1.2 includes five conclusions regarding scientific information relevant to the relationship between delta smelt abundance and fall outflow that are not supported. The first of these asserts that the distribution and abundance of delta smelt are correlated with salinity and turbidity. This is not borne out by existing scientific analyses and, therefore, is misleading. The Coalition for a Sustainable Delta requests that the draft Plan be revised to provide an impartial description of the contested issues, uncertainties, state of the science, and investigative process.	Please refer to Master Response 44 for a discussion of the decision tree approach.
1781	10	Adaptive Management. The decision-making process and decision criteria for the adaptive management program need to be more thoroughly developed. Pertinent, available literature on the subject is not considered or incorporated in the draft BDCP. See Dennis D. Murphy and Paul S. Weiland, Science and Structured Decision-Making: Fulfilling the Promise of Adaptive Management for Imperiled Species, Journal of Environmental Studies and Sciences (forthcoming) (attached hereto as Exhibit A). The adaptive management framework needs to ensure that the various adaptive management tools and programs have defined limits that protect assurances and maintain durability for environmental and water supply purposes. For example, operational changes implemented through the adaptive management program have the ability to impact yield from the SWP and CVP (Projects). The BDCP should clearly state that the adaptive management program will not cause a net loss of water from the Projects.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. The preferred alternative no longer includes an HCP. Note that Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal. Please refer to Master Response 33 for a discussion of adaptive management and monitoring, including adaptive management goals. Considerable scientific uncertainty exists regarding the Delta ecosystem, including the effects of CVP and SWP operations and the related operational criteria. To address this uncertainty, DWR, Reclamation, DFW, USFWS, NMFS, and the public water agencies will establish a robust program of collaborative science, monitoring, and adaptive management. It is assumed the Collaborative Science and Adaptive Management Program (AMMP) developed for Alternative 4A would not, by itself, create nor contributes to any new significant environmental effects; instead, the AMMP would influence the operation and management of facilities and protected or restored habitat associated with Alternative 4A. Collaborative science and adaptive management will support the proposed action by helping to address

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			scientific uncertainty where it exists, and as it relates to the benefits and impacts of the construction and operations of the new water conveyance facility and existing CVP and SWP facilities.
1781	11	The BDCP needs to provide further details regarding funding for the adaptive management program, including key terms relating to the adaptive management fund. The Plan currently defines the Supplemental Adaptive Management Fund as a resource funded by the public water agencies (PWAs), the State, and the federal government to be used to offset any water costs resulting from implementation of the adaptive management program. The fund can apparently be used to purchase additional water to meet adaptive management needs. However, other details regarding this fund are not clearly defined. The Plan should be revised to include such details. Specifically, the Plan should specify that the adaptive management fund is available to address all adaptive management actions (including changed circumstances), and should include a cap on the liability of the PWAs.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. The preferred alternative no longer includes an HCP. Note that Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal. Please refer to Master Response 33 for a discussion of adaptive management and monitoring and Master Response 5 regarding the Supplemental Adaptive Management Fund, which has been replaced by the Collaborative Science and Adaptive Management program proposed under Alternative 4A.
1781	12	The Plan currently states that, as respects adaptive management, permit holders may be "required to bear some responsibility for the risks associated with uncertainty and assume obligations beyond those reflected in the planned Conservation Measures set out in the HCP/NCCP." The Plan should be revised to clearly describe the responsibilities and risks that may be imposed on the permit holders.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. The preferred alternative no longer includes an HCP. Note that Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal. Please refer to Response to Comment 1781-10 and Response to Comment 1781-11 above.
1781	13	State and Federal Funding Commitments. The "beneficiary pays" model is the most equitable way to allocate costs between the Public Water Agencies (PWAs) and the State and federal governments, between the CVP and SWP contractors, and among the SWP contractors. Under this approach, costs for each portion of the project must be borne by the parties benefiting from that portion of the project. In the case of the conveyance facilities, the PWAs participating in the project should bear the full cost of those facilities. Costs for habitat restoration and other conservation measures providing public benefits should be paid for from public funds. Chapter Eight of the BDCP outlines costs for various conservation measures and allocates to PWAs costs for design, construction, maintenance and mitigation of the proposed conveyance. PWAs cannot afford to pay more than these allocated costs. The BDCP should clearly state that the PWAs are not responsible for paying any costs beyond those expressly set forth in the Plan. The Plan should further specify either the maximum funding obligations of the PWAs or a range of potential funding obligations of the PWAs. This discussion should include any obligations that may be triggered as a result of changed circumstances. Further, the BDCP is structured in a way that allows for cooperative funding from several agencies at various governmental levels. The Coalition believes that the BOCP can only move forward if the BDCP's federal and State partners are prepared to make the same sort of long-term funding commitment that the other parties to the BDCP are expected to make.	Please refer to Master Response 5 for a discussion of the “beneficiary pays” principle and funding for the BDCP and Alternative 4A.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1781	14	Biological Goals and Objectives. The biological goals and objectives of the BDCP should be determined on the basis of the best available scientific information regarding the covered species, habitats, and natural communities. Biological objective DTSM2.1 in the BDCP is not based on the best available scientific information and should be deleted or revised. While the stated intent of DTSM2.1 is to improve delta smelt habitat, it improperly defaults to using salinity as a proxy for delta smelt habitat. Recent scientific information demonstrates that salinity is one characteristic element of delta smelt habitat, but that the species inhabits water with a wide range of salinity and that other biotic and physical factors must be considered when defining delta smelt habitat. This fact was reflected in recent materials submitted by the United States in federal district court. In a brief (attached hereto as Exhibit B), the United States stated that the "assertion that distribution is necessarily tied to the location of the X2 zone oversimplifies the factors that influence smelt distribution: 'smelt habitat is a complex and dynamic system."' Along with the brief, the United States filed an expert declaration by Dr. Erwin Van Nieuwenhuyse (attached hereto as Exhibit C), in which he stated that "delta smelt are not confined to the 2 psu portion of the [low salinity zone]," instead "the water mass capable of supporting delta smelt production encompasses salinities ranging between<0.5 to 13 psu." Further, he stated, delta smelt do not "mindlessly follow" the 2 psu portion of the low salinity zone, rather they also respond to temperature and other factors. Other relevant materials also were not considered during the development of the BDCP. E.g., Dennis D. Murphy and Scott A. Hamilton, Eastward Migration or Marshward Dispersal: Exercising Survey Data to Elicit an Understanding of Seasonal Movement of Delta Smelt, 11 San Francisco Estuary and Watershed Science (2013) (attached hereto as Exhibit D); Joe Merz et al., Spatial perspective for delta smelt: a summary of contemporary survey data. 97 California Fish and Game 164 (2011) (attached hereto as Exhibit E).	Contrary to the commenter's suggestion that the BDCP's biological objective DTSM2.1 "defaults to using salinity as a proxy for delta smelt habitat" and consistent with the comment that "the species inhabits water with a wide range of salinity and that other biotic and physical factors must be considered when defining delta smelt habitat", the biological objective actually includes a number of important habitat characteristics in addition to low salinity (see public draft BDCP, p. 3.3-111): extensive vertical circulation including gravitational circulation, contiguous with other open-water habitat, lateral mixing, and other hydrodynamic processes keeping Secchi disk depths less than 0.5 meter, high calanoid copepod densities (over 7,000 per cubic meter), hydrologically connected to substantial tidal marsh areas, and maximum water temperatures less than 25°C. The importance of proximity to tidal marsh habitat is consistent with the conclusions of Murphy and Hamilton (2013: "Our findings support a conservation strategy for delta smelt that focuses on habitat restoration and management efforts for tidal marsh and other wetlands in north Delta shoreline areas directly adjacent to open waters that have been documented to support higher concentrations of the fish") and is reflected in the BDCP proposal of restoring appreciable quantities of habitat in the Suisun Marsh, West Delta, and Cache Slough sub regions. The paper by Merz et al. (2011) was cited in Chapter 5 of public draft BDCP (see p. 5.5.1-17). Please note that the new proposed project, Alternative 4A, no longer includes large-scale habitat restoration and would not act as an HCP. Instead, Alternative 4A would achieve incidental take authorization through the ESA Section 7 and CESA 2081(b) permitting processes. However, any impacts as a result of construction and operations of the proposed project will be fully mitigated.
1781	15	Reliability. The BDCP must provide a reliable water supply to all participating contractors. In particular, the proposed conveyance must be operated in such a way that additional water required for fish and wildlife, as well as other public benefits, will be made up with no net loss to the SWP and CVP contractors. Further, operation of the conveyance should allow for increased storage in wet years to compensate for a lack of water in dry years. As drafted, portions of the Plan have the potential to decrease water supply reliability to the point that they render the BDCP financially infeasible. Measures still under consideration that could alleviate the risk of water supplies falling below the point of affordability must be clearly defined in the final Plan. To ensure that SWP yield is maintained over the term of the BDCP, the Plan should clearly define a floor below which water supplies cannot fall.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. Please refer to Master Response 3 regarding project objectives, purpose and need. The construction of the water delivery facilities is estimated to cost $14.9 billion, an amount that would be paid for by the state and federal water contractors who rely on Delta exports. The range of costs for water varies widely among contractors south of the Delta. Costs depend on the source of water, transport facilities, energy requirements, among other factors. For the agricultural customers of the CVP, prices range from $100 per acre-foot to more than $400 per acre-foot. The Metropolitan Water District of Southern California, which buys water from the SWP, estimates that the cost of the proposed project would translate into about $5.00 extra per household, per month in its service area. The final cost of water from the new conveyance facilities would be determined by numerous factors. A number of these significant factors, such as the project yield and allocation of costs, have yet to be determined. Please see Master Response 5 for

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			information regarding funding of the proposed project.
1781	16	Non-Project Diversions. The Plan Area includes numerous non-Project diversions, which are typically used to divert surface waters to support agriculture or to provide water for waterfowl rearing areas, and are not associated with operation of the SWP or CVP. These diversions are often unscreened, and thus cause incidental take of listed species. To address this issue, the Plan includes Conservation Measure 21, which will provide funding for actions to avoid or minimize the incidental take of covered fish species associated with non-Project diversions whose owners voluntarily participate in the conservation measure. For example, if a non-Project diverter participates in the measure, the Plan will provide funding for screening the diversions at issue, will fund the potential reconfiguration and/or consolidation of the relevant diversions, and will provide take coverage for Plan participants. Conservation Measure 21 will be implemented on a voluntary basis, and currently does not require any showing on behalf of the non-Project diverter that the diversion at issue is being operated in a lawful manner (e.g., the diverter holds the applicable water rights permits, the diverter operates the diversion during the proper times of year, etc.). While the Coalition believes it is important for the Plan to address the incidental take currently caused by non-Project diversions, the current measure seems to provide a windfall for non-Project diverters that elect to participate in the Plan. The Plan should be revised to include a threshold showing of legality in order to qualify for the benefits associated with Conservation Measure 21.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. Conservation Measure 21 is no longer part of the Preferred Alternative. Please see Master Response 5 for a discussion of Conservation Measures.
1781	17	Independent Science Review. Chapter 10 of the Plan describes the proposed approach to integrating independent scientific review into development of the BDCP. Not unlike the sections describing the decision-tree process, Chapter 10 is currently not presented in a neutral and even- handed manner. For example, the discussion in section 10.3.7.1 describes the 2010 National Research Council (NRC) report entitled "A Scientific Assessment of Alternatives for Reducing Water Management Effects on Threatened and Endangered Fishes in California's Bay-Delta." As drafted, this section selectively includes only certain perspectives, such that the reader is not provided with an accurate understanding of the NRC's conclusions. For example, with respect to the highly controversial X2 action, the Plan currently quotes the NRC report by stating: "The X2 action is conceptually sound in that to the degree that the amount of habitat available for smelt limits their abundance, the provision of more or better habitat would be helpful." The section also adds the following commentary: "This finding has also been supported by further work detailed in the effects analysis in Chapter 5." Not only does this description undermine the alleged uncertainty supporting implementation of the decision tree process, but it injects bias into the Plan's use of independent scientific review. Indeed, notably absent from section 10.3.7. 1 is the NRC's statement that "[t]he weak	The commenter's statements of opinion are noted. Chapter 10 does not describe the "proposed approach to integrating independent scientific review into development of the BDCP" but rather is an historical review of past independent scientific review. Please note that the Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. This change, however, has not altered the role of independent scientific review in crafting the Preferred Alternative, and such review is continuing. Alternative 4A has been developed in response to public and agency input. With regards to the NRC report and scientific uncertainties, the lead agencies acknowledge these in the analysis presented in Chapter 11. This comment references Chapter 10 of the BDCP although additional analysis was available in the EIR/EIS and can be tracked with clarification and additional details in the Final EIR/S, Chapter 4, 5 and 11 including appendix 5A. For information regarding the Decision Tree Process please refer to Master Response 44 and issues related to BDCP and governance, including adaptive management and real time operations please refer to Master Response 5.

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		statistical relationship between the location of X2 and the size of smelt populations makes the justification for [the fall X2] action difficult to understand ." NRC 201O at 40-41. Chapter 10 should be revised to provide un-biased, scientifically neutral descriptions of already completed independent scientific reviews and how the Plan will integrate independent scientific reviews into the process of Plan implementation.	
1781	18	The Coalition for a Sustainable Delta is supportive of the ongoing BDCP efforts and is encouraged by the progress made in the draft Plan and DEIR/EIS. In order to succeed, however, the Coalition believes the Plan must be revised. Thank you for the time and effort expended on the BDCP stakeholder and public participation process. The Coalition looks forward to working with the involved State and federal agencies as the BDCP process moved forward.	This comment addresses Alternative 4/BDCP. The Preferred Alternative is now Alternative 4A/California Water Fix, as explained above in Response to Comment 1781-1. The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1782	1	The Bay Delta Conservation Plan (Nov. 2013) (BDCP) proposes to dramatically alter the way in which the Clarksburg Fire Protection District (the District) meets its mission and delivers emergency services within District boundaries and in accord with its mutual aid agreements. Those mutual aid agreements include agreements with other fire districts within the northern Sacramento-San Joaquin Delta. Although the District timely and properly requested cooperating and coordinating agency status with each state and federal regulatory agency responsible for the BDCP by District letter dated November 5, 2009, its requests have been ignored. The District is a unit of local government in the Sacramento-San Joaquin Delta (the Delta). The District generally covers all of the geographical area south of the city limits of the City of West Sacramento, west of the Sacramento River, east of the Sacramento Deep Water Ship Channel, and to the southern boundary of Yolo County. The District lies entirely within the legal boundaries of the Delta. The geographical area covered by the District lies entirely within the Plan Area (as defined in the BDCP).	Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft BDCP Draft EIR/EIS. This comment and remaining comments in this letter were provided in reference to the previous preferred alternative. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 BDCP Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. Under the preferred alternative (Alternative 4A) a proposed 28-foot interior diameter single-bore tunnel would be constructed more than 100 feet below the surface of Hood, and would not affect surface facilities in Hood. It would connect north of Hood to pipelines running from Intakes 2 and 3, and south of Hood to the intermediate forebay. There are no public facilities in the proposed tunnel alignment. Construction of the tunnel facilities would not conflict with any public facilities, nor would it require the construction or major alteration of such facilities. It is not anticipated that the construction of the preferred alternative would alter the way in which the Clarksburg Fire Protection District delivers emergency services.
1782	2	The mission and purpose of the Clarksburg Fire Protection District is to provide reliable fire suppression and emergency medical response to the people, residents, structures and businesses within the boundaries of the District and assist in holding insurance rates as low as possible. In order to meet this mission and purpose the District relies upon a number of existing physical and economic facts within the District, including: Reliant for the majority of its funding from agricultural land uses and operations, a system of assessments (including special assessments and a portion of general real property taxes) on	The commenter's general comment on the mission and purpose of the Clarksburg Fire Protection District and its funding is acknowledged. The comment does not raise any environmental issues related to the environmental analysis contained in the 2013 Draft EIR/EIS or the 2015 RDEIR/DEIS. See also response to comment 1782-1.

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		real property parcels and structures, the maintenance of agricultural viability and land values, and the determination and payment of fees to meet the financial obligations of the Clarksburg Fire Protection District;	
1782	3	The mission and purpose of the Clarksburg Fire Protection District is to provide reliable fire suppression and emergency medical response to the people, residents, structures and businesses within the boundaries of the District and assist in holding insurance rates as low as possible. In order to meet this mission and purpose the District relies upon a number of existing physical and economic facts within the District, including: A system of roads and travel routes for the delivery of services both within the District and to facilitate and continue the existing deliveries of as needed mutual aid to and from other fire districts through existing agreements and, through strike teams, throughout California; The on-going system of purchase and maintenance of equipment comprised of rolling stock, personal protection, fire suppression, medical aid, and supportive supplies, materials and equipment	The commenter's description of existing physical and economic facts within the Clarksburg Fire Protection District is acknowledged. The comment does not raise any environmental issues related to the environmental analysis contained in the 2013 Draft EIR/EIS or the 2015 RDEIR/DEIS. See also response to comment 1782-1. Please also note that Final EIR/EIS Chapter 19, Transportation, page 19-36 identifies interference with emergency services as an effect. Impact TRANS-3 further discusses this problem and its effects. Mitigation Measure TRANS-1a includes provisions to ensure that construction vehicles allow continual access for emergency vehicles at the time of an emergency.
1782	4	The mission and purpose of the Clarksburg Fire Protection District is to provide reliable fire suppression and emergency medical response to the people, residents, structures and businesses within the boundaries of the District and assist in holding insurance rates as low as possible. In order to meet this mission and purpose the District relies upon a number of existing physical and economic facts within the District, including: The maintenance of existing levees and flood protection to reduce the risk of floods and the damage cause by inundation by water. A number of State and federal entities are discussing formulating various devices, strategies, policies, habitat conservation plans, reports and other procedures (together, "Plans") which appear to have the potential to significantly and seriously disrupt or even prevent the Clarksburg Fire Protection District from accomplishing its mission and purpose by alteration of the physical and economic facts listed above. The BDCP is one example of one of these Plans currently under consideration.	Before and/or during construction of the proposed project, project proponents will explore opportunities with local reclamation districts and the (CVFPB) to address potential conflicts regarding levee maintenance, inspection, and flood fighting activities on project and non-project levees. DWR will look to enter into agreements with local reclamation districts with jurisdiction in the Delta to ensure levee management activities by both government and local agencies are not interrupted during construction of the water conveyance facilities. In addition, DWR will comply with all applicable flood protection requirements and regulations to ensure flood neutrality during construction and operations of the proposed project. RDEIR/DEIS Section 4.3.2 describes the effects of Alternative 4A on surface waters, including effects related to flooding. Please refer to Final EIR/EIS Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements. For a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. Please refer to FEIR/EIS Appendix 6A Section 6A.6.2.1.3, for a discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for information on project consistency with USACE, CVFPB, and DWR flood standards and regulations. As described in Master Response 24, other than the intake areas, no other features of the proposed project would affect levee maintenance. DWR would maintain levees near the intakes.
1782	5	In a typical year the Clarksburg Fire Protection District responds to approximately 25 fire suppression calls, 75 medical aid calls, and 68 other "first responder" calls. Depending upon the specifics of the actual construction project which may go forward (and specifically not agreeing that any project of any scope should go forward), the District forecasts a significant and substantial increase in call volume due to construction activities and increased traffic in and through the District. After the completion of all construction activity, and as a result of	As described in Section 4 of the RDEIR/SDEIS and Final EIR/EIS Chapter 20, Public Services and Utilities, under Impact UT-1 for all alternatives, including the proposed project, Alternative 4A, there would be less-than-significant impacts related to increased demand on law enforcement, fire protection, and emergency response services from new workers in the Plan Area as a result of constructing the proposed water conveyance facilities.

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		proposed project operations, the District estimates a nominal increase in call volume due to operational and maintenance activities relating to the project. The increased call volumes as a result of construction, and also as a result of operations, will both be substantial, serious and significant impacts and effects on and for the District.	Please see also response to comment 1782-3.
1782	6	Comments Regarding Surface Water The Clarksburg Fire Protection District relies in part on surface waters throughout the District, and elsewhere on mutual aid calls, for fire suppression and emergency response. Chapter 6 purports to analyze the significant and serious effects and impacts because of changes in surface water as a result of the project alternatives. Chapter 6 focuses almost exclusively on the changes in the level of surface •water in and around both the Delta and the State of California as a result of the project alternatives. However, Chapter 6 fails to analyze or discuss the quality or quantity of surface water available or used by existing surface water users as either impacts or effects as a result of any of the project alternatives. Specific to the District, various project alternatives, if not all project alternatives, fail to analyze the significant and substantial impacts or effects of lowered surface water tables, and thus failures of significant or substantial loss of access to water. The District relies heavily on water, carried in all of its rolling equipment, to fight and suppress fires. The anticipated lowering of the surface water elevations, and/or the possible degradation of surface water quality and/or quantity has the serious and very possible of additional and further deterioration of the District's ability to fight and suppress fire both within the District and in response and draw of water outside the District under mutual aid agreements. The project proponents must provide for all water loss.	Please see Chapter 5, Water Supply, of the Final EIR/EIS for discussion of changes in water supply. Fire protection is a component of municipal and agricultural operations, and water quality effects of the BDCP on municipal and domestic supply (MUN) and agricultural uses (AGR) were assessed in Draft EIR/EIS Chapter 8, Water Quality, in Impacts WQ-1 through WQ-33. Water quality impacts of Alternative 4A are described in Final EIR/EIS Chapter 8. Changes in agricultural resources and public utilities are described in Final EIR/EIS Chapters 14 and 20, respectively.
1782	7	Chapter 8 does not appear to address changes in water quality upon Clarksburg Fire Protection District operations. Poor water quality, whether in surface or ground waters, is believed to significantly and seriously deteriorate and negatively affect the efficiency of water use in fire suppression and emergency response, and is further believed to shorten the life of the equipment used by the District to perform its mission. The EIR/ EIS must fully analyze serious and significant impacts and effects arising from changes in water quality upon District operations and equipment in order to be complete.	Analysis under the California Environmental Quality Act (CEQA) is required to determine the direct and reasonably foreseeable indirect physical effects of a project on the environment (CEQA Guidelines Section 15064(d)); the effects of a project on public services and utilities are considered significant under CEQA if the project would affect public services such that new facilities would be required to maintain service, the construction of which could have physical environmental effects on the environment. As described in response to comment 1782-6, discussions of the effects of the preferred alternative and other alternatives on water quality are in Final EIR/EIS Chapter 8. Changes in agricultural resources and public utilities are described in Final EIR/EIS Chapters 14 and 20, respectively.
1782	8	Comments Regarding Groundwater The Clarksburg Fire Protection District relies in part on groundwater through various existing wells located in the District, some within one-half mile of the projects for water intake, for	As described in Final EIR/EIS Section 7.3.3 of Chapter 7, Groundwater, groundwater wells in the Delta could be adversely affected during construction due to groundwater dewatering at the construction sites. During operations of alternatives with the Intermediate and Byron Tract forebays, groundwater could rise

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		fire suppression and emergency response. Chapter 7 purports to analyze the significant and serious effects and impacts because of changes in groundwater as a result of the project alternatives. Chapter 7 focuses almost exclusively on the changes in the level of groundwater in and around both the Delta and the State of California as a result of the project alternatives. However, Chapter 7 fails to analyze or discuss the quality or quantity of ground water available or used by existing groundwater users as either impacts or effects as a result of any of the project alternatives. Specific to the District, various project alternatives, if not all project alternatives, fail to analyze the significant and substantial impacts or effects of lowered groundwater tables, and thus significant or substantial loss of access to water. The District relies heavily on water, carried in all of its rolling equipment, to fight and suppress fires. The anticipated lowering of the ground water tables, and/or the possible degradation of groundwater quality and/or quantity has the serious and very possible of additional and further deterioration of the District's ability to fight and suppress fire both within the District and in response and draw of water outside the District under mutual aid agreements. The District is also concerned generally that the overall lowering of the groundwater table as admitted in the Draft EIR/ EIS will cause, or lead to, ground surface and underground depressions, sinkholes and lowered elevations, cracks in building foundations, and other structural damage as surface and subsurface earth subsides due to lowered groundwater tables, increasing calls for emergency assistance.	and affect groundwater drainage processes due to seepage from the forebays. Groundwater surveys would occur during the design phase to identify specific groundwater pre-construction conditions and potential effects on each well within the zone of influence of the dewatering operations. The revised Mitigation Measure GW-1 in the Final EIR/EIS provides for a monitoring procedure and options for maintaining adequate water supplies for land owners that experience a reduction in groundwater production from wells due to construction-related activities, including dewatering. The monitoring would include both groundwater elevation and salinity. The effects of dewatering could be reduced through installation of seepage cutoff walls during dewatering. Changes in soils resources are described in Chapter 9 of the Final EIR/EIS. See also Final EIR/EIS Chapter 8 and associated appendices and Master Response 14 for further information on water quality.
1782	9	Comments Regarding Agricultural Resources The Clarksburg Fire Protection District provides substantial fire and emergency response services to the persons, businesses, structures, industrial locations and improvements located out in the District which are primarily characterized by or materially support agriculture land uses. The cross-reference discussion set forth in subsection 14.1, beginning on page 14-1, line 28, through page 14-2, line 2, fails to refer to fire suppression and emergency response as related to agriculture in any other chapter. Failing this, reader expects to see analysis of the serious and significant impacts and effects of each of the proposed project alternatives on agriculture as a result of the serious and substantial impacts and effects on the District operations caused by each of the project alternatives. The lack of such analysis is a fatal flaw in the Draft EIR/EIS. The substantial and serious connection between the District's income from special assessments (determined by a schedule of fixed amounts) and a portion of general real property taxes (determined by assessed values) and related serious and substantial impacts and effects caused by the various project alternatives is not analyzed at all.	Chapter 20, Public Services and Utilities, Impact UT-1, describes impacts to emergency response times as not adverse or significant because construction of the proposed project would not increase the demand on law enforcement, fire protection, and emergency response services either due to an increased worker population or due to construction-related hazards, such that it would result in substantial adverse physical effects associated with the provision of, or the need for, new or physically altered governmental facilities. These are discussed as a whole for the community, not just in terms of pertaining only to agriculture. As discussed in Impact ECON-4 in Chapter 16, California Water Code Section 85089 subdivision (b) specifies that the entities constructing and operating a new Delta conveyance facility will fully mitigate for the loss of property tax revenues or assessments levied by local governments or special districts. Socioeconomic impacts related to Williamson Act contract cancellations are discussed in Final EIR/EIS Chapter 16, Socioeconomics, under Impacts ECON-1, 6, 7, and 12. Please also refer to Master Response 24 for additional discussion of community character and agricultural economics in the Delta.

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		Additionally, serious and substantial impact and effect, and possible reduction in the level of fire suppression and emergency response will have a serious and substantial impact and effect on future agricultural development and per acre values. These impacts, and the serious and significant impacts and effects which may occur related to the District may limit, restrict, stop, or reduce the agricultural infrastructure required for continued existence of all of the crops and agricultural activities identified in Chapter 14. Section 14.2.2.3, page 14-20, lines 3 to 21, with reference to the Delta Protection Commission ("DPC") and its work fails to mention or analyze the DPC's Economic Sustainability Plan ("ESP"). [footnote 1: The ESP is described and analyzed in subsection 16.2.2.3, beginning at page 16-32. However, the ESP also should be included in the Draft EIR/EIS analysis for Chapter 14.] Cutting across a number of sections written into the Draft EIR/ESP, but with particular focus on Delta agriculture, the ESP is an important planning and legal document formally adopted by the DPC. Many of the components of the ESP have been incorporated into and made a part of the Delta Plan, formally adopted by the Delta Stewardship Council. This failure is a fatal flaw. Additionally, the admitted lack of analysis of Williamson Act contract cancellations discussion (e.g., at page 14-75, lines 10-24) fails to include in its analysis the resulting financial impacts resulting on changes in land values, changes and restrictions in crop plantings, and changes in land uses on the income and operations of the District and the other public entities, utilities, and other organs of the Delta and the Delta communities. This failure is a fatal flaw.	
1782	10	Comments Regarding Socioeconomics Chapter 16, discussing the Socioeconomics of the Delta, bases its analysis in large and significant part on the thinking and belief, without evidence of this belief, that the "rural communities" of the Delta are the towns of the Delta, the collection of improvements lying within the historic townships in the Delta. The language set out at page 16-3, lines 8-10 is an important example of this thinking. In truth, the Delta communities are composed of both the townships together with their surrounding agricultural lands, each in symbiotic relationship with the other. In the Clarksburg area this truth is illustrated by the almost weekly meetings, gatherings, two annual district parades, three annual community dinners at the District firehouse, two garden clubs, a boy scout troop that has consistently produced for many years one of the greatest number of Eagle Scouts on an annual basis in the Country, together with innumerable events at the schools, church, library, and with other community groups, all bringing together residents of both the town area of Clarksburg with the residents outside the town area, into one cohesive single community unit bound together with unified and common values, united traditions, and family histories going back on the same land as far as	Draft EIR/EIS Section 16.1.1, to which the commenter refers, goes on to more thoroughly describe the population of the Delta. Lines 33-45 of this same page, page 16-3 describe the multicultural demographics of the population. Please refer to Master Response 24 for additional discussion regarding community character in the Delta.

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		seven generations ("Community Cohesion"). The District is also characterized by an important multi-cultural history. Whether it is the example of farmers who during the Second World War paid the taxes on the lands and buildings of their fellow Japanese farmers so they would not lose their land during internment, protection of the historic Japanese School, or the example of German POWs choosing to remain in the Delta upon their release in 1945, the Portuguese social hall (in the Lisbon District), the residents from Holland, in the area with the same name, or the large Hispanic population which participates in the life of the Delta, these facts and more demonstrate that the Delta community and its social fabric is not divided along the lines of township vs. non-township.	
1782	11	The demographic data set forth for the Delta portion of Yolo County beginning at page 16-7, line 317, to page 16-8, line 13, in the information listed for West Sacramento fails to recognize that only a part of West Sacramento lies within the Delta. The numbers offered for West Sacramento mislead because those numbers describe the whole of West Sacramento, not the Delta portion of the city. The Draft EIR/EIS is inaccurate and misleading to the extent that data derived from outside the Delta is offered as analysis of the Delta. Data should be limited to in-Delta residents, population, employment, etc. This same comment applies to cities and other areas which lie partly within the Delta, but the data for which is given for the entire city or area, not just the portion of the city or area which lies within the Delta.	In response to this and similar comments, text has been added to Chapter 16 of the EIR/EIS to clarify that only a portion of West Sacramento lies within the Delta.
1782	12	At subsection 16.2.3.5, beginning at page 16-37, line 24, and throughout, the Draft EIR/EIS failed to mention or include at all in its analysis the 2001 Clarksburg General Plan, duly passed as an integral part of the Yolo County General Plan and is a matter of public record. As Yolo County is a cooperating agency and recognized arm of local government, the portions of its General Plan, specifically the 2001 Clarksburg General Plan, must be given the respect required by both state and federal law. The failure to include and analyze the 2001 Clarksburg General Plan is a fatal flaw.	Since preparation of this comment, the 2001 Clarksburg General Plan has been replaced by the Clarksburg Area Plan which was adopted by the Yolo County Board of Supervisors in September 2015 and is an element of the Yolo County General Plan. The purpose of the reference to the Yolo County General Plan in Draft EIR/EIS Chapter 16 Socioeconomics was to identify policies addressing housing. One of the stated purposes in the Area Plan is to carry out the goals and policies of the housing element as adopted in the Yolo County General Plan. The lead agencies are not proposing to construct housing or encourage housing to be developed with the boundaries of the Clarksburg Area Plan. In addition, none of the elements of the Water Fix preferred alternative would be located within the boundaries of the Area Plan.
1782	13	Impact ECON 15, analyzed in relation to Alternative 1A, and incorporated into various other Alternatives, regarding damage, impact and negative effects on community character, is deeply flawed. (See page 16-72, line 3 to page 16-73, line 10.) In addition to the failures discussed above, the NEPA portion of the analysis (page 16-72, line 5 to page 16-73, line 2) admits that serious and significant impacts would be imposed on Delta communities, while the CEQA portion of the analysis (page 16-73, lines 3-10) claims no physical impacts will occur. Either one statement or the other is true. Both statements cannot be true at the same time.	CEQA and NEPA are different laws, and analyses conducted under each are based on different significance criteria. As described in Section 16.3.2 of Final EIR/EIS Chapter 16, for NEPA, economic effects are potentially significant if they lead to reasonably foreseeable physical or social impacts. Under CEQA, economic effects are not treated as significant effects on the environment, but an EIR should consider their potential to lead to reasonably foreseeable physical changes in the environment.

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1782	14	ECON 15, page 16-72, at lines 27-30 claims that CM3 (the cultivated land natural community strategy) would ensure continued agricultural production, but fails to address in any way the quality, type, values or other characteristics of that claim of continued agricultural production. It is basis and foundational to any NEPA or CEQA analysis to include the basic parameters of anticipated changes in crop quality, type, value and other fundamental characteristics when claiming that "CM3 would ensure the continuation of agricultural production on thousands of acres in the Delta." The continued health of agriculture in the Clarksburg Fire Protection District in particular, and in the Delta in general, is essential to the financial health and human resources demands upon the District and its ability to continue to satisfy the demands of its mission. The activities, meetings, social gatherings, parades, and other regular and annual events which provide important glue for the community and its social harmony face substantial likelihood of disruption constituting a substantial and serious negative impact and effect.	CMs 2-22 were analyzed qualitatively at a programmatic level in the Draft EIR/EIS. Please refer to Master Response 2 for more information regarding project- and program-level analysis. If an HCP alternative is chosen, additional site specific environmental assessments would be conducted for CM2-22. As described under Chapter 3, Description of Alternatives, Alternative 4A (the preferred alternative) would protect and restore up to 15,798 acres of habitat under Environmental Commitments 3, 4, and 6–10, as compared with 83,800 acres under Alternative 4. Under Alternative 4A implementation of habitat enhancement and restoration activities could affect community character within the Delta region. Implementation of mitigation measures and environmental commitments related to noise, visual effects, transportation, agriculture, and recreation, would reduce the extent of these effects such that a significant impact would not occur (see Appendix 3B, Environmental Commitments, AMMs, and CMs). Specifically, these include commitments to develop and implement erosion and sediment control plans, develop and implement hazardous materials management plans, provide notification of maintenance activities in waterways, develop and implement a noise abatement plan, develop and implement a fire prevention and control plan, and prepare and implement mosquito management plans. Please refer to Mitigation Measure AG-1c in RDEIR/DEIS Appendix A, Chapter 14 Agriculture. This measure would develop an Agricultural Lands Stewardship Plan maintain agricultural productivity and mitigate for loss of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones, which would help oversee and enhance agricultural opportunities occurring within the plan area. Also refer to Master Response 18 regarding agricultural mitigation for a discussion of why impacts that limit agricultural production or affect the value of agricultural land (such as seepage and reduced water quality) are not environmental impacts.
1782	15	Comments Regarding Cultural and Historic Resources Since its establishment in the 1940s, the Clarksburg Fire Protection District has had an important place in the cultural and historic landscape of the Delta. In no small part due to its place in the Community Cohesion described above, the District has consistently served over time as a key place where members of the Delta Community gather to refresh relationships, discuss community issues, and plan for the future. The District is also a key area for Native American activity. Sections 18.LL3 and A in particular, and section 18.1 in general disclose that at no time did the drafters of the Draft EIR/EIS ever reach out to local historians who would have shown the drafters and their agents and associates the location of burial grounds,•where arrowheads are generally found, and where other evidence of Native American culture is located. The failure of analytics used throughout the preparation of the Draft EIR/EIS to even ask for local knowledge on the ground and generally known among families who have lived in the Delta for as much as seven generations is a fatal flaw in analysis and process throughout.	This comment was addressed in the Recirculated DEIR/SDEIS through Sections 18.1.1.4 and 18.1.1.5, which provide information on outreach efforts to Native Americans and other local interested parties, respectively.

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1782	16	Comments Regarding Transportation Chapter 19 admits to various serious and significant impacts and effects of each of the Alternatives on the transportation network and routes relied upon by the District to perform its mission. The analysis overall, and specifically as laid out in Table 19-3, seventh column from the left title "Hourly Volume Range (6AM to 7PM)" specifically fails to take into account morning and evening agricultural activity before and after the stated hours during harvest, planting and growing seasons for various crops. Pear harvest, for example, during July and August, creates heavy traffic before 6AM and after 7 PM. The same is true of grape harvest in August, September and October.	It should be noted that the overall traffic volumes would be lower during the hours between 7 PM and 6 AM, but the Lead Agencies acknowledge that construction truck traffic may impact the local community (residents, schools, and farmers). As described in Final EIR/EIS Chapter 19, Mitigation Measure TRANS-1c includes coordination with affected agencies, which would allow agencies to reduce impacts of construction truck traffic before 6 AM in the morning and after 7 PM in the evening.
1782	17	Comments Regarding Transportation Chapter 19 admits to various serious and significant impacts and effects of each of the Alternatives on the transportation network and routes relied upon by the District to perform its mission. The pavement conditions, Table 19-5, for YOL 01, 02 and 03 are admittedly generally unknown or are already inadequate. When 24-hour traffic diversions, and volunteer rerouting due to extremely heavy dump truck traffic to transport tunnel spoils and construction related vehicular, light equipment and heavy equipment trips, the Draft EIR/EIS admits the already inadequate roads will be damaged beyond repair. This will further fracture and degrade Community Cohesion.	The lead agencies are committed to minimizing and remedying such damage. Table 19-10 of BDCP Chapter 19, Transportation, identifies roadway segments that are deficient. Mitigation Measures TRANS-2a, 2b, and 2c seek to eliminate or reduce traffic on those segments or to improve the condition of those pavement sections if use cannot be avoided. However, the proponents realize that this may not be feasible for all segments. Mitigation Measure TRANS-2c includes remediation of roads to their condition prior to project construction, or better, and includes coordination with affected agencies to accomplish this objective. Please refer to Final EIR/EIS Chapter 16, Socioeconomics, Impact ECON-4 for an analysis of impacts related to changes in community character as a result of constructing the proposed conveyance facilities.
1782	18	Although the Borges Airport is identified by a green dot in the Chapter 19 maps, it is not analyzed in Section 19.i.5 (page 19-27, line 19 through page 19-31, line 9). The Borges Airport is within the Clarksburg Fire Protection District and may serve as appropriate as an emergency landing zone for certain emergency responses on the part of the District. The Borges Airport may be open to the public on a rental or fee basis. Substantial, adverse and serious impacts and effects on the Borges Airport as a result of each of the Alternatives should be analyzed. Such analysis should include substantial and substantive discussion with the mvners and operators of the Borges Airport.	Draft EIR/EIS Figure 19-1 identifies all air facilities located within or adjacent to the transportation study area. Narrative descriptions of airports in Draft EIR/EIS Section 19.1.5 is limited to public use airports. While airport locations are disclosed in Chapter 19, neither construction nor operation of the project would impact airport operations, including aircraft maneuvers.
1782	19	The Clarksburg Fire Protection District made formal request to be designated a coordinating and cooperating public agency for purposes of the Plan and Draft EIR/EIS. The request of the District was ignored. Nonetheless, the District through other correspondence, public testimony, and a number of informal meetings has made its presence noted.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 Draft EIR/EIS. For more information on the public outreach efforts made during the BDCP and EIR/EIS process, please refer to Chapter 32 of the Final EIR/EIS and Master Response 40.
1782	20	Nowhere in the Determination of Effects, section 19.3.2, page 19-36, line 7 through page 19-39, line 1, was the admitted disruption of traffic operations inclusive of the disruption on fire suppression and emergency response operations maintained by the District. Traffic	Draft EIR/EIS Chapter 19, Transportation, page 19-36 identifies interference with emergency services as an effect. The effect of each alternative on safety hazards, including interference with emergency routes during construction, was evaluated in Draft EIS/EIS Chapter 19 (Impact Trans-3). Additional analysis of the new

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		rerouting, whether directed by governmental authority, or voluntary in nature as people change their transportation routes as a result of, and to avoid construction and operation impacts, will seriously impact and effect the District. Responding to calls in and around construction and operation traffic will certainly delay emergency response. The failure and omission of analysis of these issues is a fatal flaw. For example and in particular, but not by limitation, the admitted time of "at least 1 hour" during which Level of Service would be exceeded (see, for example page 19-41, lines 10-11) does not analyze the resulting burden on emergency response. The same failure is true for corresponding analysis for all Alternatives.	alternatives for this specific criterion was conducted in RDEIR/DEIS Chapter 4, and revisions to the existing analysis of this topic were incorporated into RDEIR/DEIS Appendix A. Mitigation Measure TRANS-1a includes provisions to ensure that construction vehicles allow continual access for emergency vehicles at the time of an emergency. Mitigation Measure TRANS-1c also seeks to work with affected jurisdictions to enhance capacity of congested roadway segments where construction traffic will substantially affect transportation facilities. However, some significant impacts may be unavoidable as discussed on page 19-70 of Draft EIR/EIS Chapter 19, Transportation. Further, construction traffic impacts on congested roadway segments would only be considered significant and unavoidable if local transportation agency agreements are not successful. DWR will work in good faith towards successful transportation capacity agreements. This approach for these mitigation measures is appropriate given the level of construction design available for this project. Construction traffic would be focused on several locations in the Delta, including at proposed intake structures, TBM shaft structures, the intermediate forebay and Clifton Court Forebay. The vast majority of the tunnel alignment would be underground and would not affect transportation or emergency access.
1782	21	Chapter 19 fails to analyze the serious impacts and effects of increased traffic, and in particular the serious impacts and effects of long periods of heavy equipment traffic, on the levee roads. The failure and omission of analysis of these issues if a fatal flaw.	Discussion of how truck traffic may degrade the physical condition of the roadway segments is included in the Draft EIR/EIS on page 19-13. The proponents are committed to minimizing and remedying such damage. The lead agencies also acknowledge concerns about transportation impacts on Delta and other local roads and agree with the desire to avoid further deterioration of these roads. Draft EIR/EIS Table 19-10 identifies roadway segments that are deficient. Mitigation Measures TRANS-2a, 2b, and 2c seek to eliminate or reduce traffic on those segments or to improve the condition of those pavement sections if use cannot be avoided. However, the lead agencies realize that this may not be feasible for all segments. Mitigation Measure TRANS-2c includes remediation of roads to their condition prior to project construction, or better, and includes coordination with affected agencies to accomplish this objective.
1782	22	Comments Regarding Public Services and Utilities Chapter 20 of the Draft EIR/ EIS claims to describe the public services and utilities in the study area which may be affected by the construction, operations and maintenance of the action alternatives in the Plan Area. (Page 20-1, lines 4 6.) As part of the subsection discussing Fire Protection and Emergency Response, the Draft EIR/ EIS states "Response time is broken into three components: alarm processing time (dispatch), turnout time, and travel time. The element of time for alarm processing is in the hands of the dispatch and communication system. The amount of time it takes to turnout fire apparatus is different depending on whether the station is staffed by full-time permanent or otherwise assigned personnel, or whether the staffing is recalled (volunteer). Travel time is a function of speed and the availability of a road network to get to the scene of an emergency." (Page 20-3, lines 35-40.) Flawed Method of Analysis. Subsection 20.3.1, from page 20-29, line 16 through page 20-30, line 8, recites a "desktop" method of analysis, limited solely to review of electronic data and telephone calls, perhaps limited to one voice message, and email(s). These two methods are the only listed means attempted by the drafters and proponents of the Draft	All comments received during the 2013 and 2015 public comment period are included in the FEIR/EIS. Please refer to the table of commenters to locate the letter of interest. Impacts related to public services are provided in the Final EIR/EIS, Chapter 20.

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		EIR/ EIS to obtain information from the public agencies and utilities the drafters write about. There is absolutely no data presented in summary, raw or other form making representation of any data collected from the telephone calls and emails. This means that no such analysis was received. The calls and emails, and all information received as a result, should be disclosed in the Draft EIR/EIS. The lack of information is not disclosed, and should be disclosed. The Draft EIR/ EIS, presented without any of the information collected via the personal methods, is flawed and defective because •without the information obtained by telephone calls and email the readers and reviewers of the Draft EIR/ EIS cannot effectively evaluate the Draft EIR/ EIS. The conclusion is that the drafters have either hidden or failed to disclose the information received, or that information was received and not disclosed. The drafters further failed to inventory the equipment and training level of the Clarksburg Fire Protection District or any Delta public entity or utility, failed to estimate the increased service load on the District because of the construction and/or operations of the projects listed in any of the alternatives, and failed to evaluate whether the District, or any other public entity or utility is possessed, and offered no plan, to assist the District or any other public entity or utility would possess the required equipment and training to respond to the increased service demands upon the District caused by any of the projects or proposals listed in the Draft EIR/ EIS. Further Flaw in Method. As stated above, Subsection 20.3.1, from page 20- 29, line 16 through page 20-30, line 8, recites a "desktop" method of analysis, limited solely to review of electronic data and telephone calls, perhaps limited to one voice message, and email(s). The drafters of the Draft EIR/ EIS completely failed to collect the statements of mission, plans, purpose or any other matter from the data and information developed and stored at each public service entity, did not inspect or view any of the facilities listed, did not learn the scope, number or type of responses handled by the District, or any public service entity, in the Delta. The District submits that these flaws are fatal and the failures listed are required to be corrected in order to construct and understand the base line data points upon which the Draft EIR/ EIS purports, and should be, based. As one example, for illustration only, if such basic inquiry has been performed by the drafters of the Draft EIR/ EIS, they would ha\•e learned that part of the primary mission of the District is to provide emergency medical aid, accident and other non-fire first responder services, and that annual calls of this type typically number above 75 per year. The drafters would also have learned that many of these calls result from existing and long standing mutual aid agreements •with sister Delta fire protection districts. The project, and all of the alternatives, clearly disrupt and delay the delivery of these non-fire responses. It is reasonably believed by the District, based on long experience, that loss of life, serious and permanent injury, some of a debilitating type, with corresponding catastrophic financial, social and quality of life loss.	

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1782	23	Error. At Page 20-22, line 22, under the section entitled "Yolo County General Plan'', the Draft EIR/ EIS states that the Yolo General Plan makes provision for public services and utilities within "Solano" County. Correction. The reference should be changed so that the word "Yolo" replaces the word "Solano". Please make this correction and change all analysis accordingly. Error. At Table 20A-4, page 20A-13, of Appendix 20A, in the River Delta School District section, third school from the top of the page, referring to "Delta Elementary (K- 6 Charter)" claims and states that the enrollment of the school, as of the date of the release of the plan (November 2013) is 123, with a capacity of 280, and states that capacity is not exceeded. Correction. The correct numbers for the Delta Elementary (K-6 Charter) school are: 345 enrollment, with a capacity of 345, at capacity, with a wait list of 32. Please make this correction and change all analysis accordingly.	"Solano" in this instance has been replaced with "Yolo" As of January 5th, 2016 it is confirmed that the enrollment of Delta Elementary Charter is 382 and this figure has been revised in the Final EIR/EIS. The capacity for Delta Elementary Charter School will be confirmed with an administrator and revised appropriately.
1782	24	Flawed Environmental Analysis. Subsection 20.3.i.1, in reference to the Environmental Consequences as applied to Fire Protection states, that "Fire Protection entities have the potential to be affected by construction activities in the same ways as law enforcement agencies." (Page 20-30, line 30.) The "Law Enforcement" section immediately above this quoted sentence on Page 20-30, lines identifies four potential impacts: increased number of construction personnel moving into the Plan Area, construction encroachment on station(s), road impacts, and decreased funding. This analysis is flawed in the following ways: 1. The analysis is limited to "construction activities" (Pg. 20-30, line 30.) The effects analysis (referred to below) lists both constructions and operations activities as creating effects. The flaw here is the failure of the scope of environmental analysis limited to "construction", whereas the effects analysis focuses on both construction and operation. The environmental analysis must focus and include operations in addition to construction. Such expansion of analysis to include operations will require further study, additional data, and expanded outreach to understand the true environmental impacts of the BDCP operations upon public services such as Fire and Emergency Response. 2. The Environmental analysis as applied to fire protection, by simply incorporating the analysis as applied to law enforcement, fails to included emergency response, fire suppression, medical aid and other first responder duties which are different than law enforcement.	Please refer to response above to duplicative comment.
1782	25	Flawed Effects Analysis of Both Adverse Effects (NEPA) and Significant Impacts (CEQA). Subsection 20.3.2, Determination of Effects (beginning at page 20-33, line 1) should be titled	The commenter's recommendations are appreciated; however, the potential adverse effects and significant impacts which are evaluated for the proposed project will remain the same.

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		"Determination of Effects and Impacts'', to cover both NEPA and CEQA analysis. The effects and impacts analysis on page 20-33 should include "lack of fire suppression equipment to serve the needs of substantially greater, adverse and significantly higher number of calls and events requiring fire suppression services by the Clarksburg Fire Protection District both within its boundaries and through the District's mutual aid agreements.	
1782	26	Comments Regarding Public Health The Draft EIR/ EIS fails to take into account various flood potential, flood dangers, and flood risks. In particular, the Draft EIR/EIS in final form should include the Lower Sacramento River/ Delta North Regional Flood Management Plan (July 2014), its findings, analysis, conclusions and recommendations. Flood risk, flood events, and high water events have been a significant and serious part of life at all levels in the Delta. Flood dangers and risks, and actual flood events, should be an integral part of each and every chapter of the Draft EIR/ EIS. The lack of such analysis throughout and in every chapter is a fatal flaw.	Flood dangers and risks were evaluated in Draft EIR/EIS Chapter 6, Surface Water, and revisions to the analysis were included in the RDEIR/DEIS Appendix A. Final EIR/EIS Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements incudes a compilation of flood and levee-related information that is provided in detail in the other applicable EIR/EIS chapters. Levees are an important public safety resource and the proposed project would not change levee policy or replace ongoing programs and grant projects aimed at facilitating and supporting levee improvements in or outside the Delta. It recognized that levee maintenance and safety in the Delta is an important issue for the residents of the Delta and for statewide interests. DWR will consult with local reclamation districts and other flood management entities to ensure that construction activities and operations of the project would not conflict with flood protection measures and routine maintenance. Please refer to Final EIR/EIS Appendix 6A, Section 6A.6.2.1.3 for a discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for information on project consistency with USACE, CVFPB, and DWR flood standards and regulations. In addition, implementation of the proposed project would not affect existing flood management programs and funding mechanisms, including those outlined in the CVFPP and associated RFMPs.
1782	27	Comments Regarding Environmental Justice The Clarksburg Fire Protection District observed no dedicated outreach to the Hispanic members of our community.	The comment is noted and does not raise any issues related to the environmental analysis in the 2015 RDEIR/SDEIS or 2013 Draft EIR/EIS. Please refer to Final EIR/EIS Chapter 28, Environmental Justice, which describes the outreach and noticing activities that occurred to reach environmental justice communities. These activities were consistent with EO 12898 and the obligations described under Section 28.4, Regulatory Setting, of this chapter, including Reclamation's NEPA guidance in the Draft NEPA Handbook requirements. Public outreach documents are available in six languages (in addition to English), on the website, located at: http://baydeltaconservationplan.com/2015PublicReview/2015PublicReviewInformationalMaterials/2015_Multi-Lingual.aspx. Additionally, project proponents have provided translators at public scoping meetings; the BDCP Website in Spanish; and a multi-lingual information hotline for project information in English, Spanish, Tagalog, Vietnamese, or Chinese (Mandarin).
1782	28	Comments Regarding Public Participation, Consultation and Coordination The public participation, consultation and coordination activities on the part of the preparers of the Draft EIR/EIS did not include any directed or specific outreach to the Clarksburg Fire Protection District itself. The largest outpouring of people coming to public meetings occurred in Clarksburg, the	Since 2006, the proposed has been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings. DWR staff has made best efforts to try to maintain contact with interested citizens. In 2013, DWR staff and the public outreach team conducted a series of "Delta Office Hours" in communities throughout the Sacramento-San Joaquin Delta. In many instances, attendees had questions outside the scope of the BDCP

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		heart of the District. (See, e.g., Table 32-1, page 32-2, line 18; Table 32- 2, page 32-3, line 6.) Although the District is a major unit of local government in the Clarksburg area, the lack of outreach from the preparers of the Draft EIR/ EIS to the District, is a fatal flaw. The District reached out, both formally and informally on a host of occasions, but none of these substitute for the formal outreach from the preparers of the Draft EIS/EIS to the District.	that staff committed to following up on. Such comments and questions were recorded and DWR staff attempted to follow up with participants. In some circumstances, such as where DWR staff was being unable to identify whom to follow up with when participants met in small groups, DWR staff was not able to follow-up with all participants. Contact information for the DWR Landowner Liaison was provided to all participants, and was made available online for any Delta Landowners to contact outside of the scheduled office hours. Please see Master Response 40 and 42 for additional information on public outreach adequacy and the public comment period respectively.
1782	29	The Clarksburg Fire Protection District requests that the final EIR/EIS presentation clearly identify and specifically show all places where each and every one of the comments above is specifically addressed. A redline copy of the Draft EIR/EIS, accompanying the Final EIR/EIS, would greatly aid in helping the public understand where and how all comments are addressed in the final product.	Redline changes made to the Draft EIR/EIS in response to comments were released as part of the 2013 Partially Recirculated Draft EIR/Supplement Draft EIS. To the extent that comments resulted in text changes, responses to comments that accompany the Final EIR/EIS will indicate what change was made and where.
1782	30	ATT1: Clarksburg Fire Protection District Appendix A. Historical Logs and General Analysis of Call History 2008 through 2013	The comment describes an attachment to the comment letter. The attachment does not raise any issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1783	1	The Bay Delta Conservation Plan (Nov. 2013) ("BDCP") proposes to dramatically alter the way in which the Delta Elementary Charter School ("DECS") meets its mission of delivering the finest education possible for its students meeting all state standards with a special emphasis on agriculture, music, art and project based learning. Its agricultural program in particularly relies on the health of the local Clarksburg Agriculture community which is an integral part of making the Ag education happen at DECS. DECS provides this education to the 384 students it serves. (BDCP contains an erroneous enrollment figure which should be corrected - citation given later in this comment letter.) DECS is located in Clarksburg in the Delta. Clarksburg, Hood and Courtland are three Delta communities defined in the Draft EIR/EIS Chapter 28 Environmental Justice 28.2.i.3 "Hispanic Residents" lines 39 and 40 as amongst "the small towns along the Sacramento River" where "meaningfully greater proportions of Hispanic residents are present". DECS is a Clarksburg "Public School" funded almost exclusively with public funds. It educates all its students tuition free.	This comment, describing the Delta Elementary Charter School and Clarksburg, is acknowledged. Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft BDCP Draft EIR/EIS. This comment and remaining comments in this letter were provided in reference to the previous preferred alternative. Alternative 4 (also called the BDCP) remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 BDCP Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. The Draft EIR/EIS, Appendix 20A, Table 20A-4 on page 20A-15 has been revised from 123 to 384 students, indicating that the baseline capacity is exceeded.
1783	2	Chapter 28.5.8.7 line 1- 15 summarizes Noise issues and resolutions with the following conclusion (underlining is added for emphasis): "Chapter 23, Noise, identifies mitigation measures that would reduce noise and vibration effects. Mitigation Measure NOI- 1a: Employ Noise-Reducing Construction Practices during Construction Mitigation Measure NOI- 1b: Prior to Construction, Initiate a Complaint/Response Tracking Program	This comment summarizes content of the 2013 Draft EIR/EIS and does not raise any environmental issues related to the environmental analysis contained in the 2013 Draft EIR/EIS or the 2015 RDEIR/DEIS.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Mitigation Measure NOI-2: Employ Vibration-Reducing Construction Practices during Construction of Water Conveyance Facilities In addition, the environmental commitment to develop and implement a Noise Abatement Plan would reduce these effects (Appendix 3B, Environmental Commitments). Although these mitigation measures and environmental commitment would be available to reduce these effects, it is not anticipated that feasible measures would be available in all situations to reduce construction noise to levels below the applicable thresholds. The effect of exposing noise-sensitive land uses to noise increases above thresholds is considered adverse. Although mitigation measures are available to address this temporary effect, because the noise and vibration effects would occur in areas with meaningfully greater minority and low-income populations, this represents a disproportionate effect. This effect is considered adverse."	
1783	3	The conclusion is that this impact represents a disproportionate effect and is adverse. While there was a passing mention of "schools" in the impact section, you failed to analyze the sound impact of construction noise on the learning of various categories of students of at least seven years of enormous amount of pile driving strikes each day at each intake facility. Delta Elementary Charter School is 1/2 mile from Intake #2. This is a very significant impact and should not have been neglected in the EIR/EIS. The pulsating noise from pile driving during the construction of Intake #2 will have a significant negative impact on the educational environment for students at DECS. The incessant pulsating noise to unacceptable levels during the school day will drastically impact their ability to attend to instruction and make academic progress. The distraction that this level of noise will cause will require constant teacher redirection which will decrease both time on task and instructional time overall. In addition to impeding the learning of typically developing students, the noise caused by the pile driving will have a profound effect on students with disabilities. At our school we have students with Autism Spectrum Disorders, Attention Deficit Disorders as well as students with other learning disabilities. Often, these students have sensory processing disorders and have difficulty being able to regulate their senses in the face of drastic change such as the spiking of noise levels with each pile driving strike. In addition, it is often difficult for students with these disabilities to attend to and focus on instruction in optimal environments, let alone when their senses are being overloaded by the proposed level of pulsating noise from seven plus years of pile driving 112 mile from the school. It should also be known that there are two other public schools in Clarksburg (Clarksburg Middle School & Delta High School) that will be similarly impacted. While we do not speak for these schools, the impact on the learning of the children in these schools should be analyzed as well. It is our professional opinion that pile driving lf2 mile and more from DECS will significantly reduce the ability of our students to concentrate on their studies and progress in their learning and even more adversely impact those students in our population who have learning disabilities that make concentration a real challenge without 7 years of pile driving 1/2 mile away! We believe that it may be so adverse as to make	As described in response to comment 1783-1 above, Alternative 4A is the new preferred alternative; this comment was provided in reference to the previous preferred alternative. Revisions to the project would eliminate the need to build three separate two-story pumping plants along a five mile segment of the Sacramento River between Clarksburg and Cortland. Chapter 23, Noise, of the 2013 Draft EIR/EIS and Appendix A, Chapter 23, of the RDEIR/DEIS evaluated the effects of construction and operation noise. As described in RDEIR/DEIS Appendix A, Chapter 23, the footprint of Intake #2 is located nearest to the Delta High, Clarksburg Middle, and Delta Elementary Charter schools in Clarksburg. Worst-case daytime noise levels during pile driving are indicated in RDEIR/DEIS Appendix A, Chapter 23. Based on the current footprint, the nearest pile driving locations for Intake #2 are located approximately 5,000 feet from the nearest school (Clarksburg Middle School). As indicated in RDEIR/DEIS Appendix A Table 23-17, at a distance of 5,000 feet, worst-case noise levels during periods of pile driving are predicted to be about 50 dBA Leq (1hr). This assumes an average 100% utilization of pile drivers during construction, in combination with other heavy equipment (mostly heavy trucks). Assuming a conservative outdoor-to-indoor attenuation rate of 20 dB for structures with closed windows, worst-case interior levels would be about 30 dBA. With windows open, the level would be about 40 dBA. Mitigation measures NOI-1a and NOI-1b are available to reduce the effects of noise during construction. The EPA, in its guidance about noise levels and public health, states the following: “The principal consideration in the education environment is the prevention of interference with activities, particularly speech communication. An indoor noise level not exceeding Leq(24) of 45 dB is identified as adequate to facilitate thought and communication. Since teaching is occasionally conducted outside the classroom, an outdoor Leq(24) of 55 dB is identified as the maximum level to prevent activity interference.” (EPA 1974) Given this standard, noise levels during periods of pile driving are not anticipated to interfere with indoor or outdoor classroom activities.

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		functioning as a school impossible during the 7 year construction period.	Reference: U.S. Environmental Protection Agency. 1974. Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety. EPA 550/9 74-004. March.
1783	4	We at the Friends of Clarksburg Schools contend that the conclusion in the BDCP underlined above related to "feasibility" of mitigations is completely unacceptable. It indicates that mitigating for these impacts won't be done as they are not feasible. It should be noted that the costs for BDCP have been estimated from a low of $16 billion in the document to other estimates of over $40 billion from various sources. That is a very broad cost range as well as being huge at either end. All elements necessary to achieving the goals of BDCP are accommodated even if it adds a few more billion dollars to the cost. However, a completely different standard is utilized when considering the mitigation of BDCP impacts (indicating that solving a large number of the problems BDCP causes isn't feasible and therefore won't be done). While those putting forth the BDCP, continue to contend that the residents and businesses in the Delta will benefit from BDCP, local residents and farmers many of whose families have made the Delta what it is today over as many as seven generations who have spoken at the vast majority of public hearings conducted over the last 5 or so years indicate quite the opposite. Accordingly, if the vast majority of the benefit from the BDCP will be outside of the Delta in the southern part of the state, and if it is so critical to be done for the good of those in the south, then the least that can be done is to make sure that citizens, businesses and farmers in the Delta are made whole from ALL the negative impacts of the project. And further, actually indicating in BDCP that it is assumed that many of the residents in Hood and other places close to facilities to be built may simply have to abandon their homes and not be compensated is not acceptable either. To do this is to deprive one group of people their property without compensation for others who then don't have to pay their fair share of the true cost of the BDCP.	The statement in Draft EIR/EIS Chapter 28, Section 28.5.8.7, Noise, regarding the feasibility of implementing mitigation measures for noise impacts is not meant to suggest that measures to reduce noise to below acceptable thresholds are not financially feasible. Rather, the statement is an acknowledgment that additional measures may not be physically available to reduce all noise impacts to acceptable levels. The potential cost of mitigation measures was not a consideration in developing potential measures for reducing noise impacts, and the feasibility of the mitigation measures listed for noise impacts will be considered by the lead agencies following completion of the Final EIR/EIS. Please refer to Master Response 5 regarding costs of implementation of and more information regarding funding for the BDCP (Alternative 4). The Draft EIR/EIS does not contend that residents and businesses in the Delta would necessarily benefit from the project. As acknowledged in several chapters of the Draft EIR/EIS (e.g., Chapter 14, Agricultural Resources; Chapter 15, Recreation; Chapter 16, Socioeconomics), the project would displace agricultural production, disrupt recreational activities, and alter community characteristics in the Delta, resulting in adverse socioeconomic effects in the Delta Region. The potential displacement of homes and business structures under each action alternative was addressed in Draft EIR/EIS Chapter 13, Land Use, under Impact LU-2, and updated analysis is provided in Final EIR/EIS Chapter 13. As discussed under Impact LU-2, the displacement of structures was considered a direct, adverse socioeconomic effect of the alternatives under NEPA. As noted in Final EIR/EIS Chapter 13, where applicable, the project proponents will provide compensation to property owners for losses due to implementation of the selected action alternative, which would reduce the severity of economic effects related to this physical impact, but would not reduce the severity of the physical impact itself.
1783	5	I ask that the standards used to determine what mitigations "are not feasible" be revisited and ensure that there is appropriate and adequate budget in BDCP to compensate ALL of those who will be deprived of the use of their property not just those that experience the legal "taking" of their property (being under a physical intake station that has to be taken under eminent domain.) More specifically an approach that should be considered follows: if the impacts of BDCP are not feasible to be mitigated for in a certain area and are within an area of unacceptable impact that would reasonably cause someone to leave their homes just to be able to live during the 7 year pile-driving construction period or period of unacceptable impact, then they should be able to opt into having their property taken by eminent domain, a specified proximity outright or rendering it unusable. If this means compensation for "takes" outside of the normal standards for eminent domain then that must be done to not deprive property owners of the enjoyment of their property rights.	Please refer to Master Response 24 regarding Delta as a place for a description of mitigation measures and how they have been modified and enhanced with input from the Delta Stewardship Council. Noise nuisance impacts of project construction are analyzed in Final EIR/EIS Chapter 23, Noise. Aesthetic impacts are addressed in Final EIR/EIS Chapter 17. Mitigation measures for these effects are provided to reduce potential construction nuisances to Delta residents. Compensation for potential effects to adjacent land owners will be addressed during project implementation on a case-by-case basis based on the specific construction area conditions.

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1783	6	As it relates to Delta Elementary Charter School [(DECS)], we propose a solution to the sound problems caused by BDCP over a large number of years which is to build another school for use during the seven year pile-driving construction period close by that would be soundproof to the extent of not having the pile driving increase the sound in the classroom or equivalent measures. The mission and purpose of Delta Elementary Charter School is to provide a quality education to its students. In order to meet this mission and purpose DECS relies upon a number of existing physical and economic facts, including: 1. A system of roads and travel routes for bringing students to Delta Elementary Charter School as well as suppliers to bring purchased materials to the school. 2. The maintenance of existing levees and flood protection to reduce the risk of floods and the damage to DECS cause by inundation by water. A number of State and federal entities are discussing formulating various devices, strategies, policies, habitat conservation plans, reports and other procedures (together, "Plans") which appear to have the potential to significantly and seriously disrupt or even prevent the DECS from accomplishing its mission and purpose by alteration of the physical and economic facts listed above. The BDCP is one example of one of these Plans currently under consideration.	As described in RDEIR/DEIS Appendix 3B.5, DWR environmental commitments include measures to reduce noise levels during daytime hours. Mitigation measures NOI-1a and NOI-1b are available to reduce the effects of noise during construction. DWR and contractors hired to construct any conveyance components of the project will implement a site-specific noise abatement plan to avoid or reduce potential construction-, maintenance-, and operation-related noise impacts. These plans will vary by location. Limiting pile driving to daytime hours alone would not reduce noise levels during school hours, so additional options to reduce noise to acceptable levels will be considered on a case-by-case basis. Transportation impacts resulting from construction and operations of the 2013 DEIR/EIS alternatives and the 2015 new alternatives are discussed in Final EIR/EIS Chapter 19. Please refer to Final EIR/EIS Appendix 6A regarding flood protection and levee maintenance.
1783	7	Chapter 8 does not appear to address changes in water quality upon Delta Elementary Charter School operations. Poor water quality in groundwater, is believed to significantly and seriously deteriorate and negatively affect the efficiency of water use most importantly as drinking water in the school. The EIR/EIS must fully analyze serious and significant impacts and effects arising from changes in water quality upon DECS operations in order to be complete. DECS relies to a great degree on groundwater through an existing well located on school property. The well supplying DECS water is within one-half mile of the project's #2 water intake pumping station. Chapter 7 purports to analyze the significant and serious effects and impacts because of changes in groundwater as a result of the project alternatives. Chapter 7 focuses almost exclusively on the changes in the level of groundwater in and around both the Delta and the State of California as a result of the project alternatives. However, Chapter 7 fails to analyze or discuss the quality or quantity of ground water available or used by existing groundwater users as either impacts or effects as a result of any of the project alternatives. Further, it fails to provide a mechanism for an unbiased testing of water quality before the project commences so there will be a benchmark against which to measure the ultimate impact. Specific to DECS, various project alternatives, if not all project alternatives, fail to analyze	Changes in groundwater quality were evaluated in the environmental impact analysis. Under Impact GW-3 in Draft EIR/EIS Chapter 7, Groundwater, the groundwater quality impact analysis identifies potential changes in conditions during construction and operations. Groundwater quality impacts of the new alternatives are evaluated in Final EIR/EIS Chapter 7. Groundwater quality changes were evaluated based on the potential for construction and operation of the alternatives to alter regional patterns of groundwater flow. As described in Section 7.3.3 of Draft EIR/EIS Chapter 7, Groundwater, groundwater wells in the Delta could be adversely affected during construction due to groundwater dewatering at the construction sites. During operations of alternatives with the Intermediate and Byron Tract forebays, groundwater could rise and affect groundwater drainage processes due to seepage from the forebays. These impacts could be reduced by implementation of mitigation measures identified in Chapter 7 (including deepening of wells under Mitigation Measures GW-1); however, impacts may remain significant and unavoidable and adverse even with mitigation measures. As described in Final EIR/EIS, Chapter 7, Groundwater, groundwater surveys would occur during the design phase to identify specific groundwater pre-construction conditions and potential effects on each well within the zone of influence of the dewatering operations. The revised Mitigation Measure GW-1 provides for a monitoring procedure and options for maintaining adequate water supplies for land owners that experience a reduction in groundwater production from wells due to construction-related activities, including dewatering. The monitoring would include both groundwater elevation and salinity. The effects of

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		the significant and substantial impacts or effects of lowered groundwater tables, and thus failures or significant or substantial loss of access to water.	dewatering could be reduced through installation of seepage cutoff walls during dewatering. As described in Final EIR/EIS Chapter 7, Groundwater, following construction, the groundwater elevations would rise towards pre-construction elevations, and would rise in the vicinity of the expanded Clifton Court Forebay portion at Byron Tract due to groundwater recharge.
1783	8	Chapter 16, discussing the Socioeconomics of the Delta, founds its analysis in large and significant part on the thinking and belief, without evidence of this belief, that the "rural communities" of the Delta are the towns of the Delta, the collection of improvements lying within the historic townships in the Delta. The language set out at page 16-3, lines 8-10 is an important example of this thinking. In truth, the Delta communities are composed of both the townships together with their surrounding agricultural lands, each in symbiotic relationship with the other. In the Clarksburg area this truth is illustrated by the almost weekly meetings, gatherings, two annual district parades, three annual community dinners at the district firehouse, two garden clubs, a boy scout troop that has consistently produced for many years one of the greatest number of Eagle Scouts on an annual basis in the United States of America, together with innumerable events at the schools, church, library, and with other community groups, all bringing together residents of both the town area of Clarksburg with the residents outside the town area, into one cohesive single community unit bound together with unified and common values, united traditions, and family histories going back on the same land as far as seven generations ("Community Cohesion"). The Clarksburg community is also characterized by an important multi-cultural history. Whether it is the example of farmers who during the Second World War paid the taxes on the lands and building of their fellow Japanese farmers so they would not lose their land during internment, protection of the historic Japanese School, or the example of German POWs choosing to remain in the Delta upon their release in 1945, the Portuguese social hall (in the Lisbon District), the residents from Holland, in the area with the same name, or the large Hispanic population which participates in the life of the Delta, these facts and more demonstrate that the Delta community and its social fabric is not divided along the lines of township vs. non-township.	Draft EIR/EIS Section 16.1.1, to which the commenter refers, goes on to more thoroughly describe the population of the Delta. Lines 33-45 of this same page, page 16-3, describe the multicultural demographics of the population. Please refer to Master Response 24 for additional discussion regarding the evaluation of effects on community character in the Delta.
1783	9	The demographic data set forth for the Delta portion of Yolo County beginning at page 16-7, line 317, to page 16-8, line 13, in the information listed for West Sacramento fails to recognize that only a part of West Sacramento lies within the Delta. The numbers offered for West Sacramento mislead because those numbers describe the whole of West Sacramento, not the Delta portion of the city. The Draft EIR/EIS is inaccurate and misleading to the extent that data derived from outside the Delta is offered as analysis of the Delta. Data should be limited to in-Delta residents, population, employment, etc. This same comment applies to cities and other areas which lie partly within the Delta, but the data for which is given for the entire city or area, not just the portion of the city or area which lies	In response to this and similar comments, text has been added to Chapter 16 of the EIR/EIS to clarify that only a portion of West Sacramento lies within the Delta.

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		within the Delta.	
1783	10	At subsection 16.2.3.5, beginning at page 16-37, line 24, and throughout, the Draft EIR/EIS failed to mention or include at all in its analysis the 2001Clarksburg General Plan, duly passed as an integral part of the Yolo County General Plan and is a matter of public record. As Yolo County is a cooperating agency and recognized arm of local government, the portions of its General Plan, specifically the 2001Clarksburg General Plan, must be given the respect required by both state and federal law. The failure to include and analyze the 2001 Clarksburg General Plan is a fatal flaw.	Since preparation of this comment, the 2001 Clarksburg General Plan has been replaced by the Clarksburg Area Plan, which was adopted by the Yolo County Board of Supervisors in September 2015 and is an element of the Yolo County General Plan. The purpose of the reference to the Yolo County General Plan in Draft EIR/EIS Chapter 16 Socioeconomics was to identify policies addressing housing. One of the stated purposes in the Area Plan is to carry out the goals and policies of the housing element as adopted in the Yolo County General Plan. The lead agencies are not proposing to construct housing or encourage housing to be developed with the boundaries of the Clarksburg Area Plan. In addition, none of the elements of the Water Fix preferred alternative would be located within the boundaries of the Area Plan.
1783	11	ECON 15, analyzed in relation to Alternative 1A, and incorporated into various other Alternatives, regarding damage, impact and negative effects on community character, is deeply flawed. (See page 16-72, line 3to page 16-73, line 10.) In addition to the failures discussed above, the NEPA portion of the analysis (page 16-72, line 5 to page 16-73, line 2) admits that serious and significant impacts would be imposed on Delta communities, while the CEQA portion of the analysis (page 16-73, lines 3-10) claims no physical impacts will occur. Either one statement or the other is true. Both statements cannot be true at the same time. The activities, meetings, social gatherings, parades, and other regular and annual events which provide important glue for the community and its social harmony face substantial likelihood of disruption constituting a substantial and serious negative impact and effect.	CEQA and NEPA are different laws, and analyses conducted under each are based on different significance criteria. As described in Final EIR/EIS Section 16.3.2, for NEPA analysis, economic effects are potentially significant if they lead to reasonably foreseeable physical or social impacts. Under CEQA, economic effects are not treated as significant effects on the environment, but an EIR should consider their potential to lead to reasonably foreseeable physical changes in the environment.
1783	12	ECON 15, page 16-72, at lines 27-30 claims that CM3 (the cultivated land natural community strategy) would ensure continued agricultural production, but fails to address in any way the quality, type, values or other characteristics of that claim of continued agricultural production. It is basis and foundational to any NEPA or CEQA analysis to include the basic parameters of anticipated changes in crop quality, type, value and other fundamental characteristics when claiming that "CM3 would ensure the continuation of agricultural production on thousands of acres in the Delta." The continued health of agriculture in the Clarksburg community in particular, and in the Delta in general, is essential to the financial health and human resources demands upon Delta Elementary Charter School and its ability to continue to satisfy the demands of its mission.	Please refer to Section 3.B.5 of Final EIR/EIS Appendix 3B for a more detailed discussion of CM3. When CM3 was incorporated, it was incorporated at a programmatic level, and therefore lacks project-level details. The analysis for CMs 2-22 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis. Please refer to Master Response 2 for additional information regarding project- and program-level analysis. Additional Alternatives 4A, 2D and 5A, do not include an HCP or conservation measures. These improvements are assumed instead under the No Action Alternative.
1783	13	The Clarksburg community is also a key area for Native American activity. Sections 18.I.I.3 and -4 in particular, and section 18.1in general disclose that at no time did the drafters of the Draft EIR/EIS ever reach out to local historians who would have shown the drafters and their agents and associates the location of burial grounds, where arrowheads are generally found, and where other evidence of Native American culture is located.	This comment was addressed in the RDEIR/DEIS through Sections 18.1.1.4 and 18.1.1.5, which provide information on outreach efforts to Native Americans and other local interested parties, respectively.

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		The failure of analytics used throughout the preparation of the Draft EIR/EIS to even ask for local knowledge on the ground and generally known among families who have lived in the Delta for as much as seven generations is a fatal flaw in analysis and process throughout.	
1783	14	Figures 19-3a, 19-3b, 19-4a and 19-4b, and Segments CT 28, 33 and 34, and YOL 01, 02 and 03, Table 19-1, admit to various serious and significant impacts and effects of each of the Alternatives on the transportation network and routes relied upon by Delta Elementary Charter School to perform its mission. The analysis overall, and specifically as laid out in Table 19-3, seventh column from the left title "Hourly Volume Range (6AM to 7PM) specifically fails to take into account morning and evening agricultural activity before and after the stated hours during harvest, planting and growing seasons for various crops. Pear harvest, for example, during July and August, creates heavy traffic before 6AMand after 7 PM. The same is true of grape harvest in August, September and October. The pavement conditions, Table 19-5, for YOL 01, 02 and 03 are admittedly generally unknown or are already inadequate. When 24-hour traffic diversions, and volunteer rerouting due to extremely heavy dump truck traffic to transport tunnel spoils and construction related vehicular, light equipment and heavy equipment trips, the Draft EIR/EIS admits the already inadequate roads will be damaged beyond repair. This will further fracture and degrade Community Cohesion. Nowhere in the Determination of Effects, section 19.3.2, page 19-36, line 7 through page 19-39, line 1, was the admitted disruption of traffic operations inclusive of the parents bringing children to school and then getting them home. Traffic rerouting, whether directed by governmental authority, or voluntary in nature as people change their transportation routes as a result of, and to avoid construction and operation impacts, will seriously impact and effect DECS For example and in particular, but not by limitation, the admitted time of "at least 1hour" during which LOS would be exceeded (see, for example page 19-41, lines 10-11) does not analyze the resulting burden on emergency response. The same failure is true for corresponding analysis for all Alternatives. Chapter 19 fails to analyze the serious impacts and effects of increased traffic, and in particular the serious impacts and effects of long periods of heavy equipment traffic, on the levee roads. Observable information related to the negative impact can be provided through actual observation of impacts in a home 60 feet away from the levee and 90 feet from Highway 160. The failure and omission of analysis of these issues is a fatal flaw.	It should be noted that the overall traffic volumes would be lower during the hours between 7 PM and 6 AM, but the Lead Agencies acknowledge that construction truck traffic may impact the local community (residents, schools, and farmers). As described in Draft EIR/EIS Chapter 19, Mitigation Measure TRANS-1c includes coordination with affected agencies, which would allow agencies to reduce impacts of construction truck traffic before 6 AM in the morning and after 7 PM in the evening. Discussion of how truck traffic may degrade the physical condition of the roadway segments is included on Draft EIR/EIS page 19-13. The Lead Agencies are committed to minimizing and remedying such damage. The Lead Agencies also acknowledge concerns about transportation impacts on Delta and other local roads and agree with the desire to avoid further deterioration of these roads. Table 19-10 of Draft EIR/EIS Chapter 19, Transportation, identifies roadway segments that are deficient. Mitigation Measures TRANS-2a, 2b, and 2c seek to eliminate or reduce traffic on those segments or to improve the condition of those pavement sections if use cannot be avoided. However, the proponents realize that this may not be feasible for all segments. Mitigation Measure TRANS-2c includes remediation of roads to their condition prior to project construction, or better, and includes coordination with affected agencies to accomplish this objective. As described in Draft EIR/EIS Section 19.3.1, effects of the project and alternatives on traffic were determined based upon conducting an hourly “worst-case” scenario roadway segment analysis on transportation facilities that would be affected by construction and operation of all components of the proposed alternatives. Parent trips associated with bringing their children to school and getting them home are included in the evaluation to the extent that parent trips would occur on the roadway segments affected by the alternatives described in the Draft EIR/EIS and the RDEIR/DEIS. Draft EIR/EIS Chapter 19, Transportation, page 19-36 identifies interference with emergency services as an effect. The effect of each alternative on safety hazards, including interference with emergency routes during construction, was evaluated in Draft EIS/EIS Chapter 19 (Impact Trans-3). Additional analysis of the new alternatives for this specific criterion was conducted in RDEIR/DEIS Chapter 4, and revisions to the existing analysis of this topic were incorporated into RDEIR/DEIS Appendix A. Mitigation Measure TRANS-1a includes provisions to ensure that construction vehicles allow continual access for emergency vehicles at the time of an emergency. Mitigation Measure TRANS-1c also seeks to work with affected jurisdictions to enhance capacity of congested roadway segments where construction traffic will substantially affect transportation facilities.
1783	15	Chapter 20 of the Draft EIR/EIS claims to describe the public services and utilities in the study area which may be affected by the construction, operations and maintenance of the	Draft EIR/EIS Mitigation Measure TRANS-1a requires the project proponents to develop site-specific construction traffic management plans (TMPs) that address specific steps to be taken before, during, and

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		action alternatives in the Plan Area. (Page 20-1, lines 4 - 6.) As part of the subsection discussing Fire Protection and Emergency Response, the Draft EIR/EIS states "Response time is broken into three components: alarm processing time (dispatch), turnout time, and travel time. The element of time for alarm processing is in the hands of the dispatch and communication system. The amount of time it takes to turnout fire apparatus is different depending on whether the station is staffed by full-time permanent or otherwise assigned personnel, or whether the staffing is recalled (volunteer).Travel time is a function of speed and the availability of a road network to get to the scene of an emergency." (Page 20-3, lines 35-40.) As the Clarksburg Fire Department is a volunteer fire department, the ability of the volunteers to get to the fire station over the roadway network is critical for a timely response to a fire at Delta Elementary Charter School.	after construction to minimize traffic impacts. Per this mitigation measure, the TMPs would include notifications for the public, emergency providers, cycling organizations, bike shops, and schools, the U.S. Coast Guard, boating organizations, marinas, city and county parks departments, and the California Department of Parks and Recreation, where applicable, describing construction activities that could affect transportation and water navigation.
1783	16	Error. At Table 20A-4, page 20A-13, of Appendix 20A, in the River Delta School District section, third school from the top of the page, referring to "Delta Elementary (K- 6 Charter)" claims and states that the enrollment of the school, as of the date of the release of the plan (November 2013) is 123, with a capacity of 280, and states that capacity is not exceeded. Correction. The correct numbers for the Delta Elementary Charter School (K- 6) are: 345 enrollment, with a capacity of 345, at capacity, with a wait list of 32 as of November 2013. Please make this correction and change all analysis accordingly. Note: As of August 2014 the enrollment figure is 384.	As of January 5th, 2016 it is confirmed that the enrollment of Delta Elementary Charter is 382 and this figure has been revised in Chapter 20 of the Final EIR/EIS. The capacity for Delta Elementary Charter School will be confirmed with an administrator and revised appropriately.
1783	17	The Draft EIR/EIS fails to take into account various flood potential, flood dangers, and flood risks. In particular, the Draft EIR/EIS in final form should include the Lower Sacramento River/Delta North Regional Flood Management Plan (July 2014), its findings, analysis, conclusions and recommendations. Flood risk, flood events, and high water events have been a significant and serious part of life at all levels in the Delta. Flood dangers and risks, and actual flood events, should be an integral part of each and every chapter of the Draft EIR/EIS. The lack of such analysis throughout and in every chapter is a fatal flaw.	Flood dangers and risks were evaluated in Draft EIR/EIS Chapter 6, Surface Water, and revisions to the analysis were included in the RDEIR/DEIS Appendix A. Final EIR/EIS Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements, incudes a compilation of flood and levee-related information that is provided in detail in the other applicable EIR/EIS chapters. Levees are an important public safety resource and the proposed project would not change levee policy or replace ongoing programs and grant projects aimed at facilitating and supporting levee improvements in or outside the Delta. It recognized that levee maintenance and safety in the Delta is an important issue for the residents of the Delta and for statewide interests. DWR will consult with local reclamation districts and other flood management entities to ensure that construction activities and operations of the project would not conflict with flood protection measures and routine maintenance. Please refer to Section 6A.6.2.1.3 for a discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for information on project consistency with USACE, CVFPB, and DWR flood standards and regulations. In addition, implementation of the proposed project would not affect existing flood management programs and funding mechanisms, including those outlined in the CVFPP and associated

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			RFMPs. Alternative 4A substantially reduces the habitat restoration footprint and does not include Conservation Measure 2 (Yolo Bypass Enhancements). Instead, the proposed project includes habitat restoration necessary to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b). Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because they are required by the existing Biological Opinions.
1783	18	The public participation, consultation and coordination activities on the part of the preparers of the Draft EIR/EIS did not include any directed or specific outreach to Delta Elementary Charter School itself. The largest outpouring of people coming to public meetings occurred in Clarksburg. (See, e.g., Table 32-1, page 32-2, line 18; Table 32-2, page 32-3, line 6.) Although DECS is a major public entity in the Clarksburg area, the lack of outreach from the preparers of the Draft EIR/EIS to DECS, is a fatal flaw.	Since 2006, DWR has sought to include as many voices into the planning process as possible and has demonstrated that commitment with an unprecedented level of public involvement. More information on how DWR has developed the project in an open and transparent manner is provided in Master Response 41. More information about the public outreach conducted during the comment review periods for the DEIR/EIS and RDEIR/SDEIS is provided in Master Response 40.
1784	1	The San Joaquin County Board of Supervisors hereby submits the County's comments on the Draft Bay Delta Conservation Plan (BDCP), the associated draft Environmental Impact Report, Environmental Impact Statement, and Implementing Agreement. These comments are also submitted as joint comments with the Central Delta Water Agency and the South Delta Water Agency. Additionally, San Joaquin County joins in any comments which may be submitted independently by the Central Delta Water Agency and the South Delta Water Agency. With nearly two-thirds of the Delta located within San Joaquin County, we are very concerned about the protection of water quantity and quality available within the Delta. We are equally concerned about the negative effects the BDCP will have on the County's communities, land use, flood protection, infrastructure, agriculture, economy, recreation, wildlife, our way of life. We assert that the draft BDCP documents inadequately analyze these negative effects, fail to provide real and adequate mitigation for those effects, and fail to consider reasonable and effective alternatives to this massive State water delivery project which is thinly disguised as a conservation project.	Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e,g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of

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			the CEQA/NEPA process. This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4) and is specific to the BDCP document and has been generally responded to in Master Response 5. The remainder of the comment is critical of the project but the commenter does not offer any evidence on how the project would result in significant impacts on the County's water supply or quality, its communities, land use, flood protection, infrastructure, agriculture, economy, recreation, and wildlife related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1784	2	[ATT1: Resolution R-14-111, Resolution adopting and reaffirming San Joaquin County's opposition to the BDCP, approving the County's comments to the BDCP and the related EIR/EIS and Implementing Agreement for BDCP, and authorizing the submission of those comments to the appropriate state and federal agencies.]	The comment does not raise any environmental issues related to the environmental analysis.
1784	3	[ATT1:] WHEREAS, the Sacramento-San Joaquin Delta (hereinafter Delta) is a unique natural and geographic feature of the State of California, and is the largest estuary on the Pacific Coast of the United States encompassing an area of over 730,000 acres with islands and tracts of rich fertile soil surrounded by miles of sloughs and winding channels protected by levees; and WHEREAS, the Delta is one of the most productive agricultural regions in the United States, with approximately 80% of the Delta classified as Prime Farmland, as contrasted with 20% for all of California, and Delta agriculture has an economic impact of roughly 9,700 jobs and $1.4 billion in economic output in the five Delta counties, but when value-added manufacturing such as wineries, canneries, and dairies are included, has a total Statewide economic impact of approximately 25,000 jobs and $5.372 billion in economic output; WHEREAS, the islands and waterways of the Delta provide habitat for many species of plants and animals, including several listed as either threatened or endangered under State and Federal endangered species laws; and WHEREAS, recreation in the Delta generates roughly 12 mi11ion visitor days of use and approximately $250 million in visitor spending each year, with Delta recreation and tourism supporting over 3,000 jobs in the five Delta counties; WHEREAS, the Delta is a critical infrastructure and transportation hub for regional and State economy, with important east-west highway and rail facilities, major electrical transmission lines connecting California to the Pacific Northwest, and gasoline and aviation fuel pipelines crossing the Delta supplying large portions of Northern California and Nevada; and WHEREAS, two-thirds of the legal Delta is located within San Joaquin County and the Delta comprises one-third of this County's total area, meaning that the health and vitality of the Delia is critically important to the economic health, culture and social fabric of San Joaquin	The comment lists a resolution by the Board. It does not raise any specific environmental issues related to the environmental analysis.

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		County and its citizens: and WHEREAS, the Delta is also the key conveyance point for California's two largest water projects, the Central Valley Project (CVP) and the State Water Project (SWP) with massive pumps in the Southern Delta near Tracy, California which transport water from the Delta primarily to farms in Central California and municipalities in Southern California; and WHEREAS, because of the failure to complete the ultimate build-out of water supplies for the CVP and SWP, leaving the system approximately 5 million acre-feet short of water per year, coupled with oversubscription by the water contractors and the water system's State and Federal operators of the water that is available, this has resulted in degradation of both the quality and quantity of water in the Delta and harm to the ecology and economy of the Delta, and WHEREAS, the water contractors and the State and Federal operators of the CVP and SWP have over the years sought to find ways to transport water directly from the Sacramento River to the pumps near Tracy in order to obtain a greater quantity and quality of water than they could pump out of the South Delta, which efforts would result in further degradation and destruction of the Delta and economic and social harm to the citizens of San Joaquin County, and WHEREAS, those water interests proposed a Peripheral Canal which the voters voted down in 1982, but are now promoting a new twin-tunnels project which is capable of diverting huge quantities of fresh water directly from the Sacramento River to the Tracy pumps, but this time the proponents of the twin-tunnels project have attempted to hide their massive and incredibly expensive water project inside a so-called conservation plan known as the Bay Delta Conservation Plan (BDCP); and WHEREAS, for the reasons set forth in the documents attached hereto and adopted herein as the County's comments to the draft BDCP and its related EIR/EIS, and to the draft Implementing Agreement (IA), the BDCP fails. among its other legal deficiencies, to meet the legal requirements for a valid Habitat Conservation Plan (HCP) under the Federal Endangered Species Act (ESA) or a Natural Community Conservation Plan (NCCP) under the California Natural Community Conservation Planning Act, and also fails to meet the co-equal goals of water supply reliability for the State and restoration of the health of the Bay-Delta ecosystem as required by the Delta Reform Act of 2009; and WHEREAS, there are less expensive and more effective ways than the twin tunnels and the BDCP to address the legitimate water needs of the various water interests in the State of California without needlessly sacrificing the Delta and San Joaquin County, or pitting Northern California against Southern California and farmer against farmer;	

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		NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors: Does hereby reaffirm its opposition to any isolated water conveyance system in the Delta such as the twin-tunnels project, and further specifically opposes the Bay Delta Conservation Plan; and Does hereby approve and adopt the documents attached hereto as San Joaquin County's official comments to the draft BDCP and its related Environmental Impact Report (EIR) and Environmental Impact Statement (EIS), and to the Implementing Agreement (IA); and Does hereby authorize submission of these adopted comments to the appropriate State and Federal agencies, both as comments from San Joaquin County and as joint comments with the Central Delta Water Agency and the South Delta Water Agency: and Does hereby join in any comments which will be filed by the Central Delta Water Agency and South Delta Water Agency, and further that County staff is authorized to supplement the County's comments between today and July 29, 2014, to the extent that the comments submitted by others or other information comes to light which in staff's discretion should be included in the County's comments; and Does hereby direct staff to take all necessary and appropriate actions to carry out the direction and intent of this Resolution.	
1784	4	[ATT2: The Bay-Delta Conservation Plan and EIR/EIS: Summary of Foundational Issues, Report on December 2013 Public Review Drafts. By Roger B. Moore and Antonio Rossmann, Rossmann and Moore, LLP, 2014 Shattuck Ave., Berkeley, CA 94704. June 23, 2014]	The comment is a description of the attachment that does not raise a specific comment requiring a response. Please see response to comments, beginning with 1784-5, regarding comments contained in this attachment.
1784	5	[ATT2:] The BDCP is based upon this misrepresentation: that a massive new twin tunnel system, which would greatly reduce the natural flow of water through the Delta, qualifies as a "conservation" project to restore the Delta ecosystem and protect species already verging on extinction. The BDCP conceals this central fallacy with a deceptive portrayal of the proposed program. It bundles the twin tunnel conservation project for immediate approval with 21 other vaguely defined conservation concepts. Many of these 21 measures are already required, or part of earlier-approved projects; others will not be capable of approval for years into the future.	See response 1784-1 regarding the treatment of comments specific to the BDCP. The remainder of this comment addresses the merits of the project but does not raise any specific issues related to the environmental analysis in the EIR/EIS.
1784	6	[ATT2:] The BDCP assumes without justification that benefits of the 21 conservation concepts will outweigh the destructive consequences of the twin-tunnel project. But all these concepts still lack crucial details and complete study, which the BDCP improperly	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis, see response 1784-1. Please see Master Response 2 for additional discussion of the appropriateness of mixing program-level and project-level review in the same document.

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		seeks to defer until after the twin tunnels are approved and built.	
1784	7	[ATT2:] The BDCP relies on phantom "paper" water, rather than actual supplies for generations to come, ensuring future conflicts over water rights. As the twin tunnels deprive the Delta of more water, the BDCP unrealistically assumes that miracles of management and engineering can simultaneously improve Delta water quality, protect endangered species, and avoid major damage to Delta farms and communities.	The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board, but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights or include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water rights holders. It is projected that water deliveries from the federal and state water projects under the proposed project would be about the same as the average annual amount of water that would be diverted under the no-action alternative (i.e., 2025 conditions without the proposed project). It is projected that Delta exports from the federal and state water projects would either remain similar or increase in wetter years and decrease in drier years under Alternative 4A, as compared to exports under the no-action alternative (early long-term [ELT]), depending on the capability to divert water at the north Delta intakes during winter and spring months. For more information regarding changes in Delta exports, please see Master Response 26 (Area of Origin).
1784	8	[ATT2:] The BDCP's draft Implementing Agreement works primarily as an avoidance agreement. The IA leaves major gaps in accountability for project implementation, mitigation and financing. It assigns state and federal water contractors an excessive role in plan governance, consigns Delta counties to a marginal role, and misuses "adaptive management" as little more than a slogan to evade responsibility for the project's major risks.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.
1784	9	[ATT2:] The BDCP reflects a triumph of project advocacy over sound science. Independent experts, including the State of California's own reviewers in the Delta Science Program, have discredited the scientific credibility of the BDCP, and found it unable to meet federal and state requirements for a "conservation" plan.	Commenter's statement of opinion is noted. See BDCP Chapter 10 for a factual description of the use of independent scientific review in BDCP development. See response 1784-1.
1784	10	[ATT2:] The State of California's Delta Independent Science Board found that the BDCP's EIR/EIS "falls short" of scientific standards. The Board's report compared the EIR/EIS's water analysis to "an orchestra playing music without a conductor and with the sheets of music sometimes shuffled." Instead of merely headaches, the deficient analysis creates potential risks to public health, the environment and the economy.	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the index of commenters in the EIR/EIS. The Lead Agencies acknowledge that uncertainty is inherent in any planning effort of this geographic and temporal scale. However, DWR used the best available science throughout the effects analysis, consistent with the requirements of the ESA. Additionally, the official public review process for the proposed project

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			provided an opportunity for formal public comment on the proposed project and project alternatives. Public and agency comments on the public draft have led to further refinement of the proposed project, as evidenced in the RDEIR/SDEIS.
1784	11	[ATT2:] The BDCP's EIR/EIS fails federal and state requirements for environmental review. It relies on a defective baseline for evaluation, fails to properly study direct and cumulative impacts, and lacks an adequate range of alternatives and meaningful mitigation measures.	The Lead Agencies acknowledge that uncertainty is inherent in any planning effort of this geographic and temporal scale. However, DWR strived to use the best available science throughout the effects analysis, consistent with the requirements of the ESA. Additionally, the official public review process for the proposed project provides an opportunity for formal public comment on the proposed project and project alternatives. Public and agency comments on the public draft have led to further refinement of the proposed project, as evidenced in the RDEIR/SDEIS. Please refer to Master Response 1 regarding environmental baselines. Please also refer to Master Response 4 regarding Alternatives.
1784	12	[ATT2:] With more than 40,000 pages of poorly organized supporting documents, the BDCP's EIR/EIS is among the least user-friendly environmental reviews in history. It buries essential information in technical appendices, and fails to fully inform the reader about the project's environmental consequences.	The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached. For more information regarding document length and complexity, please see Master Response 38 (Length of Environmental Document).
1784	13	The BDCP's Draft Implementing Agreement underscores major deficiencies in accountability for project implementation, mitigation, and financing. BDCP cannot proceed without a lawful Implementing Agreement (IA). The IA must provide crucial details about the BDCP and its environmental consequences beyond those covered elsewhere in the public review drafts. The Natural Community Conservation Planning Act (NCCPA) expressly requires an approved plan to "include an Implementation agreement" that "contains all" of a lengthy list of requirements. (Fish and Game Code, [Section] 2830(b) (listing the required elements of an Implementation Agreement).) The BDCP's Planning Agreement therefore represented that the IA "will contain provisions for" the following: - Conditions of species coverage; - Long-term protection of any habitat resources other measures that provide equivalent conservation; - Implementation of mitigation and conservation measures;	See response 1784-1. Please also refer to Master Response 39 for information regarding the timing of the public review for the Draft Implementing Agreement. Information regarding the BDCP and related draft IA, please review Master Response 5.

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		- Adequate funding to implement the plan; - Terms for suspension or revocation of the proposed Incidental Take Permit; - Procedures for amendment of the BDCP, the IA, and take authorizations; - Implementation of monitoring and adaptive management; - Oversight of BDCP allocations and funding; - Periodic reporting. (PA, pp.18-19.) As the Planning Agreement anticipated, the IA must provide essential information illuminating the details of project conditions and the assignment of responsibility for project construction, implementation, adequate funding, mitigation, monitoring, and adaptive management. This information is particularly crucial for a project such as the BDCP, which purports to rely heavily on adaptive management, and leaves 21 of its 22 ostensible "conservation" measures (all except for the proposed construction of a new north Delta twin tunnel system) unanalyzed except, and if at all, at the programmatic level. BDCP's public review draft prospectively relies upon its future IA when it generically denies that the project will operate in violation of the law. (See, e.g., BDCP, chapter 6 (Plan Implementation), chapter 7 (Implementation Structure) and chapter 8 (Implementation Costs and Funding Sources).) In addition to being required for NCCPA compliance, the IA is crucial for compliance with the federal Endangered Species Act (ESA), which requires conservation plans to include steps, and available funding, to "monitor, minimize and mitigate" impacts. (40 CF.R. [Section] 222.307(b)(5)(iii).) Moreover, the IA's content is also closely related to the environmental review provided in the EIR/EIS. Reliance on a faulty IA would also fatally distort environmental review, because the IA provides an indispensable source of information about the project and its environmental consequences. Under CEQA, reviewing agencies are bound to "scrupulously" enforce CEQA's mandates. (Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435 (quoting Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564).) In CEQA review, "[t]he preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences, and equally important, that the public is assured those consequences have been taken into account." (Id. At 449-450.) For the BDCP, the IA is necessary to understand, and establish accountability for, these	

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		environmental consequences. Without the IA, the project's review cannot fully achieve CEQA's mandate for public agencies to "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Res. Code, [Section] 21002.1.) In light of its major role within BDCP, the IA must necessarily be considered as part of the "whole" of the action as CEQA requires. (14 Cal. Code Regs., [Section] 15368; see section III, infra.) Similarly, under NEPA, excluding full consideration of the IA would unlawfully piecemeal the project's proposed incidental take permit from essential terms of project implementation (40 CFR. [Section] 222.307(b)(5)(3)), and would undermine the EIS's ability to fully address the "environmental impacts of the proposed action ... " (42 USC [Section] 4332(C)(i).) An EIS "shall provide full and fair discussion of significant environmental impacts and shall infom1 decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts ..." (40 CFR. [Section] 1502.1.) Careful consideration of the IA is also crucial in light of the extensive role that the BDCP proposes for federal and state water contractors, from project financing to participation in an "Authorized Entity Group" tasked with extensive powers in the managements and implementation of the BDCP. (BDCP, pp 7-8 to 7-12.) Recent reports suggest that in a May 6, 2014 memorandum to its employees, DWR recognized that a "more detailed financing plan" for the BDCP has yet to be developed. Nonetheless, DWR announced that it is already establishing a separate BDCP Office to coordinate project implementation, and a Delta Conveyance Facility Design and Construction Enterprise (DCE) that will include unspecified local water agencies and private consulting firms as well as DWR. (See http://blogs.esanjoaquin.com/san-joaquin-river-delta/files/2014/05 /BDCPJPA.pdf) This puts the cart before the horse. Rather than proceeding as if BDCP implementation were a foregone conclusion, the reviewing agencies should take the time needed to consider the IA's serious deficiencies and their implications for BDCP and the EIR/EIS. The BDCP is widely recognized as "the most complex HCP/NCCP permit application ever attempted." (See https://watershed.ucdavis.edu/files/biblio/FINAL-BDCP-REVIEW-for-TNC-and-AR-Sept-2013.pdf) Only through an accurate view of the project may the public and interested parties balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, be assured of the feasibility and funding for necessary mitigation measures, and assess the advantages of terminating the proposal and properly weigh other alternatives. (San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 672 (2007).)	
1784	14	[ATT2:] On May 30, 2014, several state and federal agencies involved in developing or reviewing the Bay Delta Conservation Plan (including the Department of Water Resources and federal and state fisheries agencies) finally released a draft Implementing Agreement	See response 1784-1 and Master Response 39.

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		(IA). A "note to reviewers" in the IA's first paragraph indicates that the "level of agency signatory" for this agreement remains to be determined. The release of the IA more than five months after the final draft BDCP for a perfunctory two-month comment period does not fulfill the state and federal agencies' prior commitment to allow for public review of the IA concurrently with the BDCP public review draft. In October 2006, the same agencies--along with the California Resources Agency and the United States Bureau of Reclamation, among others--executed the Planning Agreement Regarding the Bay Delta Conservation Plan (Planning Agreement, or PA). The signatories retained and amended the agreement in 2009. Section 7.8 of this agreement commits to provide "[a]n Implementing Agreement that includes specific procedures for the implementation, monitoring and funding of the BDCP," and provides that "[a] draft of t11e IA will be made available for public review and comment with the final public review draft of the BDCP." (PA, 18-19.)	
1784	15	[ATT2:] The Implementing Agreement Underscores Major Gaps in Accountability for Project Implementation, Mitigation and Financing Despite its length, the Implementing Agreement does little more than make undocumented assertions of BDCP's compliance with the NCCPA's mandatory requirements for permitting listed in IA section 4.2.1. Rather than realistically addressing the major challenges BDCP implementation faces and clearly assigning responsibility, the current draft IA relies heavily on a morass of elliptical phrases, vague assurances, and deferrals of responsibility to the future decisions and actions of project proponents. Unfortunately, the IA's liberal use of reassuring phrases such as "regulatory assurances" and "adaptive management" cannot paper over BDCP's major problems establishing accountability for project implementation, mitigation and financing. These problems undermine BDCP's compliance with the related legal requirements noted above under the ESA, CEQA and NEPA, as well the IA's ability to live up to its own asserted purposes. These purposes include the duties to ensure that terms and conditions are "properly implemented," delineate the implementing entities' "responsibilities, financial or otherwise (including the commitment and management of resources" and "set forth the remedies and recourse" should any party to the IA fail to perform its obligations. (IA, section 2.2, at 4.) Without providing any secure foundation for meeting these objectives, the IA appears to place a far higher premium on offering "assurances and protections" to a select group of "authorized" entities compromising BDCP's major proponents. (Id.) Indeed, despite previous criticisms of deficiencies in BDCP governance, the IA confirms that a small group of "authorized" entities--including DWR, the Bureau of Reclamation, and unnamed representatives of the State Water Project (SWP) and Central Valley Project (CVP) contractors--are slated to receive sweeping and unprecedented authority to implement (and in some cases to modify) plan requirements. Several of the IA's central defects are highlighted here.	See response 1784-1.

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1784	16	[ATT2:] Conclusory and Unscientific Findings: The IA [Implementing Agreement] relies prospectively on the still-unmade findings of U.S. Fish and Wildlife Service and National Marine Fisheries Service required for Endangered Species Act (ESA) compliance (section 4.1) and the still-unmade findings of the Department of Fish and Wildlife (DFW) required for NCCPA compliance (section 4.2). Although the IA correctly notes that these findings are legally required, it contains only bare assertions of compliance, without any analysis that would support findings of compliance. That analysis cannot be complete until these agencies have the full-benefit of public review and comment. The same is the case with respect to section 4.2.2, in which DFW summarily announces without analysis that BDCP and its EIR comply with the Delta Reform Act. (Wat. Code, [Section] 85320, et seq.) Although these agencies have not yet even purported to provide the legally required findings, the IA elsewhere misleadingly asserts that the fish and wildlife agencies "have found that the BDCP fulfills" the requirements of the ESA and NCCPA for the issuance of take authorizations. (Section 8.0.) As explained in the remaining sections of this summary, BDCP and the EIR have not come close to complying with the NCCPA, ESA, CEQA and NEPA. The asserted findings of "compliance" in these placeholder sections of the IA are markedly at odds with the detailed criticisms of leading scientists charged with reviewing BDCP under the Delta Science Program. These criticisms raise fundamental doubts about the advocacy-driven scientific case for BDCP, and confirm that failure to address these deficiencies may well undermine BDCP's ability to meet key requirements of the Delta Reform Act, including the "coequal" goal of the protection, enhancement and restoration of the Delta ecosystem	See response 1784-1.
1784	17	[ATT2:] Defective Governance and Implementation Structure The [Implementing Agreement] IA underscores major defects in BDCP's implementation structure, confirming and compounding problems evident earlier in Chapter 7 of the plan. For many of the key decisions involved in implementing BDCP (BDCP, table 7-1), the IA assigns major decision-making responsibilities to the extremely small "authorized entity group" (AEG), consisting of "the Director of DWR, the Regional Director for Reclamation, a representative of the SWP contractors and a representative of the CVP contractors." (LA, Section 15.3.1, at 58; see also section 3.7, at 5 (defining "authorized entity group").) The AEG provides state and federal water contractors with combined representation equivalent to that of the state and federal lead agency, while providing no representation to others, including the Delta's own counties and communities. (Id.) The IA thus assigns an extraordinarily high level of responsibility to a group dominated by project proponents who have incentives to maximize BDCP's commitment to water supply deliveries and minimize liability for project costs.	See response 1784-1.

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1784	18	[ATT2:] Under the IA, the Authorized Entity Group [AEG] "will engage" in decisions on numerous matters relating to administration, oversight, monitoring and funding, but is not even "limited to" those powers. (IA, section 15.3.1, at 58-59.) In addition, the AEG selects BDCP's program manager (section 15.2.4.1, at 56-57). The AEG-appointed program manager will, in turn, select and supervise BDCP's science manager (section 15.2.4.2, at 57). That same program manager also makes staffing decisions for the Implementation Office, which "shall be responsible for planning, implementation and design" of BDCP's conservation measures (section 15.2.4.3, at 58). The "authorized entities" retain the "ultimate responsibility" for actions undertaken by the Implementation Office. In addition to DWR and some other state entities, state and federal water contractors will staff the implementation office. (Id.) In short, the IA undermines genuine responsibility for implementation of BDCP-a task critically in need of scientific candor and public accountability-with repeated reliance on a self- interested entity group that seems structured to minimize obstacles to BDCP's twin tunnel conveyance system.	See response 1784-1.
1784	19	[ATT2:] Missing from the IA, as well as the BDCP and the EIR- EIS, is any meaningful recognition of how the BDCP would centralize and transform key aspects of the SWP and CVP in the Implementation Office, with ultimate responsibility retained by the four-member Authorized Entity Group with two water contractor representatives. None of the BDCP documents come to terms with a major proposed revision in the nature of the projects, made without legislative approval, contract amendments, or approval by the California Water Commission.	• See response 1784-1. The EIR/EIS does recognize that operation of the proposed project would coordinate by SWP and CVP operators. Prior to construction of the proposed project, the EIR/EIS must be certified and adopted by the implementing agencies, and permits must be obtained. California Water Code section 12934, subdivision (d)(3), of the Burns-Porter Act and Water Code section 11260 of the Central Valley Project Act authorize DWR to build water facilities in the Delta, as part of the State Water Project, and give DWR broad discretion as to what those facilities may involve. Thus, DWR has the authority to build the proposed project without legislative approval, or contract amendments. The Water Commission has an advisory and procedural role but is not permitting entity.
1784	20	[ATT2:] Further evidence of the water contractor-friendly Authorized Entity Group's excessive authority over BDCP implementation is evident in the IA's provisions addressing the role of the fish and wildlife agencies' Permit Oversight Group (POG), whose representatives are the USFWS director, the NMFS regional administrator, and the DFW director (section 15.4.1, at 60). Under the IA, key decisions of the POG must be approved jointly with the AEG, including those relating to such crucial matters as adaptive management, mitigation monitoring, funding, operations planning, and approval of progress reports (Id at 61).	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.
1784	21	[ATT2:] Even very basic questions about the nature of Authorized Entity Group's decision-making remain unanswered. The IA assumes that the AEG will express a "single position" on matters under its consideration, without explaining how dissent is addressed. (IA, section 15.3.3, at 60.) It opaquely asserts that "the entity(ies)" (sic.) with "vested statutory or regulatory authority over the matter" will make the final determination, without explaining to the reader who possesses that authority in specific situations (Id.) It never explains how SWP and CVP contractors, groups whose history is replete with major internal disagreements and who have expressed widely differing opinions on BDCP, will manage to	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.

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		appoint a single "representative" apiece to the AEG. (IA, section 15.3.1, at 58.)	
1784	22	[ATT2:] Despite a deluge of prior criticism, the IA improperly marginalizes the role of Delta counties and their constituencies, excluding them from any meaningful role in BDCP governance and decision-making even though they will bear the brunt of BDCP's adverse consequences for decades to come. The IA notes that "representatives of the counties of San Joaquin, Sacramento, Solano, Yolo and Contra Costa" will serve--along with dozens others representing NGOs, professional organizations, and other constituencies-on a Stakeholder Council conspicuously lacking in decision-making responsibilities. (IA, section 15.6.2, at 63- 64.) The Stakeholder Council functions simply as an advisory entity, which meets quarterly to exchange information and provide non-binding "input" to the AEG- selected BDCP program manager on the "current significant issues at hand." (IA, section 15.6.3, at 64.) The IA's exclusion of Delta counties from any more substantive role is especially noteworthy in light of their years of efforts to secure a more consequential role. A cryptic "note to reader" in section 7.2.8 of the BDCP asserts that the Resources Agency is "working with" representatives of Delta counties to involve them in plan implementation, and announces an "intention" to later incorporate unspecified revisions addressing their participation in the plan's fin.al iteration (BDCP, at 7-26).	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.
1784	23	[ATT2:] The IA notably does not incorporate the alternative governance proposal advanced by the Delta Counties Coalition. Unlike the IA, that proposal would secure each Delta county a voting role on any decision-making body having oversight, implementation and approval authority over the BDCP's conservation measures. The proposal, unlike the IA, would provide full funding for the counties' participation, recognizing that the counties lack the effective means to otherwise cover their participation costs from customers or ratepayers. Providing for the counties' effective participation is necessary to ensure consistency with county planning, as well as six regional conservation plans within the BDCP's plan area that the IA notes are "being implemented or are under development." It would also help ensure fairness to those most directly affected by BDCP, and honor the Delta counties' need to protect their residents' health, safety, and welfare.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.
1784	24	[ATT2:] Avoidance of Conservation Measures: Although tl1e IA is labeled an "implementation" agreement, it also provides opportunities for BDCP decision-makers, using unprecedented loopholes, to avoid responsibility for implementing its purported conservation measures. Divorcing "adaptive management" from scientific rigor and institutional accountability, the IA reverses the traditional role of such agreements in NCCPA compliance, allowing decision-makers to reduce, expand, delete or relocate the conservation and mitigation measures specified in BDCP and its EIR/EIS. (IA, section 10.3.1, at 29.) Using this method, the IA enables the Authorized Entity Group to	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.

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		secure removal or change of the plan's Conservation Measures 2-22 (those other than the twin tunnel conveyance system itself), whetl1er or not the plan's Adaptive Management Team (AMT) recommends this change. In the IA's euphemistic language, it provides flexibility to allow the "addition to or elimination of" BDCP's conservation measures and biological objectives. (Id.) In other provisions of the IA, the AMT receives extensive autl1ority to make changes in BDCP, couched in such terms as performance measures, effectiveness monitoring, and monitoring results. (See IA, section 3.1, at 5.) BDCP even confers on the AMT the opportunity to decide whether, or if, science review is to be included in these decisions at all. (BDCP, at 7-15.) Like\vise, the IA not only allows decision-makers to change conservation measures and biological objectives under the rubric of adaptive management; it authorizes them to do so without requiring an amendment to BDCP or its regulatory authorizations. (IA, section 10.3.6, at 36 (emphasis added).) The IA specifies an unusually protracted process for permit revocation, which add additional leeway for permittees to evade conservation requirements.	
1784	25	[ATT2:] An ominous provision buried within the IA's discussion of adaptive management is section 10.3.7.3 ("The Supplemental Adaptive Management Fund"), which in vague language records the parties' anticipation that the referenced funds could be used "to acquire water to supplement flows ...." (Id. at 38.) If "additional outflow" is found to be necessary, "supplemental water may be acquired from voluntary sellers." (Id.) The reader is left to speculate when such additional outflow may be necessary, or the conflicts that may arise if voluntary sellers do not materialize, or if the ostensibly voluntary transactions harm other water users. Between the lines, this language may amount to an implicit recognition that the combined provisions of BDCP may well not meet water exporters' expectations for deliveries, and that BDCP funds should be reserved for water purchases that enable additional exports at the new BDCP intakes. If BDCP ultimately could involve the public in underwriting the costs of transfers that could deplete existing aquifers, that suggestion should be fully analyzed and debated on the merits, not hidden within the implementation provisions of a "conservation•" plan.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.
1784	26	[ATT2:] Taken together, these provisions [that appear to allow avoidance of conservation measures] render the plan itself a moving target, undermining the certainty accountability required for Natural Community Conservation Policy Act compliance. Moreover, because they turn BDCP's ultimate provisions and protections into a cipher that may remain unknown until years after project decisions are made, they also disable the consistent project definition and commitment to effective mitigation required for compliance with CEQA and NEPA.	The proposed project has been analyzed in compliance with the requirements of CEQA and NEPA. The Lead Agencies acknowledge that uncertainty is inherent in any planning effort of this geographic and temporal scale. However, DWR used the best available science throughout the effects analysis, consistent with the requirements of the ESA. Additionally, the official public review process for the proposed project provided an opportunity for formal public comment on the proposed project and project alternatives. Public and agency comments on the public draft have led to further refinement of the proposed project, as evidenced in the RDEIR/SDEIS. Please see Master Response 22 (Mitigation), Master Response 29 (ESA Compliance) and Master Response 33 (Adaptive Management and Monitoring).
1784	27	[ATT2:] Failure to Ensure Adequate and Reliable Sources of Funding:	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and

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		As the IA concedes, the Natural Community Conservation Policy Act (NCCPA) requires a legally adequate conservation plan to ensure "adequate funding to carry out the conservation actions identified in the BDCP." (IA, section 4.2.1, at 12 (discussing Fish & Game Code, [Section] 2820).) Likewise under the ESA, approval of a legally adequate HCP requites identification of sufficient sources of funding, and specification of the sources relied upon to mitigate impacts to covered species. (16 U.S.C. [Section] 1539(a)(2); see also Southwest Center for Biological Diversity v. Bartel (S.D. Cal. 2006) 457 F. Supp.2d 1070, 1105.) Failure to include this required analysis and disclosure in an EIR/EIS also fatally compromises its ability to fully inform the reader of the project's environmental consequences, vitiating compliance with NEPA and CEQA. Nonetheless, the IA, like the BCDP itself and its EIR/EIS, thoroughly fails to ensure that the plan is supported by adequate and reliable sources of funding. Section 8.3 of BDCP purports to provide such sources. Moreover, under the IA, only measures other than the twin tunnel conveyance (CM-1) are to be cut back, beginning with terrestrial species. Sacramento County extensively detailed the speculative and unstable nature of BDCP's funding sources in its May 28, 2014 comments. Unfortunately, the IA does not improve on the paucity of reliable funding addressed in those comments.	responsibilities of the various agencies under the BDCP (Alternative 4). See response 1784-1.
1784	28	[ATT2:] The Delta Independent Science Board's Report confirms lack of scientific and legal foundation for BDCP and its EIR/EIS. Overview: The EIR/EIS Failed to Use "Good Enough" Science to Meet the Project's Environmental Review Requirements. On May 15, 2014, the Delta Independent Science Board submitted a detailed report reviewing the BDCP and the EIR/EIS (Science Board Report) to the Delta Stewardship Council (DSC) and California Department of Fish and Wildlife (DFW), as directed under the 2009 Delta Reform Act (Wat. Code, [Section] 85320(c).) This report follows a similar one prepared by the Delta Science Program's Independent Science Review Panel (Panel), which analyzed the "Effects Analysis" (BDCP, chapter 5) prepared in connection with requirements of endangered species law. (See sections III and V, infra.) Both the Science Board and the Panel were sharply critical of the tendency in BDCP and its review documents to tilt the analysis in favor of the proposed project and avoid sound science.	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. This comment letter can be located by using the table in the EIR/EIS.
1784	29	[ATT2:] The Science Board examined "the science in the DEIR/DEIS" and the BDCP, focusing on "how well the statements and conclusions are supported by current scientific information; how science is applied to proposed actions; how completely actions and their potential consequences have been assessed; and how science is communicated." (Science Board Report, p. 4.) Examining whether the BDCP's EIR- EIS used the "best available science" in analyzing project alternatives and their effects, the Science Board answered in the negative, concluding that the EIR/EIS failed to use science that was "good enough, and use it well enough" to meet the requirements of project review. (Id., p. 4.) The Science Board	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. This comment letter can be located by using the table in the EIR/EIS.

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		summarized its major concerns: 1. Many of the impact assessments hinge on overly optimistic expectations about the feasibility, effectiveness, or timing of the proposed conservation actions, especially habitat restoration. 2. The project is encumbered by uncertainties that are considered inconsistently and incompletely; modeling has not been used effectively to bracket a range of uncertainties or to explore how uncertainties may propagate. 3. The potential effects of climate change and sea-level rise on the implementation and outcomes of BDCP actions are not adequately evaluated. 4. Insufficient attention is given to linkages and interactions among species, landscapes, and the proposed actions themselves. 5. The analyses largely neglect the influences of downstream effects on San Francisco Bay, levee failures, and environmental effects of increased water availability for agriculture and its environmental impacts in the San Joaquin Valley and downstream. 6. Details of how adaptive management will be implemented are left to a future management team without explicit prior consideration of (a) situations where adaptive management may be inappropriate or impossible to use, (b) contingency plans in case things do not work as planned, or (c) specific thresholds for action. 7. Available tools of risk assessment and decision support have not been used to assess the individual and combined risks associated with BDCP actions. 8. The presentation . . ..makes it difficult to compare alternatives and evaluate the critical underlying assumptions. (Science Board Report, p. 3.)	
1784	30	[ATT2:] The Science Board warned that leaving its concerns [regarding the use of science] unaddressed "may undermine the contributions of BDCP to meeting the co-equal goals for the Delta." (Science Board Report cover letter, p. 1; see Wat. Code, [Section] 85054 (defining the Delta Reform Act's "coequal goals" as "providing a more reliable water supply for California" and "protecting, restoring, and enhancing the Delta ecosystem").) To comply with the Delta Reform Act enacted in 2009 (Delta Reform Act), the coequal goals "shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." (Water Code, [Section] 85054; see also Wat. Code, [Section] 85900, listing other specific goals for the Delta inherent in these goals, including restoration of the Delta ecosystem).)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. This comment letter can be located by using the table in the EIR/EIS. As described in Appendix 3A, Section 3A.9.3, of the 2013 Public Draft EIR/EIS the State Water Resources Control Board prepared a Delta Flow Criteria Report in accordance with the requirements of the Sacramento-San Joaquin Delta Reform Act of 2009. Information from that report included "determinations of flow criteria for the Delta ecosystem to protect public trust resources. The report makes clear, however, that the flow criteria do not consider the balancing of public trust resource protection with public interest needs for water. The flow criteria also did not consider other public trust resource needs such as the need to manage cold-water resources in reservoirs tributary to the Delta. Nonetheless, the flow determinations contained in the Delta Flow Criteria Report, together with recent scientific conclusions of other State and

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		The BDCP "shall not" be incorporated into the Delta Stewardship Council's Delta Plan, and make its public benefits qualify for state funding, unless the BDCP complies with the NCCPA and CEQA (Wat. Code, [Section] 85320(b).) In addition to these general requirements, the Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of all the following: (A) A reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan as provided in subdivision (a) of Section 2820 of the Fish and Game Code, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses. (B) A reasonable range of Delta conveyance alternatives, including through- Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines. (C) The potential effects of climate change, possible sea level rise up to 55 inches, and possible changes in total precipitation and runoff patterns on the conveyance alternatives and habitat restoration activities considered in the environmental impact report. (D) The potential effects on migratory fish and aquatic resources. (E) The potential effects on Sacramento River and San Joaquin River flood management. (F) The resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster. (G) The potential effects of each Delta conveyance alternative on Delta water quality. (Id.) The EIR/EIS makes perfunctory claims in an appendix to have covered these BDCP-related environmental review issues (EIR/EIS, Table 3I-1.) However, as detailed further, the Science Board Report demolishes the scientific basis for that analysis and undermines the current BDCP and EIR/EIS's ability to meet the environmental review requirements of CEQA and the Delta Reform Act. Unless these errors are corrected before the Final EIR/EIS, the review's major "mass of flaws," will fatally undermine the EIR/EIS's ability to inform decision-making as CEQA requires, and require recirculation after the major shortcomings of the EIR/EIS are corrected. (San Joaquin Raptor/Wildlife Rescue Center v. County of .Stanislaus (1994) 27 Cal..i\pp.4th 713, 741-742.) If left uncorrected, these errors would preclude informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR/EIS process. (Berkeley Keep Jets Over the Bay Com., v. Board of Port Cmrs. (2001) 91	federal agencies, including the Department of Fish and Wildlife, National Marine Fisheries Service, and the Interagency Ecological Program provide a useful guide to establish one side of a reasonable range of alternatives" (State Water Resources Board letter dated April 19, 2011). The information in the flow criteria report was used to inform the development of the proposed project. Please also see Appendix C of the RDEIR/SDEIS Supplemental Modeling Requested by State Water Resources Control Board Related to Increased Delta Outflows. 15 alternatives and 3 new sub alternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4. The anticipated hydrologic changes due to climate change (increased temperatures and more years of critical dryness, increased water temperatures, changes in precipitation and runoff patterns, sea level rise, and tidal variations) will constrain and challenge future water management practices across the state, with or without the proposed project. The state is addressing climate change through strategies and a decision-making framework as outlined in the California Climate Adaptation Strategy and Adaptation Planning Guide. However, no single project and indeed none of the project alternatives would be able to completely address all of the impacts of climate change. The State of California has acknowledged that sea level rise threatens coastal and near coastal resources (such as the Delta and Delta water supplies) and that adaptation and resiliency planning to protect these resources from expected levels of sea level rise is appropriate. (OPC, 2013) http://www.opc.ca.gov/2013/04/update-to-the-sea-level-rise-guidance-document/ (CCC, 2013) http://www.coastal.ca.gov/climate/SLRguidance.html EO S-3-05. http://gov.ca.gov/news.php?id=1861 EO S-13-08 http://gov.ca.gov/news.php?id=11036 AB 32 also mentions SLR as a threat to California. California Waterfix would help to address the resilience and adaptability of the Delta to climate change through water delivery facilities combined with a range of operational scenarios, measures focused on the protection, restoration, and enhancement of the Delta ecosystem and measures to reduce other stressors (Environmental Commitments 3, 4, 6, 7, 8, 9, 10, 11, 12, 15, and 16.) In addition to the added water management flexibility created by new water diversions and operational scenarios, California Waterfix would improve habitat, increase food supplies and reduce the effects of other stressors on the Delta

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		Cal.App.4th 1344, 1355.)	ecosystem. By improving and expanding available habitat, the proposed project would increase resilience and adaptability to climate change by making alternative habitat available during periods of high stress, such as very high or low freshwater inflow or very high salinity intrusion. Multiple analyses were performed in the proposed project to test the robustness of the alternatives to a range of potential future conditions. Water supply, aquatic and terrestrial resources were all analyzed with projected future conditions. The proposed project will likely remain in place and functional far into the future when salinity intrusion may require less frequent use of the south Delta pumps. Far from being stranded assets, the tunnels will be part of the state's strategy in adapting to climate change. More information on ways in which the BDCP/California WaterFix proposes to improve resiliency and adaptability of the Delta to climate change can be found in Chapter 29, Climate Change, EIR/EIS and Appendix A RDEIR/SDEIS and Appendix 3E, Potential Seismic and Climate Change Risks to SWP/CVP Water Supplies, EIR/EIS and RDEIR/SDEIS (in appendix A). For additional information regarding GHG and Climate change, please see Master Response 19.
1784	31	[ATT2:] Expectations for the effectiveness of BDCP's conservation actions are too optimistic. The Science Board found that "the DEIR/DEIS, the BDCP actions, as supplemented by Avoidance and Minimization Measures and Mitigation Measures, are assumed to produce the anticipated benefits when they are needed to offset any impacts of BDCP actions. In essence, it is often argued that Conservation Measures (CM) 2-22 will have sufficient positive benefits for covered species to counterbalance any negative impacts of water diversions and changes in flow caused by proposed alternatives (CM1). This is an implausible standard of perfection for such a complex problem and plan, as noted in our reviews of Chapters 11 and 12 (Appendix B). It would be better to begin with more realistic expectations that include contingency or back-up plans." (Science Board Report, at 5.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	32	[ATT2:] Uncertainties are Inconsistently and Incompletely Addressed. The Science Board found that the Draft EIR/EIS's (DEIR/DEIS's) conclusions or comparisons among alternatives or the impacts of the Conservation Measures were often "encumbered by unaddressed uncertainties. Uncertainties accompany every action and consequence discussed in the DEIR/DEIS, ranging from the designations of habitats for individual species, to projections of entrainment, to modeling results used in the analyses. when combined, these uncertainties will be compounded and propagate. Although the Draft BDCP discusses some of these uncertainties, they are treated inconsistently in the DEIR/DEIS and are largely ignored in the Executive Summary." (Science Board Report, p. 5.) Notably, the Science Board sharply criticized the tendency in the EIR/EIS to overuse the mantle of avoiding "speculation" to avoid addressing key uncertainties relating to the success of BDCP's proposed conservation measures. Criticizing the misunderstandings stemming from this tendency, the Science Board noted that "avoiding clear articulation of	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.

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		uncertainties is not the same as avoiding speculation. By inadequately addressing uncertainties, the documents may fail to prepare those charged with implementing the Plan to deal with surprises. Unaddressed, uncertainties can pose major and significant risks to the project as a whole and lead to false expectations from managers and stakeholders." (Science Board Report, p.6.) By contrast, if uncertainties are acknowledged, "expectations of the outcomes and benefits of BDCP actions will be more realistic, enabling a more reasoned assessment of how the actions align with NEPA and CEQA standards." (Id.) Criticizing the frequent assumption in the EIR/EIS that the uncertain benefits Conservation Measures 2-22 will somehow counterbalance the "more certain impacts" of the proposed conveyance (Conservation Measure 1), the Science Board found it "important to recognize that Conservation Measures 2-22 are likely to have values in their own rights and are worth implementing regardless of which alternative (if any) is eventually selected." (Science Board Report, p.6.) However, the adequacy of CM 2-22 "to offset the negative impacts of Conservation Measure 1, as assumed in the DEIR/DEIS, is uncertain, in part because they are given only program rather than project-level analysis . . ..these measures are hypotheses to be tested, or perhaps broadly defined adaptive-management experiments. They need to be treated as such." (Id. (emphasis added); see also pp. B-37-45 (applying problem to analysis of fish and aquatic resources).)	
1784	33	[ATT2:] The Potential Effects of Climate Change and Sea-Level Rise are Underestimated. The Science Board described future climate change and sea-level rise as "perhaps the greatest sources of uncertainty affecting BDCP.'' (Science Board Report, p 6) The Science Board criticized the EIR/EIS's failure to account for how "the speed, magnitude, and intermittent nature of these changes may alter the outcomes of BDCP actions from what is planned. The potential direct effects of climate change and sea-level rise on the effectiveness actions, including operations involving new water conveyance facilities, are not adequately considered." (Science Board Report, p.6; see also pp. B-52-54, B-82-88 (addressing EIR/EIS chapters 12 and 29.) Moreover, the Science Board found that similar exclusion of analysis also casts doubt upon conclusions drawn elsewhere in the EIR about "other disrupting factors, such as floods, levee failures, earthquakes, or invasive species, any of which could profoundly alter the desired outcomes of BDCP actions." (Science Board Report, p.6 (emphasis added).) In light of this defective analysis, the Science Board singled out for criticism an evasive response of DWR to the panel's earlier criticism of the EIR/EIS's inconsistent and incomplete climate change analysis, which avoided analysis based on the inapposite premise that "the scope of an EIR/EIS is to consider the effects of the project on	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.

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		the environment, and not the environment on the project." (Science Board Report, p.6.) Describing DWR's response as "dangerousb1 unrealistic," the Science Board observed that CEQ.A requires impacts to be assessed "in order to provide decision makers enough information to make a reasoned choice about the project and its alternatives. Surely this choice should also include consideration of factors that may substantially alter outcomes of the project." (Id. (emphasis added); sec also pp. B-82 ("because of the changing conditions, the Draft BDCP actions may not develop as anticipated. Uncertainties in the effectiveness of conservation measures due to the effects of climate change and sea -level must be g1ven greater consideration), B- 86-88 (criticizing the EIR/EIS's avoidance of analysis based upon a false dichotomy between climate change and the project).)	
1784	34	[ATT2:] Interactions among species, landscapes, and the proposed actions are insufficiently considered. The Science Board noted that because the Delta is a "complex, interacting system," failure to meet the expectations for BDCP actions "will have cascading effects. If the competitive or predatory effects of one species on another or the effects of habitat restoration in one place on upstream or downstream restoration projects are not fully considered, the effectiveness of actions may be compromised." (Science Board Report, p. 7.) By contrast, the EIR/EIS often focuses on individual species, particular places, or specific actions that are "considered in isolation from other species, places, or actions. In particular, potential predator-prey interactions and competition between covered and non-covered fish species are not fully recognized." (Id.) The EIR/EIS's failure to "treat the Delta a s a fully functioning and integrated ecosystem" resulted in its overlooking "interactions that may enhance or undermine the effectiveness" of BDCP actions. (Id.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	35	[ATT2:] The Science Board's report provided several examples in which the EIR/EIS deficiently analyzes BDCP's impacts, which resulted in some crucial exclusions from the scope of project review. (Science Board Report, Appendix A [ATT 3] (listing examples).) For instance: The EIR/EIS defined the project's geographic scope "to exclude San Pablo Bay and San Francisco Bay. The consequences of BDCP actions undertaken within the Plan Area, however, will extend downstream to affect these bays. Changes in sedimentation in the Delta associated with BDCP actions, for example, will not be confined to the Delta. Likewise, changes within the bays (e.g., tidal wetland restorations) will affect tidal fluxes and salinity intrusion into the Delta. Many fish species also migrate into or through these areas." (Science Board Report, p. 7.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	36	[ATT2:] The Science Board's report provided several examples in which the EIR/EIS deficiently analyzes BDCP's impacts, which resulted in some crucial exclusions from the scope of project review. (Science Board Report, Appendix A [ATT 3] (listing examples).) For	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.

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		instance: The discussion of levees in BDCP and the EIR/EIS, while extensive, is "disconnected and incomplete. In particular, neither the consequences of levee failures on the effectiveness of BDCP actions nor the financial implications of demands for levee maintenance receives adequate attention. The assumption that most levee breaches will be repaired seems unrealistic." (Id.)	
1784	37	[ATT2:] The Science Board's report provided several examples in which the EIR/EIS deficiently analyzes BDCP's impacts, which resulted in some crucial exclusions from the scope of project review. (Science Board Report, Appendix A [ATT 3] (listing examples).) For instance: The EIR/EIS lacks analysis of the environmental consequences of water reliability produced by BDCP (if successful). While the document mentions economic benefits, "there is no parallel discussion of possible environmental impacts that might arise as increased reliability affects which crops are planted, how fertilizers and pesticides are used, or how these changes might affect agricultural runoff and water quality." This all relates to the "whole" of the action. (Id.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	38	[ATT2:] The Science Board's report provided several examples in which the EIR/EIS deficiently analyzes BDCP's impacts, which resulted in some crucial exclusions from the scope of project review. (Science Board Report, Appendix A [ATT 3] [listing examples].) For instance: The Science Board criticized the incorrect assumption of "speculation" used to exclude analysis of environmental impacts from the EIR/EIS and to limit the boundaries used for EIR study. The Science Board concluded: 'We do not believe that the processes used to determine these boundaries have been made explicit, nor are the boundaries scientifically justified. We know that there is a high likelihood of future levee breaches and that farmers will adjust their crops and management in response to changing water availability. Although we may not be able to anticipate these changes in detail, to ignore them is to pretend that they will not happen. Sufficient information exists to construct and evaluate future scenarios. These potential effects merit more careful consideration." (Id., p. 8.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	39	[ATT2:] The Science Board's report provided several examples in which the EIR/EIS deficiently analyzes BDCP's impacts, which resulted in some crucial exclusions from the scope of project review. (Science Board Report, Appendix A [ATT 3] (listing examples).) For instance: The Science Board found major deficiencies in the EIR/EIS's assessment of water quality. The report decried the "general lack of knowledge" displayed in the analysis of water quality constituents, particularly in the analysis of dioxins and contaminants of emerging concern	The water quality assessment was conducted by regional experts in Central Valley and Delta water quality using accepted modeling and assessment tools. The methods, assessments, and conclusions are appropriate to meet the requirements of CEQA and NEPA. Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.

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		(CECs). (Id., pp. B-22-23.) Among other criticisms, the authors criticized the EIR/EIS's overreliance on model outputs and "cavalier" treatment of detection limits for analytes. (Id., p. B-24.)	
1784	40	[ATT2:] The Science Board's report provided several examples in which the EIR/EIS deficiently analyzes BDCP's impacts, which resulted in some crucial exclusions from the scope of project review. (Science Board Report, Appendix A [ATT 3] (listing examples).) For instance: The Science Board criticized serious deficiencies in the EIR/EIS's analysis of BDCP's public health consequences. (Science Board Report, p. B-73-77.) The analysis evaded potentially serious problems with mosquito abatement, mercury accumulation, bioaccumulation of toxic compounds, and fish contamination. (Id.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS. Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. Accordingly, there would be less potential for an increase in suitable mosquito habitat within the study area as a result of implementing the project under this alternative because there would be less restoration/enhancement of aquatic habitat. Certain features of the proposed water conveyance facilities (e.g., sedimentation basins, solids lagoons, and intermediate forebay inundation) have the potential to provide mosquito breeding habitat. The depth, design, and operation of the sedimentation basins and solids lagoons would prevent the development of suitable mosquito habitat primarily due to their depth and because the water contained in these structures would be constantly circulated, and the flow rates would be high enough to prevent water from stagnating. Additionally, DWR will consult with the appropriate mosquito vector control district(s) prior to construction of the intakes and before the sedimentation basins, solids lagoons, and intermediate forebay inundation area become operational to inform mosquito management and control practices to limit public health risks from mosquito-borne diseases. Further, once the sedimentation basins, solids lagoons, and intermediate forebay inundation area become operational, project proponents will again consult with the mosquito vector control district(s) to determine if mosquitoes are present in these conveyance components. If mosquitos are present, mosquito control techniques will be implemented. Potentially suitable mosquito habitat may be created as a result of implementing CM2–CM7, CM10, and CM11 (under Alternatives 1–9), and Environmental Commitments 3, 4, and 6–11 (under Alternatives 4A, 2D, and 5A), but given the location of the areas to be restored/enhanced under these Conservation Measures, this potential habitat would generally not be located near densely populated areas. However, it is acknowledged that certain mosquito species can travel several miles from their breeding grounds. Those proposed restoration areas that are closest to densely populated areas (e.g., Yolo Bypass [CM2, Yolo Bypass Fisheries Enhancement]) may result in an increase in mosquitoes and exposure to vector-borne diseases. However, as discussed in Chapter 25 for Impact PH-5, the preparation and implementation of the management plans would be performed in consultation with the appropriate MVCDs. This consultation would occur when specific restoration and enhancement projects and locations are identified within the ROAs and prior to implementation of CM2. It is standard practice to use IPM to control mosquitoes, and, as part of the consultation with the MVCDs, project proponents would prepare and implement mosquito management plans (MMPs) (Appendix 3B, Environmental Commitments). In addition, best management practices (BMPs) from the guidelines outlined in Section 25.2.5.7 and detailed in Appendix 3B, would be incorporated into the proposed project and executed to maintain proper water circulation and flooding during appropriate times of the year (e.g., fall) to prevent stagnant water and habitat for mosquitoes.

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			Implementation of these BMPs will reduce the likelihood that proposed project operations will require an increase in abatement activities by local mosquito vector and control districts. Many chemicals are known to bioaccumulate (e.g., mercury, polyaromatic hydrocarbons [PAHs], polychlorinated biphenyls [PCBs], dioxin). The water quality impact analysis pertaining to bioaccumulative chemicals focused primarily on mercury and selenium. Please see the constituent screening analysis in Appendix 8C for a description of which chemical water constituents were considered for inclusion in the impact analysis and an explanation regarding why certain constituents were carried forward for a more detailed alternative-by-alternative analysis and why other constituents were not. The general methodology used to assess the potential for bioaccumulation effects as a result of project implementation is described in detail in Chapter 8 of the EIR/EIS (Water Quality). The bioaccumulation model used for predicting mercury concentrations in fish provides an evaluation of the potential for the project to affect concentrations of mercury in Delta water and potential for bioaccumulation in fish. Details regarding the mercury and selenium bioaccumulation assessment are provided in Chapter 8 of the EIR/EIS (Water Quality). The most common way in which people in the United States are exposed to mercury is through fish consumption. Therefore, the risks from mercury in fish and shellfish depend on the amount of fish and shellfish eaten and the levels of mercury in the fish and shellfish. Fish consumption advisories are issued by the U.S. Food and Drug Administration, the U.S. Environmental Protection Agency, and the California Office of Environmental Health Hazard Assessment to help protect public health, as indicated in the Environmental Setting and impact analysis of Chapter 25 of the EIR/EIS. See Appendix 8I for a discussion of the uncertainty associated with the fish tissue estimates. Further, implementation of CM12 or Environmental Commitment 12 (Methylmercury Management), would help minimize the risk for public exposure to methylmercury because it provides for project-specific mercury management plans, including a QA/QC program and specific tidal habitat restoration design elements to reduce the potential for methylation of mercury and its bioavailability in habitat restoration areas. Details on CM 12 and Environmental Commitment 12 are provided in Chapter 3 of the EIR/EIS and Chapter 4 of the 2013 Public Draft (CM12 only). Chapter 28, Environmental Justice, addresses the issue of the risk of increased consumption of mercury-laden fish by minority populations and determines that this would be an adverse effect for Alternatives 6A, 7, and 8.
1784	41	[ATT2:] The Science Board provided a detailed and devastating critique of the misuse of adaptive management in BDCP and the EIR/EIS (Appendix A [ATT 3]). Although the Science Board described adaptive management as "the key to the success of the BDCP project over its SO-year duration" (Science Board Report, B-55 (emphasis in original)), the report identified major problems with its use within BDCP and the EIR/EIS: "[A]lthough adaptive management is mentioned frequently in tl1e DEIR/DEIS, details about how it will be designed and done are left to a future Adaptive Management Team. As a result, it is unclear how adaptive management will be integrated into the implementation of BDCP, whether the scientific skills needed to plan and oversee adaptive management will exist in the Implementation Office and on the Adaptive Management Team, and whether	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.

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		the capacity to conduct the monitoring and analysis needed for adaptive management will be available." (Science Board Report, p. 8.)	
1784	42	[ATT2:] The Science Board provided a detailed and devastating critique of the misuse of adaptive management in BDCP and the EIR/EIS (Appendix A [ATT 3]). Although the Science Board described adaptive management as "the key to the success of the BDCP project over its 50-year duration" (Science Board Report, B-55), the report identified major problems with its use within BDCP and the EIR/EIS: "Because conditions in the Delta and responses to BDCP actions may change quickly, the adaptive-management process must be nimble and flexible, yet the organizational structure may delay rather than expedite needed adjustments. Although the Draft BDCP has an extensive listing of performance measures linked to its Biological Goals and Objectives, the measures needed to evaluate actions and make adjustments are not addressed substantively in the DEIR/DEIS. Neither are there any indications of the criteria that might be used to establish trigger points at which adaptive management procedures would be initiated. This becomes particularly problematic if certain species are benefitting from actions and others are doing worse." (Id.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	43	[ATT2:] The Science Board provided a detailed and devastating critique of the misuse of adaptive management in BDCP and the EIR/EIS (Appendix A [ATT 3]). Although the Science Board described adaptive management as "the key to the success of the BDCP project over its SO-year duration" (Science Board Report, B-55 (emphasis in original)), the report identified major problems with its use within BDCP and the EIR/EIS: ''Because BDCP actions will not likely play out as planned, it may be useful to view them as planned experiments or hypotheses to be tested. Consequently, it would be prudent to have contingency plans generally outlined before discovering that actions are not working as expected. Yet contingency plans are rarely mentioned in the documents we reviewed. We are not yet convinced that the process of actually doing adaptive management (rather than creating an organizational infrastructure for it) has received the thoughtful development it requires, given its central role in implementing BDCP and ensuring that impacts and benefits balance. Consequently, we have substantial misgivings about how well the proposed adaptive management process, as proposed, will actually function as a key component of BDCP." (Id.)	Please refer to responses to comment letter BDCP 1448 and RECIRC 2546 for a comprehensive response to comments from the Independent Scientific Review Panel. This comment letter can be located by using the table in the EIR/EIS.
1784	44	[ATT2:] The Science Board provided a detailed and devastating critique of the misuse of adaptive management in BDCP and the EIR/EIS (Appendix A [ATT 3]). Although the Science Board described adaptive management as "the key to the success of the BDCP project over its SO-year duration" (Science Board Report, B-55 (emphasis in original)), the report identified major problems with its use within BDCP and the EIR/EIS: The BDCP's decision-making structure--including the delegation of extensive authority to the	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.

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		"Authorized Entity Group" drawn from DWR, the Bureau of Reclamation and water contractors--"does not seem to bring enough authority and resources for adaptive management to be implemented in a decisive and timely way." (Id., p- A-19.)	
1784	45	[ATT2:] The Science Board provided a detailed and devastating critique of the misuse of adaptive management in BDCP and the EIR/EIS (Appendix A [ATT 3]). Although the Science Board described adaptive management as "the key to the success of the BDCP project over its SO-year duration" (Science Board Report, B-55 (emphasis in original)), the report identified major problems with its use within BDCP and the EIR/EIS: The BDCP lacks funding specifically earmarked for adaptive management, and the total budget for monitoring and research is "small" relative to BDCP's total cost. (Id.. p. A-21.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	46	[ATT2:] Risks are Not Modeled or Fully Evaluated. The Science Board suggested that available risk-management tools could assist in fully evaluating BDCP's vulnerability to "high-consequence risks," and aid in preparing contingency plans. However, the Science Board found "no indications that t11e available scientific approaches to risk assessment were used to any great extent in the development of BDCP. Given the concerns over uncertainty and the proposed adaptive-management plan, it would be worthwhile to consider incorporating structured decision-making into the process." (Science Board Report, p. 9; see also Appendix A [ATT 3] (listing proposed tools to assist in decision-making).)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	47	[ATT2:] Descriptions of the Alternative Conveyance Structures, Operations, and Environmental Impacts do not facilitate informative comparisons. The Science Board pointed out that "a central purpose of an EIR/ EIS is to clearly describe the alternative options--in this case, water-conveyance operations-- and their relative impacts." (Science Board Report, p. 9.) In the BDCP's EIR/EIS, "because no overall framework is provided to draw together the specifics of the alternatives in a clear way, it is difficult to compare alternatives. Consequently, it is challenging to develop a rigorous assessment of the relative strengths and weaknesses of the alternatives . . . ." (Id.; see also Appendix A [ATT 3] (discussing "clarity").) Treating all alternatives in exactly the same way "ignores the reality that these factors affect the alternatives and conclusions about their impacts in different ways, further confounding comparisons." (Science Board Report, p. 9.)	Please refer to comment letters BDCP 1448 and RECIRC 2546 to see responses to the Delta Independent Science Board's comments. These comment letters can be located by using the table in the EIR/EIS.
1784	48	[ATT2:] Faulty Definition of CM1 as a Conservation Measure The EIR/EIS is fundamentally misleading in portraying the BDCP as a "comprehensive conservation strategy for the Sacramento-San Joaquin Delta (Delta) to advance the planning goal" of "restoring" the Delta's ecological functions. (EIR- EIS, ES-1.). Conservation Measure CM1 (Table ES-3) provides "for the construction and operation of a new north Delta water	This comment asserts that it is the job of the EIR/EIS to determine whether the BDCP meets the criteria for an HCP/NCCP. It is the permitting agencies who have the responsibility of determining whether the HCP/NCCP alternatives evaluated in the EIR/EIS meet the criteria for permit issuance. It is the job of the EIR/EIS to evaluate the potential impacts of the alternatives, disclose those potential impacts and identify mitigation measures. The comment does not raise any issues related to the environmental analysis of any of

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		conveyance facility to bring water from the Sacramento River in the north Delta to the existing water export pumping plants in the south Delta, as well as for the operation of existing south Delta export facilities." This Conservation Measure serves as a euphemism for the twin tunnel system, whose specific physical facilities are buried in the descriptions. The EIR/EIS offers no credible analysis of why CM1 qualifies as a Conservation Measure addressing ESA and NCCPA compliance. Far from contributing to the protection or restoration of ecosystem health in the Delta, this measure would take large quantities of additional water out of the Delta and compound ecological risks. Indeed, facilitating additional exports can in no sense be considered a conservation strategy.	the alternatives.
1784	49	[ATT2:] Overwhelming critiques vitiate the notion that CM-1 is a Conservation Measure, and point to the failure to meaningfully analyze BDCP's speculation that the remaining measures can overcome the damage from implementation of CM-1. For example: In March 2014, the Independent Scientific Review Panel studied the Effects Analysis (EA) in the BDCP (Chapter 5). The Panel's report (ISRP-3) identified four broad themes emerging from its review. First, the panel found the EA riddled with fragmented analysis and inconsistencies that made it "difficult to review and comprehend." Second, the Panel identified an "apparent disconnect" between the treatment of uncertainty in BDCP Chapter 5 and in the EA's technical appendices. Third, the Panel noted the continued absence of an integrated or quantitative assessment of net effects. Finally, the Panel concluded that the EA underplayed major uncertainties in the achievement of beneficial effects attributed to the BDCP's Conservation Measures, slanting the "net effects" analysis in the BDCP's favor. (ISRP-3, pp.1-2.) In March 2014, the Pacific Fishery Management Council submitted comments concluding that the BDCP will "negatively impact essential fish habitat" for Council-managed species, including all varieties of Chinook salmon, and noted it is "highly concerned" that the project's water withdrawals will unreasonably constrain the flow of fresh water through the Delta. In February 2014, the California Advisory Committee on Salmon and Steelhead Trout (Advisory Committee) submitted its required recommendations to the Department of Fish and Wildlife regarding the BDCP under Fish and Carne Code section 6920. Concluding that the BDCP "promotes the unproven scientific hypothesis that habitat restoration can substitute for flow,'' the Advisory Committee recommended that DFW deny an incidental take permit (ITP) for the BDCP project (Alternative 4) as a Natural Communities Conservation Plan (NCCP). The Advisory Committee also concluded that the BDCP "does not meet the requirements of Fish and Came Code section 2820 for an NCCP and cannot legally be approved because it will contribute to the further decline of Sacramento River Winter Run and Spring Run Chinook Salmon." (Id., p. 1.).	See response 1784-1. For more information regarding modeling results comparison between the FEIR for Alternatives 2D, 4A, and 5A to RDEIR/SDEIS results, please see Appendix 5F of the FEIR/EIS. For more information regarding impacts to aquatic resources and its associated Mitigation Measures, please see Chapter 11 of the FEIR/EIS. For more information regarding permitting, please see Master Response 45 (Permitting).

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		As the Advisory Committee pointed out, the effects analysis in BDCP Chapter 5 concedes that project operation using CM-l's proposed conveyance will reduce Mnter run and spring Chinook salmon smolt survival. (Id.) Under these circumstances, the BDCP is incapable of meeting key requirements of the NCCP Act or CESA. (Id., p. 4; see, e.g., Fish & Game Code, [Sections] 2081(c) (lack of contribution to recovery, continued jeopardy), 2081(b)(2)(c); 220(e).) These comments follow still-unheeded concerns of the State Water Resources Control Board that Delta outflows and inflows are already insufficient to help listed species recover, even without the huge quantities of additional water the project would take out of the Delta. They also follow still-unheeded "red flag" comments of the federal fisheries agencies (NMFS [National Marine Fisheries Service] and USFWS [U.S. Fish and Wildlife Service]), as well as major concerns of EPA and the Bureau of Reclamation about the project's unmitigated environmental consequences.	
1784	50	[ATT2:] The integration of CM-1 with the other measures depends upon the strained and discredited premise that aggressive re-engineering of the Delta can somehow outweigh the extensively documented importance of flow to species already nearing extinction. That sleight of hand distorts the project's potential impacts on existing and senior water users, and species (including humans) depending on flows through the Delta. It also sidesteps the protection of areas of origin rights and beneficial uses in the Delta region.	The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board, but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water rights holders. The proposed project would not affect upstream water rights. It aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. The project does not increase the amount of water to which DWR holds water rights or uses as allowed under its contracts. The CALSIM II modeling performed for conveyance facility operations takes into account projected future demand for water supply in areas upstream of the Delta (as part of the future no-action baseline) prior to calculating proposed project diversion estimates to ensure that no area-of-origin protections or upstream water rights are affected by project conveyance facilities. Please see Appendix 5A of the FEIR/FEIS for additional modeling details. Please see Master Response 26 (Area of Origin) regarding water resources in northern California, and Master Response 32 (Water Rights Issues), which provides additional information on water rights. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft

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			EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e.g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided, and further consideration will be given to these comments. Any revisions to the Draft BDCP would only be made if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.
1784	51	[ATT2:] The EIR/EIS's division of project and program components creates a major obstacle to ensuring timely consideration of the "whole" of the project in accordance with CEQA and NEPA. Only the non-conserving "conservation" measure CM-1 is slated for project-level analysis, while the remaining measures (CM 2-22) are consigned to program-level review, with the caveat that further environmental review may be needed prior to implementation. This creates an untenable imbalance in which approval of the conveyance based on project-specific review may well go forward while essential details of the remaining conservation measures, as well as their funding and implementation status, remain unstudied and unknown. Under these circumstances, it is clear that conservation is far from "coequal" with conveyance. The project-specific review of conveyance and highly opaque program review of conservation also amount to unlawful segmentation and piecemealing, undermining the ability of the EIR/EIS to serve as decision-making documents under CEQA and NEPA.	For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level). For more information regarding how the lead agencies analyzed the proposed project as a whole, please see Master Response 8.
1784	52	[ATT2:] "Paper Water" Assumption in Project Objectives The BDCP provides the basis for regulatory compliance with the ESA and the NCCPA for a range of activities related to the operation of the SWP and CVP, including the diversion and export of water from the Delta and its tributaries. (BDCP, p. 1-6.) But BDCP's statement of project objectives and project purpose rely upon the legally erroneous direction to "restore and protect" the SWP and CVP's nonexistent ability to deliver "up to full contract amounts." The BDCP cannot credibly base a conservation plan on institutionalizing the same "aura of unreality" on contract deliveries evaluated and discredited in PCL v. DWR (Planning and Conservation League v. Department of Water Resources (2000) 83 Cal.App.4th 892, 915.) Moreover, neither the BDCP nor the EIR/EIS seriously address expectations stemming from overreliance on "'interruptible" sources of water referenced in the project contracts. In San Luis Delta-Mendota Water Authority v. Jewell, (2014) 747 F.3d 581, 44 ELR 20056 (9th Cir. 2014) (San Luis v. Jewell) a Ninth Circuit majority held that the U.S. Fish and Wildlife Service (USFWS) and Bureau of Reclamation (BOR) acted within their discretion in approving a 2008 Biological Opinion (2008 BiOp), and that nothing in the CVP contracts or other federal law creates an "inconsistency" with ESA compliance. (Id. at fn. 45.) Jewell serves as	The 2013 public draft BDCP was designed to meet the regulatory standards of the ESA and the NCCP Act, while also meeting water supply reliability needs. One of the dual goals of BDCP is to improve water supply reliability, not to restore water supplies to levels seen in the past. The Lead Agencies will make the final decisions regarding the selection of an alternative (and, therefore, an operational scenario) for the purposes of CEQA and NEPA. The USFWS and NMFS have authority under the federal ESA to determine whether the proposed project meets the regulatory standard of ESA Section 7. CDFW, a CEQA trustee agency, has authority to determine if the proposed project meets the regulatory standards of the California ESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on proposed project operations. Please see Master Response 28 (Operational Criteria) and Master Response 29 (ESA Compliance) for more information regarding operational scenarios and compliance with ESA, respectively.

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		an important reminder that expectations of deliveries in project contracts cannot be counted on to justify an end- run around ESA requirements. Respondents' recent decision to seek rehearing of the Ninth Circuit's decision will not change the need, under state and federal law, to avoid facilitating reliance on paper water sources. But it hardly inspires confidence that those responsible for implementing BDCP can be counted on to pursue ecosystem restoration in the Delta with the same zeal applied to "restoring and protecting" delivery of the amounts referenced in water supply contracts.	
1784	53	[ATT2:] Rote Assumption of Regulatory Compliance The description of project operation improperly assumes the protection of beneficial uses and meeting of other regulatory requirements, without consistently analyzing hydrologic constraints over the project term. (See, e.g., ES-7.) The project assessment improperly seeks to insulate permit holders from further responsibility to meet federal and state environmental laws, as well as other legal standards and permit requirements. (See Chapter 6.4.2 and following). That disconnect is also evident in the EIR/EIS's statements suggesting the need to "strike a reasonable balance" addressing both water supply and endangered species objectives. (EIR/EIS, p. 2-1.) Although the discussion is vague, it appears to contemplate precisely the sort of balancing rejected by Congress in the ESA. (See Tennessee Valley Authority v. Hill (1978) 437 U.S. 153, 174.) Moreover, even if Congress had permitted the general approach to balancing described in the BDCP, it would fail in light of the overwhelming scientific evidence that the twin tunnel-driven project will not meaningfully protect endangered and threatened species, and will likely harm them instead.	The effects of the proposed water operations were evaluated based on the constraints imposed on water operations from existing regulatory mechanisms such as federal and state water quality laws and upstream water rights. These constraints are described in the 2013 public draft BDCP in Chapter 3 where CM1 is described. The 2013 public draft BDCP is designed to meet the regulatory standards of the ESA and the NCCP Act, while also meeting water supply reliability needs. While this may be interpreted as “balancing,” the ESA and NCCP Act permits cannot be issued without meeting the regulatory standards of those laws. See Master Response 5 (BDCP) for a description of how BDCP meets those standards. The proposed project was developed to meet the rigorous standards of the federal and state ESAs. It is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. For more information regarding purpose and need, please see Master Response 3 (Purpose and Need).
1784	54	[ATT2:] Failure to fully account for existing conditions: The EIR/EIS discusses Neighbors for Smart Rail, noting its holding that "any sole reliance on a future baseline is only permissible where a CEQA lead agency can show, based upon substantial evidence, that an existing conditions analysis would be 'misleading without informational value'." (BDCP EIR/EIS, 3D-2 [quoting Neighbors, 57 Cal. 4th at 457].) But none of the baselines either fully account for existing conditions or meet the Supreme Court's standards for refusing to analyze existing conditions.	For information regarding environmental baselines, please refer to Master Response 1 (Environmental Baselines).
1784	55	[ATT2:] Reliance upon multiple inconsistent baselines The existing conditions baseline "has been developed to assess the significance of impacts of the BDCP alternatives in relation to existing conditions at the time of the most recent Notice of Preparation (NOP) and Notice of Intent (NOI) to prepare an EIS" (February 13, 2009) "that could affect or be affected by" implementation of the BDCP and alternatives. (BDCP EIR/EIS, 3D-2.) Yet in some instances, the EIR/EIS concedes, "certain assumptions were updated", including some (but not all) of the standards noted in National Marine	For information regarding environmental baselines, please refer to Master Response 1 (Environmental Baselines).

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		Fisheries Service's (NMFS) June 2009 Biological Opinion for salmonids (notably, it did not include the "Fall X2" salinity standard challenged in water users' litigation). Many of the most important details are buried in an appendix disclosing assumptions for State Water Project and Central Valley Project. (See BDCP EIR/EIS, Table 3D-1 and Appendix 5.A) Other still-pending events or judicially challenged events -- for example, renewal of the Federal Energy Regulatory Commission (FERC) license for the Oroville project, or operation of the SWP under the Monterey Amendments -- are simply assumed as part of existing conditions. (See, e.g., BDCP EIR/EIS, 3D-6 and Appendix 5.A, B-68, B-138) The no-action baseline includes the existing conditions baseline's programs, actions and policies, including many of the same assumptions relating to continued operation of the SWP and CVP. Unlike the existing conditions baseline, the no-action baseline does include implementation of the Fall X2 salinity standard in the 2008 U.S. Fish and Wildlife Service (USFWS) Biological Opinion, "as well as changes due to climate change that would occur with or without the proposed action or alternative." (BDCP EIR/EIS, 4-5) It also includes facilities under construction at the time of the NOP/NOI, and programs, projects and policies with "clearly defined management and/or operational plans" deemed likely to occur by 2060. (BDCP EIR/EIS 4-6) Although the no-action baseline was developed for NEPA purposes, the EIR/EIS concedes that it is also used to explain many of the CEQA conclusions. (Id.) The existing biological condition baseline used for the BDCP's effects analysis reflects the environmental conditions of the Study Area at the time of BDCP approval (BDCP, Chapter 2) as well as the anticipated ecological effects of implementing most (but not all) of the actions in the BiOps developed by USFWS for delta smelt (2008) and NMFS (2009) for salmonids and green sturgeon for the long-term operations of the SWP/CVP facilities. (BDCP, Table 5.2-2) These actions were added to the regional water operations objectives (i.e., rules) previously required under D-1641 provisions of the State Water Resources Control Board (1999), including the Vernalis Adaptive Management Program. This baseline does not include future effects that may result from climate change, or the effects of water operation agreements that are currently being negotiated. Nor does it explain why it does not reference numerous other obligations outside of D-1641. The existing conveyance scenario is part of the BDCP's August 2013 statewide economic report. It was introduced to bolster the purported economic analysis claiming significant benefits to BDCP (BDCP, Chapter 9). This baseline assumes that water deliveries from the Delta will be dramatically lower without the BDCP, far lower (by approximately 1 million acre-feet) than assumed in the EIR/EIS. Although this scenario would appear to reduce environmental damage of north Delta intakes while placing environmentally beneficial restrictions on south Delta plumbing, neither the BDCP nor the EIR/EIS provide environmental analysis for this scenario. Notably, when an Metropolitan Water District (MWD) director asked David Sunding, the BDCP economic report's author, whether the	

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		project would be cost-effective using the baseline in the EIR/EIS, his answer was an unequivocal "no". http://mavensnotebook.com/2013/07/29/dr-sunding-makes-his-case-for-the-bdcp-to-metropolitans-special-committee-on-the-bay-delta/ Overall, these internally inconsistent and confusing scenarios reinforce a continuing concern that, as the National Research Council concluded of an earlier iteration, "much of the BDCP appears to be a post-hoc rationalization of the water supply elements of the BDCP." (2011 report, p. 13.) They underscore the need for a genuine existing conditions analysis to supplement the efforts to project future conditions. As the Bay Institute aptly noted in a February 29, 2012 briefing paper that remains unheeded, "[c]omparing the BDCP to recent actual conditions (conditions that are already driving the collapse of the Delta ecosystem) would reveal that the BDCP would substantially increase water exported from the Delta while severely degrading environmental conditions." That genuine comparison has still not been made in the BDCP and its EIR/EIS.	
1784	56	[ATT2:] Reliance Upon Speculative No Action Alternative The no-action alternative strays well beyond the boundaries of reasonably foreseeable future conditions appropriate for inclusion in NEPA's No Action Alternative or CEQA's No Project Alternative. The EIR/EIS purports to make informed judgments about future conditions consistent with existing planning that are half a century away. (See BDCP EIR/EIS, 3D-3, 4.; ES-25.) However, the EIR- EIS provides no foundation for the predicted judgments. A similar problem affects the cumulative impacts analysis. Moreover, the EIR/EIS errs in projecting operation under dead pool conditions in around 10 percent of water years, without considering foreseeable efforts of water managers to take steps attempting to avoid levels of depletion approaching a dead pool.	For information regarding environmental baselines, please refer to Master Response 1 (Environmental Baselines).
1784	57	[ATT2:] Inconsistent and arbitrary assumptions about compliance with laws and regulations The baseline scenarios make inconsistent and arbitrary assumptions about which existing laws and regulatory requirements will be met in the absence of the project. Cherry-picking these in advance, without analyzing the physical conditions relating to compliance, is a particularly glaring error in light of critiques from the State Board, Science Board, and federal agencies expressing concern that compliance is already heavily challenged without the additional pumping anticipated by Conservation Measure CM-1. This manipulation and inconsistency underscore the legal inadequacies of the BDCP as a conservation plan. Under the Endangered Species Act (ESA), "[a]n agency may not take action that will tip a species from a state of precarious survival to a state of likely extinction. Likewise, even where baseline conditions already jeopardize a species, an agency may not take action that deepens the jeopardy by causing additional harm." (National Wildlife	For information regarding environmental baselines, please refer to Master Response 1 (Environmental Baselines). With regards to compliance with the Delta Reform Act, please refer to Master Response 31, Appendix 3I of the 2013 Public Draft BDCP EIR/EIS and Appendix 3J of the Final EIR/EIS.

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		Federation v. National Marine Fisheries Service [9th Cir. 2007] 524 F. 3d 917, 930.) The EIR/EIS has failed so far to establish the foundation for compliance with requirements of the Delta Reform Act that are mandatory for BDCP to proceed and receive state funding (see e.g., Wat. Code, [Section] 85320) including Natural Community Conservation Plan Act (NCCPA) compliance, reasonable range of flow criteria, reasonable range of Delta conveyance alternatives, and potential effects of climate change and effects on migratory fish and aquatic resources.	
1784	58	[ATT2:] Failure to Analyze Potential Water Rights Conflicts Although the BDCP and the EIR/EIS simply assume that the project will be benign for holders of water rights, the State Board's comments on the administrative draft EIR/EIS reveal a problem persisting in the latest draft: "implementation of the BDCP project will require changes to water rights and water right requirements. Further, the proposed project may affect other legal users of water through changes in salinity and flows." Moreover, the EIR/EIS fails to illuminate major potential conflicts with water rights users that may well arise if "no surprises" benefits become available to permittees in return for the BDCP's highly uncertain and tenuous "conservation" benefits. (See BDCP, p. 6-29 [discussing the "no surprises" rule].) Assurances to permittees must be proportional to the certainty that the BDCP's conservation measures will succeed (See Fish & Game Code, [Section]2820[f][1].) Here, the independent scientific critique of BDCP casts major doubt on the BDCP's ability to live up to the conservation benefits attributed to the EIR/EIS. Unfortunately, the existing analysis fails to illuminate the likely "Plan B" if these benefits fail to materialize, who may lose water, money, or both, and the resulting ecological and economic consequences. The BDCP and its EIR/EIS conceal the risk of major conflicts with existing holders of water rights, existing water users, and areas of origin protected under California law.	The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board, but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water rights holders. For information regarding changes in delta exports, please see Master Response 26 (Area of Origin). Also see Master Response 32, Water Rights Issues.
1784	59	[ATT2:] Fundamentally Flawed Cost-Benefit Analysis The BDCP bases purported project benefits on a fundamentally flawed cost- benefit analysis that distorts the project baseline and undermines the integrity of the environmental review. Ignoring a deluge of earlier criticism, the analysis retains errors that repeatedly result in exaggeration of the BDCP's benefits and understatement of the BDCP's costs. Without these distortions, the BDCP's costs are highly likely to outweigh benefits. Dr. Jeffrey Michael's detailed assessments of BDCP's costs and benefits (including the socioeconomic analysis appended to as Exhibit I to Sacramento County's comments) identify severe errors, as did the Legislative Analyst in an earlier review.	This comment pertains to cost/benefit analysis in the BDCP. This is a BDCP specific comment and as noted in response 1784-1, these comments will be considered if the BDCP or other HCP/NCCP alternative is selected at the conclusion of the CEQA/NEPA process.

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		Baseline errors cast major doubt upon the required assessment of mitigation and project alternatives, and leave accountability for major costs and risks mired in doubt. Fatal errors in the cost-benefit analysis also undermine the BDCP's ability to comply with the required assessment of the project and alternatives to "take" under the Endangered Species Act. The full measure of BDCP's costs remains unknown and potentially severe, while all its proposed funding sources remain speculative and uncertain.	
1784	60	[ATT2:] BDCP Problems With Assessment of Alternatives and Mitigation The EIR/EIS does not come close to providing a legally adequate assessment of mitigation or alternatives. It erroneously assumes that amendment or revision of project contracts are beyond the authority of DWR and the federal lead agencies, even though project contracts are presently being renegotiated. As just one illustration, the BDCP fails to consider the effects of reasonable modification of or repeal of the Monterey Amendments. The Endangered Species Act (ESA) requires a review of "alternative courses of action," which is defined to mean all alternatives and is not limited to the original project objectives and Agency Jurisdiction. The BDCP fails to review the full range of alternatives for survival and recovery of affected species. Remarkably, despite years of scientific evidence documenting the importance of water flow through the Delta to species recovery, the BDCP's EIR/EIS fail to explore alternative approaches that would not rely on the ability to increase Delta exports. As proposed, the BDCP's extraordinarily narrow, conveyance-dependent approach to water supply reliability is fundamentally at odds with the broader outlook that California has taken in other settings, including the recent California Water Action Plan and its evolving attempts to harmonize water policy with climate change adaptation.	The 18 action alternatives, including the California WaterFix, presented in the EIR/EIS are more than adequate to meet the reasonable range requirement under CEQA/NEPA and the project objectives and purpose and need statement presented in Chapter 2. The California WaterFix is one of the proposals needed to improve water supply reliability and improve certain Delta ecosystem conditions. It is one of the actions identified in the California Water Action Plan that is needed to improve water resources management in California. Project contracts amendments and modification of the Monterey Agreements are not considered to be within the scope of the BDCP or California WaterFix because these other projects and actions are related to but will be implemented separately from the California WaterFIx, including ecosystem restoration, enhancement and protection projects under the California EcoRestore program. ESA and CESA requirements are addressed in the Biological Assessment and 2081(b) permit application for the California WaterFix. The Final EIR/EIS presents alternatives that include a range of Delta outflow requirements and Delta exports.
1784	61	[ATT2:] The EIR/EIS renders complete analysis of alternatives and mitigation impossible by confining project-specific assessment to the conveyance portion of the project (CM-1), while providing only nebulous "programmatic" review of all the remaining conservation measures (CM 2-22.) All of the alternatives screening described in Section 3.2.1 focused entirely on water conveyance alternatives (CM-1). Further, the "Proposed Project" described in Section 3.2.3 only addresses water conveyance. As stated on p. 3-21 of the EIR/EIS, "A total of 65,000 acres of tidal habitat would be restored under all action alternatives except Alternative 5 (25,000 acres). There is no indication that any of the alternatives were designed to reduce impacts of the project associated with CMs 2-22.	Please note that new preferred alternative, 4A, no longer includes the BDCP HCP or conservation measures. Nevertheless, various components of the original BDCP conservation measures are included in Alternative 4A to mitigate impacts associated with construction and operations of the proposed project. For more information on project vs program level of detail/analysis in the EIR/EIS, including the level of detail necessary for analyzing impacts of conservation measures, please see Master Response 2. As is detailed in the rationale statement in CM15 Localized Reduction of Predatory Fishes , predation of juvenile salmon and steelhead by non-native fishes such as striped bass is one of the principal causes of mortality for these species during their migration through the Delta, and in some areas may be the leading cause of mortality. (Note that the new preferred alternative, 4A, will implement elements of CM15 (under Environmental Commitment 15) at predator hot spots associated with construction and operations of the proposed water conveyance facilities. See Chapter 3 in the FEIR/EIS for more details.) This fact is widely recognized by the federal and State fish and wildlife agencies. CM15 was therefore developed with the goal of attempting to control this predation at a few recognized “hot spots” where prior studies have identified predation pressure as being particularly intense. Such a control effort has not been attempted before in the Delta. Similar control efforts in other parts of the world have often been ineffective, though there have been some successes. There is therefore large uncertainty about whether CM15 will achieve its goal, and as a

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			result the effects analysis assigns little importance to CM15 in the assessment of purposed project's net effects upon covered species. Accordingly, CM15 has been designed to function as a pilot and research program, measuring the effectiveness of various control strategies and assessing them in an adaptive management context. If those pilot studies indicate that CM15 has low effectiveness, then funding for this measure may be allocated to other, more effective conservation measures. Conversely, if CM15 succeeds in identifying effective control strategies, then it would likely be continued and perhaps expanded in scope, via the adaptive management provisions of purposed project. Conversely, there is considerable evidence indicating that CM16 Non Physical Fish Barriers will be an effective conservation measure. (Note that the new preferred alternative, 4A, will implement elements of CM16 (under Environmental Commitment 16) to address effects related to survival of outmigrating juvenile salmonids by installing a nonphysical barrier at Georgiana Slough to redirect fish away from channels and river reaches in which survival is lower than in alternate routes. See Chapter 3 in the FEIR/EIS for more details.) As described in CM15, non-physical barriers have been experimentally deployed and tested for several years in the Delta, and have shown a clear level of effectiveness, at some times and in some locations, at redirecting outmigrating juvenile salmonids into migration channels that pose lower risks of predation and other stressors. These studies have also shown that some conditions, such as tidal flow reversals, substantially reduce the effectiveness of non-physical barriers; and also that the barriers succeed in diverting only a portion of the fish into an alternate migration route. On the other hand, new information (see Final BDCP) describes current testing of new floating barriers that are more cost-effective and durable than the technologically complex barriers detailed in the 2013 Public Draft BDCP. The ongoing development of barrier technologies, and improved understanding based on testing and pilot studies, will be factors considered in determining how and where to implement CM16. For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level).
1784	62	[ATT2:] Even if it could be shown that CMs 2-22 adequately reduce impacts, as required by CEQA, their implementation is fundamentally uncertain, because their funding source would be separate from that of CM-1 (conveyance). CMs 2-22 would be funded by the State, with some federal contributions. The State would need to pass a bond measure to provide funding for CMs 2-22, which is far from assured. As detailed in section I, infra, the BDCP implementation structure described in Chapter 7 reveals numerous deficiencies in governance that make the effectiveness of mitigation measures even more uncertain and remote, empowering water contractors to exercise numerous opportunities to thwart the Delta protection component of the coequal goals. The BDCP's governance structure slights the essential role of San Joaquin and other Delta counties, while involving a large and vaguely-defined council of stakeholders. Moreover, both BDCP and the EIR/EIS fail to effectively analyze the role of the Bureau of Reclamation. Mitigation is also thwarted by the BDCP's heavy reliance upon the assumed future actions of third parties rather than the project's permittees, and improper deferral of mitigation to	These comments are specific to the BDCP and do not raise any issues related to the environmental analysis in the EIR/EIS. See 1784-1 regarding the treatment of comments specific to the BDCP.

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		future decision-making.	
1784	63	[ATT2:] The EIR/EIS fails to sharply distinguish between alternatives and evaluate their comparative merits, as required under 40 Code of Federal Regulations 1502.14(b). A central deficiency in the alternatives analysis is that BDCP and the EIR/EIS rely upon a narrow and outmoded conception of water supply reliability, which presumes in favor of using water exports to meet the contract amounts referenced in the SWP and CVP contracts. Indeed, the alternatives heavily focus on meeting this narrow conception of reliability, while avoiding the other 21 of 22 conservation measures. However, a far wider range of options can be utilized to meet supply needs in the future, including water conservation, reoperation, water markets, alternative conveyance, wastewater reuse, water storage, desalination, and efforts toward achieving regional self-sufficiency. Reports of the National Research Council, the Delta Plan (2013), and the California Water Action Plan (2013), among others, discuss a far broader range of available options.	See response 1784-30 for information regarding the selection of alternatives. Please see Master Response 3 regarding the portion of the comment related to the purpose and need for the project. Appendix 1C of the Final EIR/EIS, Water Demand Management, describes conservation, water use efficiency, and other sources of water supply including desalination. Refer to Master Response 5 for more information on demand management. Although components such as desalination plants and demand management measures have merit from a statewide water policy standpoint, and are being implemented or considered independently through the State, they are beyond the scope of the project. For more information on why water storage was not considered as part of the proposed project please refer to Master Response 37 (Storage) and Appendix 1B, Water Storage, EIR/EIS. Nothing in the proposed project would prevent other entities from pursuing innovative approaches to desalination or other water supply solutions. As described in Appendix 3A, Section 3A.7, Results of Initial Screening of Conveyance Alternatives, EIR/EIS (2013), desalination was included as part of Alternative B7. Issues related to desalination include land use impacts, costs, and substantial energy use requirements. Advances in technology have improved feasibility of desalination and as a statewide water use planning component; it will be evaluated by water agencies on a local/regional level. Desalination, the process of removing salt and other minerals from seawater to make it suitable for drinking or irrigation, is being implemented in several California communities. However, it has not proven viable to secure adequate water supplies to meet California's needs due to high costs and energy demands. Today, desalination creates an estimated 84,000 acre-feet of potable water a year in the state, mostly through treatment of brackish groundwater, which is less salty and cheaper to treat than sea water. In comparison, the proposed project would secure an estimated 4.7 to 5.2 million acre-feet of water to supply more than 25 million people and 3 million acres of farmland. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Local water agencies will need to invest in additional strategies and technologies, including desalination, to meet future water demand. The proposed project is one part of a diverse portfolio of strategies needed to meet California's overall water management needs. It is not a substitute for increased commitments to other water supply solutions, including recycling, desalination, water conservation and storage. Please see Master Response 7 regarding desalination.
1784	64	[ATT2:] Independent Science Review Confirms Foundational Errors in the "Effects Analysis" Discrediting the Assessment of Alternatives and Mitigation.	These comments are specific to the BDCP and do not raise any issues related to the environmental analysis in the EIR/EIS. See 1784-1 regarding the treatment of comment specific to the BDCP.

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		The March 2014 report of the Independent Science Review Panel (ISRP-3) identifies major deficiencies in the "effects analysis" required for ESA compliance. Problems identified there also thoroughly undermine the basis for the EIR/EIS's conclusions about alternatives and mitigation. In essence, the BDCP leaves so much undefined and unanalyzed about conservation measures that its implementation hinges centrally on adaptive management. But what the BDCP and the EIR/EIS label "adaptive management" fails to meet scientific standards, and largely serves as a euphemism for unlawfully deferred mitigation. The EA's [Effects Analysis] analysis of the project's effects must provide "the best scientific assessment of the likely effects of the BDCP actions on the species of concern and ecological processes of the Bay-Delta system." (ISRP-3, p. 11.) The EA therefore serves as a as a "critical component" of the BDCP. (Id.) The Delta Reform Act requires science-based adaptive management for all of the Delta's ecosystem and water management programs. (Wat. Code, [Section]85308(f).) Under other requirements as well, adaptive management efforts must incorporate sound science and institutional accountability, rather than opaque commitment. (See, e.g., USFWS/NMFS [U.S. Fish and Wildlife Service/National Marine Fisheries Service] five-point policy on adaptive management, 65 Fed. Reg. 35241-35257; NCCPA requirements for monitoring and adaptive management programs (Fish & Game Code, [Section]2820(a)(7).) Noting that "the foundation of the BDCP is weak in many respects," the Panel's Phase Three review observed that "default burden" to ensure that covered species benefit, if not recover, "depends on adaptive management." (ISRP-3, p. 6.) However, instead of rigorously applying adaptive management, the BDCP uses it "as a silver bullet but without clear articulation about how key assumptions will be vetted or uncertainties resolved to the point that the BDCP goals and objectives are more assured." (Id., p. 9.) Because of the "extensive uncertainties" surrounding the BDCP's assumptions and predictions, the Panel "strongly emphasizes institutionalizing an exceedingly rigorous adaptive management process. This is critical in order to avoid the high risk associated with ecological surprises that will be difficult or impossible to reverse once they have occurred. BDCP must make a commitment to the fundamental process, and specifically the required monitoring and independent science review, not just the concept of adaptive management." (ISRP-3, p. 9.) The Panel's new assessment of the BDCP's approach to adaptive management suggests that criticisms of the BDCP offered several years ago by the NAS's National Research Council (NAS-NRC) still have not been heeded. For example: If there is one area of general scientific consensus among the Panel about the implementation of the Bay Delta Conservation Plan is that its outcomes remain highly uncertain. As such, one would expect that the Effects Analysis would reflect this general conclusion by stressing a high level of uncertainty around all of its conclusions. There is also general consensus among stakeholders that the high level of uncertainty should not be an impediment to any action in the restoration of the Bay Delta ecosystem. The only way to	

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		address the highly uncertain outcomes of BDCP implementation is through rigorous monitoring and adaptive management." (ISRP-3, p. 21.) Approximately 72% of the objectives for covered fish could not be fully evaluated at this time due to insufficient information. The overall net effects conclusion for each species seemed to be based on the judgment of the authors, rather than a systematic ranking of attribute importance, change in response to the BDCP, and uncertainty in the rankings." (ISRP-3, p. 21.)	
1784	65	[ATT2:] The latest iteration of the BDCP fails to heed overwhelming scientific and agency criticism that followed prior iterations. Although superficially addressing climate change in a discrete chapter, the EIR/EIS also fails to account for cumulative impacts compounded by climate change.	In many cases, the resource-specific cumulative analysis is primarily qualitative and considers the contribution of the proposed project to other programs, projects, and policies as identified in Appendix 3D, Defining Existing Conditions, the no-action/no-project alternative, and cumulative impact conditions, as well as assumptions for climate change and sea level rise. Appendix 5A, EIR/EIS Modeling Technical Appendix, describes how changes due to climate change and sea level rise were selected and integrated into the modeling in Section A.7, Climate Change and Sea Level Rise Scenarios. Chapters in which water-related impacts are more prominently discussed include a quantitative analysis of cumulative effects of the implementation of the proposed project, including effects of climate change and sea level rise combined with qualitative assessments of other cumulative projects. For additional information regarding Greenhouse Gas Emissions and climate change, please see Master Response 19. Discussion of the main environmental attributes affecting individual covered species are provided in Appendix 2.A of the 2013 Public Draft. Effects of the proposed water conveyance and associated restoration activities on general resource areas are discussed in Ch. 4 of the RDEIR/SDEIS. Resource areas are addressed separately under sections for each of the new project Alternatives, including surface water, groundwater, water quality, fish and aquatic resources, terrestrial biological resources, agricultural resources, air quality and greenhouse gases, public health, and others. Where impacts are determined to be significant, environmental commitments will be implemented to avoid and/or offset these effects, where possible. The Cumulative Impact Analyses that was written for the 2013 Public Draft EIR/EIS has been revised to include the impacts associated with the new proposed project alternatives and also updates past analyses. Environmental Commitments are to minimize effects to the Delta and its inhabitants and mitigate for loss of habitat to the ecosystem and its species. For more information please see Section 5 Revisions to Cumulative Impact Analyses, Appendix A Chapter 11 Fish and Aquatic Resources, Appendix A Chapter 12 Terrestrial Biological Resources, and Appendix 3B Environmental Commitments, AMMs, and CMs of the RDEIR/SDEIS. For additional information regarding cumulative impacts, please see Master Response 9.
1784	66	[ATT2:]The BDCP's ability to live up to its conservation promises is greatly compromised by its failure to ensure the preparation of biological assessments and opinions before framing a draft plan highly focused upon the proposed conveyance. (See, e.g., Western Watersheds Project v. Kraayenbrink (9th Cir. 2010) 620 F.3d 1187, 1210 ("any possible effect" triggers consultation requirement).) Under the ESA, regulations require that "Each Federal agency	Reclamation is preparing a biological assessment in accordance with Section 7 of the ESA concurrent with the preparation of the EIR/EIS. See Master Response 29 regarding the ESA. As described in Appendix 3A, Section 3A.9.3, of the 2013 Public Draft EIR/EIS the State Water Resources Control Board prepared a Delta Flow Criteria Report in accordance with the requirements of the

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		shall review its actions at tl1e earliest possible time to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required . . . ." (SO C.F.R. [Section] 402.14(a).) As explained by EPA in its recent letter to the SWRCB, "The State Board. . . has recognized that increasing freshwater flows is essential for protecting resident and migratory fish populations." (EPA letter to SWRCB re: EPA's comments on the Bay-Delta Water Quality Control Plan; Phase 1; SED, pp. 1-2, March 28, 2013.) The environmental review of the BDCP is also compromised by the assumption that project alternatives must increase flow out of the Delta, without requiring consideration of the State Board's flow analysis. The Delta Reform Act requires that "[f]or the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board shall, pursuant to its public trust obligations, develop flow criteria for the Delta ecosystem necessary to protect public trust resources. In carrying out this section, the board shall review existing water quality objectives and use the best available scientific information. The flow criteria for the Delta ecosystem shall include the volume, quality, and timing of water necessary for the Delta ecosystem under different conditions." (Water Code [Section] 85086 (c)(1).) The State Board's flow analysis is related to water quality standards, which EPA reviews for Clean Water Act compliance. The BDCP would pre-commit to develop major new conveyance infrastructure without first considering, in light of the State Board's flow analysis, whether the additional pumping it contemplates would be consistent with regulatory requirements. In doing so, it undermined the EIR/EIS's ability to meaningfully consider the projects consequences for water supply and water quality. (See, e.g-, Vineyard Area Citizens, 40 Cal.4th at 430-44 L)	Sacramento-San Joaquin Delta Reform Act of 2009. Information from that report included "determinations of flow criteria for the Delta ecosystem to protect public trust resources. The report makes clear, however, that the flow criteria do not consider the balancing of public trust resource protection with public interest needs for water. The flow criteria also did not consider other public trust resource needs such as the need to manage cold-water resources in reservoirs tributary to the Delta. Nonetheless, the flow determinations contained in the Delta Flow Criteria Report, together with recent scientific conclusions of other State and federal agencies, including the Department of Fish and Wildlife, National Marine Fisheries Service, and the Interagency Ecological Program provide a useful guide to establish one side of a reasonable range of alternatives" (State Water Resources Board letter dated April 19, 2011). The information in the flow criteria report was used to inform the development of the proposed project. Please also see Appendix C of the RDEIR/SDEIS Supplemental Modeling Requested by State Water Resources Control Board Related to Increased Delta Outflows.
1784	67	[ATT2:] Numerous other problems also severely compromise the EIR/EIS: The BDCP prioritizes and elevates the goal of water reliability over the co-equal goal of protection and enhancement of the Delta and related Delta activities in violation of the requirements of the Delta Reform Act.	The EIR/EIS evaluates the potential impacts of alternatives relative to identified baseline conditions. The EIR/EIS does not prioritize one goal over another. Please see Master Response 3 regarding the purpose and need for the project, Master Response 4 regarding the selection of alternatives and Master Response 31, Appendix 3I of the 2013 Public Draft BDCP EIR/EIS and Appendix 3J of the Final EIR/EIS regarding compliance with the Delta Reform Act.
1784	68	[ATT2:] Numerous other problems also severely compromise the EIR/EIS: The BDCP inconsistently and evasively applies hydrologic projections, failing to consistently incorporate the consequences of foreseeable climate change. The EIR/EIS fails to take into account and analyze the effects of the California Water Action Plan.	The BDCP/California WaterFix EIR/EIS alternatives and the no-action alternative evaluate SWP and CVP operations with assumptions for climate change and sea level rise. The effects of climate change and sea level rise are described through the comparison of the Existing Conditions and the no-action alternative. For additional information regarding Greenhouse Gas Emissions and climate change, please see Master Response 19. The no-action alternative includes reasonable and foreseeable projected conditions for the year 2060. However, it would be speculative to include future undefined facilities or operations in the no-action alternative, including local agencies' responses to climate change, sea level rise, or future regulatory

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			changes. Future changes in local agency facilities are not included in Alternatives 1–9 because they would not be implemented under the project objectives and purpose and need provisions of the EIR/EIS. However, the comparison of conditions under Alternatives 1–9 and under the Existing Conditions and the no-action alternative are analyzed as incremental differences and not absolute values in the Draft BDCP/California WaterFix EIR/EIS. Therefore, if other future operations were included in the no-action alternative, they also would be included in Alternatives 1–9. It is anticipated that the incremental differences between alternatives would be similar to those presented in the Draft BDCP/California WaterFix EIR/EIS. The proposed project is just one element of the state's long-range strategy to meet anticipated future water needs of Californians in the face of expanding population and the expected effects of climate change. The proposed project is not a comprehensive, statewide water plan, but is instead aimed at addressing many complex and long-standing issues related to the operations of the SWP and CVP in the Delta, including reliability of exported supplies. It is important to note that the proposed project is not intended to serve as a statewide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the state and other public agencies in conservation, storage, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage (as described in Section 1.C.3 of Appendix 1C, Demand Management Measures).
1784	69	[ATT2:] Numerous other problems also severely compromise the EIR/EIS: The BDCP fails to incorporate the requirements of law preventing Delta diversion unless adequate supplies are first provided in-Delta use. The BDCP and the EIR/EIS fail to analyze the effects of incorporating these legal requirements into the plan.	DWR and Reclamation operate with water rights issued by the State Water Resources Control Board that are junior in priority to many senior water rights holders in the Delta watershed. Under the action alternatives, senior water rights holders would continue to receive the same amount of water as under the no-action alternative, as described in Appendix 5A, Section B, CALSIM II and DSM2 Modeling Simulations and Assumptions, and Chapter 5, Water Supply, in the Final EIR/EIS.
1784	70	[ATT2:] Numerous other problems also severely compromise the EIR/EIS: The BDCP fails to analyze the effects of water transfers and diversions on groundwater basins within the area of impact of the BDCP.	CEQA/NEPA coverage is not required for any specific transaction at this stage. Rather, the EIR/EISprovides an analysis of how transfers relate to the BDCP/California WaterFix facilities. Any future water transfers will require separate approvals as outlined below. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed. For more information, please see section 5.1.2.7 in Chapter 5, DEIR/EIS. Indirect effects of changes in water transfers and Delta exports are addressed in Chapter 30, Growth Inducement, and other chapters addressing specific resources. For additional information regarding water transfers, please see Master Response 43.
1784	71	[ATT2:] Numerous other problems also severely compromise the EIR/EIS: The BDCP's modeling is poorly explained, and assumes levels of water exports that are both historically unjustified and unsustainable.	The assumptions for the water supply modeling are explained in detail in Appendix 5A, Modeling Technical Appendix. The models assume continued delivery of water rights that are senior to the SWP and CVP water rights and water demands in accordance with the State Water Resources Control Board requirements under the area of origin and water quality requirements. For additional information regarding area of origin and water quality, please see Master Responses 26 and 14 respectively. It is recognized in the Draft EIR/EIS that full contract amounts would not be delivered in every year in the

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			Existing Conditions and the no-action alternative, as well as under the action alternatives, as shown in Figures C13.13–1 through C13.13–13 in Appendix 5A, Section C, Modeling Results (full contract amounts are generally indicated by the highest delivery which occurs towards the upper right portion of the plots). The range of alternatives included in the Draft EIR/EIS included alternatives which result in reductions in SWP and CVP water deliveries south of the Delta as compared to the Existing Conditions and the no-action alternative. The no-action alternative and Alternatives 4H1, 4H2, 4H3, 4H4, 5, 6A, 6B, 6C, 7, 8, and 9 would result in less SWP and CVP water deliveries south of the Delta than under Existing Conditions (shown in Tables 5-5 and 5-8). Similarly, Alternatives 6A, 6B, 6C, 7, 8, and 9 would result in less SWP and CVP water deliveries south of the Delta than under the no-action alternative (shown in Tables 5-6 and 5-9).
1784	72	[ATT2:] Numerous other problems also severely compromise the EIR/EIS: the BDCP, with its complex morass of over 40,000 pages of supporting documents and inadequate summaries, thus far fundamentally fails the duty of environmental review to meaningfully inform the reader of the project's environmental consequences.	Please see Master Response 38 (Length of Environmental Document). It explains that the Draft EIR/EIS is the result of many years of collaboration and analysis necessary to review a project that would impact the Delta and water supplies for millions for Californians. The size and complexity of the document reflect an unprecedented effort to analyze a proposed project and 18 alternatives under both state and federal laws for special-status species protection. In addition, all of the documents, studies, administrative drafts, and meeting materials have been posted online since 2010 in an unprecedented commitment to provide public access and government transparency throughout the planning process.
1784	73	ATT3: Exhibit A of ATT2 -- Comments on the BDCP EIR/EIS Prepared by Amy Skewes-Cox and Robert Twiss for San Joaquin County Department of Public Works, June 22, 2014	Please see response to comments, beginning with 1784-74, regarding comments contained in this Exhibit.
1784	74	[ATT3:] These comments focus upon the degree to which [the] EIR/EIS adequately addresses impacts of critical interest to San Joaquin County. We make specific line-by-line references to errors, failures, misleading statements, and omissions which cause the document to fall short of NEPA and CEQA requirements. We note the following basic issues which undermine the document's adequacy: A full and fair assessment of impacts is impossible given the EIR/EIS's treatment of water delivery at the project-specific level and the environmental mitigation measures at the vague, programmatic level.	The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached. For more information regarding project- and program-level analysis please see Master Response 2 (Project Level v. Program Level).
1784	75	[ATT3:] These comments focus upon the degree to which EIR/EIS adequately addresses impacts of critical interest to San Joaquin County. Below, we make specific line-by-line references to errors, failures, misleading statements, and omissions which cause the document to fall short of NEPA and CEQA requirements. Prior to the detailed comments, we note the following basic issues which undermine the document's adequacy: Proposed mitigation measures are projects in and of themselves which would have enormous impacts on the land use and economy of San Joaquin County; but the extent, magnitude, location, and implications of these actions (described only at the programmatic level) can only be speculative.	Regarding the BDCP alternatives, the environmental impact of implementing Mitigation Measures to offset impacts of CM1 were evaluated at the project level. The impacts of implementing the other BDCP Conservation Measures were conducted at the program level. The Lead Agencies recognized that additional impact assessment may have been required as those Conservation Measures were implemented. Regardless, the EIR/EIS recognizes that implementing these measures would result in a significant unavoidable impact on farmland. The Lead Agencies also recognize that additional environmental review is likely necessary in order to implement the Conservation Measures described in the HCP/NCCP alternatives.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1784	76	[ATT3:] These comments focus upon the degree to which EIR/EIS adequately addresses impacts of critical interest to San Joaquin County. Below, we make specific line-by-line references to errors, failures, misleading statements, and omissions which cause the document to fall short of NEPA and CEQA requirements. Prior to the detailed comments, we note the following basic issues which undermine the document's adequacy: What little can be gleaned from the EIR/EIS in the way of solid information still cannot be taken as given. Both the BDCP Plan and EIR/EIS reference and rely upon the just-released Draft Implementing Agreement (IA) for specification of funding, responsibility, and accountability for the project and the integrity of promised mitigation measures. Neither the Plan, the EiR/EIS, nor the IA can be taken as a stand-along document; each must be considered in concert to comprehend the likelihood and magnitude of environmental impacts and the likelihood that they will in fact be mitigated. The Draft IA clearly undermines the viability of the EIR/EIS as an operative response to NEPA/CEQA requirements.	The EIR/EIS and BDCP are in fact, two different documents and serve different regulatory purposes. By their very nature they are stand-alone documents. The IA is a component of the BDCP and comments related to the IA will be given consideration if a HCP/NCCP alternative is selected at the conclusion of the CEQA/NEPA process. The potential magnitude of environmental impacts is addressed in the EIR/EIS by resource area in Chapters 5-30. The comment does not provide specific evidence as to where the environmental analysis is lacking; therefore a more specific response cannot be provided.
1784	77	[ATT3:] These comments focus upon the degree to which EIR/EIS adequately addresses impacts of critical interest to San Joaquin County. Below, we make specific line-by-line references to errors, failures, misleading statements, and omissions which cause the document to fall short of NEPA and CEQA requirements. Prior to the detailed comments, we note the following basic issues which undermine the document's adequacy: The IA, which should specify how mitigation measures are to be assured, sets forth responsibilities and voting/decision structures which remove assurances altogether. It would permit mitigation measures to be reduced, expanded, relocated, or deleted at will. (BDCP Draft IA0528 l 4, pg. 29)	These comments are specific to the BDCP and do not raise any issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/DEIS. See 1784-1 regarding the treatment of comment specific to the BDCP.
1784	78	[ATT3:] These comments focus upon the degree to which EIR/EIS adequately addresses impacts of critical interest to San Joaquin County. Below, we make specific line-by-line references to errors, failures, misleading statements, and omissions which cause the document to fall short of NEPA and CEQA requirements. Prior to the detailed comments, we note the following basic issues which undermine the document's adequacy: Under the rubric of adaptive management, water managers who hold a voting majority in all sub- entities may alter any promised mitigation measures. Conservation Measures 2-22 can be dropped or changed by the BDCP Authorized Entity Group (AEG) as recommended (or not) by the Adaptive Management Team (AMT). "The adaptive management program will afford the flexibility to allow for changes to be made to Conservation Measures and biological objectives, including the addition to or elimination of such measures or objectives, to improve the effectiveness of the Plan over time. (BDCP Draft IA0528 l 4, pg. 29). The IA authorizes the AMT to: create performance measures (BDCP 7. 1.6, pg. 7-15 line 36), perform effectiveness monitoring (BDCP 7.1.6, pg. 7- 15 line 36), and perform analysis, synthesis, and communication of monitoring results" (BDCP 7.1.6, pg. 7-15 line 37); (BDCP	These comments are specific to the BDCP and do not raise any issues related to the environmental analysis in the 2015 RD EIR/SDEIS or the 2013 DEIR/DEIS. See 1784-1 regarding the treatment of comments specific to the BDCP.

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		Draft IA052814, pg. 5). The AMT is given the power to decide if and when and under what terms to involve science review (BDCP 7-15, line 33). All of this means that environmental mitigation can be directed by agency expediency; not science.	
1784	79	[ATT3:] These comments focus upon the degree to which EIR/EIS adequately addresses impacts of critical interest to San Joaquin County. Below, we make specific line-by-line references to errors, failures, misleading statements, and omissions which cause the document to fall short of NEPA and CEQA requirements. Prior to the detailed comments, we note the following basic issues which undermine the document's adequacy: No plan amendments would be required. The EIR/EIS is ephemeral and transitory in that mitigation measures can be changed or deleted without a plan amendment or further environmental disclosure and review. "Changes to a Conservation Measure or Biological Objective shall not require an amendment to the BDCP." (BDCP Draft IA052814, pg. 36).	The commenter confuses mitigation measures with conservation measures and biological objectives. Conservation Measures and biological objectives can be modified with oversight from the implementing board but without requiring a full amendment to the Plan. Those modifications could result in the need for additional environmental review. Changes to mitigation measures that would create impacts beyond those that identified in the EIR/EIS would likely require supplemental environmental analysis before they could be implemented. For additional information regarding mitigation, environmental commitments, avoidance and minimization measures and alternative-specific environmental commitments, please see Master Response 22.
1784	80	[ATT3:] Project Level vs. Program Level: The project is basically piecemealed because the actual impacts/precise impacts of CMs 2-22 are not addressed at a project level of analysis and thus one cannot determine the true cumulative impacts of the water conveyance facilities. The impacts of the mitigation measures are basically not addressed, because much of CMs 2-22 refers to basic mitigation measures of the water conveyance facilities (CM1). Specific locations of CMs 2-2 are not clarified (as stated on page 14-26, line 5); thus, the full project is not truly defined.	For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level). For more information regarding how the proposed project was evaluated as a whole, , please see Master Response 8.
1784	81	[ATT3:] Because CMs 2-22 are used as mitigation to offset many of the impacts of CM1, the EIR throughout uses program-level mitigation measures to reduce project-level impacts of CM-1 to less than significant levels. In order to assure mitigation, the document must specifically show how the program mitigation reduces the project impacts to a less-than-significant level, bridging the analytical gap from program to project level with clear, specific measures. Further, impacts of each of the mitigation measures for CM-1 must be clearly and precisely identified. It fails to do that. Re-write the EIR to include either detailed explanations showing how the programmatic mitigation measures reduce impact significance to less-than-significant levels, and/or provide project-level mitigation measures that are enforceable and clearly monitorable, and reduce impacts to the extent feasible.	For more information regarding project- and program-level analysis please see Master Response 2 (Project Level v. Program Level). Construction of the proposed California WaterFix water conveyance facilities would be sequenced over approximately 10 years. Construction of individual components (e.g. intakes, tunnels) would range from one to six years. Temporary construction-related impacts include noise, visual, and transportation. The construction-related impacts are disclosed in individual resource area chapters in the EIR/EIS and RDEIR/SDEIS. The lead agencies believe that the EIR/EIS has appropriately identified the potential impacts of the proposed mitigation measures. However, these agencies readily acknowledge that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached. As part of the planning and environmental assessment process, the project proponents will incorporate Environmental Commitments and BMPs into the action alternatives to avoid or minimize potential adverse effects (a NEPA term) and potential significant impacts (a CEQA term). The project proponents will implement these Environmental Commitments as part of the project construction activities. In other words, these commitments will be satisfied even if not separately imposed by the permitting agencies. If permitting agencies impose additional measures or modifications, those will also be adhered to as part of the permit(s).

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
			The Lead Agencies will coordinate the planning, engineering, design and construction, operation, and maintenance phases of the alternative with the appropriate agencies. For more information regarding Environmental Commitments, please see Appendix 3B of the RDEIR/SDEIS and Master Response 22 (Environmental Commitments).
1784	82	[ATT3:] 2. Project Components: In addition to the tunnels, the water conveyance facilities include a variety of ancillary elements such as transmission lines, reusable tunnel material, borrow/spoils areas, concrete batch plants, siphons, new fire stations, dredging areas, barge unloading facilities and other elements. The impact analysis needs to address each of these components at a project and site-specific level and this has not been done.	The EIR/EIS adequately addresses the potential impacts of all of the components of each alternative evaluated. Again, this analysis has been done at the project level for the proposed project, Alternative 4A, and the analysis can be found in the resource area chapters 5-30.
1784	83	[ATT3:] General: The overall title of the EIR/EIS is very misleading. To call this project a "Bay Delta Conservation Plan" is misleading to the reader who needs to know that this project is actually primarily the proposed construction of major water conveyance structures, which will largely be undertaken within the boundaries of San Joaquin County. It would be much clearer if the entire project had been entitled "Peripheral Canal Revised with Conservation Components" or "Peripheral Canal II and BDCP" or "Water Conveyance Facility with Ecological Enhancement Program." The entire populace of the State is being misled by spin throughout the document and in the "word framing" that has been so consistently used to bury and obfuscate the true project. Why is CM-1 referred to as a conservation measure? Its main purpose is water supply/conveyance with some but not all alternatives having benefits for fish; but it is not primarily a conservation project. This nomenclature misleads the public and decision makers. The EIR/EIS must replace the nomenclature for "CM-1".	The comment raises issues with merits of Alternative 4 but does not raise any specific issues with the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/DEIS . Also, a number of important improvements have been made to set the current proposal apart from the Peripheral Canal. For instance, tunnels are proposed to reduce surface impacts associated with canals. The capacity of the Proposed Project is more than 10,000 cfs smaller than the Peripheral Canal. The project as proposed allows for dual conveyance allowing through-Delta operations to continue in order to maintain in-Delta water quality. The Proposed Project would require operation of the proposed new in-Delta portions of the CVP and SWP pursuant to environmentally stringent rules under the Federal Endangered Species Act and California Endangered Species Act. Refer to Master Response 36 for more information on the differences between the proposed project and the Peripheral Canal.
1784	84	[ATT3:] Unreadable Document. At more than 30,000 pages, this entire EIR/EIS is totally unreadable, and especially for the lay person who has not had extensive experience with CEQA/NEPA. The table of contents alone is 235 pages long! That alone should be enough proof that this is not user-friendly or even "User Accessible."	Please see Master Response 38 (Length of Environmental Document). It explains that the Draft EIR/EIS is the result of many years of collaboration and analysis necessary to review a project that would impact the Delta and water supplies for millions for Californians. The size and complexity of the document reflect an unprecedented effort to analyze a proposed project and 18 alternatives under both state and federal laws for special-status species protection.
1784	85	[ATT3:] The elements that make it unreadable are: 1. the number of alternatives and the sub-alternatives within each alternative (none of which are specifically aimed at meeting CEQA's requirements that alternatives mitigate project impacts); 2) the lack of a concrete set of project objectives which would help to define the need for the project or the "Environmentally Superior" Alternative; 3) the lack of graphics that add to the text in a location that is useable (e.g., one has to go to one of multiple appendices to find applicable graphics and to search endlessly for base information that is not located correctly; 4) the lack of a clear project description for the "Preferred Alternative" that is supposedly evaluated at a project level (instead, one has to search through Appendix 3C to learn of all the components that are part of the Preferred	See response 1784-84. Please see Chapter 31 regarding an environmentally superior alternative.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Alternative. Any document that is 30,000 plus pages long is not user friendly. This is almost twice the length of the Keystone Pipeline EIS and the project is far smaller in geographic extent than the Keystone Pipeline.	
1784	86	[ATT3:] The EIR/EIS applies general "Environmental Commitments" (ECs) and CMs 2-22 to reduce the impacts of CM-1 to a less than significant level. However, it fails to show how those program-level ECs and CMs reduce the impacts to less than significant. Equally significant, the assumption of ECs and CMs as mitigation eliminates the rigorous review of impacts and mitigation possibilities required under the recent (January 20, 2014) Trisha Lee Lotus v. Department of Transportation appellate court decision, which expressly prohibits the approach used in this document. This is especially egregious in this case because the project-level impacts of up to 65,000 acres of new wetland construction, which is claimed as mitigation for many of the project impacts, are not analyzed. This document must be rewritten to clearly identify the impacts, evaluate a range of mitigation measures, and select the most effective feasible measures.	The Final EIR/EIS addresses how Environmental Commitments would reduce the effect of project impacts in Appendix 3B, Environmental Commitments, AMMs and CMs.
1784	87	[ATT3:] No Action Alternative and Cumulative Analysis: The EIR/EIS is flawed in assuming that the cumulative analysis considers the project alternatives as compared to the No Action Alternative in 2060. First of all, the time horizon is so far into the future that any impact analysis is rendered meaningless. While the Incidental Take Permit (ITP) may extend to 2060, there is no reason that the CEQA/NEPA analysis cannot have a "mid-point" year of 2030 or 2035. CEQA is very clear on how cumulative analyses should be done and this can be by either using a General Plan or other planning document, or using a list of identified proposed, approved or pending projects. This EIR/EIS has done neither. Instead, the No Action Alternative conditions for 2060 are "predicted" without any justification as to how such future conditions were determined. How the year 2060 was chosen has not been explained. The EIR/EIS needs to explain how only 2060 was chosen as the "future baseline" year; why was no intervening year selected in addition to 2060? How can effectiveness of mitigation measures be evaluated when such a future baseline is being used. 2060 as a future baseline is meaningless and highly speculative. This is 46 years from today! In perspective, if one goes back 46 years .. this is what you'd find. It was 1968. In 1968, there was no NEPA, no CEQA, no discussion of sea level rise, no discussion of toxics in the environment, no knowledge of what climate change would do to the environment. How can we possible predict what conditions will be in 2060? The California Dept. of Finance does not project population for that year. Why would the EIR/EIS assume to predict environmental conditions in that year?	Please see Master Response 1 which provides additional information on environmental baselines. Since the time of the Draft EIR/EIS additional alternatives have been included in this Final EIR/EIS that address effects of the no action alternatives and Alternatives 4A, 2D and 5A at an early long-term (ELT) time period. Alternatives in the Draft EIR/EIS were evaluated at a late long-term (LLT) time horizon to match the permit term for the proposed HCP/NCCP for resource topics that relied on CALSIM/DSM2 modeling output. These LLT results were also compared with available ELT results to judge the potential for any meaningful changes at the ELT time period that would not be captured by the LLT modeling results. Also, for many of the other conveyance facility footprint-based impacts in the EIR/EIS analyses provide shorter term effects that would occur during the construction period. This Final EIR/EIS also fairly presents the potential cumulative impacts for all of the resource chapters. The analysis presents the combined effects of BDCP alternatives and California WaterFix alternatives with other past, present and reasonably foreseeable projects. The project alternatives have implementation periods that range from an early-long term (ELT) period to the late long term (LLT).
1784	88	[ATT3:] Inadequate Funding for Project Level Mitigation Measures: Even if it could be shown that CMs 2-22 adequately reduce impacts, as required by CEQA, there is no certainty	These comments are specific to the BDCP and do not raise any issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. See 1784-1 regarding the treatment of comment specific to

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		that they would actually be implemented because their funding source would be separate from that of CM-1. CM-1 would be funded by the state and federal water contractors, while CMs 2-22 would be funded by the State, with some federal contributions. The State would need to pass a bond measure to provide funding for CMs 2-22, which is far from assured. Absent this funding, the mitigation effects of CM2-22 cannot be assumed for CM-1. See: http ://blog.aklandl aw. com/2006/05/ articles/cega/i mQact-fee-Qrog rams-as-effective-tools-for-ceqa-mitigation-an-update/	the BDCP.
1784	89	[ATT3:] Whole of action not considered. CEQA defines a project as "the whole of an action..." For Conservation Measure 1, a major part of the construction action is storage/disposal/reuse of the spoils from 70+ total miles of approximately 42-foot tunnel bores, yet the impacts of transporting, storing, and disposal disposing of upwards of 25 million cubic yards of tunnel and other construction spoils are not adequately analyzed at a project level. The EIR cites the volume of spoils to be generated - but then provides open-ended flexibility alter the amount and timing stating merely: "In the course of constructing project features, substantial quantities of material may be removed from their existing locations based on their properties or the need for excavation of particular features. These materials will require handling, storage, and disposal, as well as chemical characterization, prior to any reuse. It is anticipated that one or more of the disposal and reuse methods could be implemented on any individual spoil, reusable tunnel material (RTM), or dredged material site. Depending on which combination of these approaches is selected, implementation of material reuse plans could create environmental impacts related to ground disturbance, noise, release of hazardous materials, traffic, air quality, water quality, and Important Farmland or farmland with habitat value for covered species." (DEIS/EIR p. 31-20) Apparently, some or all of this earth is intended for use in implementing wetlands restoration under CMs 2-22, however, as there is no project-level analysis of impacts of these CMs, and no specific permanent locations identified for the "reusable materials"., The EIR fails to assess the project- level impacts of this essential component of CM-1 (CM-1 cannot be constructed without storage/disposal/reuse of the tunnel spoils). Section 31.5.1.4 provides general Environmental Commitments (ECs) that are entirely unenforceable and whose effectiveness cannot be determined due to the lack of specifics. Mitigation measures are equally vague and deferring of any actual analysis. For example, in section 31.5.2.1, the portion of the MM Soils 2b discussion regarding air quality for handling and storing the massive spoils quantities states: Air Quality Increased GHGs and criteria pollutant emissions would result from the operation of excavation equipment, both at the excavation site and the application site, and haul trucks.	Please refer to Master Response 8 regarding how the lead agencies analyzed the project as a whole. The following master responses provide further information related to the comments raised: Master Response 2 (Project Level versus Program Level), Master Response 12 (Reusable Tunnel Material), Master Response 4 (Alternatives Development), Master Response 5 related to BDCP specific issues, Master Response 33 (Adaptive Management and Monitoring), and Master Response 19 (Climate Change and GHG). For discussions on this new sub-alternative to the BDCP and others with respect to excavated sediments, reusable materials, air quality/GHG emissions, and mitigations, refer to Chapter 10 [Soils] and Chapter 22 [Air Quality and Greenhouse Gases]) in the FEIR/FEIS. The proposed project will implement Mitigation Measures AQ-2a, 2b, 3a, 3b, 4a, and 4b to offset construction-related nitrogen oxides (NOX) and reactive organic gases (ROG) to net zero. These offsets would be purchased through local air district offset programs or through a DWR-sponsored program (not the California Cap-and-Trade Regulation). All offsets purchased through Mitigation Measures AQ-2a, 2b, 3a, 3b, 4a, and 4b must achieve a 1:1 reduction with construction emissions to ensure claimed offsets meet the required performance standard. All offsite reductions must also be quantifiable, verifiable, enforceable, and satisfy the basic criterion of additionality (i.e., the reductions would not happen without the financial support of purchased offset credits).

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		These effects are expected to be further evaluated and identified in subsequent project-level environmental analysis. Mitigation Measure AQ-2 through AQ-4, AQ-15 and AQ-18, as well as related AMMs and environmental commitments, as described in section 31.5.1.2, 111ould be available to address criteria pollutant and GHG emissions.	
1784	90	[ATT3:] The "Project" and the associated range of alternatives do not meet CEQA's requirement that the alternatives be designed to reduce or eliminate one or more project impacts. In fact, many have greater impacts on a wide range of resources than the "preferred project", Alternative 4. Alternatives seem to have been selected based on engineering possibilities, resulting in the EIR's function being relegated to that of a constraints analysis of a group of options rather than the requisite investigation into feasible alternatives that would reduce project impacts while still achieving most of the project objectives.	15 alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4.
1784	91	[ATT3:] The alternatives are deficient because they address only EC-1, and not ECs 2-22. In fact, all of the alternatives screening described in section 3.2.1 focused entirely on water conveyance alternatives (CM-1). Further, the "Proposed Project" described in section 3.2.3 only addresses water conveyance. As stated on p. 3-21 of the DEIS/EIR, "A total of 65,000 acres of tidal habitat would be restored under all action alternatives except Alternative 5 (25,000 acres). There is no indication that any of the alternatives were designed to reduce impacts of the project associated with Conservation Measures (CMs) 2-22, despite CEQA's requirement that alternatives be designed to reduce project impacts. It is imperative to revise the project alternatives to reduce impacts associated with implementation of CMs 2-22, including, but not limited to, reducing the loss of agricultural lands, reducing construction-related impacts of the wetland restoration projects, and reducing loss of upland foraging habitat. Further, the EIR/EIS should be revised to include and assess two sets of alternatives, one set for the program (CMs 1-22) and the other a project- specific set for the conveyance facility (CM-1). A project-specific EIR/EIS that does not include project-specific alternatives is inadequate, and the same is true for a program EIR. The current hybrid approach is doubly inadequate.	See response 1784-90.
1784	92	[ATT3:] Under the description of alternatives, the diversions are always characterized in terms of maximum cubic feet per second (cfs). That description would only be important if the project were premised on maximum diversion. Otherwise, acre-foot diversions/month plus cfs limits are a more important metric from which to determine impacts. In fact, many of the impacts of the project are far more dependent on low flow commitments than high-flow diversions. The document must revise the alternatives to clearly describe a range of water management options that would reduce impacts of the proposed project in addition to maximum diversion capacities.	All of the conveyance facility operational scenarios presented for the alternatives include rules that determine when Sacramento River water supply could be diverted at new intake facilities. Please refer to Chapter 3, Description of Alternatives, Sections 3.4.1.2 and 3.6.4.
1784	93	[ATT3:] Page ES-1, line 23.: The Executive Summary states "The BDCP is a comprehensive conservation strategy for the Sacramento-San Joaquin Delta to advance the planning goal of	As described in Chapter 3, Description of Alternatives, the action alternatives considered in the EIR/EIS do not include specific water transfers. The EIR/EIS acknowledges that water transfers would continue in a

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		restoring ecological functions of the Delta and improving water supply reliability in the state of California." Instead of immediately following this statement with a statement that the project also includes the development of major water conveyance facilities, the paragraph continues to focus on the "conservation strategy" component of the project. It is not until line 33 on this page that we even see mention of "water conveyance facilities" and even then, there is no description of what this means, no description of tunnels, intake structures and other water conveyance elements. Where is the first mention and full description of the water conveyance facilities, including clear mapping of such facilities?	similar manner as historic transfers and in accordance with state and federal laws and regulations. The EIR/EIS also acknowledges that the use of water transfers between agencies could increase in the future as SWP, CVP, and other surface water supplies are reduced due to climate change, sea level rise, and increased water demand in the Delta watershed, as described in Appendix 1E, Water Transfers in California: Types, Recent History, and General Regulatory Setting, and Appendix 5D, Water Transfer Analysis Methodology and Results, of the Draft EIR/EIS. Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project-level analysis of impacts upstream of the Delta is highly speculative, and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. Rather, it provides an analysis of how transfers relate to the proposed water conveyance facilities. As indicated in Appendix 5D, the analyses are conservative because it is not known if adequate water would be available from other water users for transfer. As shown in Table 5D-8, the maximum cross-Delta transfers under the action alternatives would be greatest under Alternative 8 because there would be the most available capacity. Any future water transfers will require separate approvals. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed. The Lead Agencies believe that the Project Description in the EIR/EIS is legally adequate. Although the commenter's specific contentions of inadequacy are addressed in separate responses, it is worth noting that "[t]he description of the project … should not supply extensive detail beyond that needed for evaluation and review of the environmental impact[.]" (State CEQA Guidelines, § 15124.) "A general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns." (Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 28.) "The 'general description' requirement for the technical attributes of a project is consistent with the other CEQA mandates to make the EIR a user-friendly document." (Ibid.) "The EIR must achieve a balance between technical accuracy and public understanding." (Ibid.) Chapter 3 provides the text description of the project as Alternative 4A and several figures accompany Chapter 3 that provide the location maps the commenter refers to. For additional information regarding water transfers, please see Master Response 43.
1784	94	[ATT3:] Page ES-3, line 35: There is a statement that the goal of the EIR/EIS is to provide sufficient evaluation of alternatives so that project-level assessment of the potential effects of selected modified and/or new conveyance facilities is possible. Then, line 37 mentions that for BDCP Conservation Measures (CMs) 2-22, the EIR/EIS intends to present a program level analysis, and that further environmental review may be needed prior to implementing conservation measures. Thus, it appears that the EIR/EIS is both a project level and program level EIR/EIS as partly defined in CEQA Sections 15161 and 15168. It appears that the EIR/EIS might be specific about the conveyance facilities and then not specific about the conservation measures. This raises an immediate concern that if the conservation measures (which are assumed to help mitigate some of the impacts of the project} are addressed at a programmatic level,	For more information regarding project- and program-level analysis please see Master Response 2 (Project Level v. Program Level). The originally proposed habitat restoration measures and related Conservation Measures (i.e., CM2 through CM21) would not be included as part of the proposed action, except to the extent required to mitigate significant environmental effects under CEQA and meet the regulatory standards of federal ESA Section 7 and California ESA Section 2081(b). However, restoration actions that are independent of the proposed action will continue to be pursued as part of existing projects and programs. Examples of these include the 2008 and 2009 USFWS and NMFS BiOps (e.g., Yolo Bypass improvements and habitat enhancements, 8,000 acres of tidal habitat restoration), California EcoRestore, and the 2014 California Water Action Plan.

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		how can there be certain assurances of their implementation? And it raises the additional concern that if water conveyance facilities are addressed at a project level, no opportunities for future CEQA review may occur as related to those components of the project that may have the greatest impact.	
1784	95	[ATT3:] On page 3-24 (line 15), the EIR/EIS states that the water conveyance facility components are analyzed at a project level in the EIR/EIS. It would seem that the EIR/EIS should clearly list which components are addressed at a project level and which are addressed at a programmatic level, and this should occur very early in the Executive Summary as the reader has no idea what components are to be covered in the overall document.	For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level).
1784	96	[ATT3:] Page ES-4, line 36: Mention is made of how the EIR/EIS is intended to provide sufficient detail to allow U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) to make an informed decision on action of considering issuance of an Incidental Take Permit (ITP) under Section 10 of the Endangered Species Act. And the second main project component is identified as the Natural Community Conservation Plan (NCCP). Finally, line 40 of this same page mentions the intent of the EIR/EIS to provide project-level assessment of the potential effects of modified and/or new water conveyance facilities, water supply contract amendments and/or funding agreements. And CM 1 is also intended to be addressed at a project level. Nowhere is there mention of which agency will take responsibility for permitting the water conveyance facilities, whether they be new and/or modified. However, the title of this section is "intended Uses of the BDCP EIR/EIS and Agency Roles and Responsibilities". The document must clarify any agency associated with permitting the project elements that are addressed at a project level.	For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level). For more information regarding permitting, please see Master Response 45 (Permitting).
1784	97	[ATT3:] Page ES-6, line 1 shows the responsible and lead agencies for both CEQA and NEPA. However, the main project is defined as the Incidental Take Permit (ITP) and the Natural Community Conservation Plan (NCCP). If the NCCP is a main component requiring the action of the California Department of Fish and Wildlife, (CDFW), why is CDFW not the lead agency? As stated in Section 15051 (b) of the CEOA Guidelines, "the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole." If DWR is shown as the lead agency, the EIR/EIS has been very unclear up to this point of the document why DWR has the greatest responsibility. DWR has no responsibility over the NCCP, which is the EIR's stated State "Project". One could infer by the fact that DWR is the lead agency that the water conveyance facilities are truly the most significant element of the proposed project. This fact contradicts all the statements on page ES-1 emphasizing that the major components of the project include the ITP and NCCP. The EIR/EIS needs to clarify why DWR is identified as the lead agency. From Section 15051(c) of the CEQA Guidelines, it would appear that DWR was selected because it was going to act first on the project (vs. CDFW), and that the water conveyance facilities approval will be the first approvals far before the ITP and NCCP. Again, there is obfuscation of the true project	Please refer to the update in Chapter 1, Introduction of the EIR/EIS.

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		and the true order of priorities.	
1784	98	[ATT3:] Page ES-6, line 8 states that California Department of Fish and Wildlife (CDFW) is "considering whether to approve the BDCP as an NCCP...." What does this mean by the use of the word "considering"? Is an NCCP to be adopted or is the NCCP itself only being considered? Also, section ES1.1.1.1 mentions DWR responsibilities but never mentions DWR responsibilities as to water conveyance facilities. It is not clear whether DWR has any discretionary approvals related to water conveyance, and there is no explanatory text as there is for Reclamation per text on page ES-7, line 8-13.	The EIR/EIS analyzes all alternatives, including Alternative 4A. The RDEIR/SDEIS Executive Summary, ES.1, identifies and updates from the 2013 Draft EIR the lead and cooperating agencies that will use the EIR/EIS as part of their decision-making process. Reclamation will act as the sole federal lead agency of the proposed project (under NEPA), while DWR will continue to act as the state lead agency (under CEQA). The USFWS and NMFS will act as NEPA cooperating agencies. The regulatory agencies–USFWS, NMFS, CDFW, USACE, and the State Water Board–are participating to provide technical input and guidance in support of planning efforts to complete the proposed project.
1784	99	[ATT3:] Page ES-7, lines 8-13 finally explain the conveyance facilities in very shaded terminology using the words "provide for diversion, storage, and conveyance of CVP water consistent with applicable law and contractual obligations." It is as if there were no choice but to allow for the massive new conveyance facilities (which still have not been explained in the document to this point) because it is merely compliance with legal obligations.	For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level).
1784	100	[ATT3:] Page ES-10, lines 17-22 includes the text "It is not intended to imply that increased quantities of water will be delivered under the BDCP. As indicated by the 'up to full contract amounts' phrase, alternatives need not be capable of delivering full contract amounts on average in order to meet the project purposes. Alternatives that depict design capacities or operational parameters that would result in deliveries of less than full contract amounts are consistent with this purpose." This text fails to explain that the EIR/EIS must look at the "full project" and if the water conveyance facilities are designed/planned for conveying up to a certain amount of water, that full conveyance must be addressed. For an analogy, an environmental document on a new college facility must address full occupancy based on the capacity of the school; a water treatment facility must be addressed based on the full capacity of the system. Our future comments will address whether this has been done appropriately for the BDCP. Explain where in the EIR/EIS the full capacity of the water conveyance system has been adequately addressed.	By establishing a point of water diversion in the north Delta and new operating criteria with the goal of improving water operations through timing to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational flexibility. The proposed project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Refer to Master Response 26 (Area of Origin). The Lead Agencies believe that the Project Description in the EIR/EIS is legally adequate. Although the commenter's specific contentions of inadequacy are addressed in separate responses, it is worth noting that "[t]he description of the project … should not supply extensive detail beyond that needed for evaluation and review of the environmental impact[.]" (State CEQA Guidelines, § 15124.) "A general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns." (Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 28.) "The 'general description' requirement for the technical attributes of a project is consistent with the other CEQA mandates to make the EIR a user-friendly document." (Ibid.) "The EIR must achieve a balance between technical accuracy and public understanding." (Ibid.) Chapter 3 provides the text description of the project as Alternative 4A and several figures accompany Chapter 3 that provide the location maps the commenter refers to.
1784	101	[ATT3:] Page ES-13, lines 16-24: In two summary paragraphs, the BDCP is defined. First, the text says the "BDCP is a joint HCP/NCCP' and then later, the text states that the "BDCP is also proposed to provide for the conservation and management of covered species ....through a conservation strategy that includes ....conservation measures, including the	Regulatory Requirements Under ESA Section 10 and the NCCPA Under the federal Endangered Species Act (ESA), an applicant for a Section 10 permit must submit a conservation plan that specifies, among other things, the steps that will be taken to minimize and mitigate

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		construction and operation of new Delta water conveyance facilities ...". What are the conservation measures contained in construction and operation of water conveyance facilities?	the impact of covered activities on the species covered by the plan. Under the State Natural Community Conservation Planning Act (NCCPA), a conservation plan is required to include measures that collectively provide for the conservation and management of species covered by the plan. Specifically, under Section 10(a)(1)(B) of the ESA, USFWS and NMFS may permit the incidental take of listed species that may occur as a result of an otherwise lawful activity. To obtain a Section 10(a)(1)(B) permit, an applicant must prepare a Habitat Conservation Plan (HCP) that meets the following five criteria. 1) The taking will be incidental to an otherwise lawful activity. 2) The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking. 3) The applicant will ensure that adequate funding for the Plan will be provided. 4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. 5) Other measures, if any, which USFWS and NMFS require as being necessary or appropriate for purposes of the Plan will be met (16 USC 1539(a)(2)(A)). Under the BDCP, Conservation Measures are defined as those actions that will minimize and mitigate, to the maximum extent practicable, impacts to Covered Species associated with Covered Activities, as well as those actions that contribute to the recovery of those species. Collectively, the BDCP Conservation Measures have been designed to meet the permit issuance requirements of the ESA and the NCCPA. Role of CM1 as a Minimization Measure The development of new conveyance infrastructure and the operational criteria associated with that infrastructure are key components of the overall BDCP Conservation Strategy. Specifically, CM1 has been designed to minimize the effects of the State Water Project and the Central Valley Project on covered fish species and advance the biological goals and objectives of the Plan. As such, they meet the definition of a Conservation Measure. CM1 provides for the development of new water conveyance facilities, sets out criteria for the operations of both new and existing facilities, and established requirements for outflow from the Delta. The CVP/SWP facilities include operations of the south Delta export facilities, a new Head of Old River operable gate, new north Delta intake facilities, Delta Cross Channel gates, the Suisun Marsh Salinity Control Gates, and a new North Bay Aqueduct intake. Each of these individual operations is proposed to interact and complement each other to provide important benefits to Covered Species and water supply and system reliability. CM1 will minimize the effects of the CVP/SWP and advance the biological goals and objectives by helping to restore a more natural flow regime and enabling restoration of certain attributes of a natural flood disturbance regime. CM1 also provides an indirect contribution to many other goals and objectives associated with habitat protection and restoration actions under the Plan. Specifically, CM1 will minimize

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			the effects of the CVP/SWP on covered species in the Plan Area as set forth below. Entrainment and Related Losses Entrainment has long been recognized as a consequence of pumping at the existing south Delta diversions. The risk of entrainment at the diversions has been reduced and partly remediated through the installment of fish screens and addition of salvage facilities. Additionally, the reductions in export levels pursuant to the existing CVP/SWP Biological Opinions have served to further reduce entrainment risks. Through CM1, the BDCP will provide for further reductions in entrainment and its associated risks, including stress/injury related to salvage operations, and pre-screening and post-screening losses from predation. The existing south Delta export facilities are located in areas occupied by covered fish species, at least for part of the year. With addition of the new conveyance facilities in the north Delta, diversions levels in the south Delta will be reduced, thereby further minimizing the risk of entrainment mortality of salmonids, smelt, splittail, sturgeon and Pacific and river lamprey, as well as the risk of predation mortality of salmonids, smelt, lamprey, and splittail associated with the export facilities. (Fish that do become entrained into Clifton Court Forebay will have predation risk reduced through measures described in CM15 Localized Reduction of Predatory Fishes.) In addition, because the north Delta diversions do not require a fish salvage facility, their operation is expected to reduce mortality of covered fish species that may occur through collection, handling, transport, and release of salvaged fish from the existing export facilities and predation within these facilities. Juvenile Migration and Rearing Under CM1, dual conveyance operations will allow for modifications of the south Delta diversions, and potentially those of the Delta Cross Channel, that will reduce the frequency and magnitude of flows that cause migrating fish to enter the interior Delta. These reductions will, in turn, allow juvenile out-migrants to follow a downstream course into more tidally-influenced portions of the estuary, thereby allowing for more rapid migration and briefer exposure to predation. These modifications to the south Delta diversion will also result in a reduction of the proportion of fish entering the interior Delta, where survival of juvenile Chinook salmon (and presumably other salmonids) is lower (Baker and Morhardt 2001; Brandes and McLain 2001; CALFED Bay-Delta Program 2001; Perry and Skalski 2009; Perry et al. 2010). Reducing the reliance on through-Delta conveyance via the Delta Cross Channel and intakes in the south Delta will also substantially reduce the effects of existing flow anomalies, such as weak flows or reverse flows on salmonids in the San Joaquin River system and tributaries, Mokelumne River, and other eastside tributaries. Although there would be some increased entrainment exposure for Sacramento River salmonids due to the presence of the new north Delta diversions, these effects would be minimized by fish screens, sweeping and approach velocity criteria, and other operational parameters.

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			Adult Migration Operation of the north Delta intakes is expected to reduce reliance on through-Delta conveyance via the Delta Cross Channel and diversions in the south Delta. As such, this will reduce the occurrence and magnitude of flow changes driven by the south Delta diversions on salmonids and sturgeon in the San Joaquin River system and tributaries, Mokelumne River, and other east-side tributaries. Such artificial flow patterns are thought to confuse the upstream migration cues of adults, thereby reducing the probability that they will enter the eastside tributaries or minimizing delay in migration.
1784	102	[ATT3:] Page ES-19, table ES-3: What a twist in terminology to refer to the water conveyance facility as a "conservation measure". The document must explain why this term would apply to this element of the project.	See response 1784-101.
1784	103	[ATT3:] Page ES-19: lines 3-6: It would seem from this section that it's assumed that the water conveyance facilities would be constructed over a 10-year period. From Years 11 to 15, the "early long-term" implementation measures would be undertaken and from Years 16 through 50, the "late long-term" implementation measures would undertaken. The document must clarify that this is correct in terms of phasing as this issue may arise later in the EIR/EIS.	The page commenter is referring to is ES-20, Section ES.4.6, Implementation Schedule. The document correctly describes the implementation schedule as follows: Near Term – Years 0-10 Early Long Term – Years 11-15 Late Long Term – Years 16-50 Late Term includes the ELT and LLT phases, Years 11-50.
1784	104	[ATT3:] Page ES-25, lines 16-35: Issue of No Action Alternative and Environmentally Superior Alternative and Baseline. The issue of "No Project" is not correctly explained. The statement that "Under CEQA, the No Project Alternative is not the baseline for assessing the significance of impacts of the Proposed Project." Is taken out of context and not fully correct. Section 15126.6 (e)(1) of the CEQA Guidelines state that "The no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline (see Section 15125)." (Emphasis added} While it is true, as stated, that the "No Project conditions may include some reasonably foreseeable changes in Existing Conditions and changes that would be reasonably expected to occur in the foreseeable future if the project were not approved", the EIR/EIS fails to mention that Section 15126.6 (e)(2) that this "future scenario" must be discussed in addition to existing conditions at the time of the notice of preparation.	Please see Master Response 1 regarding environmental baselines and Chapter 31 regarding an environmentally superior alternative.
1784	105	[ATT3:] It is critical to note that the words "foreseeable future" and "reasonably expected" to occur are used in the CEQA Guidelines. Using 2060 as the year of assessing the No Project Alternative would not be considered the "foreseeable future" or a time in which anyone	Please see Master Response 1 (Environmental Baselines) which provides additional information on environmental baselines.

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		could determine what would be "reasonably expected". For example, the Agricultural section addresses in section 14.3.3.1 the Cumulative Effects of the No Action Alternative, and in this section states that projects assumed to be constructed by 2060 are included in the analysis. The use of 2060 as a "future baseline" seems to fly in the face of the recent CEQA lawsuits that have clearly stated that present (time of NOP) conditions must also be addressed if a future baseline is to be considered. And how can anyone know 2060 conditions? That is 46 years from now. That would not be defined as the "foreseeable future" as we know the term. Just as an example, no one was discussing sea level rise and climate change 46 years ago (Year 1968). And in 1968, all the Best Management Practices to prevent soil erosion and sedimentation were not known. These are just a couple of examples to point out the 2060 is not the foreseeable future. A Merriam Webster definition of "foreseeable" is "lying within the range for which forecasts are possible". Forecasts have to be made based on current knowledge, current technologies, and known elements. Forecasts are not just conjecture. Section 30.2.3 of the EIR/EIS states that the future No Project condition is allowed by NEPA; however, CEQA requires, as stated in 30.2.3, that if a future baseline is assessed, then the "existing conditions" baseline must also be assessed. The EIR/EIS appears to consistently violate this by addressing cumulative conditions as the "No Project 2060" condition, and foregoing a comparison of the project to cumulative conditions that are present day. By doing this, the project's impacts can be woefully understated.	
1784	106	[ATT3:] Pages ES-27 through 31: Project components are diverse and require being addressed throughout the EIR/EIR. From the brief project description, it appears that the following elements could have associated environmental impacts: Intakes Pumping plants (which include sedimentation basins, substations, access roads) Pipelines Tunnels Canals (unlined or lined with concrete which means transport of concrete needs to be addressed) Forebays: possible expansion of Clifton Court Forebay and division of this forebay Fixed and operable barriers New levees or levee modifications (these alone have issues related to import of soil	The EIR/EIS addresses the impacts of the facilities the commenter lists, as well as other potential impacts related to the construction of these facilities, such as truck trips and associated air quality impacts. The footprints of these facilities are clearly described in Chapter 3 of the EIR/ EIS, Section 3.4.1, Overview of Water Conveyance Facility Components. The footprints used are conservative estimates to capture the greatest degree of potential impacts.

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		materials, etc. Culvert siphons Gates or similar structures Concrete batch plants (requires source of clean water; location not shown; acreage not shown) Temporary barge unloading facilities Other facilities: Bridges, road, utilities, local drainage systems Locations and acreage of each of the above components need to be identified and mapped.	
1784	107	[ATT3:] Page ES-34: There are 16 alternatives evaluated in the EIR/EIS and then this page addressed 15 operational scenarios. 16x15 results in 240 variations that one has to track. The "project" becomes convoluted to the point of indecipherable as the multiple variations are explained. There is no way that a reader can make sense and track all the components of this many variations on a project. And this doesn't even account for the variations in Conservation Components addressed on page ES-37!	The BDCP and Draft EIR/EIS attempt to balance both readability, the need for accurate and thorough technical analysis of the numerous complex issues involved, and responses to public and agency requests for more information. The Lead Agencies recognize that the documents are sizable. In drafting the BDCP and the EIR/EIS, they focused on presenting information in plain language and a clear format with emphasis on information that is useful to the public, agencies and decision makers. For more information, please see Master Response 1 (Environmental Baselines) regarding baselines and Master Response 38 (Length of Environmental Document) regarding document length and complexity.
1784	108	[ATT3:] Page ES-40, section ES.6.2.4: This addresses environmental justice; however, nowhere is there an explanation of how the entire BDCP EIR/EIS has been made "workable" for minority populations. For example, has there been a translation into Spanish? Almost 40% of the population of San Joaquin County alone is Hispanic.	Public outreach documents are available in six languages (in addition to English), on the website, located at: http://baydeltaconservationplan.com/2015PublicReview/2015PublicReviewInformationalMaterials/2015_Multi-Lingual.aspx. Additionally, project proponents have provided translators at public scoping meetings; the BDCP website in Spanish; and a multi-lingual information hotline for project information in English, Spanish, Tagalog, Vietnamese, or Chinese (Mandarin). Please also refer to Chapter 32 and Master Response 40 regarding the public outreach conducted for the project. The Federal Lead Agencies have fully complied with Executive Order 12898. Notably, there is no mandate to translate: “Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.” Rather, such translation is optional, and subject to the pertinent federal agency’s sense of whether translation if “practicable and appropriate.” The California Legislature’s intent in enacting the Dymally-Alatorre Bilingual Services Act was to assist “persons who live, work and pay taxes” in the State to more easily obtain information about “public services” available to them. (Cal. Gov. Code, § 7291, italics added.) Within the Act, section 9295.2 applies to State agencies. Notably, that statute states that “[t]his section shall not be interpreted to require verbatim translations of any materials provided in English by a state agency.” (Italics added.) This qualification is

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			consistent with Article 3, section 6, of the California Constitution, which makes English the official language of the State of California. Thus, the Dymally-Alatorre Bilingual Services Act is not intended to apply to environmental impact reports prepared pursuant to CEQA; and even if it were so intended, the Act would not require verbatim translations of the BDCP and related documents. Here, due to the sheer size of the BDCP and the EIR/EIS for the BDCP, translation of the entirety of these documents was impractical and therefore inappropriate. Even so, BDCP and EIR/EIS Fact Sheets were translated into Spanish, Hmong, Cambodian, Tagalog, Chinese (Mandarin), and Vietnamese. Translated fact sheets were posted to the website and hard copies were provided upon request. Additionally, a multilingual toll-free phone line has been established for questions about the BDCP, which includes information in Spanish, Tagalog, Vietnamese and Chinese (Mandarin) in addition to English (based on Census data) as well as Hmong and Cambodian (based on requests). For more information about the work that has been done to make information available to non-English speaking communities, please see Master Response 27. Lay-friendly Highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights were posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS were also provided online and by request. In addition, 17 narrated informational webinar episodes were posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Background documents, additional factsheets, and FAQs continue to be available on-line. For more information, please see Master Response 38 regarding the length and complexity of the document.
1784	109	[ATT3:] Page ES-41, lines 1-11: The text does not clarify that the Notice of Determination (NOD) is filed AFTER approval of the project. DWR must certify the EIR portion as meeting the requirements of CEQA. This can happen completely separately from the filing of the NOD. The NOD just sets the time period during which a challenge can be made. The text needs to clarify this.	The commenter is correct regarding certification of the EIR and filing an NOD. This text has been corrected in the Final EIR/EIS.
1784	110	[ATT3:] Page ES-48, section ES.8.3.2, lines 29-38: Mitigation measure responsibilities are addressed and it is clarified that a number of parties will be responsible for ensuring implementation of mitigation measures. Nowhere is it clarified who will have overall responsibility For example, if DWR is relying on the California Department of Fish and Wildlife to implement a measure, who will have the power to ensure that happens? These agencies operate quite independently and the Mitigation Monitoring and Reporting Program (not included to our knowledge in the EIR/EIS and required prior to approval of project) should identify how the ultimate decisions about effective mitigation will be made.	A Mitigation Monitoring and Reporting Plan (MMRP) is not required to be circulated with a draft EIR. CEQA requires the adoption of feasible Mitigation Measures to reduce the severity and magnitude of potentially significant environmental impacts. Section 21081.6 of the California Public Resources Code (PRC) requires a lead or responsible agency to adopt an MMRP when approving or carrying out a project. The purpose of the MMRP is to ensure that when either an EIR or a negative declaration (ND) identifies Mitigation Measures, those measures are implemented as detailed in the EIR or ND. The MMRP for the EIR/EIS lists each Mitigation Measure identified in the document, describes the methods for implementation and verification, and identifies the responsible party or parties. The MMRP for California

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		The document must clarify who the entity will be to ensure effective mitigation measures.	WaterFix is included in the Final EIR/EIS.
1784	111	[ATT3:] Table ES-11: This table has a variety of alternatives that do not match those shown on page ES-24. The document must explain this.	Table ES-11 provides additional details about the alternatives listed on page ES-24.
1784	112	[ATT3:] Table ES-9: This table summarizes impacts and mitigation measures. However, it comes after table ES-11 on page ES-61 of the EIR/EIS. None of the topics are identified and there is no legend to explain the topic. For example, the rows should be labeled as to whether the topic is Agriculture; Hydrology; Geology; etc. The legend does not explain what SW, WS, or other initials stand for. The table shows a total of 628 impacts. Of these, 6 are related to Land Use and 4 are related to Agriculture, while 217 are related to aquatic species. This alone exemplifies how the EIR/EIS is unbalanced in its evaluation of the true impacts associated with the water conveyance facilities which are the only element addressed at a project level. It appears that there are at least 89 significant unavoidable (SU) impacts as identified for CEQA. It is very unclear how there can be significant impacts after mitigation. If this is the case, the impact is normally significant and unavoidable. This matter must be fully explained and justified. Of the 89 SU impacts, many of these are related to the CM1 element which is the water conveyance facilities, either as related to construction or operation. The water conveyance facilities are evaluated at a project level, and not a programmatic level. Therefore, it is imperative that mitigation measures be clear and concise and that they not be deferred to a future time or a future discretionary approval time. Simply making the impacts SU because the mitigation measure cannot be guaranteed or is outside the control of the lead agency does not mean that the analysis is adequate.	The resource areas or topics (e.g., water supply, agriculture, surface water) are identified in the table as centered headers in shaded rows preceding the impacts for those resources. The acronyms in the impact titles in the table are consistent with those in each resource chapter. The number of impacts associated with any resource (e.g., water quality, agriculture, land use) does not correlate with the level of detail of the impact analysis for each resource. As described in Chapter 4 (Approach to the Environmental Analysis), CM1 elements are analyzed at a project-level of detail, whereas CM2-CM21 are analyzed at a program-level of detail. The resource chapters (Chapters 5–30) include an evaluation of the direct and reasonably foreseeable indirect impacts associated with implementation of the alternatives. Throughout the EIR/EIS, impacts are identified as temporary or permanent. These terms apply differently to different resources and are defined, where relevant, in each individual resource chapter. For some resources, the types of changes anticipated would occur only in one of the defined geographic regions that make up the overall project area; in others, changes would occur in more than one region (i.e., Upstream of the Delta, Delta (corresponding to the BDCP Plan Area and Areas of Additional Analysis), and SWP and CVP Export Service Areas). Chapters 5–30 describe the rationale for evaluating specific geographic regions in their introductory Environmental Setting sections. The study area defined in the setting for each resource considers the geographic areas involved in implementation of all the action alternatives. The impact analysis for each resource has been prepared in accordance with NEPA and CEQA. Also, please see Master Response 10 (Significant and Unavoidable Impact) for a discussion of significant and unavoidable impacts, and Master Response 2 (Project Level v. Program Level) regarding level of detail and uncertainty in the impact analyses.
1784	113	[ATT3:] Page 2-3 of the EIR/EIS lists the objectives for the project. The elements of the physical developments associated with the project (e.g., the Tunnels) are not even mentioned until the end of the list of objectives as highlighted below. All the emphasis from the very beginning of the EIR/EIS is upon use of the words "improve", "conservation", "recovery of the species", "protecting", "enhancing certain aquatic, riparian and associated terrestrial natural communities and ecosystems". As stated in Section 15124 of the CEQA Guidelines, "The statement of objectives should include the underlying purpose of the project." It is very clear that the "underlying purpose" of the project is to construct water conveyance structures to move water from northern California to southern California. The protection of species and restoration of habitat is not the underlying purpose; rather, these are the associated actions to be taken to mitigate/offset the impacts of the underlying water conveyance structures. At a minimum, the list of objectives should be reordered to highlight the conveyance facilities as the main objectives, followed by the restoration activities. Even when physical development is listed, it's referred to as "physical	For more information regarding purpose and need of the proposed project, please see Master Response 3 (Purpose and Need). Note that the purpose and need and objectives were updated in the 2015 RDEIR/SDEIS. The originally proposed habitat restoration measures and related Conservation Measures (e.g., CM2–CM21) would not be included as part of the proposed action, except to the extent required to mitigate significant environmental effects under CEQA and meet the regulatory standards of federal ESA Section 7 and California ESA Section 2081(b). However, restoration actions that are independent of the proposed action will continue to be pursued as part of existing projects and programs. Examples of these include the 2008 and 2009 USFWS and NMFS BiOps (e.g., Yolo Bypass improvements and habitat enhancements, 8,000 acres of tidal habitat restoration), California EcoRestore, and the 2014 California Water Action Plan.

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		improvements" as highlighted below. The actual main component of the proposed tunnels (and the word "tunnels" isn't even used) occurs as the very last objective as "To identify new operations and a new configuration for conveyance of water entering the Delta from the Sacramento River watershed to the existing SWP and CVP pumping plants in the southern Delta..... " Use of obfuscating language such a ''new configuration for conveyance of water" entirely misleads the public who are reviewing the EIR. What is the true project? And what is the underlying purpose of the project as required by Section 15124 of the CEQA Guidelines? List of objectives as per page 2-3 of the EIR/EIS..... Respond to the applications for incidental take permits for the covered species that authorize take related to: 1. The operation of existing SWP Delta facilities and construction and operation of facilities for the movement of water entering the Delta from the Sacramento Valley watershed to the existing State Water Project (SWP) and Central Valley Project (CVP) pumping plants located in the southern Delta; 2. The implementation of any conservation actions that have the potential to result in take of species that are or may become listed under the ESA, pursuant to the ESA at [Section]10(a)(1)(B) and its implementing regulations and policies; 3. The diversion and discharge of water by Mirant LLC for power generation in the Western Delta To improve the ecosystem of the Delta by: 1. Providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species; and 2. Protecting, restoring, and enhancing certain aquatic, riparian, and associated terrestrial natural communities and ecosystems. 3. Reducing the adverse effects to certain listed species of diverting water by relocating the intakes of the SWP and CVP; Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts, when hydrologic conditions result in the availability of sufficient water, consistent with the requirements of State and federal law and the terms and conditions of water delivery contracts and other existing applicable agreements. To ensure that the BDCP meets the standards for an NCCP by, among other things, protecting, restoring, and enhancing aquatic and terrestrial natural communities and	

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		ecosystems that support covered species within the Plan Area. To make physical improvements to the conveyance system in anticipation of rising sea levels and other reasonably foreseeable consequences of climate change. To make physical improvements to the conveyance system that will minimize the potential for public health and safety impacts resulting from a major earthquake that causes breaching of Delta levees and the inundation of brackish water into the areas in which the SWP and CVP pumping plants operate in the southern Delta. To develop projects that restore and protect water supply and ecosystem health and reduce other stressors on the ecological functions of the Delta in a manner that creates a stable regulatory framework under the ESA and NCCPA. 1. To identify new operations and a new configuration for conveyance of water entering the Delta from the Sacramento River watershed to the existing SWP and CVP pumping plants in the southern Delta by considering conveyance options in the north Delta that can reliably deliver water at costs that are not so high as to preclude, and in amounts that are sufficient to support, the financing of the investments necessary to fund construction and operation of facilities and/or improvements.	
1784	114	[ATT3:] The Purpose Statement found in section 2.4 on page 2-4 is slightly better in that "construction and operation of facilities .. .for the movement of water" is mentioned as number 1b. However, there is no description of the type of facility being discussed.	The purpose statement under NEPA provides the underlying purpose and need to which the lead agency is responding in development of the alternatives. The purpose statement is intentionally broad to allow for a range of alternatives. In accordance with the purpose statement, the range of action alternatives includes pipelines/tunnels (Alternatives 1A, 2A, 2D, 3, 4, 4A, 5, 5A, 6A, 7, and 8), canals (Alternatives 1B, 1C, 2B, 2C, 6C, and 6D), and through-Delta conveyance (Alternative 9). Detailed descriptions of the alternatives are included in Chapter 3, Description of Alternatives.
1784	115	[ATT3:] Section 2.5, Project Need: Again, the actual underlying project is hidden behind the" habitat protection veil". The section states, "There is an urgent need to improve the conditions for threatened and endangered fish species within the Delta. Improvements to the conveyance system are needed to respond to increased demands upon and risks to water supply reliability, water quality and the aquatic ecosystem."	The proposed project was developed to meet the rigorous standards of the federal and state ESAs. It is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. For more information regarding purpose and need forthe proposed project please see Master Response 3 (Purpose and Need).
1784	116	[ATT3:] Page 3-2, lines 1-5: This chapter describes the Alternatives to the Project. However, CEOA (Section 15126.6) is very clear that an EIR shall describe a "range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the project objectives of the project but would avoid or substantially lessen any of the significant effects of the project". It is not until the 3rd page of Chapter 3 that one finds the Preferred Alternative (which for the purposes of CEQA would be the "proposed project") and then it is difficult to see how the 15 alternatives would be considered a "range of	For information regarding alternatives to the proposed project, please see Master Response 4 (Alternatives Development). The alternatives included in the EIR/EIS represent a legally adequate reasonable range of alternatives, and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered, but ultimately rejected by the Lead Agencies, are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, CM1, Draft EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS. For more information regarding Environmental Commitments, please see Appendix 3B of the FEIR/EIS and Master Response 22

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		reasonable" alternatives, and how the alternatives would compare to the Preferred Alternative. While NEPA does not necessarily require alternatives to offer some environmental benefit (as stated on page 3-5, line 33), it is very clear that CEQA does require this. At a minimum, the EIR/EIS needs to state which alternatives to Alternative 4 would offer environmental benefits, or reduced impacts.	(Environmental Commitments).
1784	117	[ATT3:] Page 3-3, section 3.1.1 clearly states that the Preferred Alternative is Alternative 4 as defined in the BDCP. However, nowhere is that Alternative described or mapped for the reader in this section of Chapter 3. One long paragraph is provided for section 3.1.1, totally not meeting the requirements of the CEQA Guidelines, Section 15124, which describe the Project Description requirements. The following elements are not included in section 3.1.1: Location and boundaries of the project; Description of project's technical, economic and environmental characteristics; Statement of the intended uses of the EIR; List of permits/approvals required; All the future decisions subject to CEQA such as state, regional, or local permits. CEQA does not have a concept or term of a "Preferred Alternative." That is NEPA parlance and concept. CEQA requires that an EIR evaluate the impacts of a "Proposed Project" and alternatives to that project that would reduce one or more impacts while achieving most of the project's goals. This section instead states that Alternative 4 is a tentative Preferred Project. What does this mean in a CEQA context? This does not provide the reader with essential CEQA information. The document must revise this discussion to; 1) identify the proposed project, and 2) identify the environmentally superior alternative, as mandated by CEQA.	"Proposed action" and "preferred alternative" are CEQA and NEPA terms, respectively, that are used to denote a Lead Agency's preference among several alternatives analyzed within an environmental document. For example, NEPA regulations require an agency to identify the preferred alternative where one or more exists (40 C.F.R. Section 1502.14(e)). Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. The Lead Agencies believe that the Project Description in the EIR/EIS is legally adequate. Although the commenter's specific contentions of inadequacy are addressed in separate responses, it is worth noting that "[t]he description of the project … should not supply extensive detail beyond that needed for evaluation and review of the environmental impact[.]" (State CEQA Guidelines, § 15124.) "A general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns." (Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 28.) "The 'general description' requirement for the technical attributes of a project is consistent with the other CEQA mandates to make the EIR a user-friendly document." (Ibid.) "The EIR must achieve a balance between technical accuracy and public understanding." (Ibid.) Chapter 3 provides the text description of the project as Alternative 4A and several figures accompany Chapter 3 that provide the location maps the commenter refers to. Please see Chapter 31 regarding an environmentally superior alternative.
1784	118	[ATT3:] Section 31-3 on the Environmentally Superior Alternative. This section fails to identify an environmentally superior alternative. This is because the alternatives were not designed to mitigate impacts, as required by CEQA. The document must develop a true environmentally superior alternative that reduces impacts compared to Alternative 4, which appears to be the Proposed Project for CEQA review.	For information regarding alternatives to the proposed project, please see Master Response 4 (Alternatives Development). The alternatives included in the EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, CM1, Draft EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS. For more information regarding Environmental Commitments, please see Appendix 3B of the FEIR/EIS and Master Response 22 (Environmental Commitments). CEQA and NEPA do not require that an environmentally superior alternative be identified. Please see Chapter 31 regarding an environmentally superior alternative.

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1784	119	[ATT3:] Page 3-6 to 3-8: The reader is referred at the top of the page to three appendices that describe how alternatives were selected. The appendices are cumbersome and should only be used to supplement the main document. The readability of the document is compromised. Section 3.2.1.3 describes how 15 conveyance alternatives were narrowed down to seven. The EIR/EIS does not refer to any specific maps that would define the location of the alternatives; nor are the conveyance alternative described in detail. Instead, each conveyance alternative is described with one or two sentences.	Fifteen alternatives and three new subalternatives were analyzed in the EIR/EIS and the RDEIR/RSEIS, respectively. Four major alignments have been included in the EIR/EIS: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/EIS and Appendix 3A, Identification of Water Conveyance Alternatives, CM1. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4 (Alternatives Development). For more information regarding the document's length and complexity please see Master Response 38 (Length of Environmental Document). For figure alignments of all tunnel alternatives, please refer to the 2013 Public Draft BDCP EIR/EIS Chapter 3 Mapbook Figures.
1784	120	[ATT3:] Pages 3-8-3-10, section 3.1.2.4. The operation alternatives are not described in terms comprehensible to the layperson in this EIR, but rather are characterized as different locations of the mysterious X2, and the cryptic 2008 BiOps. This does not serve to inform the public. The document must provide a simple description of the actual operations alternatives.	Although the science and analyses that support the EIR/EIS are complex, the Lead Agencies have made every attempt to present the information in plain language and in a clear format with emphasis on the information that is useful to the public, agencies, and decision makers. With the release of the public draft, lay-friendly highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP highlights and the EIR/EIS highlights were posted online and made available at public meetings and by request. In addition, 17 narrated informational webinar episodes were posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy-to-understand summaries of key elements of the BDCP and EIR/EIS. In addition, short one-page factsheets on the BDCP and EIR/EIS were provided throughout the comment period at public meetings, online, and by request.
1784	121	[ATT3:] Finally, on page 3-12, we are told more Specifically what the Project is! And then, it is not until page 3-27 that we get any idea of what the proposed tunnels would look like. Finally, we understand that the preferred alternative in 2012 was framed to include water intake facilities with a total capacity of 9,000 cubic feet per second (cfs), phased operations, and gravity flow conveyance system. However, again, we are left without any clear maps to show where these might occur and the ancillary facilities that would go along with the conveyance facilities. And just when we get our arms around the preferred project, table 3-1 comes along to show a complex web of 15 variations on the theme, again with no accompanying maps. No description is provided about the length of the tunnels or pipelines, what is meant by "intakes", etc. it is not until page 3-24 that the reader is then referred to section 3.6.1 where the project is expected to be described in more detail.	For figure alignments of all tunnel alternatives, please refer to the Chapter 3 Mapbook Figures. For more information regarding the document's length and complexity, please see Master Response 38 (Length of Environmental Document).
1784	122	[ATT3:] Page 3-12, section 3.2.3. This section discusses development of DWR's "Proposed Project", and implies that the CEQA Project is, in fact, Alternative 4A. It states, "The proposed project, as embodied in the draft BDCP document published together with the	The commenter mistakes the relationship between the BDCP and EIR/EIS and the HCP/NCCP approval process. The EIR/EIS evaluates the BDCP completely as Alternative 4 as well as the current proposed project Alternative 4A, and 16 other action alternatives for the purposes of CEQA and NEPA. The BDCP and EIR/EIS

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		EIR/EIS, will form a major portion of the HCP and NCCP...." This is puzzling because the HCP/NCCP is the stated subject of the EIR/EIS. Therefore, the entire HCP/NCCP should be the subject of the EIR, not just "a major portion of it". The document must revise this discussion to tell the reader which parts of the HCP/NCCP are addressed in this EIR/EIS and which are not.	would be the major portion of the documentation needed to support the HCP and NCCP applications for take authorization and other permits needed to proceed with implementation of the BDCP, if that alternative is selected at the conclusion of the CEQA and NEPA process.
1784	123	[ATT3:] Page 3-24 (line 15): The EIR/EIS states that the water conveyance facility components are analyzed at a project level in the EIR/EIS. Does this include the proposed forebays, or only the canals and/or tunnels? Does this include the proposed concrete batch plants, which could range in size from 2 acres to 40 acres (page 3-29, line 38). CEQA Guidelines, Section 15161 clearly defines a project EIR to be one that examines all phases of the project, including planning, construction and operation. This is very different from a program EIR (Section 15168) that address a series of actions early in the process so that an agency can get an overview of cumulative impacts associated with a series of action. Given the very obvious lack of detailed information on the water conveyance systems, and the fact that the EIR/EIS in Chapter 3 clearly states that Alternative 4 may be revised, it is very unclear why this EIR/EIS is addressing the water conveyance systems at a project, vs. programmatic level. The document must define why the entire EIR/EIS is not a Program EIR.	For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level).
1784	124	[ATT3:] Pages 3-24 through 3-37. The entire description of the water conveyance alternatives is at a program level, and not a project level. You must revise to include specific designs for each of the project facilities including, but not limited to, pumping plants, diversion facilities, wharfs, forebays, barriers, roads (temporary and permanent), temporary spoils storage areas, permanent spoils disposal areas, concrete plants, bridges, laydown areas, etc. The document must also describe all construction activities including months and hours of construction operations for each type of construction activity, number of construction workers for each site and activity, construction haul routes for each phase/type/location of activity, number of trucks associated with each phase/location/type of activity, number of barges associated with various construction activities, throughput and other operational considerations for each batch plant and spoils storage facility, locations and volumes of borrow areas, etc. Absent this information, it is impossible to either conduct the impact assessment at a project level or evaluate the adequacy of that assessment.	For more information regarding project- and program-level analysis, please see Master Response 2 (Project Level v. Program Level). For more information regarding how the lead agencies analyzed the project as a whole, please see Master Response 8.
1784	125	[ATT3:] Page 3-40 lines 15-41, section 3.5. The document should include in its description of action alternatives their relative capacity to be accomplished using adaptive management and the best available science. The EIR/EIS' consideration of adaptive management as applying solely to Conservation Measures is not sufficient.	A Collaborative Science and Adaptive Management Program will be used to evaluate and consider changes in the operational criteria based on information gained before and after the new facilities become operational, if the proposed project is approved. This program will be used to consider and address scientific uncertainty regarding the Delta ecosystem and to inform implementation of the operational criteria in the near term for existing BiOps for the coordinated operations of the CVP/SWP (USFWS 2008, NMFS 2009) and the 2081b permit for the SWP facilities and operations (CDFG 2009), as well as in the future for the new BiOp and 2081(b) for this proposed project. For more information regarding adaptive management, please see Master Response 33 (Adaptive Management and Monitoring).

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1784	126	[ATT3:] Page 3-40, section 3.5 should provide or point to a comparison of all Action Alternatives' effects. The EIR/EIS contends that environmental effects can be found under each factor heading (e.g.: agriculture, water quality) but those chapters do not uniformly permit comparison across all alternatives. For example, they may compare one alternative to existing conditions or to no- project, but not to all other alternatives. Chapter 31 provides a brief discussion of each alternative's pros and cons but the EIR/EIS does not give a succinct comparison.	For more information regarding alternatives to the proposed project, please see Master Response 4 (Alternatives Development). A detailed comparison among alternatives can be found in the Executive Summary of the Final EIR/EIS. Note that CEQA and NEPA require the analysis of action alternatives to a baseline; not a comparison of action alternatives to one another.
1784	127	[ATT3:] Page 3-40, section 3.5 the EIR/EIS should give a good-faith summary of how the 15 action alternatives compare against important CEQA and NEPA criteria. Chapter 31 tries to explain why no environmentally superior alternative has been identified; but this does not relieve the lead agency of the responsibility to do so.	Please see Chapter 31 regarding an environmentally superior alternative.
1784	128	[ATT3:] Page 3-40, section 3.5 should but does not disclose the relative capacity of each action alternative to be accomplished in phases, so as to permit reasonable and scientifically defensible projections and assurances. Phasing is an essential component of adaptive management and science-based management under high uncertainty.	Please see Master Response 33 (Adaptive Management and Monitoring) which provides additional information on Adaptive Management. The EIR/EIS evaluates temporary impacts associated with shorter duration aspects of the proposed project such as construction and permanent impacts associated with the project such as land use impacts associated with the permanent footprint of the proposed conveyance facilities.
1784	129	[ATT3:] Page 3-40, section 3.5 should disclose and compare the time required to: 1) begin to see effects of the action alternatives, and 2) to reach completion. For example, no results of Alternative 4 would be realized for a decade or more, while Alternative 9 could result in improvements starting immediately with incremental improvements over the short, middle, and long run. The EIR/EIS comments only on the Conservation Measures, but not on the action alternatives.	The Draft BDCP does provide a time frame for implementing Conservation Measures. For example, early implementation actions would occur before the conveyance facility is constructed. Descriptions of the alternatives and their components are described in Chapter 3, Description of Alternatives, but do not involve discussion of relative merits of the alternatives. However, since the time of the Draft EIR/EIS, the preferred CEQA and NEPA alternative has been changed to Alternative 4A, which does not include an HCP/NCCP. Some of these comments do not apply to this new alternative.
1784	130	[ATT3:] Page 3-14, table 3-1 is in error in its implication that Alt. 9 per se would require a 50-year Incidental Take Permit (ITP). In fact, unlike the other 14 action alternatives, Alternative 9 could be phased and monitored, and the ITP given in more predictable and scientifically defensible shorter, say 10- or 15- year increments. The EIR/EIS should explain that Alternative 9 could be phased, and the action alternative itself (not just the conservation measures) subject to adaptive management.	Table 3-1 in Chapter 3, Description of Alternatives is a summary of alternatives analyzed in the Draft EIR/EIs. The last column in this table identifies what the NMFS and USFWS requirements would be for all of the alternatives. At the time of the Draft EIR/EIS all of the action alternatives were proposed to comply with the ESA under Section 10 requiring preparation of an HCP. The application for Alternative 10 had it been selected as the preferred alternatives would involve a 50-year incidental take permit. Other approaches for Alternative 9 and other alternatives, such as phasing was considered but not included in the description of Alternative 9 actions. Please refer to Master Response 4, related to alternatives development and Appendix 3A, related to alternatives screening.
1784	131	[ATT3:] Page 3-79, line 10, section 35.16. The EIR/EIS should explain that Alternative 9 is the only conveyance alternative that taken as a complete system can be done using Adaptive Management (AM) and the application of best available science. All other alternatives require "Yes/No" full-scale implementation, with adaptive management and best science applied only to small portions of the system's operations, or applied only to the mitigation measures and stressor reductions. Unlike the other all-or-nothing action alternatives, Alternative 9 can be phased, tested, altered, refined, and perfected as management	Collaborative Science and Adaptive Management as it is defined in this Final EIR/EIS relates to testing and monitoring of the proposed facilities and facility operations and then adjusting based on identified effects on Delta resources. Please refer to the description of adaptive management in this chapter and Master Response 33. This comment relates to phasing and modifying Alternative 9 to modify how it is presented in the Draft EIR/EIS. Although this potential approach may be possible, components of the action alternatives were proposed together because of operational requirements that may not function if only portions of

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		experiments yield answers, science progresses, and the extraordinarily high level of uncertainties surrounding management actions and environmental responses can be reduced. Failure to so comment gives a false picture of the advantages of Alternative 9.	alternatives were implemented over time. Alternative 9, is described correctly in this Final EIR/EIS.
1784	132	[ATT3:] Page 3-80, lines 1-31 should disclose that the 13 separate parts of the Alternative 9 system that can be operated flexibly in response to the system's environmental and water-conveyance performance, and altered as monitoring, shows the degree to which promises and modeled targets are actually being achieved.	Please refer to response to comment 1784-131, above.
1784	133	[ATT3:] Page 3-80, lines 2-4 [as a component of Alternative 9]. "Operable barriers on the Mokelumne River..... to provide a path for fish migration ..." The key word here is "operable" which provides for changing the extent and timing of interruption of flows, and the option of simply leaving the barrier open if it does not perform as planned. The EIR/EIS should disclose the importance of this aspect in meeting BDCP's responsibility to use adaptive management and the best available science.	If this alternative is selected during the project decision-making process, operable barriers would be subject to the adaptive management process.
1784	134	[ATT3:] Page 3-80, lines 9-11 [as a component of Alternative 9]. "An operable barrier at Three Mile Slough to reduce salinity in the San Joaquin River during low delta outflow .... and reduce fish movement into the San Joaquin River...." The EIR/EIS should disclose the importance of this aspect in meeting BDCP's responsibility to use adaptive management and the best available science. It should note this as an advantage to Alternative 9 and a serious disadvantage to the Preferred and other alternatives.	Please refer to response to comment 1784-133, above
1784	135	[ATT3:] Section 3.5.16 the EIR/EIS should declare Alternative 9 as the "environmentally superior" alternative; given that it is the only Action Alternative that can be implemented and managed so as to utilize Adaptive Management and the best available science; and to respond positively to the admonitions of independent science reviews.	The commenter's endorsement of Alternative 9 as the environmentally superior alternative is acknowledged. Discussion of the Environmentally Superior Alterative is addressed in Chapter 31 of this Final EIR/EIS.
1784	136	[ATT3:] Chapter 3 General Comment. The EIR/EIS has missing parts. It fails to adequately analyze and disclose the impacts of Conservation Measures 2 through 21.	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Chapter 3 contains a wealth of information and thorough descriptions of the alternatives evaluated in the EIR/EIS, as well as the alternatives screening process that was conducted. The impacts of CMs 2–22 are included in the resources area chapters, Chapters 5-30. These chapters fully disclose the potential impacts and Mitigation Measures of all of the Conservation Measures included in the BDCP and its alternatives. The comment does not identify specifically what is missing or what impacts are not disclosed; therefore a more specific response cannot be provided.
1784	137	[ATT3:] Chapter 3 General Comment. The EIR/EIS lists and describes Conservation Measures (CMs) 2-21, and lists magnitudes and general locations. But given that these measures create substantial impacts, they deserve adequate analysis. These comments serve as place holders for now.	CMs 2–22 are evaluated at a program level, while CM1 is evaluated at a project level. Thus, more detailed information is available for CM1, and additional details, and possibly environmental reviews, will needed for CMs 2–22. More information on why it is appropriate to mix program- and project-level analyses is provided in Master Response 2 (Project Level v. Program Level).

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1784	138	[ATT3:] Chapter 3 General Comment. CMs 2-21 should be presented individually or as alternative packages and analyzed for cost/effectiveness as per comments from independent science boards (including that of the Delta Stewardship Council Independent Science Board "Review of the Draft BDCP EIR/EIS and Draft BDCP", May 15, 2014).	Costs were analyzed for each CM individually. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.
1784	139	[ATT3:] Chapter 3 General Comment. CMs 2-21 individually or as packages should be developed so as to evaluate and minimize their impacts on affected parties, such as the individual local governments including San Joaquin County.	Please see Master Response 2 (Project Level v. Program Level) regarding the level of detail needed for program-level analysis.
1784	140	[ATT3:] Chapter 3 General Comment. The magnitude of CM 3, 4, 5, & 10's land alterations purported to be required should be justified by adequate models and science-based documentation.	The amount of land to be protected and restored was based on needs for BDCP covered species under the federal ESA and the Natural Community Conservation Planning Act (NCCP Act). Note that the proposed project (Alternative 4A) no longer includes the BDCP, and therefore no longer requires conservation at a level needed to comply with the NCCP Act. The magnitude of land alterations under CMs 3, 4, 5, and 10 has diminished as a result.
1784	141	[ATT3:] Chapter 3 General Comment. CM 3, 4, 5, & 10 should be evaluated at the same level of detail as CM-1.	Please see Master Response 2 regarding project and program level analysis.
1784	142	[ATT3:] Chapter 3 Genera! Comment. It is stated that CM 3, 4, 5, and 10 will be sized differently for different alternatives. The EIR/EIS should compute and disclose the minimum needed for each action alternative; so as to minimize the impacts on affected sectors such as the agricultural economy of San Joaquin County.	The differences in the alternatives is accounted for in the analysis for each.
1784	143	[ATT3:] Chapter 3 and EIR/EIS as a whole. The document fails to explain why CM-1's sub-parts are treated as Action Alternatives and sub-parts of CM-2-21 are simply listed as components. If BDCP is really intended to be an ITP/NCCP/HCP, all components should be treated equally.	The development of alternatives is described in Chapter 3, Appendix 3A, and additional information related to the range of alternatives is provided in Master Response 4.
1784	144	[ATT3:] It appears that with Alternative 4, a 40-acre concrete batch plant would be constructed (along with a 2-acre fuel station) near Twin Cities Road and Interstate 5 and this same location would be used to store reusable tunnel material, which is a by-product of tunnel excavation. Another 40-acre concrete batch plant would be located between Byron Highway and Italian Slough for Alternative 4. Have traffic impacts of using Byron Highway, which flows right through the middle of the Mountain House Community, been evaluated in the EIR/EIS? Have impacts (noise, traffic, air quality, etc.) upon the Consumnes River Preserve, located just south of Twin Cities Road I-5 been addressed? If so, the document must clarify where in the EIR/EIS.	Traffic impacts to Byron Highway and Twin Cities Road (Segment IDs ALA 01, CC 04, CC 05, SJ 05, SC 06, and SC 07 in Table 19-1, pages 19-2, 19-5, and 19-6) were evaluated. Increased traffic levels and impacts to traffic on Byron Highway and Twin Cities Road for Alternative 4 are identified in Table 19-25 (pages 19-165, 19-170, and 19-171). An analysis of traffic noise levels, including increases in project-related haul trucks and commuter traffic, is shown in Table 23-63 of the EIR/EIS.
1784	145	[ATT3:] These comments are directed at Alts. 1B, 2B, & 6B. All of the three East Side alternatives have the same implications for San Joaquin County. Issues are treated most fully under Alt. 1B; but some are embedded under 6B. Alt. 4 has much less of a direct impact on land use designations and uses, but the comments on the East Side alternatives apply to	While as many Mitigation Measures as feasible have been developed, the preferred alternative still results in significant and unavoidable impacts. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Therefore, less land would be affected from the project due to the removal of CMs 2–21. As described in Section 13.3.1, the analysis for this chapter was based on GIS data and aerial imagery; the structures that appear in that research are reflected in the EIR/EIS. There

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		Alt. 4 as well but to a lesser degree. The EIR/EIS gives separate treatment to: 1) incompatibilities with County designations and policies, and 2) impacts on current land uses. The EIR/EIS admits that the water conveyance facilities will cause numerous incompatibilities with County policies and designations, and impacts on existing land uses_ BDCP's proposed water conveyance facilities will receive no further environmental review because they would be covered at the Project Level in this EIR/EIS. However, critical measures that would avoid or mitigate these impacts and incompatibilities are not disclosed because they are covered only at the Programmatic Level. They are deferred, and will not be disclosed until possible environmental review at some time after BDCP approval. Page 13-71, lines 18-21 admits to an array of incompatibilities. "Table 13-6 displays the temporary and permanent structures associated with the water conveyance facility the local land designations on which they would occur, and the number of acres that would be affected. Mapbook Figure M 13-2 displays relevant generalized land use designations where they could overlap with proposed water conveyance structures and temporary work areas. Note that not all of these structures would be built under any individual alternative. For further description of the locations of various structures, refer to Chapter 3, Description of Alternatives." Specifically relating to incompatibility with County designations and policies, the EIR/EIS admits to an array of serous impacts to San Joaquin County, but does so only at very gross scale. Serious impacts would arise from projects, each of which taken alone would normally be subject to a full environmental review: In the text of Ch. 13, the majority of impacts referenced above [see ATT4] are treated only by mention and listing of the impact. However, the accompanying maps shown in Mapbook M13 are highly specific. Fuel stations, pumping plants, concrete batch plants, bridges, siphons, and disposal areas, all of which are direct impacts of the East Alignment are clearly sited in specific locations. The underlying and adjacent land uses are or can be identified, if not by simple reference to public maps and GoogleEarth ®, then by more rigorous analysis if needed to provide basic information to the public and land owners who should not have to conduct such research. For example: Figure M13-2: Sheet 3 Of 7 clearly shows that the footprint of the canal and a bridge will completely replace and cover the intersection of Walnut Grove Rd. I Blossom Rd. and adjoining land uses. Reference to GoogleEarth® shows that direct impacts will fall on farm structures that are clearly in use, several new and substantial single-family residences, a thriving vineyard and other features that will be obliterated.	are only six land use impacts listed because the EIR/EIS uses the six impacts as required and listed in the CEQA and NEPA Guidelines. The Executive Summary impact table lists Impact LU-2 as having no impact for CEQA and an adverse effect for NEPA. This is because while construction of the proposed water conveyance facility would necessitate the removal of a substantial number of existing permanent structures, the removal of existing structures is not, in itself, considered an environmental impact, though removal might entail economic impacts. CEQA only considers impacts significant if they have a physical impact on the environment, as described in the chapter under Impact LU-2. However, the removal of a substantial number of existing permanent structures as a result of constructing the water conveyance facility would be considered a direct, adverse socioeconomic effect of this alternative under NEPA. Please also refer to Master Response 11 (Applicability of City and County General Plans) regarding consistency with local plans.

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		It should also be noted that the Summary Table, table ES-9, only identifies 6 land use impacts. And of those, it is shown that there are no land use conflicts with existing land uses (page ES-110). This points to a woefully inadequate land use impact analysis.	
1784	146	ATT4: Page 13-72, table 13-6 (abbreviated here)--showing impact acres for permanent features	Please see response to comments 1784-145, 149, and 166 regarding comments related to this table.
1784	147	[ATT3:] Page 13-72. The EIR/EIS fails to analyze and disclose the impacts associated with sub-components of the project (bridges, batch plants, fuel stations, borrow pits etc.) that would normally be required to obtain NEPA or CEQA compliance. This needs to be done not by brief mention or gross acreages, but by substantive discussion with reference to the specific locations and effects of disturbance. This is a project-level EIR for these components. Means for avoiding, reducing, minimizing or mitigating these impacts should be provided. References to other Chapters in the EIR/EIS are not sufficient unless those cited discussions include analysis of specific sub-projects and components at known locations (which is not the case). Specifically, page 13-75, lines 1-6 admit: "San Joaquin County The footprint of water conveyance facilities constructed under Alternative 1B would be incompatible with land designated as Agriculture/General, Residential/Very Low Density, Elementary School, and Open Space/Resource Conservation in San Joaquin County primarily due to borrow and/or spoil areas, canal segments, RTM areas, bridges, siphons, transmission lines, and an intermediate pumping plant." The EIR/EIS should explain how these incompatibilities with land use designations and policies are to be avoided, minimized, or mitigated. Explain actual actions to be taken, not future studies.	Mitigation measures and Environmental Commitments are listed where applicable. Some impacts, however, would remain adverse or significant. As discussed in Section 13.3.2, to the extent that the action alternatives are incompatible with such land use designations, goals, and policies, any related environmental effects are discussed in other chapters. Please also refer to Master Response 11 (Applicability of City and County General Plans) regarding consistency with local plans.
1784	148	[ATT3:] Page 13-75, lines 11-18 admit: "Conversion of agricultural lands would be incompatible with general plan policies, including Agricultural Land Policy 5, which reserves agricultural areas principally for crop production, ranching and grazing. Conversion of agricultural lands and project conflicts with the Agriculture land use are described in Chapter, Agricultural Resources. The placement of canals, where constructed over or adjacent to lands designated under the San Joaquin County General Plan as Open Space/Resource Conservation, would be incompatible with this land use designation and related Open Space Policies 3 and 4 because they would diminish the amount of land dedicated to open space and conservation of natural habitat	Property tax revenue effects of land acquisitions required for construction of water conveyance facilities are discussed in Chapter 16, Socioeconomics, Impact ECON-4, EIR/EIS. As discussed for this impact under each alternative, the lead agencies would make arrangements to compensate local governments for the loss of property tax or assessment revenue for land used for constructing, locating, operating, or mitigating for new Delta water conveyance facilities. Notably, California Water Code section 85089 provides that "[c]onstruction of a new Delta conveyance facility shall not be initiated" until the benefitting federal and state water contractors, or a joint powers authority representing them, have made arrangements or entered into contracts requiring them to pay for both (a) the "costs of the environmental review, planning, design, construction, and mitigation" required for such a facility and (b) "[f]ull mitigation of property tax or assessments levied by local governments or special districts for land use in the construction, location, mitigation, or operation of new Delta conveyance facilities."

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		and resources." 13-75. The EIR/EIS should enumerate and account for these losses and deduct them from the acreage claimed to be created by BDCP's conservation measures. The document should explain where and to what extent lost lands can be replaced, and whether like-for-like replacement can be possible. If the San Joaquin County tax base would be affected by transfer to uses shifted to other jurisdictions, this should be disclosed, and mitigation measures ensured.	Similarly, for land acquired for habitat restoration measures under the environmental commitments (see Impact ECON-16), the lead agencies would compensate local governments and special districts for forgone revenue. As a result, although land would be removed from the local tax base for project purposes, local governments and special districts would be compensated for lost property tax revenues. The EIR/EIS analyzes all alternatives, including Alternative 4A. Please also refer to Master Response 11 (Applicability of City and County General Plans) regarding consistency with local plans.
1784	149	[ATT3:] Page 13-75, lines 21-32 admit: "Temporary project features in San Joaquin County associated with the construction of water conveyance facilities would include a barge unloading facility, three concrete batch plants, three fuel stations, transmission lines, and various work areas for other water conveyance features. These features would occupy lands designated as Agriculture/General, Residential/Very Low Density, and Open Space/Resource Conservation, as shown in table 13-6. Many of these temporary features would likely be in place for nine or more years of project implementation (i.e., during the near-te1m implementation or the nine-year project construction period). During that period, lands designated under agricultural zones would be temporarily converted to non-agricultural use, as described in Chapter 14, Agricultural Resources. Construction during this period would be incompatible with Agricultural Lands Policy 5, which reserves agricultural areas principally for crop production, ranching and grazing, and with Open Space Policies 3 and 4, which restrict development in open space resource areas". Their definition of "temporary" fails to disclose the true meaning of the term. First, nine or more years' loss of use can destroy or damage the economic viability of a parcel of land; whether in residential, commercial, or agricultural use. Further the EIR/EIS' mention of "nine or more" implies that impacts could extend for an undisclosed additional period of time. Further, the nine or more years "clock" would not start until construction were to be commenced. Given BDCP's complexity, enormity, permit requirements, and potential legal and legislative hurdles, construction would not likely start for some years. In the meantime, private lands subject to potential impact would be under a cloud of unce1iainty, making land sales, investment, securing of loans, and crop- planting decisions, all virtually impossible. Further still, since the lands potentially subject to expropriation or impact are mapped with such a broad brush, vast acreages that may never be needed will nonetheless be under this cloud. Indeed, the mere threat of BDCP being implemented may well have begun to cloud the economy and future of Delta lands in San Joaquin County and the other Delta jurisdictions.	Because the lands would be restored to their original purposes, and impacts would not be ongoing after the construction period, these are defined as temporary in the EIR/EIS. The impacts the commenter states are not analyzed are actually analyzed in other chapters of the EIR/EIS. Please refer to Chapter 16, Socioeconomics, for analysis of impacts related to the local economy and landowners. Additionally, access is discussed in Chapter 19, Transportation, noise impacts are discussed in Chapter 23, Noise and visual disturbance are discussed in Chapter 17, Aesthetic and Visual Resources.

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		The acreages given in table 13-6 and elsewhere reference a huge impact upon thousands of acres of land which by themselves deserve proper treatment in the EIR/EIS; but the EIR/EIS fails to consider or disclose the impacts on parcels adjoining or nearby that will exposed to lack of access, noise, and visual disturbance. Thus, even the large acreage disclosed fails to compute and disclose the true extent of impacts.	
1784	150	[ATT3:] Page 13-75, lines 21-32. The EIR/EIS should address the impact of disruption caused by the placement of a cloud of uncertainty over more than hundreds of parcels of private land subject to impacts of the project or conservation measures. Lands that lie under alternatives that may not be selected may nonetheless be under this cloud for a period of years. The document must compute and report the magnitude of these impacts and explain how these impacts are to be minimized, avoided, or mitigated.	The socioeconomic impacts of the 2013 public draft BDCP are described in Chapter 16 of the EIR/EIS. Land acquisition associated with the 2013 public draft BDCP would occur almost entirely from willing sellers. The conservation strategy does not target or identify specific parcels for acquisition. The proposed project alignment, either as a proposed project or once selected, does not place any restrictions on the use of property. The same is true for the alternative alignments.
1784	151	[ATT3:] Page 13-75, lines 21-32 The document should replace the term "temporary" with one which more fairly and accurately describes a period of roughly 9-15 years; for example: "impermanent", which compares to the use of "permanent" for other features.	The chapter uses the two terms “temporary” and “permanent” to describe impacts that will be ongoing (e.g., permanent), and impacts that will have an ending date (e.g., temporary). Therefore, the two definitions are accurate for these types of impacts.
1784	152	[ATT3:] Deferral of both impact analysis and development of mitigation measures due to lack of specificity regarding areas of known land use changes. Page 13-133, lines 5-14 admit: NEPA Effects: Effects related to incompatibility with applicable land use designations, goals, and policies resulting from implementation of BDCP Conservation Measures 2-21 would be the same under Alternative 6B as those described under Alternative 1B. Because the locations for the implementation of these conservation measures are unknown at this time, a conclusion about the compatibility of this alternative with local land use regulations cannot be made. These issues would be addressed in detail in site-specific environmental documents for restoration proposals. However, implementation of this alternative may result in substantial incompatibilities with local land use regulations due to the amount of land area targeted for restoration actions.	The analysis for CMs 2–21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis.
1784	153	[ATT3:] Page 13-133, lines 5-14. Explain how the actions that cause impacts can be covered at the project level and permitted without further review, yet the means for avoiding, minimizing or mitigating these admitted impacts can be prospective, located in only vague terms, and studied and funded only after the impact-producing actions are permitted? How does the approach used in this EIR/EIS differ from the following scenario? Developer asks for a permit to build a hotel on the California coast and admits that it would block public access, cause traffic problems and noise, conflict with zoning and adopted plans and policies, interfere with the public's use of the public beach, but nonetheless should be approved under CEQA without having to disclose the location of the project.	If the commenter is referring to Environmental Commitments, Mitigation Measures, or Conservation Measures, these are discussed at a different level of detail than the proposed project. Per CEQA Guidelines, § 15126.4[a][1][D], EIRs must discuss significant effects of Mitigation Measures, “but in less detail than the significant effects of the project as proposed.” The potential environmental effects of Environmental Commitments and Mitigation Measures are analyzed in Chapter 31, Section 31.5. Also, the analysis for CMs 2–21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis. Please also see Master Response 22.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Explain how this EIR/EIS is any different from the above case.	
1784	154	[ATT3:] The EIR/EIS admits to conflicts with existing land uses as shown below. However, the Summary Table (ES-9) shows "No Impact" related to conflicts with existing land uses. The document must clari1 why this has happened. The following text is from the EIR/EIS: Page 13-133, lines 27-43, and page 13-134, lines 1-6. Impact LU-5: Conflicts with Existing Land Uses as a Result of Implementing the Proposed Conservation Measures 2-21 NEPA Effects: Effects related to conflicts with existing land uses under Alternative 6B would be the same as those described for Alternative 1B because the proposed CM2-CM21 would be the same under both alternatives. As with Alternative 1B, implementation of CM2-CM21 could create temporary or permanent conflicts with existing land uses where they would require the removal of structures or sever critical access routes. When required, the BDCP proponents would provide compensation to property owners for losses due to implementation of the alternative, which would reduce the severity of economic effects related to this physical impact, but would not reduce the severity of the physical impact itself. Implementation of this alternative would be anticipated to result in substantial conflicts with current land uses due to the amount of land area targeted for restoration actions. CEQA Conclusion: Because the locations and types of restoration to be implemented are unknown at this point, no definitive conclusion can be made about the potential for restoration actions to result in the permanent conversion of land uses (including displacement of existing structures and residences) due to the construction of permanent features of the facility. Nor can a conclusion be made with regard to the degree of indirect impacts, which could occur primarily as a result of incompatibility with adjacent land uses or the loss or increased difficulty of access to parcels. However, implementation of this alternative would be anticipated to result in substantial conflicts with current land uses due to the amount of land area targeted for restoration actions. Where applicable, the BDCP proponents will provide compensation to property owners for losses due to implementation of the alternative. This would reduce the severity of economic effects related to this physical impact, but would not reduce the severity of the physical impact itself.	Because Impact LU-5 describes conflicts to existing land uses from implementation of the CMs, and we do not know the exact location of the CMs because they are analyzed at a program-level in this EIR/EIS, a conclusion about the compatibility of this alternative with local land uses cannot be made. Therefore, the conclusion has been determined as “no determination.” Generally speaking, the restoration associated with CMs would be consistent with open space and would generally be similar to the study area, which is a predominantly agricultural area. Additionally, conflicts with existing land uses would not constitute an environmental impact for CEQA. Any secondary environmental impacts are discussed in the specific resource chapters. Specific impacts to agriculture or wildlife habitat are evaluated in Chapters 14, Agricultural Resources, and 12, Terrestrial Biological Resources. The relationship between plans, policies, regulations, and impacts on the physical environment is discussed in Section 13.3.1, Methods for Analysis.
1784	155	[ATT3:] Page 13-133, lines 27-43, and page 13-134, lines 1-6. The document must disclose and explain the impacts of interrupting access on the County's agricultural road network essential to viable agricultural use. The EIR/EIS admits that farm access has not been fully accounted for; so this shortcoming should be corrected.	Please refer to Chapter 19, Transportation, related to roadway and transportation-related interruptions. Implementation of Mitigation Measures TRANS-1a and TRANS-1b would reduce the severity of this impact by supporting continued access to and from the community on transportation routes.
1784	156	[ATT3:] Disclose and explain the impacts of fragmenting lands available for agriculatural use.	Please refer to Mitigation Measure AG-1a under Impact AG-1 in Chapter 14, Agricultural Resources, with regards to maximizing contiguous parcels of agricultural land of a size sufficient to support their efficient use

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			for continued agricultural production. For additional information regarding agricultural impact mitigation, please see Master Response 18.
1784	157	[ATT3:] Disclose and explain the impacts of reduction of parcel sizes and splitting of related uses of essential viable farming by breaking contiguous operations into smaller, separated parcels.	Please refer to Mitigation Measure AG-1a under Impact AG-1 in Chapter 14, Agricultural Resources, with regards to maximizing contiguous parcels of agricultural land of a size sufficient to support their efficient use for continued agricultural production. For additional information regarding agricultural impact mitigation, please see Master Response 18.
1784	158	[ATT3:] Explain how the actions that are admitted to cause direct and indirect impacts to existing uses can be covered at the project level and permitted without further review, yet the means for avoiding, minimizing or mitigating these admitted impacts can be prospective, located in only vague terms, and studied and funded only after the impact-producing actions are permitted? Explain how this can be justified under CEQA.	The Conservation Measures in BDCP meet the requirements of the ESA to minimize and mitigate the impacts of the covered activities to the maximum extent practicable. Similarly, the same Conservation Measures meet the requirements of the NCCP Act to conserve the covered species in the Plan Area. While many of the Conservation Measures are described at a program level, they are designed to meet the regulatory requirements now so that the state and federal wildlife agencies can issue incidental take permits. Please also see Master Response 2 (Project Level v. Program Level) that explains the project-level versus program-level analysis in the EIR/EIS.
1784	159	[ATT3:] Page 14-7, table 14. 2 is misleading in that the totals by County and by crop type are not shown. If San Joaquin County alone were shown with totals it would appear as follows: [see ATT5] By addressing the above percentages [see ATT5], one can see that San Joaquin has a very large share of the acreage in the Plan Area that is farmland and row crops, field crops, orchards and mixed agriculture. Five other counties make up what is not shown for San Joaquin County. Table 14.2 should be revised to reflect the percentages by County for the various categories of agricultural production. By doing so, the reader would get a clearer picture of how San Joaquin County's agricultural production may be impacted by what is proposed within the Plan Area.	Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a "worst-case" assessment, assuming that if only a county-level impact analysis was done, it may have resulted in some agricultural impacts being considered as less than significant. Table 14-2 provides the acreages of crops grown in the Plan Area by county. Totals by crop type are shown in the far right column of the table. For the commenter's benefit, based on the information provided in Table 14-2, of the approximate 145,875 acres of farmland and row crops in the six counties, San Joaquin County makes up approximately 58.5 percent. Similarly, of the approximate 253,204 acres total of field crops produced by all six counties, San Joaquin County's field crops make up approximately 53 percent of that total. Of the approximate 43,971 acres of orchards across the six counties, San Joaquin's orchards make up approximately 34 percent, and of the approximate 156,017 acres of mixed agriculture across the six counties, San Joaquin's mixed agriculture makes up approximately 34.5 percent. However, because the impact analysis for agricultural resources does not look at county-by-county effects, but rather total effects within the study area, according to the criteria described in Section 14.3.2, Determination of Effects, it is not necessary to revise this table.
1784	160	ATT5: Table 1. Crop Acreages for San Joaquin County as Compared to Total Crop Acreages in Plan Area (in acres)	The comment does not raise any environmental issues related to the environmental analysis within 2015 RDEIR/SDEIS or the 2013 DEIR/DEIS.
1784	161	[ATT3:] Page 14-10, section 14.1.1.5 discusses Important Farmland. However, there is no table clarifying acreage of Prime Farmland by County within the overall Plan Area. If 512,000 acres of the total 825,487 acres in agricultural production are considered Prime Farmland, then 62% of the overall agricultural acreage is Prime Farmland. The EIR/EIS needs to show	Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a "worst-case" assessment, assuming that if only a county-level impact analysis was

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		percentage of Prime Farmland by County in order to more fully assess potential impacts to such Prime Farmland and to identify appropriate mitigation measures for each County. Farmland losses in San Joaquin County should not be mitigated in Sacramento County due to the direct and indirect economic impacts associated with such losses.	done, it may have resulted in some ag impacts being considered as less than significant. For additional information regarding agricultural impact mitigation, please see Master Response 18.
1784	162	[ATT3:] Page 14-26, line 14: Text describes that analysis related to groundwater and impacts on agriculture as related to water conveyance facilities is "qualitative in nature". Again, this brings into question, the ability for this EIR/EIS to be a project-level analysis. The text also states, "location-specific effects cannot be identified."	Please refer to Master Response 2 (Project Level v. Program Level) for a discussion of why the BDCP EIR/EIS has successfully achieved project-level analysis for CM1. Also, please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The Lead Agencies are currently undergoing federal ESA Section 7 and California ESA Section 2081(b) consultation with the fish and wildlife agencies.
1784	163	[ATT3:] Page 14-27, lines 2-3: How was it determined that four or fewer years constituted "temporary" construction activities and that between 4 and 10 years constituted "short-term" construction activities? This seems a rather arbitrary and capricious determination of defining construction impacts, and may underestimate the true impacts associated with the project. It would be much clearer if the EIR/EIS just referred to "construction impacts" vs. "operation impacts". Downplaying impacts because of the timing as "temporary" or "short-term" would not be justified and should be explained. On page 14-28, lines 15-17, the text states that "where impacts are temporary or short-term in nature, and the impacted land can be restored to productive agricultural status after the completion of construction, impacts are considered less severe than those that will be permanent in character, and mitigation obligations would be diminished accordingly." The document must explain why this is the case. A farmer cannot necessarily be out of commission for 4- 10 years and expect to be financially stable in what the EIR/EIS defines as "short term". This many years of lost agricultural production could mean financial ruin for some farming establishments.	Chapter 14 “Agricultural Resources” assesses the loss in farmland and crop types that would occur as a result of constructing and operating the water conveyance facilities. Regardless of the time period that agricultural land would be affected, the impact analysis assumed a worst case analysis and concluded that the loss of agricultural land was considered significant and unavoidable. The EIR/EIS reported that conclusion but has also proposed an extensive agricultural mitigation program that could compensate for the loss of farmland. The statement that lands may be temporarily impacted was an acknowledgement that some of the elements of the project that would affect farmland may be completed in a shorter time period than the entire estimated construction period allowing some farmland to be placed back into production before construction is completed. In addition some farmland may be affected during the entire construction period and the potential for those lands to be placed back into production would not occur until construction is completed. The time periods that land would be out of production would be determined during the final design phase of the project.
1784	164	[ATT3:] Page 14-28, lines 25-29: This entire paragraph would be better placed in the Mitigation Measures section as it refers to BDCP proponents (undefined) working with agencies on "design features" to benefit agricultural and natural resources. Why is this statement located here?	BDCP Draft EIR/EIS Chapter 2, Project Objectives and Purpose and Need, provides the definition of “BDCP proponents” (DWR and several state and federal water contractors). The paragraph in question is tied into the preceding discussion of program-level activities, for the most part, and their potential environmental impacts in the paragraph that precedes it. With regard to the design features of those program-level activities, where appropriate, the lead agencies will work with local agencies and other state agencies to identify features that will benefit both agricultural and natural resources.
1784	165	[ATT3:] Page 14-35, table 14-8: This table shows that 4,975 acres of important farmland would be permanently lost under Alternative 4, while up to 18,875 acres of such lands could be permanently lost under Alternatives 1B and 68. Again, the analysis does not break down the impacts by category, which is very important when it comes time to identify mitigation measures. Each county has varying programs for agricultural mitigation and each county may or may not have a land trust who can help to implement and manage agricultural	Alternative 1B would differ from Alternative 4 primarily in that it would have five intakes as opposed to the three proposed for Alternative 4, and it would use a series of canals generally along the east section of the Delta to convey water from north to south, rather than long segments of deep tunnel through the central part of the Delta. Acreages of converted Important Farmland in the impact analysis in Chapter 14 were calculated by relying on spatial data from the California Department of Conservation and DWR, as well as project-specific data describing the location of project components. Project-specific data also determined whether features would create footprint effects that would be temporary/short-term or permanent in

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		easements.	nature. Where any feature associated with CM1 would either temporarily or permanently overlap Important Farmland, the acreages were tallied and included in the total. It was not necessary for the impact analysis to list every feature and the associated approximate acreages of Important Farmland those features would disturb. The Mapbook figures referred to in Chapter 14 show all of the construction features (including temporary work areas) associated with the proposed water conveyance facility alignments along with Important Farmland. Please refer to Master Response 2 (Project Level v. Program Level) for a discussion of why the BDCP EIR/EIS has successfully achieved project-level analysis for CM1. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation). Please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The Lead Agencies are currently undergoing federal ESA Section 7 and California ESA Section 2081(b) consultation with the fish and wildlife agencies.
1784	166	[ATT3:] Page 14-59, lines 6-10: For Alternative 1B, the text shows that up to 2,144 acres of Important Farmland could be impacted "temporarily" and the permanent conversion would occur for about 18,875 acres of Important Farmland. Borrow/spoils areas alone would convert more than 10,500 acres under 1B. However, this acreage does not get shown by County or by specific percentage so that it more closely matches table 13-6 in the Land Use section. Table 13-6 shows that San Joaquin County alone would have 14,340 acres impacted where the proposed use would be incompatible with the County's designation for this acreage as "Agriculture-General". It's hard to imagine that 4,535 acres (18,875 minus 14,340 acres) are designated for the industrial type uses proposed for the project. The document must explain why a table similar to table 13-6 could not have been prepared in the Agricultural section of the EIR/EIS to show specific County impacts (San Joaquin, Sacramento, etc.) and for each project component. The reader has no idea how the acreages were identified in terms of Important Farmland without such a table.	Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a “worst-case” assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some ag impacts being considered as less than significant. For additional information regarding agricultural impact mitigation, please see Master Response 18.
1784	167	[ATT3:] Page 14-109, section 14.3.3.9: This section is the beginning of the impact analyses for Alternative 4 as related to agricultural impacts. Lines 3-13 summarize the types of facilities associated with the water conveyance facilities. However, no mention is made of new bridges, local drainage systems, fixed/operable barriers, canals, culvert siphons, or temporary barge unloading facilities. While some of these project components may not impact agricultural lands, they need to be mentioned as components of the project to be consistent with the Project Description, especially if water conveyance facilities are to be addressed at a project level. The document must identify all project-related facilities and describe what types of physical impacts such facilities may have in terms of general acreage for each or land-related alterations related to each. This paragraph also has an incomplete sentence on line 13. To just list the types of facilities is not adequate for a project level analysis. The reader has no idea of the physical ramifications of the facilities. The roadway locations/lengths/widths have not been identified; the transmission corridors and pole	Chapter 14, Agricultural Resources, has been revised (e.g., approximate acreages of Important Farmland converted under Alternative 4 have been updated). In addition, please see the BDCP EIR/EIS, Chapter 3, Description of Alternatives, for summaries of physical characteristics of the water conveyance features for the action alternatives; approximate acreages are provided for many features in Chapter 3, as well as in Appendix 3C of the EIR/EIS. Also, please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The Lead Agencies are currently undergoing federal ESA Section 7 and California ESA Section 2081(b) consultation with the fish and wildlife agencies. Acreages of converted Important Farmland in the impact analysis in Chapter 14 were calculated by relying on spatial data from the California Department of Conservation and DWR, as well as project-specific data describing the location of project components. Project-specific data also determined whether features would create footprint effects that would be temporary/short-term or permanent in nature. Where any

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		locations have not been identified; the acreage of spoils/RTM storage have not been identified, etc. Without this information, the conclusions about agricultural acreage impacts are suspect.	feature associated with CM1 would either temporarily or permanently overlap Important Farmland, the acreages were tallied and included in the total. It was not necessary for the impact analysis to list every feature and the associated approximate acreages of Important Farmland those features would disturb. The Mapbook figures referred to in Chapter 14 show all of the construction features (including temporary work areas) associated with the proposed water conveyance facility alignments, along with Important Farmland. Please refer to Master Response 2 (Project Level v. Program Level) for a discussion of why the BDCP EIR/EIS has successfully achieved project-level analysis for CM1. For additional information regarding agricultural impact mitigation, please see Master Response 18.
1784	168	[ATT3:] Page 14-109, line 21: The construction impacts to agricultural land are identified as "temporary or short-term conversion". The components with such impacts are identified as follows: ..Forebays: 860 acres ..RTM areas: 3,160 acres Intake pumping plant sites: 240 acres Borrow and spoil areas: 200 acres The total mentioned on page 14- 109 is 4,975 acres for Alternative 4. However, the total above is 4,460 acres. What constitutes the undefined acreage? And what about acreage of other facilities such as barge unloading, transmission lines, roads, etc. as listed below. A project level EIR must include a clear table identifying ALL elements of the project in the left column and acreages impacted by the project, by County. It appears that the following elements have not been addressed as compared to project elements identified on page 3-64 of the EIR/EIS: Intakes: Page 3-66 says 90 acres each and 3 total which would be 270 acres (not 240 as stated above on page 14-109); however, it should be noted that table 3C-1 in Appendix 3C says "Intake facilities including pumping plants....average approximately 60 acres per site" except for Alternative 4 which would be 90 acres; thus the acreage in the Alternative 4 analysis is not correct. Land area excavated (if any surface disturbance) for pipelines from intakes to intake pumping plants; Solids handling facilities; Intake pumping plants associated facilities (access road; electrical substation with transformers; switching equipment and surge towers); land area excavated (if applicable)	Chapter 14, Agricultural Resources, has been revised (e.g., approximate acreages of Important Farmland converted under Alternative 4 have been updated). In addition, please see the BDCP EIR/EIS, Chapter 3, Description of Alternatives, for summaries of physical characteristics of the water conveyance features for the action alternatives; approximate acreages are provided for many features in Chapter 3, as well as in Appendix 3C of the EIR/EIS. Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a “worst-case” assessment, assuming that if only a county-level impact analysis was done, it may have resulted in some agricultural impacts being considered as less than significant. Also, please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The Lead Agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies. Acreages of converted Important Farmland in the impact analysis in Chapter 14 were calculated by relying on spatial data from the California Department of Conservation and DWR, as well as project-specific data describing the location of project components. Project-specific data also determined whether features would create footprint effects that would be temporary/short-term or permanent in nature. Where any feature associated with CM1 would either temporarily or permanently overlap Important Farmland, the acreages were tallied and included in the total. It was not necessary for the impact analysis to list every feature and the associated approximate acreages of Important Farmland those features would disturb. The Mapbook figures referred to in Chapter 14 show all of the construction features (including temporary work areas) associated with the proposed water conveyance facility alignments, along with Important Farmland. Please refer to Master Response 2 (Project Level v. Program Level) for a discussion of why the BDCP EIR/EIS has successfully achieved project-level analysis for CM1. For additional information regarding agricultural impact mitigation, please see Master Response 18.

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		for discharge pipelines (water from intake pumping plants to initial tunnels); Vent shafts (page 3-65 is not clear about size and area needed for these); table 3-11 mentions 9 shafts for Tunnel 2 and 4 for Tunnel 1A, and an additional 3 for Tunnel 1B; thus, there are a total of 16 tunnel shafts; page 3C-19 says that each ventilation shaft may have a temporary work area ranging from 10 to 40 acres; Valve and flowmeter vaults (page 3-65 is not clear on size of these); Transition structures (not defined on page 3-65); Forebay acreage: Page 14-109 says 860 acres; table 3-11 says 245 acres for intermediate forebay and 2,030 acres for dredging are of expanded Clifton Court Forebay; however, page 3c-21 says that surface area of intermediate forebay would be 925 acres; which is true? It appears that the 245 acres applies to Alternative 4. Transmission lines: Table 3-11 identifies the total MW load but does not identify acreage or length associated with new transmission facilities, nor is this explained on page 3-65; Intake pumping plants: Page 14-109 mentions 240 acres for these; page 3C-7 says 60 acres per intake pumping plant for the modified pipeline/tunnel alignment which applies to Alternative 4; and there are 5 for Alternative 4; that would result in 300 acres (not 240 acres); And then page 3C-10 says that each intake pumping plant would range from 60 acres to 150 acres in terms of general construction area; where is this calculated? Clearing and grubbing is mentioned on page 3C-3 but no acreage is provided; every facility is likely to have an "area of impact" that exceeds the actual footprint of the facility. Page 3-66, Footnote "a" says that acreage estimates refer to permanent surface footprints which may far underestimate the area of impact, and this acreage does NOT account for non-permanent, "temporary" acreage impacts that must be considered in the analysis, especially related to removal of important farmland. Tunneling and pipe placement: Page 3C-6 mentions that open-cut method may be undertaken which would impact agricultural lands to some degree; this has not been addressed. Page 3C-7 mentions 2,800 cubic yards of riprap to be placed around the perimeter of cofferdam/intake foundations; nowhere is the acreage of riprap storage mentioned. No mention is made of acreage for sedimentation basins, which are clearly identified on page 3C-8. The basins alone could be 0.23 acres in size, but this does not include the area of	

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		disturbance. Solids lagoons: Page 3C-8 mentions 3 of these at each intake pumping plant, and each would be about 0.32 acres in size, not including the area of disturbance. There should be 9 of these if there are 3 intake pumping plants. That is about 3 acres of impact or more. Pumping plant building would be about 10,200 square feet in size. No mention of this is included in the agricultural land impacts analysis. And there would be pipes outside of the footprint area. Transition structures would be about 14,700 square feet as mentioned on page 3C-9. Again, no mention of this is made. Page 3C-11 mentions 69 kV substations with footprints at each intake pumping plant of 22,500 square feet to 122,500 square feet (2.81 acres). And a 69 kV or 230 kV transmission line would be constructed, depending on the alternative. About 500 permanent poles would be constructed for these transmission lines and 509 temporary poles would be constructed. There is no mention of agricultural impacts from this construction. Parking areas have not been mentioned; these would be for temporary construction facilities, temporary staging areas. Clearing and grubbing and surfacing would be done for these; and they may need to be . relocated as construction proceeds as stated on page 3C-13. Roads: Nothing is provided in terms of location of roads, widths of roads. or lengths of new roads. As stated on page 3c-58 and 59, both wet weather and dry weather roads are needed. Table 3C-8 in Appendix 3C fails to identify which Alternatives apply to road needs. The only data provided is total acreage of roads, which is meaningless when . addressing a project-level EIR that has to be site specific. Relocation of Byron Hwy.: Table 3C-8, page 3C-59 addresses the need to temporarily relocate the Byron Hwy.; no mention of this is made in relation to agricultural land impacts. Temporary Barge Unloading Facilities: Page 3C-60 mentions that anywhere from 30 acres to 180 acres may be needed for such facilities. Concrete batch plants; may vary from 2 acres to 40 acres; up to four . could be locate in San Joaquin County. Fuel stations: would be located adjacent to batch plants and may be 2 acres each.	
1784	169	[ATT3:] Page 14-110, line 21: An incorrect reference is made to a table M14-7, which does	These are not table references. They are figure references, and they refer to the Mapbook figure series.

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		not describe any of the features related to important farmland.	
1784	170	[ATT3:] Page 14-110, line 42: Again, an incorrect reference is made to table M14-8 which does not show any acreage by Alternative related to Williamson Act lands or Farmland Security Zones. And, it does not show project features as the text alludes to. This is table M14-9. But again, project specific features are not addressed. A list of all the above features should be identified and the acreage for each to determine true impacts to agricultural lands.	These are not table references, they are figure references, and they refer to the Mapbook figure series. These figures are intended to identify for the reader the locations of project features.
1784	171	[ATT3:] Page 14-111, line 40: Nowhere is there a table showing how this acreage was determined. This is needed for ALL facilities associated with Alternative 4.	See Chapter 14, Agricultural Resources, Section 14.3.1, Methods for Analysis, for a description of how acreages of potentially converted farmland were quantified. Please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The Lead Agencies are currently undergoing federal ESA Section 7 and California ESA Section 2081(b) consultation with the fish and wildlife agencies.
1784	172	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: Mitigation is deferred to a future date which is not permitted for a project-specific EIR	Effects of the proposed project will be subject to mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation).
1784	173	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: No specific standards are identified for the recommended Agricultural Lands Stewardship Plan (ALSP)	Please refer to response 173 above.
1784	174	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: The responsibility for preparing and managing Agricultural Lands Stewardship Plan (ALSP) not clarified	Please refer to response 173 above.
1784	175	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: Measures to promote agricultural productivity appear aimed at CM2-22; not CM-1, the water conveyance facilities; and because of this, the mitigation is not adequate and especially not adequate for the project level analysis.	Effects of the project will be subject to aggressive mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation).
1784	176	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows:	Land that is not directly affected by construction or habitat restoration should remain productive. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		All of the bulleted items on page 14-113 should have been done as part of this EIR; for example, there appears to have been no effort to avoid prime agricultural lands and there has been no effort to adequately offset such losses;	Mitigation).
1784	177	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: : Keeping lands in private ownership (see line 5 on page 14-11 Q) does NOTHING to protect agricultural viability	Land that is not directly affected by construction or habitat restoration should remain productive. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation).
1784	178	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: Making wetlands "viable living managing wetlands" as stated on page 14-115, line 21, does nothing to offset losses of agricultural lands and there is no connection behtJeen the identified impact and the mitigation measure	In its efforts to achieve the co-equal goals of water supply reliability and ecosystem restoration, the proposed project seeks to protect dozens of species of fish and wildlife in the Delta, while also securing reliable water deliveries for two-thirds of California. Please refer to Master Response 3 (Purpose and Need) for additional information regarding the purpose and need behind the proposed BDCP. Effects of the proposed project will be subject to mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation).
1784	179	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: The loss of Important Farm lands and Williamson Act lands is a significant, unavoidable impact and the text should clearly state this. While "SU" is mentioned on page ES-111, there is no mention in the main body of the EIR/S as to why this would remain a significant unavoidable impact	Where it was determined in the impact analysis that the impact under CEQA was significant and unavoidable, this is stated and reasons are given for why. For example, under Impact AG-1, the CEQA conclusion states the following. "…these impacts remain significant and unavoidable after implementation of this measure because (i) even after effects from the footprints of project facilities are minimized through design, they would continue to require the conversion of substantial amounts of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones, (ii) conservation or preservation by means of acquiring agricultural land conservation interests, even at one-to-one ratio, may not avoid a net loss of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones and (iii) the proposed optional agricultural stewardship approach does not focus principally on physical effects, but rather, focuses on providing, at a minimum, a neutral agricultural economic effect on affected lands in the Delta as a result of the BDCP, taking into consideration the desire of individual Delta farmers to continue working on their land, the long-term viability of regional agricultural economies, the economic health of local governments and special districts, and the Delta as an evolving place."
1784	180	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: There is NO mention of purchasing agricultural easements and the indirect impacts of doing this. This needs to be addressed. Case law for CEQA has recently confirmed (Masonite Corporation v. County of Mendocino (2013)218 Cal. App.4th 230) that purchase of agricultural easements should be considered as potentially feasible mitigation for loss of agricultural lands. The EIR/EIS needs to address the feasibility of purchasing easements and	Chapter 14 refers to Mitigation Measure AG-1: Develop an Agricultural Lands Stewardship Plan (ALSP) to preserve agricultural productivity and mitigate for loss of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones. AG-1 includes the option of preserving agricultural land through off-site easements or other agricultural land conservation interests, as noted specifically in most of the CEQA Conclusions for Chapter 14. The availability of land for mitigation of impacts to farmland is a challenge, particularly where local policies call for mitigation of development impacts in the Delta Secondary Zone, or outside of the legal Delta. Where

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		where these would be located; then, the EIR/EIS needs to address the availability within each County where impacts would occur and if easements would be available for "like" lands that are lost (in terms of soils, irrigation, crops abie to be grown). Finally, the potential for needed acreage of Ag. Mitigation lands needs to be assessed as related to habitat mitigation lands needed for project, and if there is acreage for both within specific counties. Specifically, impacts in San Joaquin County need to be addressed.	mitigation is necessary, all relevant options for mitigation described in AG-1 would be considered, including the acquisition of easements. In considering the finding of the Masonite case, the Fifth District Court of Appeal, in Friends of the Kings River v. County of Fresno, et al, (2014) 232 Cal.App.4th 105, held: "In sum, the Masonite court held that ACEs [Agricultural Conservation Easements] may mitigate the direct loss of farmland and that the lead agency in that case erred by failing to consider ACEs as a potential Mitigation Measure for this direct loss. We do not read Masonite, however, to stand for the proposition that CEQA requires the use of ACEs as a Mitigation Measure in every case where ACEs are economically feasible and the project causes the loss of farmland. In Masonite, the lead agency did not believe ACEs were applicable and apparently did not adopt any Mitigation Measures to address the loss of farmland caused by the project. Here, in contrast, County did not "categorically exclude ACEs as a means to mitigate the conversion of farmland." (Masonite, supra, 218 Cal.App.4th at p. 241, 159 Cal.Rptr.3d 860.) Rather, County considered the use of ACEs along with other Mitigation Measures and selected the three Mitigation Measures recommended in the DEIR. We decline to hold that County was required to adopt ACEs as a Mitigation Measure instead of the Mitigation Measures it did adopt." ACEs continue to be considered as important mechanisms to mitigate for the loss of farmland, as part of the overall AG-1 mitigation strategy. Please note the following is provided on pages 14-39 and 14-42: "For land that has not been returned to agricultural production following construction of conveyance facilities, the project proponents will adopt appropriate agricultural protection measures where feasible. This may include acquisition of agricultural conservation easements. As to feasibility, the market for purchasing interests in land changes over time, and it is not possible to predict how much interest in selling easements will exist over the period of time necessary for completion of the chosen Alternative, and the follow-on projects and other subsequent actions that may follow. DWR has acquired conservation interests in land, including conservation easements, and, thus, has had to effectively work with landowners to balance restrictions needed to either cease or carry on economically viable agriculture on the affected property with other agencies to identify needs. If easements will work as a framework for ensuring farm operations needed on the property, and the price can be agreed upon, and mitigation is acceptable within the scope of our mitigation commitments and acceptable to agencies tasked with ensuring such commitments meet the needs for such mitigation, we will have met the demands of the law. An existing lease contract or agreement only limits farmland to agricultural use into the near future, while conservation easements ensure that no other incompatible use will replace farming in perpetuity." For additional information regarding agricultural impact mitigation, please see Master Response 18.
1784	181	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are	For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact

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		deficient as follows: Nothing in Mitigation Measure AG-1 b would mitigate for the loss of Important Farmland and Williamson Act lands. Every measure uses the word "notify". Notification is not mitigation	Mitigation).
1784	182	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: Mitigation Measure AG-1c assumes that setting aside habitat lands for habitat would also mitigate for loss of agricultural lands. This is highly dependent on what types of uses would be allowed on habitat lands.Also, this mitigation measure proposes a lot of communication with multiple entities and references the "Conventional Mitigation Approach" of establishing easements "where necessary and feasible" as stated on line 43 of Page 14-117. This is NOT mitigation. Who determines what is necessary and feasible?	For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation).
1784	183	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: All of the bulleted measures on pages 14-118 and 119 are vague and generalized, using words such as "investigate"," provide technical and financial assistance;" "work with others;" "work with counties." Strategy 11 (not sure where these numbered strategies are from) states, "Provide for Agricultural Conservation Easements". Nowhere does the text explain how, where, and with what specific funding such easements would be created; nor is the acreage of such easements, by County, specified	The law concerning CEQA's consideration and protection of agricultural land continues to evolve, and the BDCP carefully considers the impacts of farmland conversion and the options available for responding to those impacts. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation).
1784	184	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: Page 14-120: line 13: Only AFTER all other generalized approaches such as consensus for an Operational Agricultural Land Stewardship Approach have failed, does the EIR/EIS mention "Conventional Mitigation Approach" as if this were stale and irrelevant. This conventional approach would be purchase of agricultural easements, an accepted form of mitigation ever since CEQA/NEPA were adopted.	Effects of the proposed project will be subject to mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation).
1784	185	[Att 3] Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient as follows: Page 14-120 mentions the need for purchasing agricultural easements but does not identify the availability of known funding sources for such. Line 44 of this page mentions that easements should not be obtained on lands that may be needed for BDCP conservation	The law concerning CEQA's consideration and protection of agricultural land continues to evolve, and the proposed project carefully considers the impacts of farmland conversion and the options available for responding to those impacts. Effects of the proposed project will be subject to aggressive mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact

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		strategies/habitat purposes up until the Year 2060! How is anyone to know what lands might be needed 46 years into the future? Again, the mitigation measure is worded in such general ways and with so many limiting conditions to make it basically meaningless	Mitigation).
1784	186	[Att 3] Page 14-121, line 16 mentions that if lands to offset agricultural land lost cannot be found within the county where conversion would occur, that agricultural land conservation can take place in another county. However, the text states that preference would be within the greater Sacramento metropolitan area. Explain why and how this has been determined. Explain why ag land losses in San Joaquin County, which has a huge percentage of its income reliant on agricultural production, should be offset by provision of conservation lands near Sacramento	Please see Master Response 18 for more information regarding agricultural impact mitigation.
1784	187	[Att 3] Page 14-122, lines 1-7 and previous page: Impacts of excess, elevated levels of groundwater on crops in the vicinity of the enlarged Clifton Court Forebay are not quanitified or mapped.	Changes to groundwater elevation are discussed in terms of the interaction between crops and the water table. This section assesses whether groundwater level changes due to new water conveyance facilities or the other conservation measures would occur at a magnitude or time period that would affect crop root zones, thereby affecting crop viability and/or irrigation practices.
1784	188	[Att 3] Page 14-123, lines 1-17: Reference is made to table 14-6 about crops tolerances of soil and irrigation water salinity. However, table 14-6 is totally unreadable for the lay person. The measurement used for salinity is not explained. The table mentions dS/m but that abbreviation is not defined Then, the text on page 14-123 talks about percentage changes in salinity but does not relate to the measurement limits shown in table 14-6. The EIR/EIS does not clarify how many acres and what crops, and what locations could be impacted by increased salinity. This results in not allowing any specific mitigation measures that would be applicable.	Table 14-6 has been revised such that “dS/m” is defined. Clarification was added to the table to indicate what the % were conveying (yield potential). “EC” has been defined in the table. Regarding percentage change in salinity, the reader is referred to Chapter 8, Water Quality, for further discussion of the water quality constituent. For more information regarding agricultural impact mitigation, see Master Response 18 (Agricultural Impact Mitigation). It would be speculative to indicate the acreage, crops, and locations that could be affected by changes in salinity of source irrigation water in the study area. Mitigation WQ-11 and supplemental Environmental Commitments would help address reduced water quality conditions related to potential increases in EC as a result of implementing the BDCP.
1784	189	[Att 3] Page 14-125, lines 1-21: Conclusions state that impacts would be SIGNIFICANT AND UNAVOIDABLE as associated with water quality, groundwater elevation changes, increased salinity, and disruptions to agricultural drainage facilities. However: No feasible mitigation measures are identified; No specific acreage, by County, of affected ag lands is addressed; No time duration is provided as to how long such impacts could be experienced. It is not adequate to just say the impact is significant and unavoidable without a more precise impact analysis for what is supposed to be a Project level EIR.	Please refer to Master Response 3 for a discussion of why the BDCP EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1. Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a “worst-case” assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some ag impacts being considered as less than significant.

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1784	190	[Att 3] Page 14-126, lines 12-41; Again. the EIR is shown as a piecemeal analysis of the project's true impacts. The CM2-22 measures are addressed or portions thereoof as related to farmland impacts. However, these are not just mitigation measures. These are integral to the project and the impact of farmland acreage should be addressed as a WHOLE - the conveyance facilities with the associated habitat restoration. The EIR/EIS does not identify the full acreage, by location and by County of agricultural land impacts. This lack of information makes any mitigation measures useless. Restoring habitat (83,800 acres) as mentioned on page 14-127, is NOT related to the true impact. Establishing new habitat has its own agricultural land impacts and this to be assessed fully.	CM2 – CM21 (there is no longer a CM22) are not part of CM-1; please see Chapter 3 of the BDCP EIR/EIS for a description of the BDCP conservation measures. Please refer to Master Response 8 regarding the evaluation of the proposed project as a whole. . Please refer to Master Response 18 regarding mitigation for impacts on agricultural resources. As appropriate, project-level implementation of the currently program-level conservation actions would be subject to additional environmental review. Presently, because locations have not been selected for many of these habitat restoration and enhancement activities, the precise extent of effects on agricultural resources is unknown. Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a “worst-case” assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some ag impacts being considered as less than significant. Please see Section 5.2.1.10, Agricultural Resources, in the RDEIR/SDEIS, for an overview of concurrent project effects (ie., effects due to CM1 and CMs 2-21 combined, where activities under each occur concurrently). Further, please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies.
1784	191	[Att 3] The overall CEONNEPA analysis of agricultural land impacts is insufficient and does not meet CEC1!VNEPA requirements for the follo~ving reasons: a) A.II components of CM-1 are not addressed b) Without addressing all components of CM-1, impacts are understated c) Habitat restoration (CM2-22) is an integral element of CM-1 and by addressing these elements separately, the project analysis is piecemealed and the whole of the action is not addressed; both should be addressed at a project level d) Impacts are not adequately assessed: a) areas and footprints are not defined; b) impacts by County are not defined; c) acreages for some project components are evaluated, but not for all components; e) Impacts are generalized which makes mitigation measures inadequate (e.g., impacts from removal of agricultural drainage canals/irrigation systems that could impact large acreages of cropland)	Acreages of converted Important Farmland in the impact analysis in Chapter 14 were calculated by relying on spatial data from the California Departments of Conservation and Water Resources, as well as project-specific data describing the location of project components. Project-specific data also determined whether features would create footprint effects that would be temporary/short-term or permanent in nature. Where any feature associated with CM 1 would either temporarily or permanently “overlap” important farmland, the acreages were tallied and included in the total. It was not necessary for the impact analysis to list every feature and the associated approximate acreages of important farmland those features would disturb. The Mapbook figures referred to in Chapter 14 show all of the construction features (including temporary work areas) associated with the proposed water conveyance facility alignments along with Important Farmland. Please refer to Master Response 7 regarding the evaluation of the proposed project as a whole.. Please refer to Master Response 3 for a discussion of why the BDCP EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1. Also, please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish

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		f) Mitigation measures are not specific and are deferred. Mitigation measures cannot be deferred for a project level analysis. If they are deferred, specific standards need to be identified. For example, setting up A.LSPs is not an adequate mitigation measure as it is not specific; funding is not identified; standards are not identified. g) Conclusions of significant and unavoidable ignore the need for specificit .	and wildlife agencies. The law concerning CEQA's consideration and protection of agricultural land continues to evolve, and the BDCP carefully considers the impacts of farmland conversion and the options available for responding to those impacts. Please refer to Master Response 18 regarding BDCP agricultural mitigation. Please refer to Master Response 10 regarding "significant and unavoidable" conclusions and mitigation.
1784	192	[Att 3] Pages 15-20, table 15-3 (and accompanying text), page 15-21, line 20. Boating and fishing use data are from 1997 and 1997 [sic]. This 17-18 year old data may be substantially out of date. For a project that could affect the entire Delta and beyond for generations, the EIR must have accurate baseline information. Therefore, the EIR/EIS authors should have conducted new studies of these recreation activities. The document must be based upon new use studies and be revised to identify baseline conditions.	The document uses the most recent data available and is compliant with CEQA and NEPA. Some updates have been made since the Draft EIR/EIS to provide the most recent data possible, including data from a 2003 report from California Department of Parks and Recreation's Division of Boating and Waterways. These updates are included in the RDEIR/SDEIS and the Final EIR/EIS.
1784	193	[Att 3] Page 15-59. The document must add discussion of potential impacts to river recreation to the bullet points on p. 15-59, and add discussion of these potential impacts to the impact analyses	River recreation is included in the existing bullet describing "recreational activities (water-dependent, water-enhanced, and land-based)."
1784	194	[Att 3] Page 15-60, table 15-12a on p. 15-88 and all associated impact assessments. The DEIR includes two baselines for recreation - existing conditions and a 2060-without-the-project baseline. Per the Neighbors for Smart Rail v. Exposition Metro Rail Construction Authority (2013) decision, the appropriate baseline for CEQA analyses is existing conditions unless that baseline would be misleading or deprive the reader of important information, in which case dual baselines must be used. The 2060-without-the project is the CEQA no-project alternative, not the setting. If the EIR uses both baselines, it needs to address impacts under each of the baselines and apply mitigation measures to each situation, as applicable. The document must revise the text accordingly. Further, the analyses also attempt to distinguish which impacts would result from the project and which would result from climate change. These two factors are not separable. For example, the operational criteria for reservoirs and pipelines would be dependent on the climactic and weather conditions, both long-term and in any specific year, but there would just be a single set of these criteria, not separate criteria for climate change and project impacts. In fact, Conservatin Measure 1's primary purpose is to provide water supply in response to changing climatic cnditions. Therefore, this appears to be a false dichotomy aimed at reducing the appearance of project impacts and reducing the project's mitigation obligations. It is misleading to ascribe certain impacts to changes in climate and others to the project. The EIR, in fact, acknowledges this on p. 15-66 (among others, i.e. p. 15-87, lines	Please refer to Section 3.5.1 of Chapter 3, Description of the Alternatives, for more information on the CEQA and NEPA baselines. For CEQA, the baseline is Existing Conditions. For NEPA, the baseline is the no-action alternative (2025/ELT for the preferred alternative, 4A, as well as 2D and 5A, and 2060/LLT for the other alternatives). Only the no-action alternative under the NEPA analysis accounts for climate change. The CEQA analysis does not, as described in Section 15.3.1 of Chapter 15, Recreation. Comparison of each action alternative (2060) to Existing Conditions (CEQA baseline), shows changes in SWP/CVP reservoir elevations that are caused by three factors: sea level rise, climate change, and implementation of the action alternative. Comparison of each action alternative (2060) to no-action alternative (2060) will indicate the general extent of changes in SWP/CVP reservoir levels and related recreation conditions due to implementation of the action alternatives. Because sea level rise and climate change are reflected in each action alternative and in the no-action alternative (2060), this comparison allows isolation of the extent of changes in SWP/CVP reservoir elevations attributable to the differences in operational scenarios among the different action alternatives. Please also see Master Response 19.

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		19-20; p. 15-274, lines 34-37), where it states, ''The CALSIM II modeling results show that, overall, future opportunities for boating-related recreation under the No Action Alternative conditions at these reservoirs would be fess than under the Existing Conditions. However, as noted above and discussed in section 15.3. 1, Methods for Analysis, these changes in SWPICVP reservoir elevations are caused by sea level rise, climate change, and future no action conditions. It is not possible to specifically define the exact extent of the changes due to future no action operations using these model simulation results." You must revise the EIR impact analyses and mitigation measures to address all changes in future conditions with the Project.	
1784	195	[Att 3] Pages 15-62 and 63 - Significance Criteria. Certain significance criteria are not sufficiently protective of the environment, counter to the purpose of CEQ.A.. Specifically, the first criterion, which considers only permanent displacement of recreational facilities as significant, should be revised to also include long-term (more than one season) temporary displacement of these facilities, and the analyses revised to address this long-term temporary impact. Similarly, what is the supporting documentation for the 8-year change to reservoir or river flow criteria? This seems arbitrary. Why not use a more conservative 4 or 5 years, which would be more protective of the environment? Also, this entire criteria, and associated impact assessment, focuses on reservoir levels. The document must add river flows and impacts to river recreation to the analyses.	As described in Section 15.3.1.1, “long-term” effects last more than two years and “short-term” effects last two years or less. Only Impact REC-1 uses permanent displacement as its significant criterion, and this is based on Appendix G of the CEQA Guidelines Checklist, as described in Section 15.3.2. Each impact uses significance criteria as established by those CEQA Guidelines. As described in the Determination of Effects section of Chapter 15, this EIR/S uses an 8-year change to reservoirs as an impact threshold because this time period was previously established by the USFWS and Bureau of Reclamation (cited in Section 15.3.2 as U.S. Fish and Wildlife 1999) as part of a previous environmental assessment. Regarding the impact of causing a change in river flows or reservoir elevations that would result in substantial reductions in water-based recreation opportunities, for the purposes of this analysis, effects on water-dependent and water-enhanced recreation activities at reservoirs are considered substantial or adverse if there would be a 10 percent or greater (more than 8 years) reduction in the frequency of recreation facility availability, using the reservoir recreation thresholds (Table 15-9), attributable to action alternative operations (U.S. Fish and Wildlife Service et al. 1999:3-281–3-282). An increase or decrease in the frequency at which reservoir levels exceed the recreation reservoir elevation threshold of less than 10 percent (8 years or fewer), attributable to action alternative, operations would not be adverse. The threshold used is 10 percent of the 82-year hydrologic period used in the CALSIM II model; therefore, approximately 8 years. For more information, please see Section 15.3.2 “Determination of Effects,” which describes the process and methodology of determining significance criteria such as 8-year changes in reservoir levels and permanent displacement of recreational facilities. As stated in Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect, and are therefore not discussed further in the chapter.
1784	196	[Att 3] Pages 15-64 and 65. This discussion focuses on impacts of projects other than the proposed project. It is inappropriate in this section, which is supposed to analyze the project impacts. Rather, it is a cumulative impact discussion that should be moved to that section of the EIR. This discussion should be moved	The section to which the commenter is referring describes the no-action alternative, which describes what will happen if the proposed project does not occur. The discussion under the no-action alternative is not intended to describe the proposed project’s impacts. That description occurs under the action alternatives discussion.
1784	197	[Att 3] Pages 15-66, table 15-10a; page 15-86, line 32; 15-274, lines 12-16, and other similar references in impact analyses. The reservoir recreation analyses are based on late	As described under Impact Rec-6, “Generally, the peak recreation season at the reservoirs occurs between May and September. Reservoirs are usually at maximum storage volume and surface water elevation in May

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		September reservoir levels. However, as acknowledged in the EIR, most reservoir use is in the summer months, from June through August Therefore, the late September analysis does not appear to be the correct metric for assessment of project impacts to reservoir (and river) recreation. The document must add Ju!y and/or August analyses of project impacts to lake (and river) levels so that potential impacts at the time of peak recreational activity can be determined.	and decline over the course of the summer through September. This analysis compares the results of the CALSIM II end-of-September reservoir water surface elevations because typically there are more instances in which reservoir elevations fall below key surface water elevation thresholds (hereafter referred to as "recreation thresholds") (i.e., number of years out of the 82 simulated when the September end-of-month storage is less than the recreation elevation threshold)."
1784	198	[Att 3] Page 15-57, lines 10-29; page 15-68, lines 1-2. Why are Catastrophic Risks described in the impact discussion? This is an existing condition, which should be considered as part of the setting. It should be removed from this	Seismic risks are included in this impact discussion because this section, 15.3.3.1, describes impacts that would occur under the no-action alternative.
1784	199	[Att 3] Page 15·68, lines 7-14, page 15-76, lines 32-35, and similar analyses throughout the impact section. The impact assessment relies on the program-level CMs 3 and 11 as mitigation for the project-specific impacts of CM1. These program-level CMs are neither sufficiently described nor is their funding sufficiently assured for them to serve as reliable mitigation measures for the project-level activities. Further, these analyses fail to provide any actual analyses as to how the program CMs will mitigate the project impacts. They are just listed, followed by a conclusion that they will mitigate the impact the impact io a less-than-significant level. The analytical nexus is absent In addition, this approach fails to comply with the court's direction in the Trisha Lee Lotus v. Department of Transportation decision.	Please refer to Appendix 3B of the Recirculated Draft EIR/Supplemental Draft EIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Aspects of Alternative 4 (i.e., CMs 3, 4, 6-12, 15, 16) are included in the preferred alternative as Environmental Commitments.
1784	200	[Att 3] Page 15·77, MM REC-2 {and Rec 2 discussions in other alternatives, i.e., page 15-255, lines 37-40; page 15-263, lines 20·36}. The mitigation is vague and not at a project level. It states that the project proponents "will enhance nearby formal fishing access sites" and "ensure adequate signage will be placed at informal sites ... " but provides no information on which sites will be enhanced or specifics about signs, nor what the enhancements will be. The p. 15-255 discussion relies on programmatic mitigation measures in other resource chapters to mitigate these impacts with no analysis as to what impacts would occur at each site, how those mitigations would be applied to these sites or how effective they would be. Given this absence of information, there is no way to determine what the impacts after mitigation will be. Revise the document to include all of the missing information/analysis listed above.	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Please also note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Aspects of Alternative 4 (i.e., CMS 3, 4, 6-12, 15, 16) are included in the preferred alternative as Environmental Commitments.
1784	201	[Att 3] Page 15-79, lines 31-39, page 15-80, lines 27-31, page 15-83, lines 20-23, and similar analyses throughout the impact section. This analysis relies on Mitigation Measure TRANS-1a to reduce impacts to a less than significant level. However, this mitigation measure defers the development of actual mitigations to a future plan. Such deferral may be appropriate for a program-level document, but is inadequate for the project-level evaluation/mitigation for CM1. Identify which specific mitigation actions are proposed for all CM1 impacts	Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Aspects of Alternative 4 (i.e., CMs 3, 4, 6-12, 15, 16) are included in the preferred alternative as Environmental Commitments.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1784	202	[Att 3] Page 15-80, lines 7·10. This discussion relies on environmental commitments (ECs) to reduce project impacts. However, the discussion includes no analyses as to how and to what extend those ECs will actually reduce these impacts. The document must add that discussion and analses. Additionally, per the Trisha Lee Lotus v. Department of Transportation decision, You must evaluate other mitigations as appropriate.	Please refer to Master Response 22 (Environmental Commitments).
1784	203	[Att 3] Page 15-82, lines 10-24; page 15-269, lines 21-23. This analysis relies on Mitigation Measure TRANS-1a to reduce impacts to a less than significant level. However, as discussed above, this mitigation measure defers the development of actual mitigations to a future plan. It further relies on recommendations in the Delta Plan as mitigation. These recommendations have no force of law and cannot be assumed to be implemented; therefore, they do not assure any mitigation. Similarly, it relies on vague Environmental Commitments whose applicability and effectiveness to the identified impacts are not discussed. The document must add an analysis of how these mitigations would be applied to the project impacts and to what degree they would be effective in reducinq imoacts to a less than sianificant level.	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures.
1784	204	[Att 3] Page 15-84, lines 12-15 and 25-40; page 15-260, lines 1-11, and similar statements throughout the EIR/EIS. These impacts discussions state that certain mitigation measures "would be available" (see, for example, line 13). It also relies on some of the programmatic ECs. This is not a commitment to mitigate. You should revise this terminology throughout the EIR to read, "would be implemented". Further this discussion relies on a large number of vague, noncommittal programmatic mitigation measures for visual impacts, noise impacts, and aquatic biology impacts to reduce this impact, but never analyzes the actual effectiveness of these measures at a project level. It just references them and then states, "The effect would not be adverse". (line 41). This is an inadequate CEQA evaluation. The document must revise to include a detailed evaluation of what the impacts would be, how the measures would reduce imoacts, and to what extent	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures.
1784	205	[Att 3] Page 15-86, Impact REC-5 (and other Impact REC-5 discussions throughout the chapter). This "analysis" consists of a single sentence under the CEQA conclusion stating, "The potential impact on covered and non- covered sport-fish species ... would be considered less than significant because any impacts to fish and, as a result, impacts to recreational fishing, are anticipated to be isolated to certain areas and would not impact the species population of any popular sportfishing species overall." This is a conclusion with no actual impact analysis. The conclusion fails to reference or comport with any of the Recreation section's listed criteria of significance. Further, Chapter 11 focuses on special status fish species and includes mitigation measures to reduce or eliminate non-native predatory fishes, which include several popular species of sport fishes. The	Because the proposed project is not anticipated to affect any species as a whole, or would only significantly alter fishing opportunities in specific areas of the Delta, it is not considered a significant impact. Please see Appendix 5F regarding submerged aquatic vegetation and fish populations. Please also see Master Response 17 (Biological Resources) regarding striped bass.

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		document must be I revised to include a project-level impact assessment of the impacts of reducing or eliminating certain sport fish populations on popular fishing sites throughout the Delta.	
1784	206	[Att 3] Page 15-253, line 9. This line refers to table 15-15 as providing the reader with a summary of recreation sites that might be affected by Alternative 4;however, the table addresses only construction impacts and not operational impacts. The document must provide a similar table summarizing operation impacts to recreational facilities.	Impacts related to operation of the conveyance facilities are found in Impacts REC-5, 7, and 8. Operation of the proposed project would not cause significant impacts to recreational facilities.
1784	207	[Att 3] Page 15-255, line 6. This line states that recreational access could occur in the future. Will access be restored or not?	Access to the southern embankment of Clifton Court Forebay would occur once construction is completed.
1784	208	[Att 3] Page 15-255, lines 16-21. This discussion is a speculative argument as to why water skiing facilities should not be considered "long term" and therefore the Project's impacts to them aren't significant. The analysis compares the Project impacts to a future baseline where the water skiing no longer exists. Use of this future baseline is impermissible under CEQA. The facilities exist (setting), have existed for a long period of time, and would be affected by the project (impact). Therefore the impact should be considered potentially significant and mitigation should be required. The document must revised as required by CEQA.	This impact goes on to describe that “regardless of any disruption in these activities, there would continue to be extensive opportunities for waterskiing throughout the Delta. The Lead Agencies would also contribute funds for the construction of new recreation opportunities, including hunting opportunities, as described in Appendix 3B, Environmental Commitments, Section 3B.2.3”.
1784	209	[Att 3] Page 15-255, line 24. The reliance on program environmental commitments (ECs) as mitigation for CM1 project impacts is impermissible under the Trisha Lee Lotus decision and also fails to explain how the ECs would mitigate the project's specific impacts.	Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Aspects of Alternative 4 (i.e., CMs 3, 4, 6-12, 15, 16) are included in the preferred alternative as Environmental Commitments.
1784	210	[Att 3] Page 15-256, lines 22-30; page 15-258, lines 3-16. Issue with using generic environmental commitments (ECs) and program-level CMs 3 and 11 to mitigate for project specific impacts. The problems with this approach -- it is impossible to see how they would be applied and how well they would work. Revise to explain how these CMs and ECs will be applied to the project, and provide a project-level analysis of the impacts. Add project-level mitigation measures as needed.	Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures.
1784	211	[Att 3] Page 15-256, lines 35-38; page 15-257, lines 48-53. These lines provide a general statement that project spoils may be reused, which involves a wide range of uses anywhere in the Delta. Revise to inform the reader how those spoils (which result from the Project-level CM1) are proposed for reuse, and what the impacts of that reuse would be, at a 2roject level.	Please see Master Response 12 (Reusable tunnel material) and Appendix 3B, Environmental Commitments, regarding impacts resulting from the commitment.
1784	212	[Att 3] Page 15-260, lines 14-19. The document must assess the impacts of operating the	Additional text has been added to the chapter to further describe the operable barrier, the boat lock usage,

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		operable barrier to fisheries upstream and downstream of the barrier, not just at the barrier	its impacts, and mitigation.
1784	213	[Att 3] Page 15-261, lines 10-46; page 15-262, lines 1-42. The references text is a litany of generic mitigation measures, and programmatic ECs and CMs, leading to a conclusion (on p. 15-263). There is no analysis as to how these measures would be applied to project impacts or to what degree they would be effective. In fact, there is no analysis at all. Revise to include the missing analyses and add project-s2ecific mitigation measures as appliicable.	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures.
1784	214	[Att 3] Page 15-266, lines 29-32. Relies on generic ECs to mitigate project specific impacts. Needs nexus and actual analysis	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures.
1784	215	[Att 3] Page 15-267, lines 30-43. This "analysis" fails to identify the number of barges to be used, daily barge activity, routes of barges, size of barges, duration of barging, what will be barged, etc. Absent this information, it is not possible to identify impacts of the barges on recreation (or air quality, noise, water quality, biotic resources, etc.). The document must provide the necessary detail to assess the project-level impacts of CM1 and reevaluate ali barqe-related impacts.	Details on the number of barges and barge activity can be found in Chapter 19, Transportation. Similar information has been added to the recreation chapter.
1784	216	[Att 3] lmpact REC-3, General Comment. Nowhere in this assessment are the impacts of changes in delta currents, either locally (e.g. associated with intakes or barge terminals) or regionally (e.g. associated with changes in Delta flows, ecological restoration projects that may include levee breeching and/or major changes in tidal prisms) on recreational boating, including marina access, boating safety and overall boating suitability discussed. Impacts of changes in flows and currents on fishing also have not been addressed. The document must add a discussion of all of these issues to this chapter, including impacts to access at all marinas.	As stated in Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Operations of Alternative 4 and the new preferred alternative, 4A, are not expected to result in a substantial decrease or increase in Delta surface water levels. Please refer to Appendix 5A, Section C, CALSIM II and DSM2 Modeling Results, EIR/EIS, for more information. Section C.29 reports changes in the monthly averaged daily minimum elevation of the Sacramento River at Freeport (see tables beginning on page 5A-C1106). Results for each alternative are presented by month, probability of exceedance, and by water year type. Results are also presented in comparison to Existing Conditions and the no-action alternative. The modeling results for the future no-action alternative indicate that water levels may continue to change as climate change occurs within the Delta. For the full modeling simulation period, Alternative 4 would result in one month during which average daily minimum water elevation would be lower when compared to Existing Conditions. Depending on the operational scenario selected, results indicate that daily minimum water surface elevations would be 0.3 feet or 0.4 feet lower on average during the month of March. However, during other months, the average daily minimum water surface elevation would increase when compared with Existing Conditions. For example, average daily minimum water elevations in September would increase by 0.9 to 1.3 feet under the proposed BDCP, depending on which operational scenario was selected.
1784	217	[Att 3] Page 15-271, lines 2-3. The document most describe fisheries impacts from changes in flows, salinity, and other hydrologic and water quality effects associated with the Project	As stated in Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Please

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		(CM 1) and Program (CM2-22) activities, in addition to barge facilities.	refer to Chapter 8, Water Quality, regarding salinity or electrical conductivity impacts in the project area. Please see Appendix 5F regarding submerged aquatic vegetation and fish populations. Please see Master Response 17 (Biological Resources) regarding striped bass. Impacts to recreation from constructing the water conveyance facilities, including the barge unloading facilities, are discussed in Impact REC-4 in Chapter 15, Recreation. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures.
1784	218	[Att 3] Page 15-271, lines 12-14. What's the significance level of this impact?	The significance conclusion is located later on in this impact discussion. The potential impacts would be considered less than significant.
1784	219	[Att 3] Page 15-271, lines 20-22. Mitigation REC-2 does not address the reduction in fishes, which is the impact stated above. Therefore, this impact is not mitigated. You must revise text according!~.	This impact, on line 23, states “fish populations likely would not be affected to the degree that fishing opportunities would be substantially reduced.” Mitigation proposed would enhance other recreational fishing sites in the vicinity and direct anglers to those areas.
1784	220	[Att 3] Page 15-271, lines 29-46, continuing on p. 15-272. This mitigation-discussion once again relies on program-level CMs and ECs to mitigate project-level impacts without describing the impact at a project level or the nexus between the impacts and mitigation measures. Revise to fully describe the impacts then specify detailed mitigation measures and residual effects.	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures.
1784	221	[Att 3] Page 15-273, lines 34-35, and 15-27 4, lines 1-2. This impact "analysis" concludes that the project would not result in long-term reductions in fishing opportunities because impacts would be "typically limited to specific rivers and not the population of the species as a whole." First, this conclusion is not consistent with the Recreation section's stated criteria of significance; second, it is unclear why, if an entire river is affected, why fishing impacts would not be significant; third, there's no project-level analysis of the potential impacts on loss of fisheries to the CM1 project. The document must address each of these deficiencies in a revised text.	The analysis is looking at recreational opportunities in the Delta as a whole. Because the proposed project is not anticipated to affect any species as a whole, or would only significantly alter fishing opportunities in specific areas of the Delta, it is not considered a significant impact.
1784	222	[Att 3] Page 15-275, lines 9-16 and 38-39. These conclusions rely on a comparison of the Project impacts with a future (2060) baseline. You must add a comparison of the post-project conditions with the existing baseline and identify appropriate mitiqation measures for each of these impacts	The methods for analysis behind the Existing Conditions and no-action alternative analyses is described in section 15.3.1.1. Both are included in alternatives analyses. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures.
1784	223	[Att 3] Page 15-275, line 28. This impacts discussion states that certain mitigation measures "would be available" It also relies on some of the programmatic ECs. This is not a commitment to mitigate. This terminology must be revised throughout the EIR/EIS to read,	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix

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		"would be implemented".	3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures.
1784	224	[Att 3] Page 15-276, lines 5-8. This mitigation states that DWR and Reclamation "will work with DPR. ... ". Working with agencies does not assure mitigation. The document must be revised to describe what actual mitigation will be conducted and how that would/would not mitigate the project's impacts.	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SD EIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures.
1784	225	[Att 3] Pages 15-277-283, Impact REC-9. Long-Term Reduction in Fishing Opportunities as a Result of Implementing Conservation Measures 2- 21: The document must provide a detailed analysis of how specific SAV removal and turbidity increases resulting from the project may affect sport-fishing species. The document must also discuss the changes in flows and salinity with the project (combined CM1-22) in 2060 may affect these species. The conclusion that, "In the long term, the impact on fishing opportunities would be considered beneficial because the 35 conservation measures are intended to enhance aquatic habitat and fish abundance", is not supported by the analysis in Chapter 11, which focuses on special-status species and specifically states that one of the goals of the CMs is to adversely affect man of the non-native, predatory sportfishing species	Please refer to 4.3.4, Water Quality, Section 4 of the RDEIR/SDEIS regarding salinity or electrical conductivity impacts in the project area. Please see Appendix 5F regarding submerged aquatic vegetation and fish populations. Please see Master Response 17 (Biological Resources) regarding striped bass. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures.
1784	226	[Att 3] Pages 15-285-289, Impact REC-10. This section fails to address impacts to boating from changes in currents, tidal prism's and flow patterns resulting from CMs2-22. The document must revise the analysis to address these issues. It must include both Delta and upstream rivers that may have altered flows associated with the CMs.	As stated in Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures.
1784	227	[Att 3] Page 15-291, lines 5-15. This discussion fails to describe the degree of increase in inundation in the Yolo Bypass compared to existing conditions. It is impossible to assess the severity of the impacts to recreation absent this information. The document must provide this essential information and reassess as necessary	Impact Rec-11 does include details of CM2 inundation further down in the discussion. Please also see Table 3.4.2.-1 in Chapter 3 of the BDCP, which describes inundation details under CM2. As described in Impact Rec-11, CM2 would shave an adverse effect on upland recreational opportunities under Alternative 4. The Lead Agencies are considering alternative methods for managing closures at the wildlife area, such as partial rather than full closures following flood events, and it could be that future operations would not adversely affect the overall hunting season. Additionally, Environmental Commitments are available to reduce the effects of inundation on upland recreational opportunities. Additional Alternatives 4A, 2D, and 5A have been developed since the Public Draft EIR/EIS. Alternatives 1A-8 presented in the Final EIR/EIS include Yolo Bypass improvements as CM2 of the BDCP conservation strategy. The Lead Agencies acknowledge the commenter's opinion about the potential effects of CM2 on recreation. Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the no-action alternative.
1784	228	[Att 3] Page 15-291, lines 32-36; page 15-292, lines 2-3. This vague discussion states, "Additionally, environmental commitments are available to reduce the effects of inundation on upland recreational opportunities" and "Depending on the acquisition strategy	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Additionally, please note

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		implemented through this measure, recreational access for upland activities could be expanded or diminished". This provides no information as to what the impacts would be or what will be done to mitigate the impacts. The document must be revised to state what assures that monitoring measures will be implemented.	that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures.
1784	229	[Att 3] Page 15-291, lines 8·24. There will be a large-scale transition in habitats, which will result in a large-scale transition in species, affecting hunting. This needs to be assessed in detail to determine what recreation opportunities will be lost and/or gained as a result of the project, not just types of effects that may occur. This section must be revised to inform the reader as to the net benefit or loss of each type of recreation activity associated with the conversion of up to 65,000 acres of upland habitat to wetlands and other associated habitats. We suggest separate discussions for each type of recreation use that may be affected, with specific mitigation for impacts to each use. Issues to be addressed should include, but not be limited to: Would access be provided to wetland areas for recreational use? How would the areas be mana ed? What would be the tradeoffs in terms of recreation uses?	Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or CMs 2–21. Please see 4.3.11 in Section 4 of the RDEIR/SDEIS for updated recreational impacts and associated Mitigation Measures of the preferred alternative.
1784	230	[Att 3] Page 15-294, lines 26-40. This discussion remarkably concludes that "These impacts [from construction and operation of CMs 2-22] on upland recreation oppo1iunities would be considered less than significant because the BDCP would include environmental commitments that would require the BDCP proponents to consult with CDFW to expand wildlife viewing, angling, and hunting opportunities, as described in Recommendation DP R14 of the Delta Plan." This conclusion is unsupported and possibly in error because: a) DP14 is a recommendation and not a requirement; thus, this mitigation is not assured to occur. b) Consultation with CDFW does not necessarily result in any mitigation; consultation is just talking, not acting. c) The ECs are vague and unenforceable. Further, the EIR provides insufficient information as to how the ECs would be applied to this program to assure mitigation. Given the potential for large-scale landscape-level impacts to recreation as a result of the project, this discussion provides no evidence that the impacts would be reduced to a less-than-significant level. The document must revised to describe how the mitigations would be implemented, enforced, and monitored. Identify what proportion of each type of impact is expected to be mitigated by each type of mitigation measure.	Please see Master Response 2 (Project Level v. Program Level) regarding how a program EIR allows an agency to consider broad policy alternatives and develop program-wide Mitigation Measures at an early stage, before the specific components of the program are proposed for approval. Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of Mitigation Measures, Environmental Commitments, and Conservation Measures. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures.
1784	231	[Att 3] Page 16-39, lines 23-25: The EIR states that the cumulative analysis is based on comparing all the "development" alternatives to the "No Action Alternative" for Year 2060. This is an extremely erroneous way of evaluating cumulative analysis for a variety of reasons. First of all, the cumulative analysis needs to evaluate the geographic area for which	Please refer to Section 4.2.1.1 of Chapter 4, Approach, regarding baselines, which explains why the CEQA analysis compares the potential impacts to Existing Conditions while the NEPA analysis compares the potential impacts to the no-action alternative. Neither CEQA nor NEPA require a cumulative effects analysis to be organized by each topic, such as airsheds or viewsheds. This EIR/EIS analyzes cumulative effects by

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		the cumulative analysis is done; for each topic that may vary such as airsheds, viewsheds, etc. Then, the cumulative analysis under CEQA requirements requires that cumulative conditions identified by relevant General Plans or other similar plans be considered or a "project list" approach can be done (see Section 15130 of CEQA Guidelines). Section 16.3.3 address the No Action Alternative. Rather than project what conditions are likely to exist in 2060 under that No Action Alternative, the text on page 16-50 refers to the reader back to the Environmental Setting section. This section DOES NOT identify conditions that are likely to exist in 2060. instead, this section addresses conditions as of the time of writing the EIR/EIS. The cumulative analysis needs to compare future cumulative conditions to he baseline year. This has not been done and is a major inadequacy of the EIR/EIS. In addition, how can 2060 economic conditions possibly be determined in this Project Level EIR/EIS for the conveyance facilities? No General Plan of the affected counties covers this great a time period. For example, the update of the San Joaquin County General Plan is currently underway. this General Plan only goes to the year of 2035. One only has to iook at the economic conditions of 2008 -i 0 that so severely affected the Central Valley economy to know that one could not have predicted that phenomenon. Explain how a meaningful cumulative analysis of socioeconomic impacts can be done in this manner and how it meets the requirements of CEQNNEPA?	resource chapter. The cumulative impact analysis has been updated and refined in the RDEIR/SDEIS and Final EIR/EIS. Please refer to Section 4.2.5.2 of Chapter 4, Approach, regarding the methodology of the cumulative effects analysis. For this EIR/EIS, cumulative impacts were identified based on: (1) assumptions developed as part of CALSIM II water supply modeling, (2) information extracted from existing environmental documents or studies for the resource categories potentially affected by each project, (3) investigation of future project plans by other agencies and private entities, and (4) knowledge of expected effects of similar projects (CEQA Guidelines, section 15130, subdivision (a)(1). Each resource chapter contains an analysis of the cumulative effects specific to that resource that would potentially result due to implementation of the BDCP and other cumulative projects. Please refer to Master Response 1 (Environmental Baselines) and Master Response 9 (Cumulative Impact Analysis).
1784	232	[Att 3] Nowhere does this section address the significance criteria used to evaluate impacts related to population and housing. A search was done for all of Chapter 16 for the word "criteria" and it was not found. And the same applies to "criterion". Without identified CEQA/NEPA significance criteria, the analysis does not follow the CEQNNEPA requirements. For example, CEQA very clearly states that displacement of housing must be addressed. 'vVhere has this been done specifically for all the components of CM\ as well as CM2- 22? An extremely generalized statement is made on page 16-177, lines 34- 35, but there is no specificity as to number of households or business, or where these would be located that would be displaced. The EIR/EIS needs to provide specificity on this impact.	As described under Section 16.3.2, “Determination of Effects,” for the purposes of this analysis, a concentrated, substantial increase in population or new housing associated with project activities would constitute an adverse socioeconomic effect. Impact ECON-2 describes impacts to population and housing during construction. Under this impact for Alternative 4A, the preferred alternative, it states that construction of water conveyance facilities under Alternative 4 would conflict with approximately 19 residential structures. The physical footprints of the three intake facilities, along with associated work areas, are anticipated to create the largest disruption to structures, conflicting with 12 of these residences. The construction workforce would most likely commute daily to the work sites from within the five-county region; however, if needed, there are about 53,000 housing units available to accommodate workers who may choose to commute to on a workweek basis or who may choose to temporarily relocate to the region for the duration of the construction period, including the estimated 730 workers who may temporarily relocate to the Delta region from out of the region. In addition to the available housing units, there are recreational vehicle (RV) parks and hotels and motels within the five-county region to accommodate any construction workers. As a result, and as discussed in more detail in Chapter 30, Growth Inducement and Other Indirect Effects, Section 30.3.2.1, Direct Growth Inducement, construction of the proposed conveyance facilities is not expected to substantially increase the demand for housing within the five-county region. Impact ECON-8 addresses population and housing during operation and maintenance; Impact ECON-14 addresses it as a result of implementing the CMs, or Environmental Commitments under 2D, 4A,

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			and 5A. None of them are expected to result in adverse or significant impacts.
1784	233	[Att 3] Page 16-52, lines 10-12: The CEQA Conclusion for the No Action Alternative is that ongoing programs and plans would result in crop acreages and crop values similar to those under Existing Conditions. There is no substantial evidence showing that by 2060, 46 years after 2014, that crop values would be the same as in 2014. If one goes back to evaluate the history of crop values, there have been significant changes over time. For example, orchards and vineyards have replaced row crops as more economic value per acre has been found by these conversions. The document must provide substantial evidence to justify this conclusion	The impact analysis was conducted using the best available data, particularly from the U.S. Department of Commerce. Cropping patterns would be very difficult to predict for 2060. It would be speculative to assume major changes in crop trends; therefore, the most reasonably foreseeable trends were assumed. As described in Section 16.3.3.1, the no-action alternative includes continued SWP/CVP operations, maintenance, enforcement, and protection programs by federal, state, and local agencies, as well as projects that are permitted or under construction. Using that information, assumptions were made regarding the availability of water for similar crop conditions.
1784	234	[Att 3] Page 16-163, line 53: Nowhere is there a table identifying where (in terms of communities/counties) the 53,000 units of available housing are to accommodate the projected peak of 3,937 workers during the 8-year construction period. And nowhere is there an explanation of how it was determined that only 1, 180 workers would require housing within the 5-county region of the BDCP water conveyance facilities. The EIR/EIS does not identify the like! Wages of these workers as related to local housing costs.	Please note that the numbers under Alternative 4, such as the 1,180 workers, have changed and are reflected in the RDEIR/SDEIS. As described in Section 16.3.1, estimates of housing demand, for the construction phase and the operation phase of each alternative, were calculated based on changes in employment. The employment impact data were drawn from the analysis of Delta regional employment and income (see Section 16.3.1.2 for a description of that methodology). Available permanent housing was determined by estimating the number of vacant housing units using the total housing units and vacancy rates for each of the five counties. Available temporary housing for the construction crews, (e.g., RV parks) was evaluated through internet searches of RV parks in each of the five counties. Please also refer to Chapter 30, Growth Inducement and Other Indirect Effects, regarding housing and the number of workers that would relocate to the Delta for the project. Delta employment related to the project was calculated using the IMPLAN model, as described in detail in Section 16.3.2.
1784	235	[Att 3] Page 16-164, lines 13-15: It is explained that a much larger (87%) percentage of agricultural workers are of Hispanic origin, while only 54 percent of construction laborers claim Hispanic origin. The EIR/EIS does not assess the impact of Hispanic agricultural workers loosing work due to the removal of agricultural lands from production. And because most of these workers are not trained in construction skills, the EIR/EIS needs to address what happens to these workers who may lose agricultural employment.	The disproportionate loss of jobs to the Hispanic population is discussed in Chapter 28, Environmental Justice, under the Socioeconomics section for each alternative. For additional information regarding environmental justice, please see Master Response 27.
1784	236	[Att 3] Page 16-166: The EIR/EIS on line 30-31 states "Access would be maintained to all existing recreational facilities, including marinas throughout construction." Why is this not addressed in the Project Description? If the water conveyance facilities are to be evaluated at a project level, this kind of information needs to be clearly spelled out and illustrated in the Project Description.	It is worth noting that "[t]he description of the project … should not supply extensive detail beyond that needed for evaluation and review of the environmental impact[.]" (State CEQA Guidelines, § 15124.) "A general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns." (Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 28.) "The 'general description' requirement for the technical attributes of a project is consistent with the other CEQA mandates to make the EIR a user-friendly document." (Ibid.) "The EIR must achieve a balance between technical accuracy and public understanding." (Ibid.) The only mandatory components of a Project Description in an EIR are the following: (a) The precise location and boundaries of the proposed project shall be shown on a detailed map,

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			preferably topographic. The location of the project shall also appear on a regional map. b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project. (c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities. (d) A statement briefly describing the intended uses of the EIR. (1) This statement shall include, to the extent that the information is known to the Lead Agency, (A) A list of the agencies that are expected to use the EIR in their decision making, and (B) A list of permits and other approvals required to implement the project. (C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.
1784	237	[Att 3] Page 16-168, table 16-43 is totally unclear. First, it does not define the columns. Does Column 2 refer to acreage lost? The last column shows minus numbers …. Are these percentages lost from existing acreage? Finally, the information needs to be shown by County. The table is totally meaningless unless one knows where the economic impacts are occurring. Just above the table, text refers to 5,600 acres of irrigated cropland declining. Then, the table immediately below shows 478, 100 total acres but no line item shows the 5,600 acres referred to in the text. The table does not clarify which items refer to irri ated cro s.	The socioeconomic impact assessment was based in part on the IMPLAN. The IMPLAN model used for the EIR/EIS was constructed for the Plan Area by combining the counties falling within the area. The IMPLAN model, by definition recognizes that goods and services are exchanged between the counties in the Plan Area. Isolating each county would not fully account for either the adverse or positive socioeconomic impacts attributable to each alternative. Units of measurement have been added to the columns.
1784	238	[Att 3] Page 16-170, table 16-44 is very unclear as related to employment impacts By "Impacts" in the second column, is this referring to jobs lost? Is the "Labor Income" lost and to what counties? The IMPLAN results are extremely generalized and do not assist individual counties in commenting on this EIR/EIS.	Units of measurement have been added to the table.
1784	239	[Att 3] The transportation analysis identifies the following main roads within the jurisdiction of San Joaquin County or cities within the County: Walnut Grove Road; Peltier Road; Tracy Blvd.; Byron Highway; Mountain House Parkway; Eight Mile Road; and Tracy Blvd. These are all the roads within the study area that may be impacted by construction traffic over the 9-year construction period. However, table 19-7 fails to include Byron Highway for San Joaquin County	The section of Byron Highway in San Joaquin County is labeled with Segment ID SJ 05. This segment is included under Mountain House in Table 19-7.

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1784	240	[Att 3] Page 19-171, table 19-25: Bryon Hwy. is shown has having significant construction-related transportation impacts for the analysis period of 6 AM to 7 PM. However, the mitigation measures basically state the following: ,. Implement a site-specific traffic management plan (TMP) Limit hours or amount of construction activity on congested roadway segments Make good faith efforts to enter into mitigation agreements to enhance capacity of congested roadway segments These mitigation measures are woefully inadequate. First of all, Mitigation Measure TRANS-1 a addresses this impact but goes into details totally unrelated to the impact such as in-water work areas (this impact is related to road vehicles) and notification of boating organizations and marinas; no-wake zone (again the impact is about road vehicles); coordination with rail providers; coordination with transit providers. The impact states "TRANS-1: Increased Construction Vehicle Trips Resulting in Unacceptable LOS Conditions." Why is this TMP mentioning anything related to boating facilities? The mitigation is also woefully inadequate for the following reasons and the following elements of the suggested mitigation measure: Signage is not mitigation Barricades are not mitigation Use of fiag people may be somewhat helpful but not much, and detouring traffic just moves the problem elsewhere Notification is not mitigation, especially for cycling organizations and marinas as this does nothing to mitigate the congestion Outreach is not mitigation Alternative access routes just relocate the problem but don't solve it Describing construction staging areas does nothing to relieve traffic congestion; Designating areas where nighttime construction will occur does not provide mitigation (the impact is related to 6 AM to 7 PM time period) Plans to relocate school bus drop-off zones does nothing and this issue wasn't even	The Lead Agencies acknowledge your concerns about the impacts of construction traffic and the suitability of mitigation. Mitigation Measure TRANS-1a was developed to address several impacts, including Impact TRANS-4, Disruption of Marine Traffic during Construction. Traffic management plans are intended to comprehensively address multiple modes, including waterborne travel. For more information regarding the preferred alternative and its impacts and associated Mitigation Measures on transportation, please see 4.3.15 Section 4 of the RDEIR/SDEIS.

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		addressed in the impact discussion Directing construction vehicle drivers to pull over in the event of an emergency is not a mitigation measure; this is required by law (CA Vehicle Code 2180~) and has nothing to do with relieving construction vehicle traffic congestion Designating offsite vehicle staging does not mitigate congestion Posting information for emergency contact does not mitigate congestion Coordinating with rail providers or transit providers does not mitigate congestion Posting information on 511.org does not mitigate for congestion. The most egregious item in the list is "Other actions to be identified and developed as may be needed by the construction manaqer/resident enqineer to ensure that temporary impacts on transportation facilities are minimized, The mitigation measures are deferred, ineffective, and not directed to the identified impact. Revise to include measures that are able to be mointored; identify the responsible parties and the timing; and identify how the measures would relieve the construction vehicle traffic congestion that has been identified as the impact where LOS impacts were significant	
1784	241	[Att 3] The other two mitigation measures suggest limiting hours of construction on congested roadway segments. Do you really think this would happen? You have a long route; a truck travels through segments that are fine and ones that have been identified as congested, You can be assured that this will not happen. In addition, TRANS-1 b starts out with the words "Where feasible",., .this is deal killer from the start The impact analysis has not even identified when congestion is not acceptable because the entire period of 6 AM to 7 PM was assessed. LOS for peak hours for intersections was not assessed as the EIR/EIS stated that routes cannot be known at this time, Without such an analysis, this so called "project-specific" mitigation measure is totally unworkable. The third and final mitigation measure for construction vehicle congestion is to "Make Good Faith Efforts to Enter into Mitigation Agreements to Enhance Capacity of Congested Roadway Segments". Making a good faith effort is totally unenforceable, If "capacity enhancements" are ever funded, then the growth inducing impacts of such have to be assessed and this has not been 1 done in the EIR/EIS. The document must address what types of enhancements [may occur, where and when. This is only appropriate for a project-specific EIR/EIS which this is for CM-1.	Although Mitigation MeasuresTRANS-1a through TRANS-1c would reduce the severity of this impact/effect, the Lead Agencies are not solely responsible for the timing, nature, or complete funding of required improvements. If an improvement that is identified in any mitigation agreement(s) contemplated by Mitigation Measure TRANS-1c is not fully funded and constructed before the project's contribution to the impact/effect is made, a significant impact, or an adverse effect, in the form of unacceptable LOS would occur. Therefore, this impact/effect would be significant and unavoidable and adverse, respectively. If, however, all improvements required to avoid significant impacts and adverse effects prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, impacts would be less than significant and effects would not be adverse. Mitigation Measures TRANS-2a through TRANS-2c are available to reduce this effect/impact, but not necessarily to a level that would not be adverse/less than significant, as the BDCP proponents cannot ensure that the agreements or encroachment permits will be obtained from the relevant transportation agencies. If an agreement or encroachment permit is not obtained, an adverse/significant effect/impact in the form of deficient pavement conditions would occur. Accordingly, this effect/impact could remain adverse/significant. If, however, mitigation agreement(s) or encroachment permit(s) providing for the improvement or replacement of pavement are obtained and any other necessary agreements are completed, adverse/significant effects/impacts could be avoided. Mitigation Measure TRANS-1c will reduce the severity of this impact, the BDCP proponents cannot ensure that the improvements will be fully funded or constructed prior to the project's contribution to the impact. If

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			an improvement identified in the mitigation agreement(s) is not fully funded and constructed before the project's contribution to the impact/effect is made, a significant impact or an adverse effect in the form of increased safety hazards would occur. Accordingly, this effect would be significant and unavoidable and adverse, respectively. If, however, all improvements required to avoid significant impacts prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, impacts would be less than significant and effects would not be adverse.
1784	242	[Att 3] Stating that any traffic models to be used to determine fair share costs shall be mutually agreed uoon by BDCP proponents and the affected agencies creates the risk of never having such modelling done. The agency determining the models shall be the appropriate transportation agency and BOCP should have nothing to say about the rnodefs. This mitigation measure must be revised.	The Lead Agencies seek to share costs fairly and equitably with affected agencies. Understanding of, and agreement on, the traffic models are part of this process. For more information regarding the preferred alternative and its impacts and associated Mitigation Measures on transportation, please see 4.3.15 Section 4 of the RDEIR/SDEIS.
1784	243	[Att 3] Page 19-173, line 20-21, at beginning of Mitigation Measure TRANS-1a states: ",..environmental commitments identified in this EIR/EIS, This will include potential expansion of the study area identified in this EIR/EIS to capture all potentially significantly affected roadway segments," This statement implies that the impact analysis has not been complete, and that additional analysis is necessary which is not appropriate for the Project level component of the analysis, Clarify what this sentence means and why study area would need to be expanded,	The Lead Agencies understand that plans may evolve and want to ensure that changes are evaluated appropriately. This statement is in reference to the traffic management plans, and it is included to ensure that potential additional affected areas identified as part of these plans are evaluated, if needed. For more information regarding the preferred alternative and its impacts and associated Mitigation Measures on transportation, please see 4.3.15 Section 4 of the RDEIR/SDEIS.
1784	244	[Att 3] Page 19-181, lines 21-17: The mitigation measure for impacts to paving conditions of roads used for construction are not adequate. Prohibitions again construction traffic using roadway segments with pavement conditions below thresholds is totally unenforceable. Mitigation Measures TRANS-2a and 2b are not workable; Only TRANS-2c might be workable. But again, as stated in line 10 on page 19-182, making a "good faith effort" is not an enforceable mitigation measure. San Joaquin County could be saddled with the burden of worsened roads and me cost of repaving roads used for the BDCP proect.	See response 1784-241 above.
1784	245	[Att 3] Impact TRANS-3: Mitigation measure TRANS-1c does not solve the pmblem of interference with emergency routes during construction. As stated above, "making a good faith effort" for anything is not an enforceable mitigation measure. The document must revise this mitigation measure so that it is enforceable and identify who is to do what and when it's to be done.	The Lead Agencies acknowledge the importance of Delta roads for the delivery of emergency services. EIR/EIS Chapter 19, Transportation, page 19–36 identifies interference with emergency services as an effect. Impact TRANS-3 further discusses this problem and its effects. Mitigation Measure TRANS-1a includes provisions to ensure that construction vehicles allow continual access for emergency vehicles at the time of an emergency. Mitigation Measure TRANS-1c also seeks to work with affected jurisdictions to enhance capacity of congested roadway segments where construction traffic will substantially affect transportation facilities. However, some significant impacts may be unavoidable as discussed on page 19–70 of BDCP EIR/EIS Chapter 19, Transportation.
1784	246	[Att 3] lmpact TRANS-6: The mitigation measures related to transit interruptions just refer back to Mitigation Measure TRJ\NS-1 a, b, and c. These are woefully inadequate and unenforceable	The Lead Agencies acknowledge your concerns about transit impacts and seek to avoid delays or detours to transit. Mitigation Measure TRANS-1a includes provisions to develop, where feasible, daily construction time windows during which transit operations would not be either detoured or significantly slowed. However, the agencies acknowledge that in some cases disruption may not be possible to avoid. Thus, the impact is listed

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			as significant and unavoidable. For additional information regarding significant and unavoidable impacts, please see Master Response 10.
1784	247	[Att 3] lnadequate coverage of CEQA Significance Critiera: The EIR/EIS fails to address the following criteria as required by the CEQA Guidelines:: Confiict with applicable plan or policy related to effectiveness of the performance of the circulation system Conflict with an applicable congestion management program Increase in hazards due to a design issue Confiict with adopted plan/policies related to bike use, transit, or pedestrian facilities or decrease the safety of such facilities This entire section must address the required significance criteria In addition, it must analyze and disclose increased traffic and congestion on I 1-5, l-205, 1-580, and 1-80 that wil! occur because of admitted heavy construction traffic on Delta highways: SR-12 and SR-4. .	The CEQA significance criteria used to determine significance of impacts is presented in Section 19.3.2, Determination of Effects. These criteria cover impacts identified in CEQA Guidelines Appendix G. The impact analyses address all of the required potential traffic/transportation effects, including effects on roadway capacity and road conditions, potential conflicts with transit and emergency access, effects on marine and air traffic and the potential to increase traffic risks. As discussed in Appendix 19A, Bay Delta Conservation Plan Construction Traffic Impact Analysis, page 31, segments were selected as follows. Beginning in January 2012, agencies were first contacted regarding the general approach and methodology intended for both the traffic operations and pavement conditions assessment related to construction impacts. Agencies were sent the list of study segments for review and comment. In one case, study segments were adjusted within a jurisdiction to be consistent with current truck routing practices. Subsequently, agencies were requested to supply readily available existing pavement condition information to populate Table 5 in the previous section. Agency representatives were also asked about potential mitigation approaches to address potential pavement condition impacts. Through this outreach, sample mitigation approaches used for similar projects were obtained. Table 6 in Appendix 19A identifies all agencies contacted as part of this outreach effort. For more information regarding the preferred alternative and its impacts and associated Mitigation Measures on transportation, please see 4.3.15 Section 4 of the RDEIR/SDEIS.
1784	248	[Att 3] lmpact TRANS-8: The EIR/s fails to provide substantial evidence of why traffic generated during project operations would be less than significant There is no data on number of workers, number of trips, or times/days of trips. The document must provide this important information.	Because details of the number of workers, numbers of trips, and times/days of trips are not yet known, the analysis presumed a worst-case scenario, applying all construction truck and employee trips to each analysis hour from 6 a.m. to 7 p.m. Details are provided in Draft EIR/EIS Appendix 19A.
1784	249	[Att 3] impact TRANS-10: This impact analysis fails to provide any information related to traffic impacts associated with CM2-22. Doing a qualitative analysis ,for project elements that are intricately linked with the success of CM1 ls another example of piecemealing the project and failing to adequately assess all project impacts. Restoration efforts; creating wetlands; construction worker vehicles, etc. will have large impacts related to construction vehicles hauling dirt and other materials. The EIR/EIS needs to identify where such trucks may travel and how many may use local roads. The impacts on LOS and pavement conditions need to be addressed. Just concluding that the impact could possibly be significant and unavoidable does not relieve the authors of the responsibility of doing an adequate impact analysis. And again, the reference to Mitigation Measures TRANS-1 a, b and c is woefully inadequate. It is as if the authors were trying to create one "catch-all" mitigation measure that could be used for multiple identified impacts rather than gearing the mitigation measures to the specific impact. The result is that the mitigation measures are far too generalized and vague to make them	The Lead Agencies acknowledge your concerns about transit impacts and seek to avoid delays or detours to transit. Mitigation Measure TRANS-1a includes provisions to develop, where feasible, daily construction time windows during which transit operations would not be either detoured or significantly slowed. However, the agencies acknowledge that in some cases disruption may not be possible to avoid. Thus, the impact is listed as significant and unavoidable. For additional information regarding significant and unavoidable impacts, please see Master Response 10.

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		worth anything.	
1784	250	[Att 3] General: Has the transportation analysis evaluated the transportation impacts of trucking in the water for the concrete batch plants and operations which are estimated to need approximately 47 million gallons of potable water. Many of the locations are not near a source of potable water.	Construction vehicle assumptions were based on an economic analysis prepared by DWR and 5RMK Inc. (referred to as the "cost estimate" in Appendix 22A). The cost estimate identifies equipment and vehicle activity required for construction, including water truck trips. Please refer to Appendix 22B, Air Quality Assumptions, Table 22B-7, for a summary of the vehicle assumptions.
1784	251	[Att 3] Page 20-35, lines 31-41: In terms of the No Action Alternative, the EIR/EIS states that "the Lead Agencies have made some informed judgements about what might happen outside the immediate SWPICVP context during such an extended time period. For example, it is highly improbable that, over the course of neaI1y five decades, water systems throughout Ca/ifomia will not change in numerous relevant ways. Since such changes could affect how the SWP and CVP under the BDCP would operate within a larger water supply framework, the Lead Agencies have attempted to identify the predictable or foreseeable actions of Califomia water suppliers other than DWR and Reclamation under a long-term scenario in which a BDCP is not approved or implemented. " What defines "informed judgements"? This is about predictions, not informed judgements. It is not explained how it is justified to state that under the No Action /IJtemative, that services and utilities are likely to be maintained at required levels until 2060. The EIR has major flaws related to trying to predict what is likely to occur between now and 2060. That time period is highly unrealistic in terms of meaningful impact analysis. How was this time horizon chosen?	There is a level of uncertainty inherent in attempting to predict specific future outcomes. The lead agencies have used the best information available to make informed judgments about the future to be included in the No Action Alternative. The time horizon was chosen because the BDCP (Alternative 4) would seek 50 year take permits under federal and State ESAs. Thus, the EIR/EIS evaluated potential impacts at the late long-term timeframe.
1784	252	[Att 3] Page 20-115 lines 25-38: Nowhere does the EIR/EIS address the potential change in emergency response times or the adequacy of response times related to provision of fire/police services. While the project may incorporate safety plans to reduce need for emergency response, there are always unexpected emergencies that can arise during construction. Given the isolated nature of the water conveyance alignment alternatives, and the lack of fire/police stations in the area (as shown in Figures 20-i and 20-2), the EIR/EIS has failed to identify the impacts related to emergency response times and the potential for new facilities to serve the project .At a minimum, the EIR/EIS needs to address the emergency response times to all areas of proposed construction, including concrete batch plants, electrical transmission substations, pipeline routes, and other project elements. At a minimum, the most isolated location of construction should be clearly identified to assess the emergency response time to such a location.	Please see response to comment 1679-283 using the table in the EIR/EIS. Mitigation Measures TRANS-1a requires the project proponents to develop site-specific construction traffic management plans (TMPs) that address specific steps to be taken before, during, and after construction to minimize traffic impacts. Per this Mitigation Measure, the TMPs would include notifications for the public, emergency providers, cycling organizations, bike shops, and schools, the U.S. Coast Guard, boating organizations, marinas, city and county parks departments, and the California Department of Parks and Recreation, where applicable, describing construction activities that could affect transportation and water navigation.
1784	253	[Att 3] Page 20-120, lines 20-21: The EIR/EIS states that new wastewater treatment facilities would not be required. However, this is in direct contradiction to the statement on page 20-119, line 40, which states that concrete batch plants would have onsite treatment	Treatment of wastewater at the concrete batch sites will be onsite at designated concrete batch sites, the construction of which has been incorporated into the evaluation of environmental impacts. These onsite treatments will not have an effect on water or wastewater treatment services and facilities as discussed in

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		for wastewater. CEQA does not distinguish between a municipal and a private/State treatment facility. The project does require wastewater treatment facilities, the construction of which could result in environmental impacts. Because these are integral to the water conveyance facilities, which are addressed at a project level of analysis, these treatment facilities need to be addressed herein, using the identified significance criteria.	Impact UT-4, in 4.3.16 in Section 4 of the RDEIR/SDEIS.
1784	254	[Att 3] Page 24-2, lines 15-18: The EIR/EIS states "no comprehensive area-wide soil or sediment sampling program is known to have been conducted to evaulate pesticide residues from agricutural use" Given the large scale impacts of both the Project (CM1) and Program (CM2-22) in terms of moving (25 million cy) and wetting (up to 65,000 acres) agricultural soils, which could release pesticides to the water column, a sampling program must be conducted. Absent this data, the EIR cannot adequately determine either the context or intensity of impacts, as required under both CEQA and NEPA. The document must rovide the needed data.	Impact HAZ-1 (Create a Substantial Hazard to the Public or the Environment through the release of Hazardous Materials or by Other Means during Construction of the Water Conveyance Facilities) addresses this potential impact, as does Impact WQ-22 (Effects on Pesticide Concentrations Resulting from Implementation of CM2-Cm21) in Chapter 9, Water Quality, of the BDCP/California WaterFix EIR/EIS. Implementation of Mitigation Measures HAZ-1a (Perform Preconstruction Surveys, Including Soil and Groundwater Testing, at Known or Suspected Contaminated Areas within the Construction Footprint, and Remediate and/or Contain Contamination) and HAZ-1b (Perform Pre-Demolition Surveys for Structures to Be Demolished within the Construction Footprint, Characterize Hazardous Materials and Dispose of Them in Accordance with Applicable Regulations) would be implemented. Further, the project proponents will ensure the preparation and implementation of a pre-dredge sampling and analysis plan. Prior to initiating any dredging activity, the sampling and analysis plan will evaluate the presence of contaminants that may impact water quality. In addition, please see Master Response 2 (Project Level v. Program Level) regarding why the BDCP/California WaterFix EIR/EIS has successfully achieved project-level analysis for CM1.
1784	255	[Att 3] Page 24-4, lines 29-38: This section notes that above-ground and underground storage tanks and other potential hazardous materials facilities may exist in the project area. Hovvever, no surveys have been done of the conveyance facility alignment for these potential sources of hazardous materials. While deferral of this analysis may be acceptable at a program level, such a survey is required to identify potential impacts for a project-level EIR on the conveyance facilities. The document must provide the needed information to provide an adequate impact analysis.	As indicated in Chapter 24 of the Draft EIR/EIS, using GIS methods, mapped locations of sites of concern identified in the 2009 ISA (Appendix 24A of the Draft EIR/EIS) were overlain with the current alignment alternatives for each of the water conveyance facilities construction footprints to assess the relative risk of encountering contaminated soil or groundwater during clearing, grading, excavation, and construction of the action alternatives. Once a conveyance alternative is chosen, a conveyance-alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction. A final determination of whether a site constitutes a Recognized Environmental Conditions will be made later in the process, when a corridor-specific ISA is performed that includes more detailed site-specific ASTM-compliant Phase I investigation when an alignment (EIR/EIS alternative) is chosen. In addition, please see Master Response 2 (Project Level v. Program Level) regarding why the EIR/EIS has successfully achieved project-level analysis for CM1.
1784	256	[Att 3] Page 24-6, lines 3-7: States that abandoned oil and gas well may pose hazards as they may act as conduits for natural gas to the surface. The discussion goes on to state, "the locations of many abandoned or shut-in wells may be unknown due to inadequate or missing data or poor record keeping." A project level EIR for the conveyance facilities must identify these hazards and not defer this work to future study. There would be no more	Engineering reconnaissance has identified active and inactive oil and gas wells within construction footprints of the action alternatives and these are identified in Chapter 24, Hazards and Hazardous Materials. Further, as stated in Chapter 24, gas fields in the United States are typically located at depths greater than 3,000 feet (U.S. Energy Information Administration 2012), whereas the tunnels would be approximately 150 to 160 feet below ground surface, and therefore it is unlikely that a gas field would be encountered. However,

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		future study under CEQA if this EIR were certified as the project-level assessment for the conveyance facilities.	geotechnical investigations will be performed within the construction footprint, in part to evaluate how gas fields could affect the constructability of the tunnels. In addition, please see Master Response 2 (Project Level v. Program Level) regarding why the EIR/EIS has successfully achieved project-level analysis for CM1.
1784	257	[Att 3] Page 24-7, lines 12-25: This discussion acknowledges that information regarding transportation of hazardous materials through the study area was not obtained. At a minimum, this section should address the types of materials that are likely to be transported through the region, and where the transportation routes would be.	As indicated in Section 24.1.2.6 of Ch. 24, Hazards and Hazardous Materials, detailed information regarding the types of hazardous materials transported through the study area was not obtained due to security and proprietary reasons. Attempts to obtain detailed information were met with non-disclosure responses, presumably due to proprietary and security concerns. A description of the potentially hazardous materials that are known to be transported through the study area is provided in the section titled Transported Commodities of Concern. Designated hazardous materials transportation routes are identified in the section titled Federal, State, and County Roadways and in Figure 24-2. Similarly, locations of rails that may accommodate rail transport of hazardous materials are provided in Figure 24-2, and these are described in the section titled Rail. Chapter 19, Transportation, provides additional information on rail transport in the study area.
1784	258	[Att 3] Pages 24-31: The EIR acknowledges that the Phase 1 Site Assessment was for a different set of conveyance facility alignments than are considered in this EIR/EIS, but fails to tell the reader what the differences are and how that may affect the applicability of that site assessment to the currently proposed conveyance project. The EIR/EIS then defers preparation of a corrected Phase 1 Assessment until after the conveyance project is approved, stating, "The locations of these three alignments under consideration in 2009 differ somewhat from the four alignments being considered in this impact analysis. As such, once a BDCP conveyance alternative is chosen, a conveyance alignment-specific (ie., site-specific) Phase 1 ISA will be performed prior to construction.' This deferral is impermissible given 1) the uncertainty as to whether the existing Phase 1 study is applicable to the current proposal, and 2) the potential impacts of the project at this massive scale. The EIR notes that the Phase 1 ESA failed to follow standard practice in that it lacks landowner interviews. The EIR also states, "Further, Although the ISA identified Recognized Environmental Conditions (RECs), the limited scope of this ISA allowed only for recognition of "sites of concern" (SOCs). Many of these SOCs constitute RECs for the study area, while others that might be RECs have insufficient information at this time to make that determination". This is a fancy way of saying that many potential contaminated sites may have been missed by the ESA prepared for the prior alignments. The anal sis needs to be redone for this EIR/EIS.	Figure 1 in Appendix 24A provides a map showing the three conveyance alignments being considered when the 2009 ISA was conducted. Figures 3-2, 3-4, 3-6, 3-9, and 3-16 show the currently proposed pipeline tunnel alignment, the east alignment, the west alignment, the modified pipeline tunnel alignment, and Through Delta/Separate Corridors, respectively. The information provided in the 2009 ISA is sufficient to identify the range of hazards and hazardous materials that should be considered in the study area. DWR has taken actions to obtain access to land in the Delta for the purpose of conducting environmental surveys to be used in environmental review. DWR has not, however, been able to get access to a substantial number of the private properties that would yield relevant information. Many landowners have gone to court to prohibit access. Where permission for access is refused, an EIR may satisfy CEQA standards despite the absence of site-specific information of the kind that can only be obtained through such surveys. In such situations, it is often necessary, and perfectly appropriate, for Lead Agencies either to rely on environmental laws other than CEQA to assure the reduction or avoidance of significant environmental effects or to rely on Mitigation Measures requiring additional analysis after project approval (and the Lead Agencies' acquisition of the affected private properties). Once a conveyance alternative is chosen, a conveyance-alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction. A final determination of whether a site constitutes Recognized Environmental Conditions will be made later in the process, when a corridor-specific ISA is performed that includes more detailed site-specific ASTM-compliant Phase I investigation when an alignment (EIR/EIS alternative) is chosen.

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1784	259	[Att 3] Page 24-34, section 24.3.2, Determination of Effects: The Determination of Effects discussion is inconsistent with the "Construction Effects" discussion on P. 24-31. The document must clarify which criteria are being used in the impact analysis	The construction effects section is not intended to present impact criteria. It is intended only to identify for the reader the general types of effects that could result from project-related construction activities. Section 24.3.2, Determination of Effects, presents/describes the eight criteria used to determine whether implementation of an alternative would have the potential to result in significant or adverse impacts to the public or environment. Potential project effects resulting from not only construction activities, but other project activities, including restoration/enhancement, are evaluated against these criteria, as stated in Section 24.3.2.
1784	260	[Att 3] Pages 24-36, lines 24-45: page 24-37, lines 1-10: This discussion claims that the project would comply with County plans but fails to provide any documentation of such compliance. It lists mitigation measures but fails to connect mitigation measures to the specific impact or evaluate their effectiveness. The mitigation measures are far too generalized and vague to assure mitigation to a less-than-significant level, and the conclusion of policy compliance is unsupported by fact.	In the text, the commenter refers to regarding Mitigation Measures, stating that the Mitigation Measures are to protect soil, surface water, groundwater, and sensitive receptors which are assessed under Impacts HAZ-1, HAZ-2, HAZ-6, and HAZ-7. The Lead Agencies respectfully disagree with the commenter's assertion that the Mitigation Measures are too general. For example, Mitigation Measures HAZ-1a and 1b call for preconstruction surveys, including soil and groundwater testing, and pre-demolition surveys to identify/characterize hazardous materials within the construction footprint. These are site-specific measures which consist of quantitative analyses. Moreover, the impacts would not only be minimized by these Mitigation Measures, but also by the Environmental Commitments discussed within the impact analysis and described in detail in Appendix 3B. Also, please see Master Response 11 (Applicability of City and County General Plans) regarding project compliance with city and county general plans, regulations and ordinances.
1784	261	[Att 3] The SWPPP, HMMP, and spoils treatment measures are not specific enough to assure adequate treatment of the 25 million cy of tunnel spoils proposed for reuse or disposal. There is no project-level analysis of this issue, despite it being a critical component of the conveyance facility construction.	As described in Chapter 3, Description of Alternatives, DWR recently conducted a study to determine for what beneficial uses the RTM might be suitable based on chemical and physical characterization. To this end, laboratory tests were conducted on a mixing native soil samples collected from the potential tunnel zone with representative soil conditioner products to measure the following qualities of RTM: • Geotechnical properties to evaluate constructability if used as structural fill • Environmental properties to characterize potential toxicity if placed in the environment • Planting suitability to assess sustainability for habitat growth and agricultural use While the study consisted of a limited number of samples and tests and does not constitute a complete evaluation of RTM, based on the results of the geotechnical, environmental, and planting suitability tests, DWR concluded that RTM, following storage and drying, appears to be suitable for the following beneficial uses: • Strengthening Delta levees identified for maintenance and repair • Habitat restoration • Fill on subsiding Delta islands

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			• Structural fill for construction of conveyance facilities The report from this study can be found on the project website (http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Reusable_Tunnel_Material_Testing_Report.sflb.ashx). Soil conditioner products vary and are typically selected by the tunneling contractor. The contractor would need to chemically characterize RTM and associated decant liquid prior to reuse or discharge. Consultation with governing regulatory agencies would be required to obtain the necessary approvals and permits. For more information regarding RTM, please see Master Response 12 (Reusable Tunnel Material).
1784	262	[Att 3] Page 24-46, lines 27-45. The discussion of potential soii contamination begins with, "The lateral and vertical extent of any historical soil-, sedimentor water-based contamination within or near the construction footprint is unknown. Although, where it exists, soil contamination is likely to be highly localized, while groundwater contamination could have migrated substantial distances and therefore be more widespread than soil contamination.Locations of known oil and gas processing facilities (Figure 24-1) are considered a separate category of SOC due to the potential for spills and leaks at these locations. The lateral and vertical extent of any existing contamination that may be present at these sites is unknown. The number of SOCs may change during right-of-way evaluation, land acquisition and preconstruction site-clearance investigations or during construction. Additional SOCs may be identified during these activities, and currently identified SOC may be determined innocuous after site-specific field investigation and testing." The text goes on to state, "It is likely that contaminated sediments (e.g., persistent pesticide- and mercury-contaminated sediments) would be resuspended during sediment-disturbing activities related to in-river construction activities (e.g., cofferdam construction at intake sites). However, concentrations of potential contaminants in the sediments where in-river construction activities would be taking place are not known; therefore, the associated risk cannot be identified. " Page 24-47, lines 14-41 list pro rammatic Environmental Commitments but provide no analysis as to how they would be applied at a project level, how well they would work to reduce impacts, or even if they would be implemented (for example, line 36 starts, "To the extent feasible, action alternative design would minimize the need to acquire or traverse areas where the presence of hazardous materials is suspected ... " Who determines what's feasible and on what basis? If it's not feasible, then what?. This is an inadequate setting and impact discussion upon which to base a proiect-!eve!	Once a conveyance alternative is chosen, a conveyance-alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction. A final determination of whether a site constitutes Recognized Environmental Conditions will be made later in the process, when a corridor-specific ISA is performed that includes more detailed site-specific ASTM-compliant Phase I investigation when an alignment (EIR/EIS alternative) is chosen. BDCP/California WaterFix EIR/EIS Appendix 3B, Environmental Commitments, provides explanations as to the effectiveness of each Environmental Commitment. Action alternative design would minimize the need to acquire or traverse areas where the presence of hazardous materials is suspected, to the extent feasible. If DWR engineers determine that it is not feasible to alter the design of the water conveyance alignment or associated facilities where the presence of hazardous materials is suspected, impacts related to hazards and hazardous materials would be minimized or avoided with the implementation of Mitigation Measure HAZ-1a and HAZ-1b (as described in Chapter 24, Hazards and Hazardous Materials). Please see Master Response 2 (Project Level v. Program Level) regarding why the BDCP/California WaterFix EIR/EIS has successfully achieved project-level analysis for CM1.

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		impact assessment of the conveyance facilties.	
1784	263	[Att 3] Page 24-48, lines 6-41. This section needs to tell the reader which chemical will be used in drilling, how much of each chemical is likely to be used, and which treatment methods for the tunnel spoils (which appears to be euphemistically referred to as Reusable Tunnel Material, whether or not it is actually found to be reusable) would be applied. What constituents may be in the decant liquid (lines 42-44)?	See response 1784-261.
1784	264	[Att 3] Page 24-48, lines 6-41. refers to a very large storage facility, the impacts of which have not been identified. As discussed in comments above, the EIR estimates that about 25 million cubic yards of material will be stored and treated for reuse. This could result in hundreds of acres of land used for storage and treatment of potentially contaminated drilling spoils. For comparison, the proposed Forward Landfill expansion included about 32 million cy of material on nearly 200 acres, and would have formed hills over 170 feet high. Revise to address in detail the potential impacts associated with spoils storage and reuse areas, at a site-specific ievel, as required for a project-level assessment. Specifically, the following must be addressed: More clearly define "Reusable". We presume it is non toxic, but can it be used as agricultural soil (not likely), as levee construction material (not too likely either) or simply for filling in subsided islands, and if so, what land uses could such islands support? Clarify the location of where spoils disposal will or may be placed if it is in fact "Re-used". Explain whether the areas shown as cross-hatched tan (RTM) on Fig. M3-4 are permanent features or not. Clarify and provide evidence that there is barge access for all sites: source, temporary storage, and ultimate placement. If trucks will be needed, where in the EIR/EIS has this been analyzed and reported in regard to transportation and air quality impacts. Clarify and provide evidence that the barge traffic for spoils (not equipment, which is covered) has been accounted for in terms of marine traffic and air quality. There's a very large gap in treatment sites from the Potato Slough site to the Clifton Court Forebay site, with diminishing waterways how will materials be transported to the CC Forebay site? Are barges feasible or would material require trucking? Has this distance of trucking or barging been considered in the aim quality and traffic analyses?? The Clifton Court Forebay spoils treatment facility at southern end of the conve ance facilities is uite distant from the restoration areas, which are mostly in the north	See response 1784-261. Soil conditioner products vary and are typically selected by the tunneling contractor. The contractor would need to chemically characterize RTM and associated decant liquid prior to reuse or discharge. Consultation with governing regulatory agencies would be required to obtain the necessary approvals and permits. Also see Master Response 12 (Reusable Tunnel Material). Precise locations for reuse of RTM and spoils have not been identified at this time. Temporary barge unloading facilities would be constructed at locations adjacent to construction work areas along the conveyance alignments. Locations of barge unloading facilities are identified in Chapter 3, Description of Alternatives, and in the Mapbook volume. For the purposes of the impact analysis in the EIR/EIS, to be conservative, designated RTM storage areas are considered permanent features of CM1. However, there is an Environmental Commitment to reuse the material, which could make the RTM storage areas temporary in some cases. In response to comments regarding barge and hauling truck traffic air quality impacts and movement of spoils and other materials: Appendix 22B includes detailed air quality assumptions applied to the impact analysis. The air quality and traffic analyses account for all onsite and offsite trucking, as well as barge transport of water conveyance project-related materials, including spoils. Please refer to Chapter 19, Transportation, and Appendix 19A, Bay Delta Conservation Plan Construction Traffic Impact Analysis, for details on the impact analysis and the analysis approach. In response to comment regarding exposure to diesel emissions from the proposed and potential health effects, Appendix 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, evaluates potential human health risks from the emissions that would be produced by the construction of each alternative. In response to inquiry related to the percentage of materials likely to be contaminated, it is anticipated that less than 1 percent each of excavated spoils, RTM, and dredged material will not be suitable for reuse and will require off-site disposal at a site approved for disposal of such material. In response to effects on landfills as a result of project-related solid waste disposal, Chapter 20, Public

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		delta/Cache Slough areas. How wiil the materials be transported there? Given that spoils disposal is part of the project-level conveyance facility project, The document must provide an evaluation on a project (sitespecific) basis of the treatment facility sites to determine their suitability/sensitivity of potentially affected resources? What percentage of the materials is likely to be contaminated such that they require off-site hauling and disposal? The document must evaluate the air pollutant and emissions and traffic effects of double hauling materials from the excavation sites to the treatment facilities and then to either reuse sites or disposal facilities. The document must evaluate the capacity for any contaminated material at suitable landfills. Finally, this section envisions a possible landfill for contaminated materials, stating, "At a minimum, a final clean soil cover would be placed over the dewatered RTM in order to isolate any contaminates in the RTM and then seeded_" Potential impacts of this long-term landfill must be assessed in detail. Instead, the analysis is improperly deferred to a future plan (see p. 24- 49, lines 1·17). The document must provide a detailed description of these facilities and their potential impacts in this EIR. (This discussion also mentions health risks of diesel emissions, which should be assessed now and not deferred.)	Services and Utilities, evaluates the project's potential impacts on landfills in the Public Services and Utilities study area (i.e., the Plan Area and Areas of Additional Analysis), specifically, the ability of landfills to accommodate the action alternatives' solid waste disposal needs. The existing capacity of nearby landfills was determined and compared to the anticipated amount of solid waste that would be generated from each of the action alternatives. Throughout the Public Services and Utilities study area, 49 solid waste facilities have been identified (see Figure 20-4), of which 11 facilities are solid waste landfills that are permitted to receive, process, handle, and/or dispose of materials including contaminated soil, industrial, mixed municipal, and sludge (biosolids).
1784	265	[Att 3] Page 24·5·1, lines 26-45. This discussion mentions possible risks associated with transportation of spoils and other rnateriais, but does not provide any estimate of the number of trips of trucks, barges, trains, etc. that would be required to transport the 25 miliion cubic yards of tunnel spoils to treatment/storage sites and then re-transport those materials suitable for reuse to the reuse sites. The document must describe - IA~ll there be multiple handling of materials? How and where will these spoils be transported? How much will be transported via which mode? Describe how the vague and noncommittal programmatic mitigation measure Trans-1 would be applied to the conveyance project to reduce this impact to less-than-significant level, as repeat~ claimed in this impact discussion	Please see Master Response 2 (Project Level v. Program Level) regarding why the BDCP/California WaterFix EIR/EIS has successfully achieved project-level analysis for CM1. In Chapter 24, Hazards and Hazardous Materials, the discussion of potential hazards associated with routine transport of hazardous materials provides sufficient detail so that the potential spill hazards can be understood and evaluated. The level of detail that is reasonable or feasible for a project as large and complex as the proposed project is, naturally, not the same as what could reasonably be expected for a smaller, less complex project. Text has been added to clarify how Mitigation Measure Trans-1 would reduce the potential for potential hazards associated with the transport of hazardous materials (routine and project-specific) during construction of CM1. RTM and spoil storage sites are identified in the Mapbook volume. For additional information regarding RTM, please see Master Response 12.
1784	266	[Att 3] Page 24-52, lines 6-19. This section discussed barge hazards but fails to tell the reader how many barge trips may occur, what the risk of spills or collisions is (i.e. per trip or per mile travelled), and what magnitude of impacts may occur in the event of an accident or	Please see response to Comment 1784-265.

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		spill. The document must add a detailed, project-level assessment of all of these issues as required for assessment of the transport of 25 million cy__Q_f tunnel s oils	
1784	267	[Att 3] Page 24-53, lines 21-27, 37-38, 44. There's no connection between these conclusions and the preceding discussion just a statement of generic impacts, a statement of generic BMPs, and a conclusion. Provide the analytical nexus from the discussion of impacts through the mitigation measures supporting the conclusion. Revise the conclusion as necessary.	The text that the commenter referred to is a summary of the potential effects/impacts described in the immediately preceding sections of Impact HAZ-1 of BDCP draft EIR/EIS), as well as of the Mitigation Measures and BMPs intended to reduce the effects of construction of the water conveyance facilities.
1784	268	[Att 3] Page 24-54. Mitigation Measure HAZ-1 a and HAZ, 1 b improperly defer impacts analysis to future studies	DWR has taken actions to obtain access to land in the Delta for the purpose of conducting environmental surveys to be used in environmental review. DWR, however, has not been able to get access to a substantial number of the private properties that would yield relevant information. Many landowners have gone to court to prohibit access. Where permission for access is refused, an EIR may satisfy CEQA standards despite the absence of site-specific information of the kind that can only be obtained through such surveys. In such situations, it is often necessary, and perfectly appropriate, for Lead Agencies either to rely on environmental laws other than CEQA to assure the reduction or avoidance of significant environmental effects, or to rely on Mitigation Measures requiring additional analysis after project approval (and the Lead Agencies' acquisition of the affected private properties).
1784	269	[Att 3] Page 24-64, lines 37-38, Impact HAZ-6: Statement that, "Maintenance requirements for several of the water conveyance facilities features (e.g., tunnels) have not yet been finalized. "indicates that the project description is inadequate to conduct a project-level CEQA and NEPA evaluation. You must add missing information and reassess the impact.	It is primarily maintenance requirements for the tunnels which have not yet been finalized. Text was revised to make this clarification. As is explained in Chapter 3, Section 3.6.1.2, some of the critical considerations include evaluating whether the tunnels need to be taken out of service for inspection and, if so, how frequently. Typically, new water conveyance tunnels are inspected at least every 10 years for the first 50 years and more frequently thereafter. In addition, the equipment that the facility owner must put into the tunnel for maintenance needs to be assessed so that the size of the tunnel access structures can be finalized. Equipment such as trolleys, boats, harnesses, camera equipment, and communication equipment would need to be described prior to finalizing shaft design, as would ventilation requirements. In addition, please see Master Response 2 (Project Level v. Program Level) regarding why the EIR/EIS has successfully achieved project-level analysis for CM1.
1784	270	[Att 3] Page 24-67, lines 39-43, page 24-68, lines 1-45: CM2 involves tens of thousands of acres of restoration projects with potential to affect gas wells, gas facilities, transport impacts, etc. The "analysis" of the potential impacts of this massive construction is limited to one page of generic statements regarding possible effects, with no assessment of the possible magnitude or intensity of the impacts. Instead, vague mitigation measures are assumed (but not shown) to reduce these impacts to a !ess than significant !eveL Provide a detailed discussion of potential impacts for each possible contaminant, considering the overall impact on specific sensitive areas and resources. Note that a simple statement of the type of impact that may occur is not an adequate assessment because CEQA/NEPA require a determination of the context and intensity of impacts, neither of	The broad environmental effects of the overall BDCP conservation strategy were evaluated at a program level of analysis. Design information for the restoration and conservation strategies for aquatic and terrestrial habitat and other stressor reduction measures in CMs 2–21 is currently at a conceptual level. Accordingly, the analyses in this EIR/EIS address the effects of typical construction, operation, and maintenance activities that would be undertaken for implementation of CMs 2–21 at a program level of analysis, describing what environmental effects may occur in future project phases. Additional, project-level environmental review will be completed as necessary prior to implementation of specific Conservation Measures other than CM1. In addition, please see Master Response 2 (Project Level v. Program Level) regarding why the EIR/EIS has

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		which is provided here.	successfully achieved project-level analysis for CM1. Please note that the preferred alternative is now Alternative 4A, which does not include a HCP, and therefore it does not include CM2.
1784	271	[Att 3] Page 24-69, lines 27-34, page 24-70, lines 26-45: These discussions, referring to potentially contaminated sites and worker exposure, state." However, because locations within the eleven conservation zones (described in Chapter 3, Description of the Alternatives) for implementing most of the conservation measures have not yet been determined, it is not known if the conservation measures would be implemented on or near "Cortese List" sites. Project design would minimize, to the extent feasible, the need to acquire or traverse areas where the presence of hazardous materials is suspected or has been verified. Implementation of conservation measures could aiso involve dredging Delta watenNays and other activities that could disturb contaminated sediments that hold mercury, pesticides, or other constituents," and "The potential exists for CM2-CM11, CM13, CM14, CM16, and CM18 to result in effects related to the release of or exposure to hazardous materials or other hazards. The potential for these kinds of effects is considered adverse because imp!ernentation of these conservation measures wou!d involve extensive use of heavy equipment that could unintentionally result in the release of hazardous substances or that could expose construction workers or members of the public to hazards. Construction of restoration projects on or near existing agricultural and industrial land may result in a conflict or exQosure to known hazardous materials."	The commenter does not appear to have a comment or question, but is merely providing excerpts of text from Chapter 24. As such, no response is necessary.
1784	272	[Att 3] Pages 24-70 top 24-71: There is no connection between these conclusions and the preceding discussion - just a statement of generic impacts, a statement of generic mitigation measures and BMPs, and a conclusion. The document must provide the analytical nexus from the discussion of impacts through the mitigation measures supporting the conclusion. Revise the conclusion as necessary.	As the commenter indicated, the text referred to is a summary of the impacts described under Impact HAZ-7 (the analysis preceding this brief summary paragraph). The Mitigation Measures listed (i.e., Mitigation Measures HAZ-1a, HAZ-1b, UT-6a, UT-6c, and TRANS-1a) were described in the impact analysis preceding this impact; therefore, there was no need to describe them again. The text has been revised to indicate that it is general summary text for Impact HAZ-7.
1784	273	[Att 3] Page 30· 7 4; line 6: 60 percent of the increased water would go to the South Coast Region. This is mainly a point of interest given the environmental impacts that would be experienced by San Joaquin County and adjoining counties for the proposed project The No Action 2060 scenario shows an increase of 2,650,500 people, and table 30-25 and 30-26 show that the largest percentage of growth due to BDCP would occur in the South Coast Hydrologic Region (of 8 regions addressed in the State).	It is acknowledged that many of the construction impacts would be experienced by San Joaquin County. However, some economic benefits would likely occur in the county as a result of construction. Also, population growth is not considered to be either beneficial or detrimental, so the South Coast region would not necessarily be benefiting at the expense of San Joaquin County. Please also refer to Master Response 3 (Purpose and Need).
1784	274	[Att 3] Page 30-107 and all of section 30 on Growth Inducement: This page of the EIR/EIS states "The planning horizon for BDCP is 2060. None of the horizon years of the Genera!	Regarding the planning horizon of year 2060: While many unforeseeable events will occur between now and 2060, the general processes considered in the analysis of 2060 conditions are unlikely to go away.

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		Plan EIRs reviewed for this analysis extends to 2060." If this is the case, how can this EIR/EIS justify using the year 2060 for the future baseline analysis? The reason that no General Plans extend to 2060 is that it is totally out of the range of the "foreseeable future". CEQA very clearly uses the term "foreseeable" future; and 46 years into the future is not what one would consider foreseeable. This is "conjecture" more than "foreseeable". If one goes back in time to 1968 to compare what we knew then vs. what is now happening, you would see that at that time, there was no NEPA/CEQA, no Endangered Species Act, no knowledge of toxic waste impacts; no discussion of sea level rise and climate change. How can one presume to really know what conditions will be in 2060? More commonly, General Plans address a 20-year future time horizon, or at most, a 30-year time horizon. Explain how the 2060 year was chosen for future baseline and how it can be justified. This EIPJS took it upon itself to extrapolate population projections using Department of Finance numbers from 2050. Finally, section 30 of the EIR/EIS summarizes that many General Plan EIRs show future growth impacts, by topic, as significant and unavoidable. Thus, this EIR/EIS need to do the same and show growth inducement as significant and unavoidable, requiring that Findings be prepared	Population will likely continue to increase, water supply will likely continue to be a concern, and general plans will continue to be updated. In addition, the increases in water availability estimated to occur at year 2060 will likely occur well before 2060. The 2060 modeling results are used to estimate the potential population growth inducement of the project, but the associated population growth could actually occur before 2060. The planning horizon for the new preferred alternative (4A) is year 2025. Regarding general plans finding growth impacts to be significant and unavoidable: General plans typically include an assessment of impacts associated with housing and other development projects. These projects typically allow for population growth, while simultaneously having the potential for directly environmental impacts. One purpose of general plans and other local regulations is to control and mitigate environmental impacts associated with projects. If increases in water supply associated with California WaterFix are to be translated into increases in population growth within an area, there will first need to be new construction projects to accommodate additional people. These projects could cause environmental effects, but these would be addressed on a project-by-project basis and will need to undergo their own environmental review and mitigation.
1784	275	[Att 3] Section 30.3.7; lines 13-16: Conclusions on Growth Inducement: It is concluded that construction and operation of BDCP facilities would not have any DIRECT growth inducing impacts. In one sentence, it is concluded that construction would not result in the need for new housing or jobs in the study area. There is no substantial evidence to back up this conclusion, no cross reference to the socio-economics section of the El R/S identifying the expected number of employees, the availability of local housing during the 1 O+ years of construction. The document should expand on this conclusion and justify why it was determined that no direct growth inducing impacts would result.	Section 30.3.7 is a conclusion section. More detail about potential direct growth inducing impacts is provided in section 30.3.2.1.
1784	276	[Att 3] Section 30.3.7; lines 17-41 and page 30.3.7, lines 1-19: This section points out that indirect growth inducing impacts would occur as associated with lifting a constraint to growth by the provision of reliable water supplies Yes! And then, the text goes on to correctly state that "DVVR and Reclamation lack the authority to approve or deny development projects or to impose mitigation to address significant environmental impacts associated with development projects; that authority resides with local cities and counties." What the EIR/EIS fails to say right after this is "Because the development of mitigation measures is outside of the control of the lead agency, growth inducing impacts would be significant and unavoidable and findings would need to be made." Change the text accordingly to clearly identify this as a significant unavoidable impact and make sure that this is shown in the Summary table and in the required CEQA Findings section	The growth inducement chapter fully discloses the potential for growth-inducing effects of the proposed project alternatives, as required by CEQA and NEPA. The decision to allow projects that may result from induced growth is the subject of separate decision making by the lead agency responsible for considering such projects. Because the decision to allow growth is subject to separate discretionary decision making, and such decision making is itself subject to CEQA, the analysis of growth-inducing effects is not intended to determine site-specific environmental impacts and specific mitigation for the potentially induced growth. Rather, the discussion is intended to disclose the potential for environmental effects to occur more generally, such that decision makers are aware that additional environmental effects are a possibility if growth-inducing projects are approved. The decision of whether impacts do occur, their extent, and the ability to mitigate them is appropriately left to consideration by the agency responsible for approving such projects at such times as complete applications for development are submitted.

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		showing this as a significant, unavoidable impact. Currently, the text does not clarify that the reason for this being significant and unavoidable is that it's outside the control of the lead a enc .	
1784	277	[Att 3] Growth inducement is not shown as a significant unavoidable impact. This impact must be added	MR-Growth 1: Growth by itself is neither beneficial nor detrimental. Chapter 30 describes the potential for the project to induce growth and discusses how increased growth could have environmental consequences. However, although the project could remove an impediment to growth, the project will not necessarily result in growth. Before growth can occur in an area, environmental review of the specific projects allowing for the growth (e.g., housing developments) would need to occur, and mitigation of impacts would be required. While there is potential for the project to allow some growth to occur, that growth might not necessarily occur and, if it did, it would be the responsibility of other agencies and businesses to reduce the effects of particular development projects on the environment.
1784	278	[Att 3] Pages 31-4 to 31-8, section 31.3 CEQA Environmentally Superior Alternative. Explaining that it is just too complex is not sufficient rationale. Discussing the pros and cons of each alternative does not relieve the lead agency from responsibilities.	Please see Chapter 31 regarding an environmentally superior alternative.
1784	279	[Att 3] Pages 31-4 to 31-8, section 31.3 The discussion of the pros and cons of each alternative fails to note that for all but Alternative 9, the action alternatives are all-or-nothing, full build-out-or-nothing which eliminates the opportunity for use of adaptive management and best science to guide the action alternative's development under uncertain conditions.	Please see Chapter 31 regarding an environmentally superior alternative.
1784	280	[Att 3] Section 30.2.4: Cumulative Impact Analysis conditions are assessed. However, nowhere in this section of Appendix 30 does the text address why the cumulative analysis under many topics addresses Year 2060. This section does not address the methodology for identifying other projects; this section does not address how cumulative impacts may have different geographic areas used to determine cumulative impacts. For example, hydrology may assess watershed; air quality may assess projects within airsheds. However, where in the EIR is a list of "cumulative projects" identified that is the basis for all the topics (land use, agriculture, traffic, etc.)? Did the EIR/EIS rely on adopted General Plans of relevant counties? Did it rely on a list of identified pending/approved projects? This is completely unclear and needs to be explained. It also appears that the EIR/EIS confuses the No Project Alternative with the Cumulative analysis . These are two distinct items. The No ProjectJNo Action conditions should be evaluating conditions as of the time of the EIR/EIS. The Failure to treat inflexibility as an impact; in that it precludes best science/adaptive management Cumulative conditions should be addressin otential future projects.	The section that the commenter is referring to here, Section 3D.2.4, in Appendix 3D, Environmental Commitments, is merely presenting the general concept of cumulative impact analysis under CEQA and NEPA. This section is not intended as a guide to the cumulative analyses in each of the resource chapters. Section 3D.3.4, Cumulative Impact Assumptions, in Appendix 3D provides a general summary of cumulative impact assumptions for the BDCP EIR/EIS. Within each resource chapter, a description of the resource-specific cumulative analysis is described, which includes identification of projects and programs that are being considered for that resource's cumulative effects, which can also be found in Appendix 3D, Section 3D.3.4. Unless otherwise specified in cumulative analyses for each resource area, the geographic area being considered for cumulative analysis is the "study area" (often the Plan Area) identified in the Environment Setting/Affected Environment of each resource chapter. The no-action alternative and the no-project alternative are described not only in BDCP EIR/EIS Chapter 3, Description of Alternatives, but also in Appendix 3D, Defining Existing Conditions, No-Action Alternative, No Project Alternative, and Cumulative Impact Conditions in Section 3D. 2.2 and 3D.2.3. Further, as explained in BDCP EIR/EIS Chapter 3, CEQ regulations for implementing NEPA require that an EIS include an evaluation of the no-action alternative, which may be described as the future circumstances without the proposed action

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			and can also include predictable actions by persons or entities, other than the federal agencies involved in a project action, acting in accordance with current management direction or level of management intensity. When the proposed action involves updating an adopted management plan or program, the no-action alternative includes the continuation of the existing management plan or program. The CEQA baseline (no project) for assessing the significance of impacts of a proposed project is normally the environmental setting, or Existing Conditions, at the time a notice of preparation is issued (State CEQA Guidelines Section 15125[a]). State CEQA Guidelines Section 15126.6, Subdivision (2) indicates that no-project conditions may include some reasonably foreseeable changes in Existing Conditions and changes that would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. The BDCP no-action alternative assumptions are consistent with the requirements of CEQA. Thus, as indicated in Ch. 3, Section 3.5.1, No Action Alternative, the no-action alternative also represents the no-project alternative for the purposes of the BDCP EIR/EIS. For ease of reference, the joint no-action/no-project alternative is referred to as the no-action alternative in the BDCP EIR/EIS. The no-action alternative is not “confused with the cumulative analysis.” It is defined very clearly. In addition, each resource chapter briefly describes the no-action alternative in the context of that resource. The cumulative effects of the no-action alternative are described in the Cumulative Analysis section of each resource chapter, followed by a description of the cumulative effects of the proposed BDCP action alternatives. For BDCP EIR/EIS, the no-action alternative assumptions are limited to Existing Conditions, programs adopted during the early stages of development of the EIR/EIS, facilities that are permitted or under construction during the early stages of development of the EIR/EIS, projects that are permitted or are assumed to be constructed by 2060, and changes due to climate change and sea level rise that would occur with or without the proposed action or alternatives (Appendix 3D, Defining Existing Conditions, the No Action/No Project Alternative, and Cumulative Impact Conditions). These assumptions represent continuation of the existing plans, policies, and operations and conditions that represent continuation of trends in nature. Please see FEIR/EIS Appendix 3D for updates defining Existing Conditions, the no action alternative, the no project alternative, and cumulative impact analysis for the proposed project.
1784	281	[Att 3] Attachment 3D-A (page 30-26), a list of projects related to three scenarios (Existing Conditions, No Project, Cumulative) are identified. However, this is why the EIR/EIS is so confusing. These are different issues of CEQA and should not be merged. The High Speed Rail project is mentioned; and then the table shows that this project is not considered in any of the three scenarios. Why is that the case? This is a project under construction and that would be for sure operating by 2060. Why was it eliminated from cumulative? The Land Use and Resource Management Plan of the Delta Protection Commission (page 30-68) is shown as	Please see Master Response 1 regarding the environmental baselines. Please see Chapter 31 regarding the cumulative impact analysis. The cumulative impact analysis was updated and published as part of the 2015 RDEIR/SDEIS.

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		not part of Existing Conditions but part of No Action and part of Cumulative. This is an existing document! Explain why this was not part of the Existing Conditions but that Biological Opinions that were adopted after the Notice Of Preparation are included in Existing Conditions. The same applies to the Delta Plan of the Delta Stewardship Council. These are critical documents affecting land uses in the Delta. The No Project Conditions, at a minimum, should be updated to address these two critical land use documents.	
1784	282	[Att 3] Page 30-73, the Canada-Northwest California Transmission Project is shown as not considered in the Existing Conditions, No Action/No Project, or Cumulative Conditions. This is a clear example of they these three issues should not be discussed together. This transmission project is a perfect example of a project under consideration that could have large ramifications for the BCP project area, and that should be conisdered in the cumulative analysis.	This project is listed in Appendix 3D, and its effects have been considered in a number of the resource chapter cumulative analyses.
1784	283	[Att 3] Page 30-82, San Joaquin County General Plan, shows that the San Joaquin County General Plan Update is not being considered for the Existing Conditions, No Project/No Action Conditions, or Cumulative Conditions. This is exactly what should be considered in the cumulative analysis. While the 2035 General Plan has not been adopted, the County has the 2010 General Plan which WAS adopted in 1992. This plan and identified land use changes should certainly be considered in the Cumulative Analysis of the EIR/EIS. The adopted General Plan for San Joaquin is not even mentioned in this table.	Appendix 3D, Attachment 3DA, has been updated to indicate that the San Joaquin County General Plan update is considered for both the no-action alternative and cumulative impact analyses.
1784	284	[Att 3] This appendix provides the backup construction study provided by Fehr & Peers. In the first paragraph of the Introduction (lines 5-10), the statement is made: "Identifying all the construction related activity for the BDCP with a high degree of certainty is challenging at this stage of project development for such a large and complex project." The text then goes on to say that the impact analysis is a "reasonable 'worst-case-scenario' of construction traffic" and that mitigation measures are "sufficiently broad to provide the BDCP proponents ftexibility in the types of strategies that can be implemented to address construction traffic impacts .... " This introductory wording does not give the reader confidence that the analysis is at all accurate or that the mitigation measures are geared towards likely impacts. If the entire EIR/EIS were at a programmatic level, this might be fine. But it is not. CM-1 has specific construction-traffic impacts and specific mitigation measures need to specifically address these. CEQA does not have Guidelines that suggest the need for "flexibility" on a broad scale. The comments below will address specific issues.	The uncertainty mentioned by the author of Appendix 19A relates to uncertainties relating to “final design and engineering decisions that may influence construction traffic conditions.” There was no intended implication that the project alternatives are too ill-defined to qualify for project-level, as opposed to programmatic, environmental review. Indeed, CEQA case law recognizes that most engineering and design work occurs after project approval, as such details are generally not necessary to assess environmental effects and the development of detailed design and engineering work is so expensive that prudent project proponents will not undertake it until they know their projects have been approved and will definitely be implemented. (See State CEQA Guidelines, § 15124 [“[t]he description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact”]; Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 28 [“[a] general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns”]; Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist. (2004) 116 Cal.App.4th 396, 400–401 [Mitigation Measures “need not specify precise details of design”; “[h]aving recognized a significant environmental impact and having determined that Mitigation Measures may reduce the impact to insignificance, the [environmental document] may leave the details to engineers”].) In recognition of the inevitable uncertainties associated with a project of the magnitude at issue here, “the analysis assumes a reasonable ‘worst-case-scenario’ of construction traffic that likely overstates construction traffic impacts regardless of changes that may be made to the underlying traffic assumptions

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			for the project as a result of final engineering and design plans. Further, the Mitigation Measures recommended in this analysis are sufficiently broad to provide the [Project] proponents flexibility in the types of strategies that can be implemented to address construction traffic impacts while still ensuring that the impacts would be avoided or reduced to the maximum extent feasible." (DEIR/EIS, Appendix 19A, p. 1.) Although the commenter may not feel confident in light of this approach, it works under the law. The Lead Agencies have undertaken a sufficient degree of design and engineering to ascertain the environmental effects of the project alternatives and have devised transportation-related Mitigation Measures intended to be conservative insofar as they err on the side of overstating, rather than understating effects. The Lead Agencies do not agree with the assumption that their transportation analysis would work on a programmatic level, but do not work at the project level. In Citizens for a Sustainable Treasure Island v. City and County of San Francisco (2014) 227 Cal.App.4th 1036, 1048, the Court of Appeal explained that "courts strive to avoid attaching too much significance to titles in ascertaining whether a legally adequate EIR has been prepared for a particular project." The court added that "'[d]esignating an EIR as a program EIR ... does not by itself decrease the level of analysis otherwise required in the EIR,'" as "'[a]ll EIR's must cover the same general content." The court went on to say that "the 'fact that this EIR is labeled a "project" rather than a "program" EIR matters little...' for purposes of its sufficiency as an informative document." Please also refer to Master Response 2 (Project Level v. Program Level).
1784	285	[Att 3] Table 1 of Appendix 19: CT-53 through CT-65 are all roadways within San Joaquin County. In addition, San Joaquin County has segments identified as SJ03 through SJ07, STK 01, and TRA 01. There are multiple roads within San Joaquin County that could be impacted. And many of these roads now operate at LOS C or worse during peak hours. The last two roads are already operating at LOSE as shown in table 4 of Appendix 19. Tables of Appendix 19 says "Administrative Draft Report, Sept. 2013". Has this been updated and why was final report not included as Appendix 19?	Appendix 19 of the EIR/EIS is part of the Administrative Draft EIR/EIS. This appendix is the final report for the EIR/EIS.
1784	286	[Att 3] Page 37 of Appendix 19, lines 4-22: This analysis says that "To reflect the change in traffic patterns between baseline conditions and the peak construction period, background traffic volumes were developed by factoring up the baseline volumes based on traffic growth rates obtained from the following regional travel demand models .... " Per the Neighbors for Smart Rail case, a "future baseline" is only appropriate to use if an analysis of existing conditions would detract from an EIR's effectiveness as an informational document, "either because an analysis based on existing conditions would be uninformative or because it would be misleading to decision makers and the public." Explain why an "existing baseline" condition was not assessed in this EIR/EIS or why it would be misleading to the decision makers. While it is understood that a "future baseline" would also be appropriate to assess, given the long construction period projected for the BDCP, this does not excuse the EIR authors from addressing the existing baseline. The authors used the term "Baseline Plus Background Growth"; however, doing this can easily result in underestimating impacts from the proposed project, not only for tranportation impacts, but	The Lead Agencies acknowledge the commenter's concerns about impacts on existing traffic volumes, without expected growth. The charts in Draft EIR/EIS Appendix 19A include baseline as well as baseline plus background growth roadway volumes. Excluding background growth would unreasonably underestimate traffic volumes.

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		also for related air/noise impacts.	
1784	287	[Att 3] Page 37, Appendix 19: The text stales that "specific project trip routing is unknown at this time". If that is the case, how can a construction traffic impact analysis be adequate? The text states that the analysis assumes use of routes to provide the quickest and most direct access to surrounding major regional highways. However, in the example of spoils disposal, the construction vehicles may not even be accessing regional highways and they may need to rely on a variety of local roadways. This has not been factored into the analysis and needs to be explained.	Mitigation Measure TRANS-1A notes, "The BDCP proponents will also ensure development of site-specific construction traffic management plans (TMPs) that address the specific steps to be taken before, during, and after construction to minimize traffic impacts, including the Mitigation Measures and Environmental Commitments identified in this EIR/EIS. This will include potential expansion of the study area identified in this EIR/EIS to capture all potentially significantly affected roadway segments."
1784	288	[Att 3] Section 2: analysis approach failes to identify how construction vehicle trips were calculated. There is no table showing number of trips associated with project components such as: spoils disposal; hauling of concrete from the batch plants to the site of the tunnels; construction vehicle workers; forebay construction/expansion; levee modification construction; barge unloading facilities. And these are only related to CM1. What about trips associated with CM2-22. The EIR/EIS needs to include a clear identification of all trips generated by the project, both for construction and for operation and the reader needs to be informed of all assumptions related to trip generation.	Section 19.3.1 - Methods for Analysis used methodological approaches to evaluate effects stemming from the action alternatives. Because activities associated with implementation of conservation and restoration actions planned within the study area are conceptual, transportation effects of these measures were evaluated programmatically, using similar analytical approaches and tools as for the conveyance facilities (CM1). These effects are included in Section 19.3.3, Effects and Mitigation Approaches and they will also be discussed in greater detail and specificity in subsequent project-level environmental documentation once the specific locations for their implementation are determined. Please note that Alternative 4A, the new proposed project, is not a habitat conservation plan and does not include CMs 2-21. Trip generation estimates were derived from construction estimates for the construction period and assumptions on the number of personnel needed for routine maintenance and operational activities following construction, which were developed by the engineering and design team for the air quality/GHG analysis. Appendix 19A of the Final EIR/EIS discusses details of how construction trips were calculated. This appendix references Appendix 22A, which discusses matching of the schedule with construction activities. The estimates determined that construction of the conveyance facilities would generate substantially more trips on study area roadways, compared to other trips using other transportation systems (e.g., rail, transit, marine, or air). Additionally, vehicle trip generation from construction would be substantially higher than trip generation during routine operation and maintenance activities following construction. Therefore, this analysis focuses on construction vehicle trip generation as the primary mechanism for impact.
1785	1	The BDCP intends to be one of the state's largest public works and environmental restoration projects. Sacramento County (County) is ground zero in terms of potential physical, environmental, and socioeconomic impacts of the proposed water infrastructure facilities, identified to be constructed in/near the communities of Freeport and Hood. The proposed BDCP and its water conveyance project, if adopted and constructed, will impact County businesses and residents in a myriad and far-reaching range of ways -- some identified in the current BDCP documents and some that may not be apparent for years to come.	Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The preparation and processing of the documentation are in compliance with state and federal environmental laws and regulations. For example, the environmental documentation has undergone extensive public and scientific input, discussion, and transparency, including the posting of administrative draft chapters online and providing many more opportunities for public participation than is normally required by the CEQA/NEPA processes. Since 2006, the BDCP and subsequently the California WaterFix Project have been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings. Please see Final EIR/EIS, Chapter 32 (Public Involvement, Consultation, and Coordination) Master Response 40 (Public Outreach Adequacy) and

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			Master Response 41 (Transparency). Rates charged to water users, such those mentioned by the commenter, by individual water agencies receiving SWP or CVP supplies are based on the independent rate-setting policies of those agencies. Implementation of the proposed project would not affect how agencies distribute water supply costs among their water customers. Additionally, the commenter is referred to the following Master Responses for information on compliance with existing legislation that would address issues for which businesses and residents of Sacramento County need to be aware of in connection with the proposed project: Master Response 31 (Compliance with Delta Reform Act), Master Response 11 (Applicability of City and County General Plans), and Master Response 13 (Public Trust Doctrine). Additionally, agricultural resources, both impacts and mitigations, were evaluated in both the 2013 Draft EIR/EIS (Chapter 14) and in Sections 3, 4, 5, and Appendix A (Chapter 14) of the RDEIR/SDEIS. Master Response 5 further details the proposed governance structure and implementation, compliance with the Endangered Species Act, and the funding for the proposed project. The BDCP, as well as the California WaterFix Project, is one component, among many, of the California Water Action Plan. In its efforts to achieve the co-equal goals of water supply reliability and ecosystem restoration, the proposed project seeks to protect dozens of species of fish and wildlife in the Delta while also securing reliable water deliveries for two-thirds of California. The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e,g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.
1785	2	All current project and mitigation alternatives proposed by the BDCP process are inconsistent with existing Delta-specific policies and principles adopted by the County Board of Supervisors. Notably, the BDCP and its environmental documents evidence:	Master Response 11 discusses the applicability of local jurisdiction General Plans. Master Responses 26 and 32 discusses area of origin and water rights issues. See Master Response 5 for responses to the primary issues raised on the BDCP. Property tax revenue effects of land acquisitions required for construction of water conveyance facilities are

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		* No enforceable assurances or protections for Sacramento County * Significant negative impacts to the short- and long-term prosperity and economic structure of the communities in the Delta * Uncertainty for long-term water right holders upstream of the Delta * Lost agricultural production and resulting lost property tax revenues as prime agricultural land is converted to natural habitat * Significant impacts to existing infrastructure; for example, roadways and bridges, rail lines, Sacramento International Airport, natural gas wells, groundwater wells, and water lines To protect Sacramento County, its residents, and its historical institutions, the County takes a careful, detailed, and strong position on its comments to the BDCP and DEIR/EIS. Significant County resources were devoted to the review, evaluation, and preparation of these comments. The County is well aware that improving the health of the Delta ecosystem and maintaining a reliable water supply is extremely critical, of statewide significance, and a statutory mandate. As a result, the County has never opposed finding solutions to address these issues. However, to date the BDCP process and documents have not effectively addressed the County's significant local concerns. Additionally, state and federal principals have expended little effort in committing to including enforceable assurances and local protections. At a minimum, any ecosystem restoration and water supply reliability plan for the Delta and areas south of the Delta must: 1. Not redirect unmitigated adverse environmental, economic, or social impacts to Sacramento County; 2. Honor and adhere to water right priorities and area-of-origin protections; 3. Have no adverse effect on the existing and future operations of the Sacramento Regional County Sanitation District facilities or the Freeport Regional Water Project; further, any other adverse impacts of water conveyance facilities routed through Sacramento County must be fully mitigated, with County staff fully involved with the routing and operational issues for such facilities within the County; 4. Protect Sacramento County's governmental prerogatives in the areas of its local land use authority, tax and related revenues, public health and safety, economic development, and agricultural stability; 5. Protect Sacramento County's ability to govern, as an elected body, from usurpation through governance by a non-elected, appointed council, commission or board by including	discussed in Chapter 16, Socioeconomics, Impact ECON-4, EIR/EIS. As discussed for this impact under each alternative, the lead agencies would make arrangements to compensate local governments for the loss of property tax or assessment revenue for land used for constructing, locating, operating, or mitigating for new Delta water conveyance facilities. Notably, California Water Code section 85089 provides that "[c]onstruction of a new Delta conveyance facility shall not be initiated" until the benefitting federal and state water contractors, or a joint powers authority representing them, have made arrangements or entered into contracts requiring them to pay for both (a) the "costs of the environmental review, planning, design, construction, and mitigation" required for such a facility and (b) "[f]ull mitigation of property tax or assessments levied by local governments or special districts for land use in the construction, location, mitigation, or operation of new Delta conveyance facilities." Similarly, for land acquired for habitat restoration measures under the environmental commitments (see Impact ECON-16), the lead agencies would compensate local governments and special districts for forgone revenue. As a result, although land would be removed from the local tax base for project purposes, local governments and special districts would be compensated for lost property tax revenues. Please see Master Response 26 regarding area of origin rights. Please see Response to Comment 1785-1 with regard to the proposed project no longer having an HCP/NCCP. Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Draft EIR/EIS. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. Alternative 4A includes a much lower target for habitat acreage that may address many of the County's concerns regarding potential loss of agricultural resources and associated economic losses. Please see RDEIR/SDEIS Appendix A Chapter 14, Agricultural Resources, Impact AG-1 and Impact AG-2 and their associated mitigation measures for complete analysis of how the proposed project will effect and mediate important farmland in the Delta. With regards to agricultural impact mitigation, please see Master Response 18. Please review the index of commenters to find the responses to comments submitted by the Sacramento

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		voting membership for elected representatives from Sacramento County; 6. Be consistent with Sacramento County's land use planning, economic development, including agriculture, and the South County Habitat Conservation Plan (HCP); 7. Commit financial resources to maintain and enhance vital transportation, flood control infrastructure, and emergency response resources within those areas of the Sacramento County Delta; and 8. Account for the multiple causes of the Delta's decline and not simply focus on one or a limited number.	Regional County Sanitation District. The remaining comments do not provide enough specificity as to how the environmental analysis should be modified to provide a specific response.
1785	3	The current BDCP draft is based on flawed hydrologic modeling and erroneous and biased scientific analysis. Significant errors in the underlying model, from which all effects were analyzed, call into question the analyses and conclusions throughout the entire BDCP and the DEIR/EIS. Indeed, the BDCP hydrologic model reveals that much of the text of the BDCP and DEIR/EIS are contradicted by information in the model, that some effects are understated or ignored completely, and that operations in the model violate the operational rules contained in the BDCP as currently proposed. One cannot help but conclude that the BDCP and the DEIR/EIS are simply a post hoc rationalization for an unsound concept. Even with a flawed approach and analysis, the DEIR/EIS indicates that the BDCP will result in a lengthy list of significant and unavoidable impacts (at least 48 of them). The residents and communities of Sacramento County will bear a disproportionate burden of these impacts, which will benefit agricultural and urban water users south of the Delta. Specifically, the proposed water operations (i.e., water intakes, pumps and water conveyance tunnels) will cause long-term and irreversible land use compatibility impacts, along with significant disruption (and likely permanent destruction) of the existing rural and agricultural lifestyle and land use pattern, along with future land uses contemplated under Sacramento County's 2030 General Plan.	Please refer to Master Response 10 regarding significant and unavoidable impacts. A discussion of land use incompatibility is located under Impact LU-1 in Chapter 13, and discussions regarding changes in community character can be found in Impact ECON-3 in Chapter 16 of the Final EIR. Both have been determined to have no impact.
1785	4	As proposed, the BDCP will not produce additional water for an ecosystem that is obviously dependent on a permanent and high quality source of water, nor will it aid in the recovery of endangered aquatic species.	The action alternatives could only deliver the amount of water diverted under the existing SWP and CVP water rights and in accordance with the existing and future related regulatory requirements. The amount of water to be diverted is determined by federal and state agencies based upon river water levels and flow, water available in the system, the presence of threatened and endangered fish species, and water quality standards. Delta outflow requirements would be increased under Alternatives 4H2, 4H3, 4H4, 7, and 9. More information on the ranges of action alternatives operational criteria, based on water year types and specific flow criteria, can be found in Chapter 3, Section 3.6.4.2, North Delta and South Delta Water Conveyance Operational Criteria, EIR/EIS.
1785	5	Substantial questions have been raised about the BDCP's ability to meet any of the required standards for protecting listed species, and it depends on uncertain and speculative funding sources. As such, it does not meet any of the essential criteria for approval of a Habitat	This Final EIR/EIS provides an overview, in Chapter 1, Introduction, of the responsible, trustee and cooperating agencies and their regulatory review and approval responsibilities related to implementation of the proposed project and alternatives. Table 1-2 in the *Introduction* lists the anticipated permits, decisions,

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		Conservation Plan (HCP) or Natural Communities Conservation Plan (NCCP), and it fails to comply with the Delta Reform Act.	approvals or other actions that may be taken by public agencies related to approval of the proposed project or alternatives. Alternative 4A no longer contains an HCP/NCCP element. For more on funding sources, please see Master Response 5. For additional discussion on the Delta Reform Act, please see Master Response 31. Appendix 3I looks at how the BDCP will comply with the 2009 Delta Reform Act. Appendix 3J discusses how the California WaterFix will comply with the 2009 Delta Reform Act.
1785	6	Significantly, the DEIR/EIS fails to adequately address or answer basic questions regarding short- and long-term protection, enhancement, and mitigation for the loss of the many values and resources unique to the Sacramento River Delta (e.g., agriculture, recreational, cultural/tourism, and critical natural habitat). The DEIR/EIS is at times so general and so technical it provides no meaningful information about many of the Project's adverse effects and it omits consideration of many impacts of concern to Sacramento County. Despite (and in part due to) its vast length, the DEIR/EIS fails to summarize and convey information essential to the understanding of project impacts in a manner reasonably calculated to inform the readers and decisionmakers, in violation of NEPA's readability requirement and CEQA.	The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached.
1785	7	The BDCP and DEIR/EIS fail to adequately provide the requisite accurate environmental documentation necessary for the local citizenry and public decisionmakers to reach an informed and thoughtful determination as to whether the BDCP will realistically address the statutory "coequal goals" mandate of "providing a reliable water supply for the State while restoring the Delta's ecosystem," without destroying the Delta's existing fragile and valuable socioeconomic and ecosystem framework.	See response 1785-6.
1785	8	As a preliminary matter, developing comprehensive and detailed comments on the BDCP is a difficult task because of the significant and numerous flaws contained in the BDCP itself. The lack of any well-defined operating plan for the proposed north Delta intakes, errors in hydrologic modeling, modeling for an effects analysis that violates the very rules contained in the BDCP itself, and an effects analysis based on this flawed modeling leaves the public in a position of trying to correct the significant flaws in the document and trying to recreate what the true impacts of the project are going to be. In addition, Conservation Measures (CMs) 2 through 22 are discussed only at a programmatic level. While one could take away that the true purpose of this document is simply to get CM1 built, if the intent of the BDCP is to satisfy the requirements of the Delta Reform Act, fulfill the co-equal goals, and fulfill the Department of Water Resource's (DWR's) public message about the BDCP, the BDCP should do a better job of articulating the specifics of all conservation measures in the plan--not only the single conservation measure that provides DWR's contractors with a reliable water supply.	For information regarding project and program level analysis, see Master Response 2. Please refer to Master Response 31, Appendix 3I and Appendix 3J of the Final EIR/EIS. The commenter alludes to CM1 not being sufficient as a conservation measure. Regulatory Requirements Under ESA Section 10 and the NCCPA Under the federal Endangered Species Act (ESA), an applicant for a Section 10 permit must submit a conservation plan that species, among other things, the steps that will be taken to minimize and mitigate the impact of covered activities on the species covered by the plan. Under the State Natural Community Conservation Planning Act (NCCPA), a conservation plan is required to include measures that collectively provide for the conservation and management of species covered by the plan. Specifically, under Section 10(a)(1)(B) of the ESA, USFWS and NMFS may permit the incidental take of listed species that may occur as a result of an otherwise lawful activity. To obtain a Section 10(a)(1)(B) permit, an applicant must prepare a Habitat Conservation Plan (HCP) that meets the following five criteria. 1) The taking will be incidental to an otherwise lawful activity.

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			2) The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking. 3) The applicant will ensure that adequate funding for the Plan will be provided. 4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. 5) Other measures, if any, which USFWS and NMFS require as being necessary or appropriate for purposes of the Plan will be met (16 USC 1539(a)(2)(A)). Under the BDCP, Conservation Measures are defined as those actions that will minimize and mitigate, to the maximum extent practicable, impacts to Covered Species associated with Covered Activities, as well as those actions that contribute to the recovery of those species. Collectively, the BDCP Conservation Measures have been designed to meet the permit issuance requirements of the ESA and the NCCPA. Role of CM1 as a Minimization Measure The development of new conveyance infrastructure and the operational criteria associated with that infrastructure are key components of the overall BDCP Conservation Strategy. Specifically, CM1 has been designed to minimize the effects of the State Water Project and the Central Valley Project on covered fish species and advance the biological goals and objectives of the Plan. As such, they meet the definition of a Conservation Measure. CM1 provides for the development of new water conveyance facilities, sets out criteria for the operations of both new and existing facilities, and established requirements for outflow from the Delta. The CVP/SWP facilities include operations of the south Delta export facilities, a new Head of Old River operable gate, new north Delta intake facilities, Delta Cross Channel gates, the Suisun Marsh Salinity Control Gates, and a new North Bay Aqueduct intake. Each of these individual operations is proposed to interact and complement each other to provide important benefits to Covered Species and water supply and system reliability. CM1 will minimize the effects of the CVP/SWP and advance the biological goals and objectives by helping to restore a more natural flow regime and enabling restoration of certain attributes of a natural flood disturbance regime. CM1 also provides an indirect contribution to many other goals and objectives associated with habitat protection and restoration actions under the Plan. Specifically, CM1 will minimize the effects of the CVP/SWP on covered species in the Plan Area as set forth below. Entrainment and Related Losses Entrainment has long been recognized as a consequence of pumping at the existing south Delta diversions. The risk of entrainment at the diversions has been reduced and partly remediated through the installment of fish screens and addition of salvage facilities. Additionally, the reductions in export levels pursuant to the existing CVP/SWP Biological Opinions have served to further reduce entrainment risks. Through CM1, the BDCP will provide for further reductions in entrainment and its associated risks, including stress/injury

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			related to salvage operations, and pre-screening and post-screening losses from predation. The existing south Delta export facilities are located in areas occupied by covered fish species, at least for part of the year. With addition of the new conveyance facilities in the north Delta, diversions levels in the south Delta will be reduced, thereby further minimizing the risk of entrainment mortality of salmonids, smelt, splittail, sturgeon and Pacific and river lamprey, as well as the risk of predation mortality of salmonids, smelt, lamprey, and splittail associated with the export facilities. (Fish that do become entrained into Clifton Court Forebay will have predation risk reduced through measures described in CM15 Localized Reduction of Predatory Fishes.) In addition, because the north Delta diversions do not require a fish salvage facility, their operation is expected to reduce mortality of covered fish species that may occur through collection, handling, transport, and release of salvaged fish from the existing export facilities and predation within these facilities. Juvenile Migration and Rearing Under CM1, dual conveyance operations will allow for modifications of the south Delta diversions, and potentially those of the Delta Cross Channel, that will reduce the frequency and magnitude of flows that cause migrating fish to enter the interior Delta. These reductions will, in turn, allow juvenile out-migrants to follow a downstream course into more tidally-influenced portions of the estuary, thereby allowing for more rapid migration and briefer exposure to predation. These modifications to the south Delta diversion will also result in a reduction of the proportion of fish entering the interior Delta, where survival of juvenile Chinook salmon (and presumably other salmonids) is lower (Baker and Morhardt 2001; Brandes and McLain 2001; CALFED Bay-Delta Program 2001; Perry and Skalski 2009; Perry et al. 2010). Reducing the reliance on through-Delta conveyance via the Delta Cross Channel and intakes in the south Delta will also substantially reduce the effects of existing flow anomalies, such as weak flows or reverse flows on salmonids in the San Joaquin River system and tributaries, Mokelumne River, and other eastside tributaries. Although there would be some increased entrainment exposure for Sacramento River salmonids due to the presence of the new north Delta diversions, these effects would be minimized by fish screens, sweeping and approach velocity criteria, and other operational parameters. Adult Migration Operation of the north Delta intakes is expected to reduce reliance on through-Delta conveyance via the Delta Cross Channel and diversions in the south Delta. As such, this will reduce the occurrence and magnitude of flow changes driven by the south Delta diversions on salmonids and sturgeon in the San Joaquin River system and tributaries, Mokelumne River, and other east-side tributaries. Such artificial flow patterns are thought to confuse the upstream migration cues of adults, thereby reducing the probability that they will enter the eastside tributaries or minimizing delay in migration. As state agencies, the Department of Water Resources and the California Natural Resources Agencies have

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			an obligation and duty to provide the public with educational information that is rooted in fact, based on reasonable assumptions supported by facts and expert opinions substantiated by facts. Doing so for a project of large scale and complexity can be a challenge. The BDCP website, blog, Your Questions Answered, and social media platforms have been the primary vehicle for communicating important project information and correcting misinformation. Brochures, factsheets, webinars and videos are other tools the State has employed to educate the public about the proposed project and the EIR/EIS process. Representatives from the State have also held numerous meetings and briefings around the state to educate stakeholders and provide them with critical information about project developments and the EIR/EIS process. These materials included information regarding all of the CMs. CM1 generated the most public interest and therefore many of the educational materials were developed to respond to comment questions, concerns, or correct misinformation regarding CM1. Brochures, factsheets, webinars, reports and other information is kept on the project website, www.BayDeltaConservationPlan.com and is available for review. Historical materials remain available for review and are labeled as achieved or superseded. For more information regarding public outreach adequacy please see Master Response 40.
1785	9	The burden of producing a comprehensible Habitat Conservation Plan (HCP) and supporting analysis should not fall on the public. Instead, the BDCP proponents should be required to provide an adequate and comprehensible public draft HCP for public comment. Once the significant flaws in the BDCP are addressed and the BDCP is recirculated for public review and comment, the County, and the rest of the public, will be in a better position to understand the true impacts of the BDCP and, in turn, provide detailed comments to help inform the draft plan and DEIR/EIS.	This comment is specific to the BDCP. Please see responses to comment 1785-1 and Master Response 5 which provide additional information on the BDCP. If the BDCP was selected as the proposed project, additional changes to the plan and environmental review may be required.
1785	10	The BDCP fails to meet the requirements of Section 10(a)(2)(B) of the federal Endangered Species Act (ESA). In order to issue an incidental take permit (ITP) under Section 10, an HCP must demonstrate that the proposed taking "will not appreciably reduce the likelihood of the survival and recovery of the species in the wild." (16 U.S.C. [Section] 1539(a)(2)(B)(iv).) In addition, the HCP must assure that there is adequate funding available to implement its terms and conditions, as well as to address any unforeseen circumstances that may arise during the life of the plan. The BDCP fails to fulfill these requirements. The overwhelming evidence demonstrates the BDCP will not adequately protect listed and threatened species and may in fact, reduce the likelihood of their survival and recovery in the wild. Further, the BDCP's "assurances" that funding is and will be available for its implementation are woefully inadequate. Despite the myriad of financial sources discussed in the BDCP, it is clear that the "adequate funding" required by the ESA and its implementing regulations has yet to be secured.	This comment is specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on BDCP
1785	11	The Plan Fails to Meet the Standard for Protecting Listed Species. The California Advisory Committee on Salmon and Steelhead, an expert advisory committee to the California Department of Fish and Wildlife (CDFW), has recommended that the CDFW	This comment is specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP.

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		director deny any incidental take permit for the BDCP under State law because the Project will contribute to the further decline of two fish species protected under both the state and federal Endangered Species Acts: the Sacramento River Winter Run and Spring Run Chinook Salmon. Notably the Committee found: "Because Sacramento River Winter Run and Spring Run Chinook Salmon are already significantly depleted and BDCP will further reduce smolt survival, the Department of Fish and Wildlife cannot make a finding that the BDCP NCCP will lead to recovery of the species." (Letter from Vivian Helliwell, Chairman, to Charlton H. Bonham, February 26, 2014 (Helliwell Letter), Exhibit A.) [see ATT 1] Significantly, the Committee further found that "BDCP promotes the unproven scientific hypothesis that habitat restoration can substitute for flow .... BDCP would reduce Delta outflow, which contributes to the decreases in salmon smolt revival rates modeled by BDCP." (Helliwell Letter at p. 2 & n. 4.) Further, "[t]he concept of habitat restoration measures to offset impacts from increased water withdrawals from the Delta (increased "reliability") is not supported by science ...." (Helliwell Letter at p. 4.)	
1785	12	The BDCP fails to adequately discuss the interplay between DWR and the USBR as it relates to the Operation of the Facility. The BDCP describes itself as a project proposed by the State, through DWR, and being owned and operated by the State. Reading the document it is easy to get the impression that the only difference between existing conditions and the operation of CM-1, once constructed, is a different place for diverting State Water Project (SWP) water. This, perhaps, is one of the most misleading aspects of the BDCP. The purported benefits of CM-1 include the reduction in entrainment of fish in the south Delta that currently result from pumping operations in the south Delta, along with certain reverse flow conditions that occasionally result from south Delta pumping operations. To theoretically reap the benefits of CM-1 as proposed, the United States Bureau of Reclamation (USBR) would have to move Central Valley Project (CVP) water through the new north Delta facilities. In addition to this reality, BDCP modeling reveals that there will be significant operational changes at upstream reservoirs, including reservoirs for the CVP. The BDCP fails to adequately discuss the nature and purpose of those changes and fails to discuss the impacts associated with those changes. The BDCP also fails to adequately describe how the Section 7 (consultation) process could impact the BDCP and the water supply expectations that form the water supply side of the BDCP. For example, the BDCP fails to adequately discuss the current Coordinated Operations Agreement (COA) between the state and federal government and any changes to the COA that will be necessitated by the BDCP. The BDCP's failure to reveal or discuss changes in upstream operations also prevents adequate consideration of environmental impacts in the DEIR/EIS -- a fatal flaw in those documents as well.	As described in Master Response 25 and discussed in Final EIR, Chapter 5, the EIR/EIS analyses assume continued implementation of existing reservoir operations criteria even with climate change, sea level rise, and population growth that would occur with or without the project. Any future changes to reservoir operations criteria would require additional technical and environmental documentation under CEQA and NEPA, and consultation with resource agencies under ESA and CESA. It would be speculative to consider future changes to reservoir operations in the No Action Alternative and Cumulative Impact Analysis. Such changes are not included in the action alternatives because they would not support the Project Objectives or Purpose and Need statement. As shown in Chapter 5 of the Final EIR/EIS, reservoir storage under the alternatives as compared to the No Action Alternative varies by the specific alternative considered; and can be greater or less than the No Action Alternative. Storage under the No Action Alternative is generally less than under Existing Conditions due to climate change, sea level rise, and projected growth that would occur under all of the alternatives. Similarly, river flows vary by alternative and can be greater or less than under the No Action Alternative or Existing Conditions, as discussed in Chapter 6, Surface Water of the Final EIR/EIS. Changes between Existing Conditions and the No Action Alternative are not caused by the project implementation; and therefore, are not mitigated by the project. The remainder of these comments are specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP.

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		The BDCP must be revised to discuss the nature of the relationship between the BDCP and the operation of various CVP facilities, including upstream reservoirs and federal pumping facilities in order to provide an understanding of likely changes needed to the COA. Additionally, the BDCP must be revised to discuss how future Section 7 consultations could impact the underlying assumptions in the BDCP. A thorough discussion of these issues is necessary so the public can understand how the impacts might differ between the SWP and CVP and whether there will be any certainty in the operations of the CVP.	
1785	13	The BDCP Lacks an Adequate and Reliable Source of Funding. Section 10 of the ESA requires the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) to find that the applicant for an incidental take permit will ensure that sufficient funding be available to implement an HCP. (Southwest Center for Biological Diversity v. Bartel (S.D. Cal. 2006) 457 F. Supp.2d 1070, 1105.) While there is no requirement that an applicant have cash or a fully funded trust account available to implement an HCP, an applicant must demonstrate that there is adequate funding for the HCP and that funds are not speculative or dependent on the future actions of others.	The remainder of these comments are specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP.
1785	14	An HCP cannot be approved without identification of secured funding sources for activities contemplated by the HCP (i.e., funding for all 22 of the BDCP's proposed conservation measures). In particular, an HCP must ensure that there is adequate funding and specify the sources of funding available to implement the HCP's steps to minimize and mitigate impacts to its covered species. (16 U.S.C. [Sections] 1539(a)(2)(A), (B).) Thus, an HCP must detail the funding sources that will be available to implement any proposed mitigation program. For large-scale HCPs like the BDCP, funding issues present a real concern because of the geographic scope of the area affected and because the number and scope of activities contemplated typically require substantial budgets. Where perpetual funding is required to implement any mitigation measures, the HCP must establish programs or mechanisms to generate those funds. Importantly, an applicant for a permit cannot rely on the speculative future actions of others to fund activities related to an HCP. (Southwest Center for Biological Diversity v. Bartel (S.D. Cal. 2006) 470 F.Supp. 2d 1118, 1155, citing National Wildlife Federation v. Babbit (E.D. Cal. 2000) 128 F. Supp. 2d 1274, 1294-1295, and Sierra Club v. Babbit (S.D. Ala. 1998) 15 F. Supp. 1274, 1280-1282.)	These comments are specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	15	The lack of adequate funding to ensure implementation of mitigation and other conditions of an HCP can be a fatal flaw and, in fact, the lack of adequate funding and appropriate funding assurances has resulted in the invalidation of HCPs. HCPs must include a funding plan that outlines mandatory funding measures and provides for potential future adjustments to account for increased costs. (Southwest Centerfor Biological Diversity v. Bartel, supra, 470 F.Supp. 2d at p. 1156.)	These comments are specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	16	At least two HCPs in California were invalidated due to the uncertain nature of funding to	These comments are specific to the BDCP. Please see Responses to comments 1785-1 and Master Response

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		support the activities contemplated in the HCP. The City of Sacramento's HCP for the Natomas area was invalidated due, in part, to inadequate funding assurances. (National Wildlife Federation v. Babbit, supra, 128 F.S upp. 2d at p. 1274.) The City of San Diego's HCP also was invalidated for lack of adequate funding. (Southwest Center for Biological Diversity v. Bartel, supra, 470 F.Supp. 2d at p. 1118.) There the City of San Diego prepared an HCP that needed funding to acquire land for a "preserve" and to administer the plan for the life of the ITP (Incidental Take Permit). San Diego's proposed source of funding relied on future actions, consisting of future regional plans with other local jurisdictions, raising the sales tax, or issuing bonds, which would require voter approval. While San Diego promised to use its "best efforts" to implement the financing and land acquisition components of the plan, San Diego's failure to ensure funding for the plan was fatal. The federal court found that the proposed funding source was unreliable and speculative, and that the USFWS could not rationally conclude that the City would "ensure adequate funding" as contemplated by the ESA. Like the San Diego and Natomas HCPs, the BDCP fails to demonstrate that adequate funding will be available not only to provide funding for land acquisition and administration but also to carry out the conservation measures that serve as the pillars of the plan. The BDCP does not fulfill even the most basic requirement that there be adequate funding available for any of the 22 conservation measures. Even the introductory paragraphs in the Funding Chapter (Chapter 8) qualify the entire funding discussion as being based on a "programmatic level" estimation of project costs. Identification of needed funding is deferred to an Implementation Office, which will, at some unspecified future time, develop annual capital and operating budgets. (BDCP, p. 8-1.)	5 which provide additional information on the BDCP, including funding.
1785	17	The BDCP is intended to serve as a Natural Communities Conservation Plan (NCCP) under California law. In this regard, the BDCP also fails to meet the funding mandates ()f the Natural Communities Conservation Planning Act (NCCPA). The NCCPA demands an Implementing Agreement detailing, among other things: 1) provisions "specifying the actions [the CDFW] shall take ... if the plan participant fails to provide adequate funding"; and 2) "mechanisms to ensure adequate funding to carry out the conservation actions identified in the plan." (Fish and Game Code, [Section] 2820(b)(3).) The BDCP fails to comply with this mandate.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). This comment is specific to the BDCP. . Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP.
1785	18	A fatal defect in Chapter 8 is the assumption that funding responsibilities can simply be deferred to some future date. (BDCP, p. 8-2.) Without an understanding of who will pay and what funding is needed, there is no way to assess whether adequate funding exists sufficient to provide any regulatory assurances to the project proponents. Indeed, the BDCP itself admits that the BDCP is not intended to establish an allocation of costs or repayment responsibilities; instead, finance plans will be developed separately by "various funding agencies" through future discussions. (BDCP, p. 8-2.)	This comment is specific to the BDCP. . Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP, including funding.

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1785	19	The BDCP attempts to impose costs of certain conservation measures on the general public when those costs should be borne by the contractors receiving the benefit of the BDCP. For example, the BDCP suggests that the contractors should be responsible for 12.6% of the costs of CM-4. (BDCP, Table 8-41.) The rationale is that a small portion of restoration occurring under CM-4 is currently required by the USFWS Biological Opinion (BiOp) for the Long-Term Operational Criteria and Plan (OCAP). However, the BDCP fails to disclose that tidal restoration will also serve to mitigate the adverse impacts of relocating the diversion facilities to the north Delta. Without CM-4 (and CM-5), the relocation of pumping facilities to the north Delta would increase the frequency and severity of reverse flows in the Sacramento River. Restored tidal areas allow the incoming tide to dissipate and mask the effects of the new north Delta intakes. As such, the cost of CM-4 is more appropriately imposed on the contractors because CM-4 mitigates the operational impacts of the north Delta intake facilities.	This comment is specific to the BDCP. . Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	20	Generally, the BDCP relies, in part, on various federal funding sources -- sources that require action by Congress to authorize the ongoing expenditure of funds or new authorizations to provide funding for certain BDCP activities. The Antideficiency Act prohibits, among other things, the creation of obligations in excess of amounts already appropriated and committing the federal government to pay funds not yet appropriated. To the extent BDCP relies on any possible funding sources that are in excess of current federal authorizations or would require the appropriation of funds, that reliance would likely run afoul of the Antideficiency Act. In addition to the above described funding flaws, nearly all of the identified funding sources are too speculative to support the issuance of take permits as requested by the project proponents. These funding sources are outlined in Section 8.3 of the BDCP.	This comment is specific to the BDCP. . Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	21	The BDCP contemplates that CVP contractors have "committed to fund construction, operation, and construction-related mitigation costs for implementation of CM-1 ...." (BDCP, p. 8-73.) However, according to the BDCP, USBR is not a permittee and there is no commitment to wheel federal water through the new facilities. As a result, there is no basis for assuming federal contractors will pay for facilities that will only wheel SWP water.	This comment is specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	22	To fund CM-1, the BDCP indicates that the state and federal contractors "could issue either general obligation or revenue bonds." (BDCP, p. 8-78.) However, and as recognized by the BDCP, general obligation bonds require voter approval and are therefore speculative.	This comment is specific to the BDCP. Please see Responses to comments 1785-1 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	23	For State funding sources, the BDCP relies upon a significant contribution from a "water bond" that is currently scheduled for the 2014 ballot. (BDCP, p. 8-84.) BDCP attempts an analysis of prior bonds, concluding that bond passage is likely and others likely would be passed during the implementation period of the BDCP. (BDCP, p. 8-85.) Yet bond passage is not assured and any funding relied upon from a yet-to-be-passed bond measure is purely	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.

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		speculative, as the voters could reject the bond. Further, Sacramento County and its four Delta County Coalition partners will oppose any water bond that includes a funding earmark for the BDCP. Indeed, and as the BDCP recognizes, the current bond has already been delayed multiple years because the economic climate was not favorable for passage. In fact, the reality is that the bond would not have been passed by the voters. Given the history of this bond and the speculative nature generally of voter-approved financing, it is unreasonable for the BDCP to rely on this funding source.	
1785	24	The BDCP then looks to existing bond source availability in California. (BDCP Section 8.3.5.2.) While not articulated, it appears that the BDCP anticipates that it will "corner the market" in existing bond funds -- using all available bond funding for the BDCP. (BDCP, pp. 8-86 - 8-91.) If this is the intent, the BDCP needs to discuss (both in the BDCP and DEIR/EIS) the other projects throughout the State that will not be able to receive funding from these bond sources. Generally, it is speculative to conclude that all of the remaining bond funds under the cited programs will be made available only to the BDCP. In any event, the remaining balances (monies) are small in comparison to the amount needed to fully fund the BDCP's proposed conservation measures.	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	25	The BDCP assumes continued funding for programs/studies under the Interagency Ecological Program (IEP). (BDCP, p. 8-91.) The BDCP assumes an "overlap," without any factual support, of IEP work and the BDCP. Without any substantiation, the BDCP assumes that IEP funding will account for $55 million over the permit term. (BDCP, p. 8-91.) There is, of course, no requirement or guarantee that the State Legislature will continue to fund IEP efforts and those funds therefore cannot be relied upon to provide stable and secure funding over the life of the permit term.	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	26	The BDCP assumes that nearly $2 million per year will be available from the Delta Stewardship Council (DSC) to support the BDCP. DSC funding is not certain, subject instead to the state's budget process. The DSC cannot provide assurances that any funding will be available to support the BDCP and certainly cannot assure $2 million per year for the life of the permit term. This funding source is speculative and uncertain.	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	27	The BDCP assumes a roughly $2 million annual financial contribution from the Delta Bay Enhanced Enforcement Project (DBEEP) program. (BDCP, p. 8-93.) The BDCP indicates that, through the DBEEP program, DWR funds roughly $2 million annually for CDFW's enforcement efforts to reduce illegal take of fish species. (BDCP, p. 8-93.) While it is not clear from the text, this is part of the SWP Budget -- and will be a funding requirement imposed on the SWP contractors. The document must discuss the underlying sources of this funding to provide an appropriate assurance that the funding will be available through the permit term. As revealed in the BDCP, the current agreement for the DBEEP is only three years. This funding is not certain for the 50-year term of the permit.	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.

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1785	28	The BDCP relies on funding provided through the 2010 Fish Restoration Program Agreement. (BDCP, p. 8-94.) The document, however, recognizes that subsequent agreements would need to be executed and that funding would need to be included. (BDCP, p. 8-94.) Funding is therefore not available from this program.	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	29	The BDCP also relies on existing state grants for possible funding sources. (see BDCP, pp. 8-94 - 8-99 (Wildlife Conservation Board grants for work "relevant" to the BDCP; Ecosystem Restoration Program funding "applicable" to the BDCP ; Environmental Enhancement Fund availability is "intermittent" and "not guaranteed"; Fisheries Restoration Grant Program has funding "uncertainties").) While certain of these programs may provide a possible source of funds, none provides the financial certainty sufficient to issue the requested permits.	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	30	One federal funding source relied upon by the BDCP is the Central Valley Project Improvement Act (CVPIA) Restoration Fund. (BDCP, p. 8-99.) The CVPIA Restoration Fund is necessarily connected to the CVP -- and 75% of funds paid into the Fund are either reimbursed as a feature of the CVP or are a non-reimbursable expenditure. The BDCP purports to be a project that is State (SWP/DWR) owned and is not part of the CVP. The USBR is not a project proponent nor is it a party to the draft Implementing Agreement. It is therefore not appropriate to assume CVPIA funding to support DWR's project. Moreover, reliance on the continuous appropriation of these funds likely violates the Antideficiency Act.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 and 1785-13. Please also see Master Response 5 with regards to the IA and funding.
1785	31	The BDCP also relies on speculative California Bay-Delta appropriations to fund portions of the BDCP. (BDCP, p. 8-103.) There are a host of problems associated with reliance on these funds, the foremost of which is the assumption that any federal appropriation of funds will be made through the expected term of the permit. Many of the identified funds are directed to federal agencies that are not parties to the BDCP or the Implementing Agreement. There is simply no stated basis to rely on federal funding for the term of the permit in a manner sufficient to provide assurances to authorize take of listed species. Moreover, any reliance on the continuous appropriation of these funds likely violates the Antideficiency Act.	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 and 1785-13. Please also see Master Response 5 with regards to the IA and funding.
1785	32	The BDCP relies on Regional Ecosystem Conservation through the National Marine Fisheries Service (NMFS). (BDCP, p. 8-108.) However, and as the BDCP expressly admits, there are no current estimates for funding that might be available to NMFS for projects in the San Francisco Bay area. (BDCP, p. 8-109.) There is no basis for relying on any funding from this source in support of the BDCP. Reliance on the continuous appropriation of these funds likely violates the Antideficiency Act.	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	33	The BDCP's reliance on existing federal grants is speculative. (BDCP, pp. 8-110 - 8-118.) While certain grant programs might provide the BDCP with opportunities to compete for available grant funding, there is no guarantee that the BDCP will be awarded any grants	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.

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		under any of the programs identified in the document.	
1785	34	The BDCP's reliance on possible future federal authorizations is too speculative to rely upon, as the permittees' "intent to collaborate and seek federal authorizations" provides no certainty in funding. (BDCP, p. 8-109.) Reliance on the appropriation of these funds likely violates the Antideficiency Act.	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	35	The speculative nature of this funding is fatal to the BDCP, as take authorization cannot be issued without greater certainty in funding. Not surprisingly, testimony of a DWR representative after release of the draft Plan confirmed the speculative nature of the BDCP funding. At the February 12, 2014, California Assembly Committee on Accountability and Administrative Review oversight hearing on the BDCP (2/12/14 Hearing), DWR's representative, Laura King Moon, testified about the nature and certainty of funding to support the BDCP. Ms. King Moon explained that in the event funding is not available, the potential regulated entities will revisit the Plan, renegotiate ESA take permit scope of coverage and possibly scale back the project. (Laura King Moon Testimony, 2/12/14 Hearing, timestamp 00:19:00-00:19:40.) Testimony at this hearing revealed that funding is uncertain and relies upon the assumption that funding will be provided because, generally, state and federal governments have funded other significant restoration projects. (Laura King Moon Testimony, 2/12/14 Hearing, time stamp 00:18:23 - 00:18:30.)	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2, 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	36	In addition to the speculative funding sources, certain categories of expenses identified in the BDCP grossly underestimate the funds needed to complete the conservation measures. Land cost is one example. The BDCP makes assumptions about land acquisition that will occur over the life of the project. Inherent in these assumptions (not only in costs, but also in the implementation schedule referred to in Chapter 8 (BDCP, p. 8-5.)) is that there will be continued funding available for all conservation measures through the life of the permit. However, as DWR's representative testified, funding might not be available for the entire project, which will necessitate scaling back the BDCP. (Laura King Moon Testimony, 2/12/14 Hearing, time stamp 00:19:00 - 00:19:40.)	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2, 1785-13, and Master Response 5.
1785	37	Another major flaw in this section is the cost assumption associated with land acquisition. Cost estimates are based upon data from the California Chapter of the American Society of Farm Managers and Rural Appraisers (Cal ASFMRA) published in 2009. Data published by Cal ASFMRA in 2009 indicated that land values were increasing through 2009 and the trend was for further increases. BDCP ignores this fact. Moreover, land values assume simple real estate market values for various types of cropland. This assumes a stable real estate market with normal demand and willing sellers of the property sought to be acquired. Those assumptions are unreasonable for a number of reasons. First, to the extent the BDCP creates a demand for 153,114 acres of property needed for various conservation measures and mitigation in the project area, prices will likely increase substantially. Second, and more importantly, the assumptions fail to take into account the very real likelihood that the	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2, 1785-13 and Master Response 5.

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		project proponents will need to acquire the vast majority of needed property through condemnation. Once that process is initiated, prices will not be based on current use of the property, but instead on the highest and best use. Thus, real property values and the funding needed to purchase land are grossly underestimated. Even after land is purchased, the BDCP is unclear about long-term funding for lands purchased for the BDCP. For example, when discussing the long-term protection of Reserve lands, the BDCP provides that this protection will be accomplished "using techniques identified in CM-11 Natural Communities Enhancement and Management, commensurate with funding limitations." (BDCP, p. 6-10.) It is unclear what type of funding limitations could exist (this could be tied to the uncertainties of funding, discussed above) and what impact the lack of adequate funding would have on the Reserve lands. The BDCP's failure to clearly articulate how financing and long-term protection will be accomplished in a way that is accessible to the public is a significant flaw in the BDCP.	
1785	38	The discussion of Changed Circumstances, in Chapter 6, also reveals deficiencies in funding considerations. For example, when discussing Levee Failures as a changed circumstance under the BDCP, the BDCP assumes that the costs associated with the failure of a "non-BDCP" levee will fall on "the appropriate responsible entity." (BDCP, p. 6-35.) What the BDCP fails to reveal, however, is that it is DWR (or some combination of permittees) that will likely be the "appropriate responsible entity." Local levees are maintained by local reclamation districts, which themselves are comprised of local landowners who are protected by those levees. With DWR becoming a significant Delta landowner under the BDCP, DWR, as a result of its land ownership, will be responsible, like any other local landowner, for the operation and maintenance -- even of these "non-BDCP" levees. BDCP's obfuscation of this issue misleads the public by suggesting the costs of remediation of a non-BDCP levee will not be part of the costs of the BDCP. Moreover, while the BDCP suggests that local reclamation districts will be financially responsible for reconstructing restored areas in the event of levee failure, DWR failed to analyze whether any of these local reclamation districts have the resources or financial capacity to reconstruct restoration areas. The BDCP should be required to include such an analysis if the BDCP is going to rely on these local agencies to act as a backstop in the event of levee failure. Otherwise, the BDCP permittees cannot assure adequate funding for the project. In addition, the BDCP anticipates that in the event of a levee failure, one possible corrective action would be to purchase and restore additional lands as a "replacement" project. Neither the BDCP nor the DEIR/EIS discusses the added costs of purchasing replacement lands, or discusses the additional impacts of taking additional productive agricultural land out of production in the Delta in the event restored lands are lost to a levee failure. The BDCP's failure to discuss these circumstances is quite troubling, particularly when DWR has been trumpeting the very likelihood of catastrophic Delta levee failure as creating the need for the proposed North Delta conveyance. If catastrophic Delta levee failure is so likely,	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 and 1785-13. Please also see Master Response 5.Please see Appendix 6A of the Final EIR/EIS for information related to flood management in the Delta. The proposed project does not purport to protect existing levees from seismic ground shaking. Although the proposed project is not intended to provide enhanced flood protection, it does intend to reduce the vulnerability of the water delivery system by making it less reliant upon the Delta levee system (and associated risks thereto). Further, the proposed project does not envision a change in the state's flood protection policies or programs. For more information on levee stability and seismic risk please see Master Response 16.

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		surely DWR needs to have a financial plan in place, as a local landowner, to fund maintenance and restoration of local Delta levees and prepare for the likelihood of having to replace large restoration areas.	
1785	39	While the ESA demands that adequate funding be identified and available to implement the projects outlined in an HCP, the BDCP fails across the board to satisfy any funding requirement. Even the BDCP's reliance on funding from federal water contractors based upon the delivery of federal CVP water is flawed, as the USBR will not be a permittee and is not a party to the Implementing Agreement. The remaining sources of funding identified in the BDCP are too speculative to support the issuance of an ITP (Incidental Take Permit).	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.
1785	40	The BDCP Fails to Consider Future Water Supply Demands in Northern California. Generally, there are two types of circumstances relevant to the ESA's "No Surprises" rule: unforeseen circumstances and changed circumstances. Unforeseen circumstances, also called "extraordinary circumstances," are changes over the life of an HCP that were not or could not be anticipated by the applicants or by the USFWS. Changed circumstances, on the other hand, are not uncommon and can reasonably be anticipated and planned for. (50 CFR [Section] 17.32 (b)(5).) One such changed circumstance, as it relates to the BDCP, is that water supplies currently being exported by the CVP and SWP will be needed in the counties or areas wherein the water currently being exported originates. California law expressly recognizes the prior right of communities in those areas to water currently being exported, to the extent that water will be needed to adequately supply the beneficial needs of those areas. (Water Code, [Sections] 10505, 10505.5, 11460, 11463 and 11128; also [Sections] 12200-12220.) The State's own demographic data predicts significant population increase in counties North of the Delta during the proposed term of the BDCP, with counties such as Sacramento, San Joaquin, Nevada, Placer, Yolo and Yuba projected to grow by 50 percent or more. (See California Department of Finance, Demographic Research Unit, Report P-1 (County): State and County Population Projections, July 1, 2010-2060, available at http://www.dof.ca.gov/research/demographic/reports/projections/P-1/.) That demand for water will increase in and north of the Delta with this population growth, and thus the likelihood that less water will be available for export uses, is reasonably foreseeable. Thus the BDCP must account for this increased demand as a changed circumstance. Increased demands in the areas of origin have either been omitted entirely or are otherwise underestimated in the BDCP modeling. The BDCP must accurately describe future demands in the area of origin and disclose the impacts to species, under the BDCP, of less water being available for BDCP permittees/participants.	Please see Master Response 26 regarding area of origin issues. Please see the EIR/EIS Chapter 5 regarding water supply impacts of each of the alternatives and a discussion on existing water supply conditions. The cumulative impacts section accounts for reasonably foreseeable future conditions related to water supply. With regards to cumulative impacts, please also see Master Response 9.
1785	41	The BDCP Fails to Comply with NCCPA Requirements. As noted, the BDCP also is intended to serve as a NCCP under California law. The primary	These comments are specific to the BDCP. Please see Responses to comments 1785-1, 1785-2 1785-13 and Master Response 5 which provide additional information on the BDCP, including funding.

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		objective of an NCCP is to "identify and provide for those measures necessary to conserve and manage natural biological diversity within the plan area while allowing compatible and appropriate economic development, growth, and other human uses." (Fish & Game Code, [Section] 2805 (h).) As an NCCP, the BDCP must provide for the protection of habitat, natural communities, and species diversity, as well as contain specific conservation measures that are based on the best available science and that meet the biological needs of covered species. Like an HCP, an NCCP must also provide assurances with regard to its implementation and the sources of funding to be used to carry out proposed conservation actions. As discussed above and throughout these comments, the BDCP does not ensure protection of species diversity, is not based on the best available science, and fails to meet the funding assurance requirements of both the ESA and the NCCPA. As such, the BDCP fails to meet the most basic standards to serve as an NCCP and cannot be relied on to support the taking of covered species under the NCCPA.	
1785	42	The Assurances Sought by the BDCP Violate California's No Injury Rule and Contravene the Priority of Water Rights. The BDCP self-describes the "assurances" the permittees will enjoy as a result of its implementation. The BDCP explains that the assurances provide "durability and reliability" to agreements reached with various agencies as part of the implementation of the BDCP. (BDCP, p. 6-28.) Generally speaking, "assurances" provided to a permittee are guarantees of sorts that, if a permittee lives up to its end of the bargain in implementing an HCP, it will not be required to undertake any additional measures for the benefit of the species covered by the HCP. The BDCP casts these assurances in an interesting way. The BDCP suggests that, if the terms and conditions of the BDCP are being met, the federal government "will not require additional conservation or mitigation measures, including land, water (including quantity and timing of delivery), money, or restrictions on the use of those resources." (BDCP, p. 6-28.) The BDCP recognizes that these "assurances" will not and cannot apply to the USBR, so it is only DWR that will receive the assurance that it will not be required to commit any additional (water) resources for the benefit of species covered by the BDCP. However, the assurances that the BDCP seeks contravene California water law, violating the "no injury" rule and disregarding the rule of priority of water rights. As part of the construction of CM-1, DWR will need to file a Petition for Change in Point of Rediversion of water to add the north Delta intakes as an additional point of diversion for SWP water. The same will certainly be true for USBR, as CM-1 will not be feasible without including CVP water as part of the operations of CM-1. In order to approve the requested change, the State Water Resources Control Board (SWRCB) will need to find, among other	Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water right holders. With regards to the Change of Point of Diversion Petition, please see Master Response 32. For more information regarding changes in delta exports please see Master Response 26.

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		things, that the requested changes "will not injure any other legal user of water." (Wat. Code, [Section] 1701.2.) If DWR is correct in the BDCP, that constructing CM-1 relieves it of any further obligation to forego any storage or diversion of water for species covered by the BDCP, then any additional water required would have to be provided by senior water right holders. As species are likely to continue to decline in the foreseeable future, granting the requested changes will injure other legal users of water and will likely require senior water right holders to forego diversions for the benefit of DWR's continued diversion of water.	
1785	43	Any suggestion that senior water right holders should somehow be required to forego water diversions to make the BDCP a success is inconsistent with California law. The SWRCB recently attempted to impose a condition on senior water rights held by the El Dorado Irrigation District (EID) and the El Dorado County Water Agency (EDCWA) that would have required EID and EDCWA to forego diversions for the benefit of junior users. EID and EDCWA challenged the SWRCB's action, arguing that the imposition of the condition (which effectively required senior water right holders EID and EDCWA to forego diversions to help meet Delta water quality standards that the CVP and SWP were responsible for meeting, while allowing junior users to continue to divert water), violated the long- standing principle of water right priorities. Both the lower and appellate courts sided with EID and EDCWA. (El Dorado Irrigation District v. State Water Resources Control Board (2006) 142 Cal.App.4th 937 (EID v. SWRCB).) Importantly, the Court of Appeal held that the SWRCB's attempt to impose this condition "contravened the rule of priority, which is one of the fundamental principles of California water law." (Id. at p. 943.) Indeed, the court recognized prior pronouncements of the California Supreme Court explaining that a court's first concern when addressing water right controversies is to "recognize and protect the interests of those who have prior and paramount rights to the use of waters." (EID v. SWRCB, citing Meridian, Ltd. v. San Francisco (1939) 13 Cal.2d 424, 450.) While the Court recognized that the rule of priority is "not absolute," the Court was very clear in holding that the SWRCB is obligated to protect water right priorities unless doing so would result in the unreasonable use of water, violations of the public trust doctrine, or "other important principles" of California water law. (EID v. SWRCB at pp. 966-967.) When these circumstances present themselves, "every effort must be made to preserve water right priorities." (EID v. SWRCB at p. 966.) Thus, any attempt, through the BDCP, to undermine water right priorities, or to attempt to require upstream senior diverters to forego diversions to meet BDCP goals and objectives, thereby allowing the continued export of water by junior appropriators, will violate long-standing principles of California water law. The California Supreme Court reached a similar conclusion in City of Barstow v. Mojave Water Agency (2000) 23 Cal.4th 1224 (Barstow). There, the Court rejected a "physical solution" as a method of settling a water right dispute where the physical solution relied on an "equitable apportionment" and did not consider prior rights. Importantly, the Barstow	The proposed project would not affect upstream water rights. It aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. The project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. The CALSIM II modeling performed for conveyance facility operations takes into account projected future demand for water supply in areas upstream of the Delta (as part of the future No Action baseline) prior to calculating Proposed Project diversion estimates to ensure that no area-of-origin protections or upstream water rights are affected by project conveyance facilities. Please see Appendix 5A of the FEIR/FEIS for additional modeling details. For more information regarding changes in delta exports and area of origin issues please see Master Response 26.

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		Court noted the need to protect and recognize prior rights when it opined: "In ordering a physical solution, therefore, a court may neither change priorities among the water rights holders nor eliminate vested rights in applying the solution without first considering them in relation to the reasonable use doctrine." (Barstow at p. 1250.) Barstow and EID v. SWRCB make clear that any suggestion that entities not parties to the BDCP must forego diversions to make BDCP a success violates California law. In addition to the foregoing, "area of origin" statutes [Footnote 1: The area of origin statutes include Water Code sections 10500 et seq. and 11460 et seq.] mandate that water use within the area of origin -- in this case Northern California -- not yield to the export of water for use outside the area of origin. In fact, the water rights granted by the State for the operation of the SWP and CVP are conditioned upon compliance with area of origin laws. Any attempt to subvert the area of origin statutes, whether through a private HCP process (via regulatory assurances) or through the CEQA/NEPA process, will result in clear violations of those statutes intended to protect areas of origin, including the protection of Northern California water supplies from injury by export projects.	
1785	44	The BDCP improperly relies on actions by parties not subject to the BDCP's permits or the Implementing Agreement. The BDCP process is a private permitting exercise, and the permittees therefore cannot rely on any third parties to undertake measures to accomplish the goals of the BDCP. This is true even in the context of "adaptive management." If the BDCP relies on the actions of anyone not subject to the regulatory authority of the permittees (no authority to restrict conduct of others) or not a signatory to the Implementing Agreement, a legally flawed HCP and a flawed CEQA/NEPA document result. Indeed, the obligations of overseeing implementation of the BDCP fall on the permittees, which is precisely why federal agencies require that the permittees be capable of overseeing HCP implementation and have the authority to regulate the activities covered by the permit, including implementation of all restoration and mitigation measures. Here, none of the permittees has the authority to regulate many of the activities contemplated by the various conservation measures that make up the BDCP. Any reliance on voluntary efforts by third parties, or statements in the BDCP that required elements of the plan will simply happen in the future are insufficient to demonstrate that the various activities are reasonably certain to occur. HCPs have been invalidated for this precise reason. (National Wildlife Federation v. National Marine Fisheries Service (D. Or. 2003) 254 F.Supp.2d 1196, 1205.) Here, there are no binding commitments from state and local agencies either to fund or to implement the responsibilities delegated to them by DWR. Without those binding commitments, NMFS [National Marine Fisheries Service] cannot make a finding that any of those actions are "reasonably certain to occur" -- a finding necessary to make a no-jeopardy determination. For example, CM-1 involves the construction and operation of conveyance	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.

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		facilities that will divert water from the Sacramento River and convey it through tunnels to the South Delta. (BDCP, pp. 3.4-12 - 3.4-13.) While it is questionable whether the massive new diversion facilities are a true conservation measure, it is clear that USBR must commit to utilize those new facilities in order for CM-1 to be "effective" and for it to be financially viable. [Footnote 2] (BDCP, Section 3.4.1.4.) However, USBR is not a permittee nor is it a party to the draft Implementing Agreement. USBR will therefore not be bound to undertake any actions to implement CM-1. CM-14 similarly involves stated commitments to funding the Aeration Facility in the Stockton Deep Water Channel. The Aeration Facility is operated by the Port of Stockton, and there is no indication that the Port of Stockton is going to sign the Implementing Agreement binding it to any particular course of action. CM-17 anticipates funding to support more game wardens to enforce fish and game regulations in the Delta to reduce illegal harvest of species. The BDCP, however, does not appear to guarantee that CDFW [California Department of Fish and Game] will implement CM-17 as envisioned by the BDCP. Likewise, implementation of CM-21 Nonproject Diversions requires the execution of interagency agreements. (BDCP, p. 6-4.) With lack of commitments and the inability of the permittees to regulate the conduct of these third parties, it is not clear that these Conservation Measures will be implemented at all. Without those assurances, incidental take permits cannot issue. [Footnote 2: The modeling undertaken as part of the BDCP includes changes in operation of federal CVP facilities, including Shasta and Folsom reservoirs, and Jones pumping plant in the south Delta. It is quite clear that, in order for CM-1 to be both financially and operationally viable, USBR must wheel CVP water through the new facilities. Moreover, the funding chapter, Chapter 8, discusses the funding contribution from CVP Contractors and how other "jointly developed facilities" are funded by both state and federal contractors. (BDCP, p. 8-70.) Indeed, Chapter 8 assumes federal water supplies will be moved through the new conveyance facilities -- and clearly states that "[t]he financial support of the state and federal contractors is essential in order to implement the plan." (BDCP, p. 8-82.) The BDCP's lack of clarity on this issue only leads to confuse the public about the real nature of the BDCP.]	
1785	45	The BDCP Implementation Plan Does Not Ensure that Timing of Conservation Measures Will Match Impacts and Defers Development of Key Information. Chapter 6, Plan Implementation, describes the timeline within which the various conservation measures will occur. Recognizing that certain [public] funds are not guaranteed, the BDCP recognizes that "the timing of funding available from public sources for actions that conserve species in the Plan Area [], may dictate the timing of some implementation actions." (BDCP, p. 6-2.) While the BDCP document argues that the timing of implementation actions will nonetheless meet the "rough proportionality" requirement, there is certainly no assurance that this will be the case. The BDCP fails for this additional	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.

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		reason. As part of Plan implementation, the BDCP anticipates that an Annual Water Operations Plan will be developed. (BDCP, p. 6-23.) However, the first "version" of this plan will not be developed until year 9. (BDCP, p. 6-23.) According to the BDCP, DWR and USBR (non-permittee and non-signatory to the Implementing Agreement) retain final approval authority over the Annual Water Operations Plan. (BDCP, p. 6-23.) Without an appropriate operations plan proposed as part of the BDCP itself, the public is deprived of understanding the actual and potential impacts associated with CM-1. Moreover, it is not clear that the federal agencies can issue take authorization for a project when no one -- not even the project proponents -- knows how it will be operated.	
1785	46	The BDCP's Governance Structure Does Not Provide an Effective Voice for the City of Stockton and Other Affected Local Stakeholders. One of Sacramento County's most important concerns with the BDCP is to ensure that the proposed governance structure is transparent, fair, and offers the local Delta counties, including Sacramento County, a high-level decision making role in both the planning and implementation process. This is a long-standing point of concern that has been shared numerous times in correspondence and in meetings with the Secretaries of both the California Natural Resources Agency and the United States Department of the Interior, the Governor, and Congressional representatives. As expressed throughout these comments, uncertainties about critical details and outcomes of the Plan, including water operations, infrastructure and habitat restoration costs, and governance, are hugely problematic for a public infrastructure/habitat conservation plan of this scale. The proposed plan and preferred project (Alternative No. 4) has the potential to permanently damage the Delta as a whole, as well as result in irreversible and significant physical, environmental, and socioeconomic impacts to the portion of the Delta within unincorporated Sacramento County, including established legacy communities.	The 2013 public draft BDCP proposes that the Delta cities and counties be involved in BDCP implementation through the Stakeholder Council. An additional role in BDCP implementation for Delta counties and some key cities was being considered by DWR at the time of the 2013 public draft BDCP (see public 2014 Draft Implementing Agreement (IA) and note to reader in Section 7.2.8 of the public draft BDCP). An Implementation Agreement (IA) is no longer required under this new regulatory approach. Impacts on Delta counties have also been substantially reduced with the reduction in proposed tidal wetland restoration. Please see Master Response 5 regarding the IA. Please also see Master Response 24 regarding the impacts of the proposed BDCP to the Delta as a Place.
1785	47	Despite nearly a decade of efforts to collaborate with the BCDP's lead state and federal agencies, including participating as a NEPA Cooperating Agency, Sacramento County has yet to receive a written commitment from these agencies to develop an implementation governance structure that guarantees the County a role in the process that affords it a true opportunity for substantive input and engagement. Currently, the County is relegated, with no less than 29 other representatives of special interest groups and local governmental entities, to the "Stakeholder Council" (Council), on which further, unspecified numbers of Authorized Entities and state and federal authorities will also sit (BDCP, p. 7-19). The broad and diverse spectrum of interests consigned to the Council will systemically and unacceptably dilute the County's voice in its unique and centric position as the focal point for much of the BDCP's implementation activities. Therefore, we continue to have grave concerns about the current governance proposal, which demotes irreversibly impacted local	Please refer the response to Comment 1785-46.

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		governments to this Council. In addition to being a very large, multi-agency body, the Council is only required to convene quarterly as an advisory body with the limited purpose of exchanging information and providing input and recommendations to the Program Manager for the BDCP. The Council has no actual decision-making authority or direct influence over the various phases of the BDCP. In fact, the current proposal expects the Council to make reasonable efforts to provide input that reflects the general consensus of its large number of members. In contrast to the short, 14-day timeframes in the proposed dispute resolution process for decision-making entities within the Plan (i.e., the Authorized Entity Group or Permit Oversight Group), implementation plan disputes raised by the Council or its individual members are lengthened to an initial 60-day timeframe for internal Council resolution, then a 90-day review by the Authorized Entity Group, and finally an unspecified time period for review by whatever entity the Authorized Entity Group picks as having the 'locus of responsibility' for the disputed issue. These lengthy timelines for dispute resolution could consistently result in the disputed action occurring well before the Council or its members received true consideration of their objections to the action or issue. This dispute resolution process highlights the fabricated and disingenuous attempt by the Plan's proponents to give highly impacted local governments any meaningful participatory position and influence concerning the Plan and its implementation.	
1785	48	The County does note the BDCP now includes the following notation in Section 7.2.8 of Chapter 7: "Note to reader: At the time of this Public Draft, the California Natural Resources Agency is working with representatives from Delta counties to identify an appropriate mechanism to involve Delta counties in Plan implementation. It is the intention of the agency to incorporate revisions to the implementation structure set forth in this chapter that address further Delta county participation in a final plan." (BDCP, p. 7-26) Interestingly, this "Note to reader" is not located in the BDCP's section for "Role and Responsibilities of Entities Involved in the BDCP," but is instead placed within the section identifying how the BDCP Implementation Office and its Program Manager are required to coordinate with local governments and other Delta-centric public agencies. Unfortunately, the placement of this "Note to reader" suggests the BDCP's proponents view the Delta counties as entities for the Implementation Office and California Natural Resources Agency to appease, rather than entities deserving of a vote concerning any implementation of the plan. The County, individually and in its partnership with the Delta Counties Coalition (DCC), objects to its governance role being assigned to that of either "after the fact" communication and mitigation, or impotent information-sharing at a sideshow for a myriad of Delta interests. To illustrate the importance of a fair and balanced governance structure, Sacramento	Please see response to comment 1785-46.

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		County, again in partnership with the DCC, has helped developed an alternative governance proposal that includes (in summary) the following: Each Delta County should have a voting role on whatever decision-making body that is ultimately determined to have oversight, approval, and implementation authority of the BDCP's Conservation Measures (e.g., Authorized Entities Group, Executive Committee, or similar body). This decision making body should have a balanced membership, consisting of agencies that sell water and control water-related infrastructure (USBR and DWR), agencies that buy water (state and federal contractors), and local governments directly affected by the BDCP (each Delta County). Two important distinctions to note in the DCC's governance alternative, which Sacramento County fully endorses, include: 1) Delta County participation in the BDCP process should be fully funded through all phases of the Plan. Unlike other agencies expected to participate in the lead BDCP governance entity, the Delta Counties have no reasonable way to recover their participation costs from customers or ratepayers. Nor does the County have any existing legal obligations (such as the Biological Opinions) that compel our participation. Instead, participation is a matter of fairness to the local governments with general legal responsibility under the California Constitution for land within their boundaries and the health, safety, and welfare of affected residents. 2) Participation would not preclude Sacramento County from later pursing administrative appeals and/or litigation in connection with the BDCP. Similarly, the County's participation in BDCP governance should not be treated or presented as "support" for the BDCP. As recently as April 25, 2014 and May 6, 2014 Sacramento County was a signatory on letters to Secretary John Laird (California Natural Resources Agency) requesting follow-up to the DCC's governance submittal. However, at the time these comments were prepared the County had not yet received an invitation to re-engage in the local governance discussion. In sum, the placeholder language added to Section 7.2.8 (and cited above) is woefully inadequate as it provides no assurances to Sacramento County that the state and federal agencies are committed and agreeable to providing local governments with a substantive decision making role. Absent that commitment, Sacramento County vehemently opposes the BDCP governance/implementation structure currently described in Chapter 7 of the draft plan.	
1785	49	The BDCP Does Not Comply with Delta Reform Act Requirements. The Sacramento-San Joaquin Delta Reform Act of 2009 contained a specific mandate for the BDCP. (Wat. Code, [Section] 85320.) Unless the BDCP met specified criteria, the BDCP would	For more information regarding the proposed project's compliance with the Delta Reform Act please see

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		not be eligible for state funding. (Wat. Code, [Section] 85320(b).) Among those criteria are the requirements that the BDCP include a comprehensive review and analysis of all of the following: * A reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan as provided in subdivision (a) of Section 2820 of the Fish and Game Code, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses. * A reasonable range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines. * The potential effects of climate change, possible sea level rise up to 55 inches, and possible changes in total precipitation and runoff patterns on the conveyance alternatives and habitat restoration activities considered in the environmental impact report. * The potential effects on migratory fish and aquatic resources. * The potential effects on Sacramento River and San Joaquin River flood management. * The resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster. While the BDCP appears to remain in development, it appears clear that the BDCP will not include a comprehensive review and analysis of flows necessary for recovering the Delta ecosystem, one of the co-equal goals, and restoring fisheries. As discussed above, while the BDCP does mention alternatives that DWR considered, the BDCP does not include a comprehensive review and analysis of those alternatives, as required by the Delta Reform Act. The BDCP also fails to include an appropriate analysis of the impacts of climate change on the system. While the BDCP recognizes that climate change will occur, it fails to discuss the likely reaction (operational and regulatory) and fails to adequately discuss and analyze the impacts of climate change on restoration activities in the Delta. And while effects on migratory fish and aquatic resources are addressed, they are not addressed adequately, as demonstrated by the comments of the Delta Independent Science Review Panel in its review of the BDCP Effects Analysis. (See Delta Science Program Independent Review Panel Report, BDCP Effects Analysis Review, Phase 3, March 2014 ("Delta Science Program Report"), Exhibit B.) [see ATT 2]	Master Response 31. As described in Appendix 3A, Identification of Water Conveyance Alternatives, EIR/EIS, comments and suggestions received from the State Water Board were influential in defining the range and content of alternatives considered in the EIR/EIS, including the State Water Board's Delta Flow Criteria Report, prepared pursuant to the Sacramento-San Joaquin Delta Reform Act of 2009. Scoping comments from the State Water Board included requests for an alternative providing for reduced diversions and an alternative incorporating changes to Delta outflows (and potentially inflows) that would reflect a more natural hydrograph. The Lead Agencies determined that an additional alternative would be required to be responsive to the State Water Board's comments. Informed by these comments, as well as several letters from the State Water Board to the Natural Resources Agency, DWR met with State Water Board staff to identify a general approach to model an increased spring Delta outflow alternative. This alternative was designed to increase spring Delta outflow by approximately 1.5 million acre-feet, on average, above the NEPA baseline assumptions. This became Alternative 8 as analyzed in the EIR/EIS. Fifteen alternatives and three new subalternatives were analyzed in the EIR/EIS and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/EIS: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the Final EIR/EIS and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. The proposed intakes would only be permitted to operate with regulatory protections, including river water levels and flow, which would be determined based upon how much water is actually available in the system, the presence of threatened fish species, and water quality standards. Flow criteria will be applied month by month and according to water year type. More information on the ranges of water project diversions, based on water year types and specific flow criteria, can be found in the 2013 Public Draft, Chapter 3, Conservation Strategy. Monitoring for compliance with D-1641 requirements or any future requirements for SWP/CVP water supply operations would be conducted year-round in the future under the proposed project. Please refer to Appendix 6A of the Final EIR/EIS regarding flood and seismic risk. The proposed project does not purport to protect existing levees from seismic ground shaking. Although the proposed project is not intended to provide enhanced flood protection, it does intend to reduce the vulnerability of the water delivery system by making it less reliant upon the Delta levee system (and associated risks thereto). Further, the proposed project does not envision a change in the state's flood protection policies or programs. For more information on levee stability and seismic risk please see Master Response 16. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4. The Lead Agencies strived to use the best available science throughout the effects analysis. The use of

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			specific scientific data and findings was often vetted with fisheries managers to ensure it was the best available. A variety of data were obtained for the proposed project process: quantitative data from peer-reviewed published literature on topics specific to the Plan Area; peer-reviewed published literature outside the Plan Area but on topics relevant to the proposed project; unpublished quantitative data from within the Plan Area and from outside of the Plan Area; qualitative data or personal communication with topical experts; and expert opinion if no other sources were available. A full description of the methodology of the Net Effects analysis, including justification for the qualitative approach, can be found in Chapter 5, Section 5.2.7.10, Approach for Determining Net Effects on Covered Fish Species, and Section 5.5, Effects on Covered Fish. As indicated in Section 5.2.7.10, "The [BDCP net effects] conclusions represent qualitative judgments of the effects of the BDCP that are grounded in the detailed quantitative and qualitative analyses in the appendices… BDCP net effects conclusions are necessarily qualitative and synthesize results from the more detailed (and often quantitative) analyses found in the appendices to this chapter. While qualitative, the net effects conclusions are derived from a transparent and structured approach. This approach is based on conceptual models that describe the logic and assumptions embedded within the effects analysis." For more information regarding impacts to aquatic resources and its associated mitigation measures please see Chapter 11 of the Final FEIR/EIS. The anticipated hydrologic changes due to climate change (increased temperatures and more years of critical dryness, increased water temperatures, changes in precipitation and runoff patterns, sea level rise, and tidal variations) will constrain and challenge future water management practices across the state, with or without the proposed project. The state is addressing climate change through strategies and a decision-making framework as outlined in the California Climate Adaptation Strategy and Adaptation Planning Guide. However, no single project and indeed none of the project alternatives would be able to completely counteract all of the impacts of climate change. The State of California has acknowledged that sea level rise threatens coastal and near coastal resources (such as the Delta and Delta water supplies) and that adaptation and resiliency planning to protect these resources from expected levels of sea level rise is appropriate. (OPC, 2013) http://www.opc.ca.gov/2013/04/update-to-the-sea-level-rise-guidance-document/ (CCC, 2013) http://www.coastal.ca.gov/climate/SLRguidance.html EO S-3-05. http://gov.ca.gov/news.php?id=1861 EO S-13-08 http://gov.ca.gov/news.php?id=11036 AB 32 also mentions SLR as a threat to California. California Waterfix would help to address the resilience and adaptability of the Delta to climate change through water delivery facilities combined with a range of operational scenarios, measures focused on the protection, restoration, and enhancement of the Delta ecosystem and measures to reduce other stressors (Environmental Commitments 3, 4, 6, 7, 8, 9, 10, 11, 12, 15, and 16.) In addition to the added water

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			management flexibility created by new water diversions and operational scenarios, California Waterfix would improve habitat, increase food supplies and reduce the effects of other stressors on the Delta ecosystem. By improving and expanding available habitat, the proposed project would increase resilience and adaptability to climate change by making alternative habitat available during periods of high stress, such as very high or low freshwater inflow or very high salinity intrusion. Multiple analyses were performed in the proposed project to test the robustness of the alternatives to a range of potential future conditions. Water supply, aquatic and terrestrial resources were all analyzed with projected future conditions. The proposed project will likely remain in place and functional far into the future when salinity intrusion may require less frequent use of the south Delta pumps. Far from being stranded assets, the tunnels will be part of the state's strategy in adapting to climate change. More information on ways in which the BDCP/California WaterFix proposes to improve resiliency and adaptability of the Delta to climate change can be found in Final EIR/EIS, Chapter 29, Climate Change, and Appendix A and Appendix 3E, Potential Seismic and Climate Change Risks to SWP/CVP Water Supplies . For additional information regarding GHG and Climate change, please see Master Response 19. For more information regarding climate change please see Chapter 29 of the Final EIR/EIS.
1785	50	The BDCP Fails to account for and describe Impacts of Integration of BDCP into the Delta Stewardship Council's Delta Plan. Water Code Section 85320 provides that if the California Department of Fish and Wildlife: "approves the BDCP as a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code and determines that the BDCP meets the requirements of this section, and the BDCP has been approved as a habitat conservation plan pursuant to the federal Endangered Species Act (16 U.S.C. Section 1531 et seq.), the council shall incorporate the BDCP into the Delta Plan." While the BDCP recognizes it will be incorporated into the Delta Plan if it meets the standards of an Natural Community Conservation Plan (NCCP), the BDCP fails to discuss the consequences of that incorporation. (BDCP, pp. 1-27 - 1-28.) Later in the document, however, there is a recognition that the BDCP may stand in the way of future projects. Indeed, the BDCP goes so far as to suggest future regulations might be prohibited if they are inconsistent with the BDCP. (See BDCP, p. 6-46 (future projects and regulations must evaluate effects on BDCP and be evaluated for consistency with the BDCP).) The BDCP suggests it will constrain future U.S. Fish and Wildlife Service and National Marine Fisheries Service consultations as well. (BDCP, p. 6-47.) To the extent the BDCP will be a future measure of consistency, whether through the Delta Plan or otherwise, the BDCP and its accompanying DEIR/EIS must consider and evaluate the impacts of the BDCP on foreseeable future projects. The BDCP must, for example, analyze whether it will impact existing general plans in the Delta region, whether it will impact	Please see RDEIR/SDEIS Appendix 3D Attachment 3D-A for more information regarding descriptions of programs, projects, and policies considered for Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Analysis for the EIR/EIS.

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		future transportation projects, recreational opportunities, and similar projects. Local agencies, like Sacramento County, should have a full understanding of how the BDCP might impact the County and its residents -- not just through the construction of physical facilities -- but also by any proscriptions on County activities that may follow as the BDCP acts as a prohibition on future activities. The omission of information explaining the consequences of incorporating the BDCP into the Delta Plan has deprived the public of information necessary to understand the project's impacts on local governments.	
1785	51	The BDCP does not meet the criteria for issuance of a Clean Water Act Section 404 Permit. Construction of CM1 and other CMs identified in the BDCP will require authorization from the U.S. Army Corps of Engineers (Corps) under Section 404 of the federal Clean Water Act because the project will result in the discharge of dredged or fill material in the Sacramento and other rivers, and in jurisdictional wetland areas. The basic premise of the Section 404 permit program is that no discharge of dredged or fill material may be permitted if (1) a practicable alternative exists that is less damaging to the aquatic environment, or (2) the nation's waters would be significantly degraded. In applying for a 404 permit, the BDCP proponents will have to show that they have taken all reasonable steps to avoid impacts to rivers, wetlands, and other aquatic resources, that potential impacts have been minimized, and that compensation will be provided for all remaining unavoidable impacts. No permit will be granted if the proposed project is found to be contrary to the public interest. The public interest review involves an analysis of the foreseeable impacts the proposed work would have on public interest factors, general environmental concerns, wetlands, economics, fish and wildlife values, land use, floodplain values, and the needs and welfare of the people. "The benefits and detriments to all public interest factors relevant to each case are carefully evaluated." (U.S. Army Corps of Engineers Permitting Process Information Fact Sheet, (http://www.lrl.usace.army.mil/Portals/64/docs/regulatory/Permitting/PermittingProcessInformation.pdf [accessed May 13, 2014]). During the review of a permit application, the Corps evaluates the following public interest review factors: * Conservation * Economics * Aesthetics * General environmental concerns * Wetlands	DWR is in the process of completing a 404 permit application for the discharge of dredged or fill material into Corps jurisdictional wetland areas, and is coordinating directly with the Corps through this process to ensure that all requirements for the Corps to issue a 404 permit are met.

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		* Historic properties * Fish and wildlife values * Flood hazards * Floodplain values * Land use * Navigation * Shore erosion and accretion * Recreation * Water supply and conservation * Water quality * Energy needs * Safety * Food and fiber production * Mineral needs * Considerations of property ownership * The needs and welfare of the people (Id.) The BDCP proponents do not make the required showing that CM1 is in the public interest; further, CMs 2-22 are undefined as projects. The evidence presented to date shows the BDCP is certain to result in numerous detriments, while any benefits are merely theoretical because (1) the conservation measures on which they depend are not specifically defined; (2) they are unfunded; and (3) their promise of environmental benefit is not supported by evidence or science. As detailed throughout these comments, the BDCP will be highly damaging to the aquatic environment, and it is likely to significantly degrade the nation's waters. Expert evidence shows that not only will the north Delta intakes have significant impacts on protected fish species, through entrainment and increased predation, but BDCP-related changes in water quality have the potential to significantly degrade water quality, in perpetuity, through reduced dilution downstream of the intakes and the removal of sediment necessary to avoid detrimental downstream eutrophication. The DEIR/EIS demonstrates the BDCP will have significant adverse impacts to the economy of the	

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		Sacramento River Delta, aesthetics, historic properties, fish and wildlife values, land use, navigation, recreation, water supply, water quality, energy, safety (due to impacts to local law enforcement and emergency response times), food and fiber production (through the loss of thousands of acres of agricultural land), and the welfare of the residents of the Delta. Because the BDCP is not the Least Environmentally Damaging Practicable Alternative, and the evidence shows that there are more detriments than benefits to the public interest factors, the Corps may not issue the required 404 permit. Without such permits, the BDCP cannot be implemented consistent with the Clean Water Act. The BDCP proponents must go back to the drawing board and consider a reasonable alternative, or range thereto, like the suite of actions recommended by [Sacramento] County, that will survive the public interest test.	
1785	52	The BDCP Violates the Rivers and Harbors Act. The BDCP specifically addresses the fact that it will have to "conform to the requirements of various other state and federal laws and regulations not specifically addressed by the Plan." (BDCP, p. 1-16.) It goes on to explain that authorizations under Section 10 and Section 14 of the Rivers and Harbors Act of 1899 (RHA) will be required. (BDCP, pp. 1-17 - 1-18.) However, the BDCP does not acknowledge that authorization under Section 9 of the RHA, which requires authorization from Congress or the California State Legislature, in addition to that of the Corps (U.S. Army Corps of Engineers), may also be required. It also is devoid of any discussion regarding the likelihood that these required authorizations can and will be given. While it is clear that RHA authorizations will be required before the BDCP can be implemented, serious unanswered questions remain as to whether these required authorizations actually can be obtained. The BDCP admits that certain covered activities will require Section 10 and Section 14 permits from the Corps. Section 10 requires authorization from the Corps for the construction of any structure "in or over any navigable water of the United States or the construction of structures or alteration of capacity in any port, canal, navigable river, or other water of the United States." (BDCP, p. 1-17.) Section 14 authorizations will be required for those activities that affect federal project levees, weirs, and other "works" constructed by the United States. (33 U.S.C., [Section] 408.) The idea that authorization under Section 9 will be required is supported by case law. A California federal district court considering the application of Sections 9 and 10 to the Peripheral Canal in the late 1970's concluded that Section 9 and 10 authorizations for the Peripheral Canal were required before it could be constructed. (Sierra Club v. Morton (1975) 400 F.Supp. 610, 627, 632 (rev'd on other grounds).) The court's conclusions were based on the effect the Peripheral Canal would have on Delta waterways, as well as on evidence that the Peripheral Canal would lower water levels in the Sacramento River and decrease water velocities downstream of the intake facility. (Id. At pp. 626-627 and 632.) Similarly, CM-1	Throughout the preparation of the environmental documents, the U.S. Army Corps of Engineers (USACE) has been consulted by the Department of Water Resources and the NEPA lead agencies. The USACE is listed as a cooperating agency pursuant to NEPA. At the administrative level, the USACE is the federal entity that determines whether and to what extent a project or activity is subject regulation pursuant to the Rivers and Harbors Act. (See 33 C.F.R. § 320.1.) The USACE permitting process is discussed in EIR/EIS Chapter 1 Introduction at Section 1.6.2.2. Additional detail on that process is provided in EIR/EIS Appendix 1F Supplemental Information for USACE Permitting Requirements. DWR is cognizant of the fact that a permit from USACE is required. For more details regarding permitting, please see Master Response 45 and for more details as to how the current proposed project differs from the Peripheral Canal, please see Master Response 36. Lastly, CEQA is intended to address physical changes to the environment. In the confines of an environmental document, the consideration of costs to construct and operate a facility is only relevant when those costs relate to physical changes in the environment.

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		proposes the construction of facilities (intakes and tunnels) that will convey Sacramento River water around the Delta. The effects of these facilities on the Sacramento River and Delta waterways are similar to those identified with the Peripheral Canal. As a result, authorizations under RHA Sections 9 and 10 will be required. The Corps' decision to issue or deny a permit under Sections 9, 10, and 14 of the RHA is also based on a "public interest review." (33 C.F.R. [Section] 320.4(a).) This review involves an analysis of the foreseeable impacts the proposed project would have on various public interest factors, as well as an evaluation of the project's benefits against reasonably foreseeable detriments. A permit will not be granted if the Corps determines that it will be contrary to the public interest. At the very least, based on the current analysis, CM-1 does not meet the criteria for issuance of the applicable RHA permits because it is contrary to the public interest. For instance, while the BDCP's goal is to "restore and protect ecosystem health, water supply, and water quality ... " the BDCP DEIR/EIS does not indicate that CM-1 will provide any significant benefits to these resources. Modeling of Alternative 4, the preferred alternative, demonstrates that operation of the water conveyance facilities would actually result in reductions in Delta exports and CVP/SWP deliveries compared with the No Action Alternative. Additionally, the DEIR/EIS identifies significant and permanent adverse impacts to water quality, Delta communities, agriculture, recreation, and navigation. For instance, operation of the water conveyance facilities envisioned under CM-1 would cause adverse in-Delta water quality effects by contributing to increased concentrations of bromide, chloride, and electrical conductivity. Changes in water quality and habitat conditions could expose fish to impingement, entrainment, and predation, rather than assist species survival and recovery. Further, construction of the facilities will disrupt access to Delta communities and result in the permanent conversion of thousands of acres of farmland, negatively effecting employment, income, and community character. Additionally, there is a complete lack of evidence to support the notion that any benefits associated with CM-1 are worth the cost to build and operate the proposed facilities, let alone the costs that will be incurred from a resource impact perspective. In light of these impacts, as with the 404 permits needed by the BDCP, the Corps would be compelled to conclude that the BDCP is contrary to the public interest and therefore deny the issuance of any required RHA permits.	
1785	53	The County has reviewed the draft Implementing Agreement (IA) and has a number of concerns about the adequacy of the IA and its ability to meet the requirements of the ESA and NCCPA. As a preliminary matter, the IA is incomplete and does not provide the public with a sufficiently complete picture of the obligations and assurances that will ultimately be included in a final Implementing Agreement. None of the exhibits to the IA were made available with the document on the BDCP website or elsewhere, to the County's knowledge.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.

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		An Implementing Agreement provides the permitting agencies with the requisite assurances that the project for which incidental take coverage is proposed has adequate funding, and that all appropriate mitigation and conservation measures will be implemented. The current IA fails to provide those assurances and is otherwise inappropriate.	
1785	54	Inadequate Representation for Local Governments. The County reiterates its objections to being relegated to the Stakeholder Council. The County, at least as part of the Delta Counties Coalition, wants a place in a decision-making body of the BDCP for implementation actions.	This comment is specific to the BDCP. Please see Responses to comments 1785-1 and 1785-2 and Master Response 5 regarding governance of the BDCP.
1785	55	Lack of Participation by USBR. As explained in more detail above, in comments on the BDCP, it does not appear that USFWS/NMFS or CDFW can make all of the required findings to approve the BDCP, particularly because there are no assurances that the USBR will commit to any actions or provide any funding to support the BDCP. The USBR is identified as an Authorized Entity in the IA, yet the IA specifically provides that the IA establishes no obligations on behalf of the USBR. Given the integral nature of the USBR's participation in the BDCP, and the absolute necessity of the USBR's commitment to wheel water through the proposed facilities and to provide funding for the BDCP, the IA must describe the assurances that the USBR will do its part under the BDCP. Moreover, it is unclear how the IA can provide adequate funding assurances without commitments from the USBR. For example, IA Section 13.1.1 obligates the Authorized Entities, which includes the USBR, to provide funding to implement the BDCP. Yet, and as explained above, the IA specifically provides that (I) the IA creates no obligations for the USBR, and (2) there is no commitment of federal funds for the BDCP. Except, the USBR will not be a signatory to this "contract." If there is insufficient funding because the USBR fails to provide its share of implementing costs, who will cover the shortfall? See also Section 13.2, wherein the IA represents that the USBR has committed substantial resources to ensure implementation of the BDCP. Without being a party to the IA, it is unclear how the IA can make this representation as to the USBR.	This comment is specific to the BDCP. Please see Responses to comments 1785-1 1785-2 and Master Response 5 for additional information on the BDCP including the IA and funding.
1785	56	Inadequate Funding Assurances. As discussed in more detail, above, Section 10 of the ESA requires the USFWS to find that the applicant for an ITP ensure that sufficient funding will be available to implement an HCP. Not only does the IA fail to ensure sufficient funding to implement the BDCP, it expressly recognizes the current lack of federal funding commitments and the possibility that insufficient funds will be available to implement the BDCP. Notwithstanding the recognition that there could be a significant funding shortfall, the IA provides that the Authorized Entities will not be required to provide land, water, or monetary resources beyond their	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2, 1785-13 and Master Response 5 on the BDCP including the IA and funding.

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		existing commitments. The IA lacks any semblance of funding commitments to implement the BDCP. Moreover, the IA's continued inclusion of the USBR as an Authorized Entity in the context of commitments and assurances is improper, as the USBR cannot obtain regulatory assurances under Section 10 and, according to the IA, is not committing to the implementation of the BDCP in the means required by the ESA and NCCPA.	
1785	57	Improperly Restrains USFWS and NMFS Discretion. The IA repeatedly and improperly attempts to restrain future USFWS and NMFS jurisdiction regarding enforcement of the IA and in future review under NEPA and the ESA. While Section 14.0 purports to recognize the ongoing authority of USFWS and NMFS, other language in the IA contradicts that recognition. For example, Section 13.2 provides that, even if sufficient funds are not available to implement the BDCP, the Authorized Entities will not be required to provide additional land, water, or monetary resources to support covered species. In addition, Section 20.1.9 eviscerates any subsequent NEPA review of Covered Activities by requiring USFWS and NMFS to assert that the BDCP conservation measures fully address any impacts to covered species, even if the science (and monitoring) proves to the contrary. This provision is inappropriate because it constrains the NEPA responsible agencies' judgment and discretion and compels a particular finding by them, even if there is substantial evidence to the contrary. This improper restraint on agency expertise and discretion deprives other federal agencies and the public who fund those agencies of the benefit of NMFS and USFWS expertise and guarantees that NEPA review will not be fully objective or lacking in bias. The consequence of this improper restraint on wildlife agency expertise means other agencies seeking objective input will have to go to outside experts to get an objective review and recommendations.	This comment is specific to the BDCP. Please see Responses to comments 1785-1, 1785-2, 1785-13 and Master Response 5 on the BDCP including the IA and funding.
1785	58	Insufficient Detail Regarding Decision Tree Process. The Delta Stewardship Council's Delta Science Program Independent Scientific Review Panel was highly critical of the Decision Tree process set forth in IA Section 10.2.1. The Draft IA fails to adequately address the concerns raised by the Independent Science Board.	Please see Master Response 44 regarding the Decision Tree approach and process for Alternative 4. Please refer to the index of commenters to find and review the comments submitted by other entities during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods and their responses. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.
1785	59	Improper Exclusion of Compensatory Mitigation Critical Habitat. Section 20.1.6 provides that critical habitat will be excluded from the Plan area only if the BDCP adequately protects such habitat. If critical habitat is included in the plan area, then necessarily the BDCP does not adequately protect the habitat and species that depend on it.	The CEQA proposed project and the NEPA preferred alternative is Alternative 4A, which includes ESA compliance through Section 7 consultation. The BA for the proposed project was submitted in July 2016 and includes an analysis of the effects on critical habitat and proposed avoidance, minimization, and compensation measures for those effects. Through this consultation, FWS and NMFS will make their

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		Thus in the event critical habitat is included, it is inconsistent with the ESA to say no compensatory mitigation or minimization measures will be required of the permittees. Due to the vast Plan area, this provision would allow the most significant factor affecting the success of listed species -- water operations and diversions -- to continue to harm them, in direct conflict with the ESA.	determinations regarding effects to listed species and designated critical habitat.
1785	60	The DEIR/EIS fails to provide an accurate and objective assessment of the project's impacts and is a post-hoc rationalization for the project proponents' decision to divert water in the north Delta. The purpose of an EIR is to "demonstrate to an apprehensive citizenry that the agency has ... analyzed and considered the ecological implications of its action." (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 86.) As indicated throughout this letter, the DEIR/EIS fails in its fundamental purpose. As explained in detail in these comments, and those of independent experts, the DEIR/EIS, and the BDCP Effects Analysis that it incorporates, are neither accurate nor objective. It is replete with critical errors and omissions and repeatedly overstates positive outcomes and downplays the BDCP's negative effects. The net result is a document that appears tainted by a pro-project bias and thus does nothing to demonstrate to an apprehensive public that the public agencies promoting the BDCP have objectively and meaningfully considered the project's environmental impacts. The DEIR/EIS's failure to provide adequate, balanced scientific analyses, and use of incorrect, biased data, which resulted in unfounded conclusions, has deprived the public and decisionmakers of significant information about the relative merits of the BDCP, and its potential environmental outcomes. Any concerns that might arise from examination of the document are only exacerbated by the lead agencies' project advocacy before and during the environmental review process. As just one example, since before the DEIR/EIS was released, and months before any comments on the DEIR were due, the lead agencies have been blogging on a taypayer-funded public entity website about the purported project benefits, and dismissing any concerns about potential environmental impacts. [Footnote 3: See, e.g., http://baydeltaconservationplan.com/blog/14-01-10/Correcting_Stubborn_Myths_Part_II.aspx, accessed May 1, 2014; attached as Exhibit C. (see ATT 3)] Among the numerous pro-project statements on the lead agencies' blog were statements that: "The BDCP ... represents the most comprehensive, science-based effort to date to restore the Delta ecosystem, protect threatened or endangered species, and plan for climate change and natural disasters. More information on the BDCP economic benefits can be found in the Draft Statewide Economic Impact Report. More information on the BDCP benefits to the Delta ecosystem can be found in BDCP Chapter 3: Conservation Strategy."	The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies have used the best available science and data and are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached. Please refer to Master Response 5 for summary of general responses to comments on Chapter 5, Effects Analysis of the BDCP. For comments regarding the assertion that the lead agencies have acted in a pre-decisional manner, see Master Response 4. As state agencies, the Department of Water Resources and the California Natural Resources Agencies have an obligation and duty to provide the public with educational information that is rooted in fact, based on reasonable assumptions supported by facts and expert opinions substantiated by facts. Doing so for a project of large scale and complexity can be a challenge. The BDCP website, blog, Your Questions Answered, and social media platforms have been the primary vehicle for communicating important project information and correcting misinformation. Brochures, factsheets, webinars and videos are other tools the State has employed to educate the public about the proposed project and the EIR/EIS process. Representatives from the State have also held numerous meetings and briefings around the state to educate stakeholders and provide them with critical information about project developments and the EIR/EIS process. Brochures, factsheets, webinars, reports and other information are kept on the project website, www.BayDeltaConservationPlan.com and is available for review. Historical materials remain available for review and are labeled as achieved or superseded. For more information regarding public outreach adequacy please see Master Response 40.

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		The very title of the blog "Correcting Stubborn Myths," its use of bold, underlined and all capital letters in lengthy defense of the DEIR/EIS, as well as definitive assertions about project impacts in advance of any public comment on the document (let alone the adoption of findings as required by CEQA), plainly indicates that the project decisionmakers have made up their minds about the BDCP's impacts and that approval is a foregone conclusion, making the CEQA process a post-hoc rationalization for project approval.	
1785	61	The size and structure of the DEIR/EIS buries essential information and violates CEQA and NEPA requirements that it actually inform the reader. CEQA requires that EIRs should be organized and written in a manner that makes them "meaningful and useful to decisionmakers and to the public." (Pub. Resources Code, [Section] 21003[b].) As stated by a leading treatise on CEQA, "The legal adequacy of an EIR depends on whether it addresses significant environmental issues and the quality of its analysis on those issues, not the quantity of information it provides." (CEB Practice Under the California Environmental Quality Act, 2nd Ed., [Section] 11.20, p. 545 [2/09].) Thus an EIR should be written in a way that readers are not forced "to sift through obscure minutiae or appendices" to find important components of the analysis. (San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 659; California Oak Foundation v. City of Santa Clarita (2005) 133 Cal.App.4th 1219, 1239.) "Documents that are confusing in their presentation are incomprehensible to the very people they are meant to inform." (San Franciscans for Reasonable Growth v. City & County of San Francisco (1987) 193 Cal.App.3d 1544, 1548.) The National Environmental Policy Act (NEPA) incorporates a similar "readability" requirement. NEPA's implementing regulations require an EIS to "be written in plain language ... so that decisionmakers and the public can readily understand them." (40 C.F.R. [Section] 1502.8.) This regulation requires that an EIS be "organized and written so as to be readily understandable by governmental decisionmakers and by interested non-professional laypersons likely to be affected by actions taken under the EIS." (Oregon Envtl. Council v. Kuzman [9th Cir. 1987] 817 F.2d 484, 494.) While technical material included in an appendix may be exempted from the "readability requirement," an agency may not avoid its obligation to provide a clear assessment of a project's environmental impacts simply by placing complicated information or analyses in an appendix. (Id. At p. 494.)	Please see Master Response 38 regarding the length and complexity of the EIR/EIS.
1785	62	Paradoxically, the BDCP EIR/EIS is both overly long and complex and yet is lacking in substance or meaningful analysis and information on key issues of importance to affected entities and individuals. The BDCP EIR/EIS thus violates both NEPA's "readability" requirement and CEQA's mandate that an EIR clearly communicate meaningful information in a way that adequately informs decisionmakers and the general public.	As explained in Master Response 2, the Draft EIR/EIS analysis of CM 1 Water Facilities and Operation fulfills the CEQA and NEPA requirements for project-level review. Other BDCP components have been reviewed at the program level. A greater level of detail is not necessary for the lead agencies, decision-makers, or the public to understand the environmental impacts of CM1, nor is providing a greater level of detail feasible. For more information regarding document length and complexity please see Master Response 38 as stated above.

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1785	63	An example of how unworkable the analysis is to the public and decisionmakers is the presentation of the project baseline. An accurate baseline is critical, as it is the foundation for the entire impact analysis. In order to understand several key assumptions underpinning the EIR/EIS baseline -- what level of SWP and CVP exports were assumed to occur under "existing conditions" -- the reader is required to scour the following documents: * EIR/EIS Chapter 3: Discussion of Alternatives (237 pages); * EIR/EIS Appendix 3D (Defining Existing Conditions, No Action Alternative, No Project Alternative and Cumulative Impact Conditions (112 pages); * EIR/EIS Appendix and Biological Assessment on the Continued Long-Term Operations of the Central Valley Project and the State Water Project (August 2008) as modified by the June 2009 National Marine Fisheries Service BiOp and the December 2008 U.S. Fish and Wildlife Service BiOp; * EIR/EIS Appendix 5A, BDCP EIR/EIS Modeling Technical Appendix; * EIR/EIS Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. (See Appendix 3D at pp. 3D-2-3, describing location of assumptions regarding existing conditions). Yet even after spending several hours reviewing these documents, County representatives were unable to determine what the precise assumptions were that the DEIR/EIS relied on. The County's specific concerns regarding the DEIR/EIS's assumptions and evidence supporting its baseline are explained in further detail in section II.E below. Additional comments demonstrating the many obscurities, internal inconsistencies and overall problems with the readability and understandability of the document are presented in our detailed comments in section III.M, below.	The Final EIR/EIS, Executive Summary provides a description of the CEQA and NEPA Baselines as well as a summary of the alternatives and their components. Final EIR/EIS, Chapter 4 elaborates on the CEQA/NEPA baseline discussion. For each resources area topic, the Final EIR/EIS, Chapters 5-30, the Methods for Analysis section describes the resources-specific methodology used to identify and assess the potential environmental impacts that may result from each of the alternatives. For additional information regarding baseline, please see Master Response 1.
1785	64	The County is not the only entity to identify significant problems with the readability and presentation of information in the BDCP and DEIR/EIS. The Delta Science Program Independent Scientific Review Panel (Science Panel), which is comprised of seven recognized experts in the areas of hydrodynamics and fisheries biology, reviewed the BDCP Effects Analysis, upon which the DEIR/EIS analysis is based, and found significant problems with the both the quality of data and conclusions and how that data was used (or more accurately, misrepresented), in the DEIR/EIS. (See Delta Science Program Report, Ex. B.) [see ATT 2] The entire report is attached, but just some of the problems noted by the Science Panel in its report to the Delta Science Program include: [t]he long, highly detailed document was difficult to review and comprehend." (Ex. B, Executive Summary at p. 5.) The analysis was "fragmented in its presentation and sometimes inconsistent with the technical appendices." (Id.) Moreover, the "inefficient organization and incomplete cross-referencing among sections within the Effects Analysis ... as well as the larger BDCP planning documents	Please refer to the index of commenters to find other letters of interest submitted during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods and their responses, and specifically to responses to letters BDCP 1448 and RECIRC 2546 for responses to the Delta Independent Science Review Panel's comments. Also see Master Response 5 regarding the removal of Alternative 4 from the Preferred Alternative, including a discussion of the Effects Analysis. Also, please see the responses to the Delta Science Program Independent Review Panel Report: BDCP Effects Analysis Review, Phase 3 which is provided as part of the references to this BDCP/CWF Final EIR/EIS – See Appendix 11F. As shown in the response document, revisions to the Draft BDCP were planned that would have addressed many of the comments, but much of this work ceased when the proposed BDCP was removed from the Preferred Alternative, to be replaced by a different approach to comply with the Endangered Species Act and the California Endangered Species Act, as described in Chapter 3 of the Final EIR/EIS. Many of the IRP recommendations from their 2014 review have been followed in developing a

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		make interpretation of anticipated net effects of BDCP implementation difficult at best." (Id.) The Science Panel (Panel) specifically criticized the fact that the Effects Analysis (EA) "does not represent a stand alone document and relies extensively on associated appendices and chapters for presentation of scientific information, with insufficient guidance for the reader." (Id.) Thus, "the [Science] Panel universally believes" that the BDCP EA "inadequately conveys the fully integrated assessment that is needed to draw conclusions about the Plan, in part because of incomplete information on factors affecting covered species." (Id.) Overall, the Panel opined that "[t]he lack of accessibility to information within the [effects analysis] or clear reference to supporting detail inhibits rather than elucidates comprehension of the findings and thus conveys an unsatisfying 'trust us' message" (Id. At p. 6.0). The Panel's comments demonstrate that the DEIR/EIS is not "organized and written so as to be readily understandable by" even highly specialized professionals, let alone the governmental decisionmakers and interested non-professional laypersons likely to be affected by actions taken under" the document" (Oregon Envtl. Council v. Kuzman, supra, 817 F.2d at p. 494). The Delta Independent Science Board concurred in the Science Panel's findings and issued its own highly critical report. (Delta Independent Science Board Review of the Draft BDCP EIR/EIS and Draft BDCP, May 15, 2014, (ISB Report) Exhibit D.) [see ATT 4] The Independent Science Board found the DEIR/EIS was "not organized in a way that can usefully inform the public and policy discussions." (ISB Report, p. 12.)	revised effects analysis for Alternative 4A.
1785	65	The lack of a complete project description prevents understanding of the scope and severity or project impacts. An EIR project description must include all relevant parts of a project, including activities that are reasonably foreseeable consequences of the project. An EIR cannot be adequate when its project description is not accurate, stable, and finite. The draft BDCP and DEIR/EIS do not meet this standard, as a few examples demonstrate. Nearly every BDCP project element other than the Delta tunnels is subject to further development following later EIRs, more studies or uncertain adaptive management. Most notably, CMs 2-22 are lacking in any meaningful description of the range of possibilities or even approximate actions that might occur. The lack of any detail about these actions prevents [Sacramento] County from evaluating their effectiveness and their impacts, and especially the BDCP's claim that these measures would counterbalance any negative effects of CM1, the north Delta diversions and isolated conveyance. There also is no description of how SWP and CVP facilities upstream of the Delta would operate with the proposed tunnels. The "high outflow" scenario that is possible under the critical "decision tree" not only relies on undefined water transfers, but also assumes that	The Project Description is key to an adequate EIR. The Lead Agencies believe that the Project Description in the EIR/EIS is legally adequate. Although the commenter's specific contentions of inadequacy are addressed in separate responses, it is worth noting that "[t]he description of the project … should not supply extensive detail beyond that needed for evaluation and review of the environmental impact[.]" (State CEQA Guidelines, § 15124.) "A general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns." (Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 28.) "The 'general description' requirement for the technical attributes of a project is consistent with the other CEQA mandates to make the EIR a user-friendly document." (Ibid.) "The EIR must achieve a balance between technical accuracy and public understanding." (Ibid.) The only mandatory components of a Project Description in an EIR are the following: (a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map. b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The

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		the CVP would accrue undefined obligations to the SWP under the COA [Coordinated Operations Agreement]. (BDCP, p. 3.4-19.) The studies that would drive the decision tree's results "have not yet been determined." (BDCP, p. 3.4-32.) The new bypass flow rules for the north Delta intakes are not completely spelled out in their entirety. Rather the BDCP only describes how they will operationally impact various species and operational aspects. "COA" does not have an identified acronym in the BDCP and is not identified as the Coordinated Operations Agreement until Appendix A.5. These rules have the potential to substantially affect operation of the Freeport Regional Water Authority (FRWA) intake, and adversely affect water quality and supply in the Delta. Without any details about the rules or analysis of their broader impact, the County is unable to determine whether and to what extent County resources may be affected.	statement of objectives should include the underlying purpose of the project. (c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities. (d) A statement briefly describing the intended uses of the EIR. (1) This statement shall include, to the extent that the information is known to the Lead Agency, (A) A list of the agencies that are expected to use the EIR in their decision making, and (B) A list of permits and other approvals required to implement the project. (C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements. The commenter has not claimed that the descriptions of the various alternatives in the EIR/EIS fail to include these required items of information. Please see Master Response 2 regarding program-level vs. project-level analysis and the amount of detail needed.
1785	66	The structure and operation of the proposed Implementation Office and related groups, councils and teams is unclear. (BDCP, Chapter 7.) The BDCP fails to clearly and concisely articulate where ultimate decisions are made and, while the BDCP acknowledges permit compliance will be the responsibility of the Permittees, Chapter 7 appears to create a confusing delegation of responsibilities that will make it difficult to track and ensure compliance. In addition, it is unclear what is intended by the discussion in Section 7.1.9, regarding Support Entities. (BDCP, p. 7-18.) Does the BDCP anticipate any implementation actions by the County of Sacramento? If so, the BDCP should clearly identify how Sacramento County would be expected to engage in the BDCP. Section 7.2.8 Coordinating with Local Governments, Delta Protection Commission, and Other Public Agencies is also unclear. This section contemplates overlap in the BDCP with other local HCPs and suggests the potential for having local agencies assist the BDCP in the acquisition of conservation lands for the BDCP. Yet, there is no clear articulation of what the BDCP anticipates that local jurisdictions would be expected to do, and whether those local agencies would be willing to assist in the implementation of BDCP. Because of uncertainties like these, the draft BDCP and DEIR/EIS cannot give the County or the public an adequate understanding of the project or its possible effects.	Please see response to comment 1785-46. Many of the details of how Delta counties were to participate in and contribute meaningfully to the implementation of BDCP were to be determined after publication of the public draft BDCP. These details of implementation are not required to be included in an HCP/NCCP for its approval. However, DWR recognized that such details are important to the Delta counties. If an alternative that includes BDCP or an HCP/NCCP were to be selected, DWR would continue to work closely with Delta counties to determine an appropriate role for Delta counties in plan implementation and decision-making.
1785	67	The incorporation of mitigation measures in the project description violates CEQA. The DEIR/EIS improperly incorporates many necessary mitigation measures into its project	See Master Response 22, "Mitigation, Environmental Commitments, Avoidance and Minimization Measures, and Alternative-Specific Environmental Commitments." See also Appendix 3B as modified in the

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		description, characterizing them as environmental commitments, and relies on this tactic to conclude potential project impacts would be less than significant or otherwise reduced. (DEIR/EIS, Appendix 3B, p. 3B-1.) However, characterizing the environmental commitments as part of the project violates CEQA. In fact, the environmental commitments are designed to reduce or eliminate numerous project impacts, including significant impacts to air quality, water quality, fish and aquatic resources, public health, and a host of other impact areas. There is hardly a resource area for which environmental commitments were not claimed to be factored into the impact analysis. (See DEIR/EIS, Table 3B-1, pp. 3B-2 - 3B-6.) Despite their critical role in reducing the BDCP's impacts, the environmental commitments are not even described in the DEIR/EIS itself or evaluated as part of the impact analyses but are relegated to one of the many appendices. (See DEIR/EIS, Appendix 3B, stating that environmental commitments "will not be restated in the impact analysis for each resource chapter but instead will be incorporated by reference." (Id).) Whether characterized as part of the project description or mitigation, burying the environmental commitments in an appendix subverts CEQA's informational mandate by denying the public the opportunity to review and understand them in the context of the DEIR/EIS analysis. Merely assuming their implementation will reduce impacts, without any analysis or evidence to support those assumptions, also prevents the public from understanding the full scope of the impact of the proposed actions or commenting on the effectiveness of the environmental commitments as mitigation.	RDEIR/SDEIS, which includes detailed explanations of how various Environmental Commitments, Avoidance and Minimization Measures, and Conservation Measures tend to reduce the severity of environmental effects, consistent with the Court of Appeal decision in Lotus v. Department of Transportation (2014) 223 Cal.App.4th 645. The commenter is simply wrong that a proposed project cannot include features or proponent commitments that could alternatively be conceptualized as mitigation measures. Such a view is neither supported by any language in CEQA or the CEQA Guidelines nor consistent with public policy. Mitigation measures, as set forth in EIRs, are only "'suggestions which may or may not be adopted by the decisionmakers. There is no requirement in CEQA that mitigation measures be adopted. The adoption of mitigation depends, among other matters, upon economic and technological feasibility and practicality.'" (Native Sun/Lyon Communities v. City of Escondido (1993) 15 Cal.App.4th 892, 908, quoting No Slo Transit, Inc. v. City of Long Beach (1987) 197 Cal.App.3d 241, 256 [italics added]; see also Cal. Pub. Resources Code, § 21081[a][3].) Under the commenter's view of CEQA, lead agencies could not allow project proponents to design their projects to reduce environmental impacts or to make commitments to achieve such reductions, but instead would have to insist on an approach that could ultimately lead to the rejection by agency decision-makers of such beneficial features or commitments. Such an outcome would be contrary to public policy, and inconsistent with numerous provisions within CEQA that reward proponents for agreeing to project modifications reducing environmental impacts. For example, proponents may avoid the costs and time associated with EIR preparation by incorporating mitigating features into their projects and thus qualifying for mitigated negative declarations. (Cal. Pub. Resources Code, § 21080[c][2]; State CEQA Guidelines, § 15064[f][2].) Proponents may also avoid recirculating EIRs where they embrace new mitigation measures that emerged during or after public review. (State CEQA Guidelines, § 15088.5[a][3]; South County Citizens for Smart Growth v. County of Nevada (2013) 221 Cal.App.4th 316, 330.) And proponents may avoid lengthy "supplemental review" by agreeing to new mitigation measures. (River Valley Preservation Project v. Metropolitan Transit Board (1995) 37 Cal.App.4th 154, 168, 179.) Furthermore, where lead agencies approve projects, the environmentally beneficial aspects of such projects are independently enforceable, and cannot be changed absent compliance with the legal principles governing supplemental environmental review. (See, e.g., Citizens for a Sustainable Treasure Island v. City and County of San Francisco (2014) 227 Cal.App.4th 1036, 1061-1064 [city could assume that consultation process incorporated into project would be carried out]; Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 33-34 [EIR reasonably assumed that project features would function as designed]; Village Laguna of Laguna Beach, Inc. v. Board of Supervisors (1982) 134 Cal.App.3d 1022, 1030 [in assessing impacts, EIR should assume that integral project features would be implemented]; and Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist. (2013) 215 Cal.App.4th 1013, 1037-1038 [if lead agency tried to build a high school stadium on different, more harmful terms than were assumed in an environmental document, supplemental review might be necessary].) Here, moreover, all environmental commitments, avoidance and minimization measures, and conservation measures associated with the proposed project are included in the Mitigation Monitoring and Reporting Program prepared for Alternative 4A.

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1785	68	The DEIR/EIS misleadingly tries to downplay the significance and uncertainty associated with these environmental commitments by characterizing them as "design features, construction methods, and other BMPs (best management practices)" that "tend to be relatively standardized and are often already compulsory. They represent sound and proven methods that can avoid or reduce the potential effects of an action, for example installation of a sedimentation barriers and other stormwater protections during grading -- in contrast to mitigation measures that would be necessary to be included as part of project approval to offset the environmental effects of the proposed action." (DEIR/EIS, p. 4-13, lines 4-12). However, examination of Table 3B-1, where the commitment titles are linked to generic issue areas, reveals that the environmental commitments are not limited to design features or construction methods or BMPs, and are not limited to proven methods to avoid or reduce environmental impacts. Indeed, the commitments are applied to some of the project's most serious impacts, including impacts to endangered species and human health. For example, the environmental commitments include "Develop and Implement Fish Salvage and Rescue Plans," and "Develop and Implement a Barge Operations Plan" that will address sensitive resources, responsibilities, avoidance, performance, and contingency measures. (Id.) Because such plans are not developed, and involve the exercise of substantial discretion by the project proponents themselves during implementation, they are not similar to compliance with adopted standards such as building codes, which have been vetted through the code adoption or other regulatory processes. Further, characterizing these measures as commitments is inaccurate and misleading because not only are they not set forth in the project description but there is no firm commitment that they be implemented. (See Appendix 3B, stating "[t]he BDCP proponents will see to it that these measures will be implemented as appropriate, depending on the location of construction and surrounding land uses." (Id.).)	Environmental commitments presented in Appendix 3B of this Final EIR/EIS have been updated since the time of the Draft EIR/EIS. These commitments are by definition incorporated into the project design and will be implemented, as appropriate for the chosen alternative (Alternative 4A/California WaterFix) at the time of this Final EIR/EIS. Regarding the fish salvage and barge operations plan, these commitments alone would not necessarily fully reduce the relevant impacts. Where impacts are identified as significant/adverse even with incorporation of environmental commitments, mitigation measures are provided, if available to further reduce the impacts. Please also refer to Master Response 22 which addresses the adequacy of mitigation measures, environmental commitments, avoidance and minimization measures and Environmental Commitments (for Alternatives 4A, 2D, and 5A).
1785	69	The project air quality impact analysis provides a particularly telling example of how the incorporation of the "environmental commitments" into the project description resulted in a failure to evaluate or disclose actual project impacts. With respect to construction emissions, a major concern to Sacramento County due to the number of massive facilities proposed to be built within County limits and adjacent to County residents, animals and farms, the DEIR/EIS states, "[e]missions estimates include implementation of environmental commitments (see Appendix 3B, Environmental Commitments)." (DEIR/EIS, p. 22-48, lines 13-15.) [Footnote 4: See also "Construction Emissions Approach and Threshold": "Project-level greenhouse gases (GHG) reduction measures (CO-1 and CO-2) included in the Climate Action Plan (CAP) have also been incorporated into the project design as environmental commitments (See Appendix 3B, Environmental Commitments)." (DEIR/EIS, p. 22-44, lines 18-10.)] Not only does the DEIR/EIS thus fail to disclose the total amount of hazardous pollutant emissions and greenhouse gases that would be released by the project, but it does not even provide for a reasonable comparison, should the reader choose to scour the appendices to try to unearth the estimated reductions from the environmental	The RDEIR/SDEIS included narrative discussions explaining how each environmental commitment reduces the severity of environmental effects and whether the level of impact reduction is sufficient to render the effects less than significant. Section 22A.1.11 in Appendix 22A, Air Quality Analysis Methodology, describes the adjustments to the emissions analysis that were performed to account for the benefits achieved by the environmental commitments. The emissions presentation is independent of the environmental commitment analysis; values are only given in different units to evaluate project-level effects against the appropriate air district thresholds, which are given in both pounds and tons (see Table 22-9). Please refer to the index of commenters to find other letters of interest submitted during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods and their responses, and specifically to response to comment 1655-69.

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		commitments, as they are provided in different units: "Although emissions are presented in different units (pounds and tons), the amounts of emissions are identical (i.e., 2,000 pounds is identical to 1 ton)." (DEIR/EIS, p. 22-48, lines 15-16.)	
1785	70	The commitments themselves are inadequate as mitigation because they are fraught with uncertainties and off-ramps that would allow for no or undefined mitigation to occur, or have the potential to result in new significant effects that are not analyzed in the DEIR/EIS but subject to possible future environmental review. As but one example, the measure 3B.1.19 Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM) and Dredged Material (DEIR/EIS, Appendix 3B, pp. 3B-34-40) is proposed to occur somewhere over a 10 mile radius of the construction sites (See DEIR/EIS, p. 3B-35, lines 10-11.) No detail is provided about the possible location of these disposal sites, but the DEIR/EIS acknowledges that disposal might occur in wetlands and vernal pool areas, which would be a significant impact. Nor is any information provided regarding the volume of RTM decant liquids that will need treating, the proposed method for treating them, or where they would be disposed of. Lacking any information about the specific sites that are likely to be available for spoils storage and disposal, or any information about the treatment of decant liquids, and what specific assumptions were used in applying this environmental commitment to the analysis of project impacts, it is impossible for Sacramento County to assess the scope of potential impacts to agricultural lands, wetlands, and other important resources.	Regarding the example provided by the commenter: Please see Final EIR/EIS Chapter 31, Other CEQA/NEPA Required Sections, Section 31.5.1.4 for a discussion of the potential environmental impacts related to the environmental commitment related to disposal and reuse of spoils, RTM and dredged material (“Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM), and Dredged Material”). Please also note that a Recirculated Draft EIR/Supplemental Draft EIS was released on July 10, 2015. The RDEIR/SDEIS included a revised discussion of Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM) and Dredged Material. Under Alternative 4 and 4A (the proposed project), the revised estimates of Reusable Tunnel Material (RTM) can be found in the recirculated documents in Table 3C-1 "Construction Assumptions for Water Conveyance Facilities" starting on page 3C-40 of Appendix 3C in Appendix A, which details the revised estimates for RTM storage acreage, volume, and potential reuses. Mapbook figures M3-4 and M14-7 show potential RTM storage locations. Final locations for storage of RTM would be selected based on guidelines presented in Appendix 3B Environmental Commitments, section 3B.2.18 "Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM), and Dredged Material" starting on page 3B-50, also in Appendix. Please also see Master Response 12 for further discussion of RTM.
1785	71	"Develop and Implement a Barge Operations Plan." (DEIR/EIS, Appendix 3B, p. 3B-192.) Defers the development of all specific elements of the mitigation to the future and even acknowledges that impacts could occur. (See, e.g., DEIR/EIS, pp. 3B-20, lines 38-39 - 3B-21 lines 1-2.) Moreover, no standards are set for mitigation for impacts that result if the "avoidance measures" called for are not successful. Section 3B.1.8.5 Contingency Measures, merely provides, "[i]n the event that the Performance Measures are not met, DWR will coordinate with National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and California Regional Water Quality Control Board (RWQCB) to determine appropriate rectification or compensation for impacts to aquatic resources as set forth above." (SB-22, lines 41-11.) "Coordinating" to "determine appropriate rectification or compensation for impacts" are merely vague platitudes that provide no evidence upon which the public can assess whether this measure will adequately mitigate for significant impacts to aquatic resources. As another example, the description of the Fish Salvage Plan "commitment" states, "In the event that the proposed methods are found to be insufficient to avoid the loss of an undue number of fish, the qualified biologist will revise the methods to minimize further losses and to offset those losses beyond the acceptable number. If fish rescue cannot be attempted (e.g., because of safety), a visual survey from the bank will be undertaken to document fish presence and the likely extent of effects. Binoculars will be used to identify	Analyses of barge landing site construction is fully evaluated in the EIR/EIS. As an example please refer to Final EIR/EIS Chapter 12, Terrestrial Biological Resources, Impact BIO-1 which addresses all of the project effects on tidal perennial aquatic habitat for all of the project components, including for barge sites. The descriptions of the Barge Operations Plan, Fish Rescue and Salvage Plan, and other environmental commitments in the DEIR/EIS provide a general framework for the detailed plans that will be developed and reviewed by the regulatory and permitting agencies prior to implementation of the project. For example, since publication of the DEIR/EIS, review of the project components by NMFS and USFWS as part of the ESA Section 7 process has resulted in further refinements of the Fish Rescue and Salvage Plan (coordination requirements, methods, and evaluation and reporting procedures) that will provide the basis for the detailed draft plan that will be submitted to the resource agencies for final review and approval. Please refer to the Fish Salvage and Rescue Plan (Appendix 3.F. General Avoidance and Minimization Measures, AMM8 Fish Rescue and Salvage Plan) in the draft Biological Assessment for the California WaterFix.

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		fish; however, this method may not be feasible, if water clarity is low." (DEIR/EIS, Appendix 3B, p. 3B-18.) This discussion reveals that the BDCP proponents do not know if the environmental commitment will be effective, or even the extent of its likely effects. Identification of the impact may not even be feasible. Further, the measure does not even define what is meant by "minimize" losses or quantify what would be considered an "undue number of fish" that might be lost. The lack of critical information about the scope of potential fish losses, the threshold that would constitute a significant impact (more specific than an "undue number"), and recognition that the measure may not actually work, make it unreasonable for the BDCP to rely on this so-called commitment for any impact reduction. The DEIR/EIS must address these uncertainties.	
1785	72	The DEIR/EIS's reliance on the environmental commitments is complicated by the fact that, like so many other issues of concern in the BDCP, information about the commitments is so scattered throughout the DEIR/EIS and its appendices that it is not reasonably accessible to the reader. For example, the Fish Salvage and Rescue Plan is described generally in Appendix 3B, but there it is further noted that " [t] his commitment is related to AMM8, Fish Rescue and Salvage Plan, described in BDCP Appendix 3.C." (DEIR/EIS, p. 3B-17, lines 29-30.) Forcing the reader to jump from appendix to appendix to review and try to piece together an understanding of a mitigation measure violates both NEPA's readability requirement and CEQA's goal of promoting informed decisionmaking.	For detailed information about the EIR/EIS environmental commitments see Appendix 3B. Certain environmental commitments in the EIR/EIS have parallel avoidance and minimization measures (AMMs) in the BDCP. AMMs were developed to avoid and minimize effects on natural communities and covered species that could result from implementing BDCP covered activities. While there is great overlap in the AMM and environmental commitment activities that will be implemented as part of the BDCP, the purposes differ slightly. The AMMs are meant only to minimize or avoid effects on covered species and natural communities, whereas, the environmental commitments are meant to avoid and minimize not only adverse effects on covered species and natural communities, but also to minimize adverse effects on the environment (CEQA) and the human environment (NEPA), and by extension, humans. The text in Appendix 3B that indicates that X environmental commitment is related to Y AMM is merely intended to help tie the environmental commitment(s) back to the parallel AMM in the BDCP. A description of the relevant AMM's have also been included in Appendix 3B. Please also see Master Response 22.
1785	73	The environmental commitments are plainly mitigation measures. CEQA requires that mitigation measures be separately identified and analyzed. This analytical procedure is necessary in order for the lead agency: (1) to make required findings regarding potentially significant project impacts; (2) to determine whether mitigation measures are required; (3) to adequately evaluate the range or efficacy of required mitigation measures or project modifications; and (4) to trigger the required adoption of an enforceable mitigation monitoring program. The DEIR/EIS's failure to discuss the significance of project impacts apart from these proposed mitigation measures is a fatal structural deficiency in the EIR which resulted in a failure to disclose the full scope of project impacts and to consider whether other possible mitigation measures would be more effective. (Lotus v. Department of Transportation, et al. (2014) 223 Cal.App.4th 645.) The same tactic, employed by Caltrans, was rejected by California Court of Appeal, which found it to be a "short-cutting of CEQA requirements" that subverted CEQA's purpose by omitting material necessary to	The potential effects of mitigation measures and environmental commitments are evaluated in Final EIR/EIS, Chapter 31, Other CEQA/NEPA Required Sections, starting at Section 31.5. The effectiveness of environmental commitments to reduce potential effects is presented in Appendix 3B.

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		informed decision-making and public participation; in short, it "preclude[d) both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences." (Id.)	
1785	74	In order for the public to understand the full scope of the BDCP's impacts, the DEIR/EIS must be revised to clearly describe the environmental commitments in the context of the individual impact analyses, and explain exactly how and to what degree they are expected to reduce project impacts. Impacts must be measured and quantified without consideration of the environmental commitments, before any determination is made regarding their effect. This analysis and supporting evidence must be included in the body of the DEIR/EIS, and the document must be recirculated for public review and comment.	See response 1785-73.
1785	75	The EIR uses an inflated baseline that fails to incorporate relevant Existing Conditions. Inflating existing exports minimizes impacts. The DEIR/EIS is unclear what level of exports was used for the existing conditions simulation but it appears to have relied on full CVP and SWP contract deliveries. If this is the case, then the baseline likely has been inflated with respect to assumptions about the amount of water exports occurring under both existing conditions and the No Project Alternative, which has the effect of minimizing project impacts. With regard to SWP deliveries, it is well recognized that SWP contracts are written for far more supply than has ever been, or ever will be, delivered. (Santa Clarita Organization for Planning the Environment v. County of Los Angeles (2003) 106 Cal.App.4th 715.) Moreover, SWP deliveries have declined significantly in recent years since various regulatory constraints were adopted, including the federal Biological Opinions. Appendix 3D (p. 3D-6), Table 3D-1, Summary of SWP and CVP Operations Included in Existing Conditions and No Action Alternative for the BDCP EIR/EIS, states that the existing conditions with respect to SWP water demands are "[b]ased on full/variable Table A amounts including transfers through 2008," as well as other factors. It is not clear whether the existing conditions are based on an average of actual deliveries over a period of record (Inception of SWP through 2008? Some other period?), or a single year (2008?), or whether they were based on the full Table A amounts. If the existing conditions have been inflated over conditions representative of actual deliveries within the past five years, based on maximum exports, then project impacts necessarily will have been minimized. What is the evidence supporting the amount of contract deliveries assumed in the existing conditions simulation? An accurate baseline would have relied on the lower exports allowed under the constraints of existing water quality and fisheries standards, including the Fall X2 salinity standard and 2008 Delta Smelt Biological Opinion (see comments below).	Model results show that long-term average Delta outflow under Alternative 4 (scenarios H1 - H4 at LLT) would be similar to that under Existing Conditions and No Action Alternative, with a minor increase in flows during the winter months and a minor reduction in flows during the spring months relative to Existing Conditions due to the shift in system inflows caused by climate change, as well as increased water demand expected in the LLT. In wet water year types, this trend is more evident, while in other water year types, Delta outflow under Existing Conditions and the No Action Alternative is generally within the range of Alternative 4 H1 - H4 scenarios. For more information and specific modeling results for all Alternatives, please refer to Final EIR/EIS, Chapter 5, Water Supply, and Appendix 5A, BDCP/California WaterFix EIR/S Modeling Technical Appendix. The incremental changes in Delta outflow under Alternative 4A compared to baseline conditions are a function of both the facility and operations assumptions, including north Delta intakes capacity of 9,000 cfs, OMR flow requirements, Fall X2 requirements, and the reduction in water supply availability due to increased north of Delta urban demands, sea level rise, and climate change (the last three assumptions, plus Fall X2 requirements, are included in both the No Action Alternative (ELT) and Alternative 4A, but not in Existing Conditions). Results for the range of changes in Delta outflow under Alternative 4A are presented in more detail in Appendix 5A, BDCP/California WaterFix EIR/S Modeling Technical Appendix. Changes in long-term average Delta outflow under Alternative 4A (ELT) as compared to the No Action Alternative (ELT) and Existing Conditions are shown in Figures 5-37 through 5-39 and Tables 5-10 through 5-12 in Chapter 5. To summarize changes in Delta outflow under Alternative 4A, late-fall and winter outflows remain similar or show minor reductions in Alternative 4A (ELT) compared to No Action Alternative (ELT) and are slightly higher relative to Existing Conditions. In the spring months, outflow would remain similar under Alternative 4A (ELT) as compared to No Action Alternative (ELT), and would be slightly reduced compared to Existing Conditions. In the fall months, outflow under Alternative 4A would increase relative to Existing Conditions, and as compared to the No Action Alternative (ELT), would be similar because of Fall X2 requirements in wet and above-normal years. The proposed project does not increase the amount of water to which DWR holds water rights or for use as

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			allowed under its contracts. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Refer to Master Response 26 (Area of Origin).
1785	76	Omission of the Fall X2 Salinity Standard Requires Revision and Recirculation of the DEIR Modeling and Analysis. The CEQA existing conditions did not assume full implementation of the fall X2 salinity standard contained in the 2008 Delta Smelt Biological Opinion because it had been ruled deficient by a trial court judge. (DEIR/EIS, Appendix 3D, p. 3D-2.) The fall X2 standard "in certain water year types, can require large upstream reservoir releases in fall months of wet and above normal years to maintain the location of the X2 at approximately 74 or 81 river kilometers inland from the Golden Gate Bridge." (DEIR/EIS, Appendix 3D, p. 3D-2.) The location of X2 directly affects how much water can be exported from the Delta. On March 13, 2014, the United States Court of Appeals for the Ninth Circuit upheld the USFWS's 2008 Biological Opinion, which concluded that the long-term operations plan for the CVP and SWP would jeopardize the continued existence of the delta smelt and its habitat in the Sacramento-San Joaquin Delta. (San Luis & Delta-Mendota Water Authority v. Jewell, 2014 U.S. App. LEXIS 4781 (9th Cir., Mar. 13, 2014).) The practical impacts of this decision include potential decreased water exports and deliveries via the Projects to central and southern California. For the DEIR/EIS, the failure to include full implementation of the fall X2 salinity standard undermines the entire hydrologic and water quality modeling analyses. The reinstatement of the Delta Smelt Biological Opinion constitutes significant new information requiring revision and recirculation of the DEIR/EIS.	See response 1785-75.
1785	77	The DEIR/EIS's use of a future baseline results in a failure to evaluate potentially significant impacts of concern to Sacramento County. For hydrologic impacts, none of the alternatives was evaluated using an actual Existing Conditions model scenario. Unlike typical CEQA analysis, where alternatives are imposed on Existing Conditions, the alternatives were only evaluated against hypothetical future conditions representing river hydrology as it is projected to exist in 2060. These long- term baseline conditions incorporate assumptions about changing conditions that will not be felt for decades, including (for NEPA analysis) the impacts of climate change and future upstream water demands due to growth north of the Delta. By contrast, the BDCP water diversions will take effect in the near term, and the high level of new water exports from the north Delta have the potential to have a significant impact on river levels and water quality in and above the Delta. As noted in our specific comments on the Recreation analysis (see comments on DEIR/EIS Chapter 15 - Recreation, below), without an evaluation of impacts against current conditions, the County has no way to evaluate the nature and extent of	The action alternatives were compared to Existing Conditions for all environmental resources in the EIR/EIS, as well as compared to the future No Action Alternative conditions. It should be noted that the water conveyance facilities would not be operational until 2025, at which time, climate change and sea level rise would have changed surface water and water supply conditions, although, not to the extent that would occur at the end of the study period in 2060. Comparisons at 2025 conditions are discussed in the RDEIR/SDEIS.

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		potential impacts to recreation, as well as other impacts to County resources, such as agricultural water supply. In this respect the use of an exclusive future baseline omits key information necessary to informed decisionmaking and renders the EIR inadequate.	
1785	78	The Project Will Significantly Increase the Risk of Bird Strikes to Airplanes, Resulting in Significant and Unavoidable, and Thus Unacceptable, Impacts to Human Health and Safety. Both through the construction of CM-1 and the creation of new habitat in CM-2 and other CMs, the BDCP will substantially increase the risk to human health and safety from collisions between birds and aircraft ("bird strikes"). The Sacramento County Department of Airports (Airports) has prepared detailed comments on the DEIR/EIS, which are attached to this letter. (February 11, 2014 Letter from J. Glen Rickelton, Sacramento County Department of Airports, to Don Thomas, Sacramento County Department of Water Resources (Airport Comments), attached as Exhibit E.) [see ATT 5] Airports is subject to regulations and policies promulgated by the Federal Aviation Administration (FAA) for the safe operation of public use airports. The FAA requires review of all proposed land use practices within a five-mile radius of an airport's Air Operations Area for the potential to increase wildlife hazards. This provision applies to commercial service airports such as Sacramento International Airport, as well as any airport that has received federal grant-in-aid funding for infrastructure improvements. The DEIR/EIS Plan Area is within a five-mile radius of three airports operated by Airports: Sacramento International, Sacramento Executive, and Franklin Field airports. One of the conditions of most concern to the FAA is the potentially synergistic effect of two or more different land uses that would not, by themselves, be considered hazardous wildlife attractants or that are located outside specified separation distances, when attractants are aligned in such a way as to induce wildlife movement through the airport and/or surrounding airspace. An example would be a large foraging area such as agriculture on one side of an airport and a lake or wetland on the opposite side of the airport. Many aspects of the BDCP have the potential for increasing synergistic wildlife impacts on the County's airports. The BDCP thus has potential for a significantly greater number of bird strikes due to the anticipated increase in wildlife habitat near County-operated airports. As fully outlined in Airports' comment letter, the DEIR/EIS fails to evaluate the full scope of potential impacts from bird strikes and thus minimizes the significant and unavoidable impacts to human health and safety that will occur as a result of the BDCP as well as the potential impacts to existing wildlife.	This issue is addressed in the public services section of the EIR/EIS. For a discussion of Mitigation measures and environmental commitments, please refer to Master Response 22, Mitigation and Environmental Commitments Avoidance and Minimization Measures and Alternative-Specific Environmental Commitments. Additionally a Mitigation, Monitoring and Performance Plan will be prepared to specify how BMPs will be implemented and any issues addressed during construction of any new facilities.
1785	79	The DEIR/EIS Fails to Provide an Accurate and Objective Assessment of the Project's Impact on Listed Fish Species. A key purpose of the BDCP is to maintain or increase water exports from the Delta. Improbably, it proposes to do this while mitigating for the decades of significant adverse impacts to fisheries caused by such exports, which have led to multiple species being listed under the federal ESA as endangered or threatened. It is not surprising, then, that both in	Each of the alternatives are evaluated using the same methods, which have been developed and modified over time, in many instances in coordination with the fish and wildlife agencies. There are no deliberate biases in the RDEIR/SDEIS. The FEIR/FEIS has been revised where specific examples of discrepancies have been identified.

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		the selection and characterization of data and impact determinations, the DEIR/EIS reflects significant bias in favor of the BDCP. In many cases the bias is undetectable to the average reader or decisionmaker because the inconsistencies and mischaracterizations are buried in reams of data and thousands of pages of highly detailed technical appendices. Nevertheless, the state's own experts, who have been charged with review of the document, have identified significant problems with the DEIR/EIS that undermine the analysis and impact determinations and the integrity of the document.	
1785	80	The Science Panel has severely criticized the accuracy and integrity of the BDCP Effects Analysis, which provides the basis for the DEIR/EIS's determinations about the project's impacts on fish. In its most recent critique of the Effects Analysis the Science Panel stated that it "universally believes" that the BDCP effects analysis "inadequately conveys the fully integrated assessment that is needed to draw conclusions about the Plan, in part because of incomplete information on factors affecting covered species." (Delta Science Program Report, Ex. B, Executive Summary at p. 8. [see ATT 2]) Its conclusion was that "the effects analysis is poorly substantiated" and "many of the critical assumptions in modeling effects and justifications behind the supposed benefits of the conservation measures are highly uncertain." (Id. at p. 6.) The Science Panel also objected to the "disconnect between the assessments of the level of scientific uncertainty" presented in the Effects Analysis compared to the characterizations of the technical appendices." (Ex. B, Executive Summary at p. 8.[see ATT 2]) "In many cases," the Science Panel felt the Effects Analysis "did not sufficiently acknowledge or articulate" the reality of the "high uncertainty" associated with the BDCP's claims that it would result in beneficial effects. (Id. At p. 5.) Notably, the Science Panel found that the "net effects analysis tends to overreach conclusions of positive benefits for covered fish species." (Id. At p. 7.) The report thus noted a "broad consensus" among the Science Panel that the effects analysis "does not adequately acknowledge the extensive uncertainty associated with the BDCP's assumptions and predictions. In its current form … in the conclusions the level of uncertainty is often downplayed." (Id. At p. 8.) In situations in which an array of outcomes may be possible, only the more beneficial outcomes are used in conclusions about the BDCP." (Id.)	Please see Master Response 5 and Appendix 11F for a comprehensive response to comments from the Independent Scientific Review Board, including comments regarding adaptive management and the adequacy of the effects analysis. Please see Responses to Comments 1785-1 and 1785-2.
1785	81	The Inadequate Fish Screen Design Will Fail to Protect Fish. A major problem of concern to the County, identified by an expert in fish screen design and anadramous fishes, is that the proposed fish screen design and placement, flush to the banks on a relatively straight section of the river, is not adequate to protect juvenile salmon and could cause high levels of entrainment and impingement. The expert provides evidence and analysis to explain why, to provide adequate protection for migrating juvenile salmonids, and accommodate high levels of sediment in the diversion water, the diversion structures and associated sedimentation basins will need to be relocated to the outside	The potential near-field effects of the north Delta intake screens were analyzed in Chapter 11 of the Draft EIR/EIS; additional discussion was added in the RDEIR/SDEIS that was issued in 2015, with respect to the new preferred alternative (4A) and particularly with respect to near-field predation effects (see, for example, Impact AQUA-42). Input from resources agencies and technical experts will be incorporated into the final NDD screen designs to minimize potential impacts to fish species. In addition, approach and sweeping velocity requirements consistent with resource agency criteria to minimize impacts to listed species will be part of the NDD operating criteria. Additional impacts to resources identified in this comment related to potential future diversion structure

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		edge of a sharper river bend, or angled out into the river. Moving the intake structures to a sharper bend in the river, increasing their size and/or changing their design by angling them farther out into the river, would all be substantial changes to the project that have the possibility of resulting in new or substantially more severe significant impacts than were considered in the DEIR/EIS. Any of these changes could have significant impacts to biological resources, transportation, aesthetics, agriculture, historic resources, navigation, recreation, and flood control, just to name a few. The expert also explains why the new north Delta intakes are likely to be a predation hotspot and will simply shift existing impacts from the south Delta to the north and increase them, due to changes in fish screen operation (changes in seasonality, involving greater diversions at the season when greater numbers of protected fish species are present) and the increased volume of exports. The expert's analysis of the proposed intakes' inability to perform as intended (with regard to protection of fish species), constitutes significant new information revealing substantially more severe significant impacts of the project. CEQA requires that the DEIR/EIS be revised and recirculated to address this new information.	changes are not included in the EIR/EIS. Should these changes prove to be required, the lead agencies would assess whether the changes would require any additional analysis or environmental review prior to project approval. The positive-barrier fish screens for the proposed north Delta intakes would be designed to established protection standards for salmonids and delta smelt, and would comply with CDFW, NMFS, and USFWS fish screening criteria. Appendix 3F of the RDEIR/SDEIS provides details on the development of intakes and fish screening technology, as well as the Conceptual Engineering Reports (CERs). It is proposed that monitoring and research would be conducted to inform the fish screen design, construction, and operation in order to maximize their effectiveness. Dual operations provides for flexibility that will better protect the fish based on real time data.
1785	82	The BDCP's numerous significant impacts require extensive mitigation, both in the form of CMs 2-22 and additional mitigation for impacts identified in the DEIR/EIS. Mitigation measures must be clearly effective in reducing impacts to a less than significant level. (Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1115.) Mitigation measures that require development of a mitigation plan based on future studies are legally inadequate if they do not describe the anticipated management actions and do not include management guidelines or performance standards. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260 [plan for active habitat management failed to describe anticipated management actions or include standards or guidelines for actions that might be taken].)	Please refer to Master Response 22 regarding the adequacy of mitigation measures.
1785	83	A recurring criticism of the BDCP is its reliance on the untested or unproven assumption that habitat restoration can substitute for flow. The California Advisory Committee on Salmon and Steelhead has stated that findings approving the BDCP as an NCCP cannot be made because "[t]he concept of habitat restoration measures to offset impacts from increased water withdrawals from the Delta (increased "reliability") is not supported by science ...." (Helliwell Letter, Ex. A, supra, at p. 4. [see ATT 1]) The Science Panel criticized the effects analysis, which is the foundation for the DEIR/EIS impact determinations as to fish species, for not sufficiently acknowledging or articulating the "reality" that there are critical uncertainties associated with presumed beneficial effects of tidal wetland restoration." (Delta Science Program Report, supra, Ex. B at p. 5. [see ATT 2]) Thus, the Science Panel found: "Much of the Conservation Measures center around restoration activities and management actions to improve current conditions. Our impression, therefore, is that the foundation of the BDCP is weak in many respects ...." (Id.)	Master Response 45 provides an overview of the BDCP and addresses the requirements for issuance of an incidental take permit and NCCP. The lead agencies believe the analysis presented in the EIR/EIS is an accurate reflection of environmental conditions that would result with operation of the BDCP.

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1785	84	In addition to actually reducing significant environmental impacts, mitigation measures must be financially feasible. As discussed in our comments on the BDCP itself, above, no funding plan has been identified, or costs estimated, for the extensive mitigation required for the BDCP. Lacking evidence to support the assumptions that the proposed mitigation, including the conservation measures themselves, will be effective or actually can implemented, there is no basis for concluding that many diversion-related project impacts can be mitigated below a level of significance. (Communitiesfor a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 95 [rejecting mitigation measure that required project applicant to develop a plan for reducing greenhouse gas emissions and to consider a set of undefined and untested measures of unknown efficacy] ; Anderson First Coalition v. City of Anderson (2005) 130 Cal.App.4th 1173, 1187 [rejecting mitigation due to uncertain funding].)	The funding strategy for 2013 BDCP is outlined in Chapter 8 of the 2013 BDCP, not the 2013 Draft EIR/EIS. Please see Master Response 5 regarding the conservative nature of the cost estimate and the adequacy of the 2013 BDCP funding strategy for the purposes of issuing incidental take permits from the state and federal wildlife agencies. The mitigation measures in the 2013 Draft EIR/EIS were designed to be financially feasible. See Master Response 22 regarding mitigation measures in the 2013 Draft EIR/EIS. Please see Master Response 5 for additional responses to comments on the BDCP and the alternatives involving an HCP component. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e,g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.
1785	85	The alternatives selected do not represent a reasonable range because all the alternatives are designed to further the BDCP proponents' goal of maximizing water supply reliability, and no alternatives are designed to meet the coequal goal of recovery of species.	The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts; as such is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. Please see Master Response 3 for more information on the purpose and need for the proposed project. Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination or water storage) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. For more information regarding compliance with the Delta Reform Act please see Master Response 31.
1785	86	Despite the fact that many of the conservation measures will have significant impacts, the DEIR/EIS evaluates no alternatives to any of the conservation measures other than CM-1. The DSC (Delta Stewardship Council) in its July 11, 2013 comments on the second administrative draft EIR/EIS suggested the EIR evaluate an alternative conservation measure that would provide a more natural Delta flow regime, as a means of lessening the BDCP's impacts on in-Delta water quality. (See July 11, 2013 Letter to Russell Stein from Dan Ray) (DSC Letter), attached as Exhibit F.) [see ATT 6] Other experts have emphasized that enhanced flow and flow modifications to mimic the natural hydrograph are the single most important action that can be taken to improve water quality and fisheries habitat in the	All of the alternatives included in the project are versions of CM1 with different facility and operating components. Please refer to Master Response 4 (Alternatives Development) for more information on the selection of project Alternatives. Please also note that the new preferred alternative, 4A, does not include conservation measures or a habitat conservation plan.

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		Delta. Such an alternative could be achieved not only through reduced Delta exports, but by water transfers or releases from new surface storage projects.	
1785	87	The DEIR/EIS fails to consider any alternative that would reduce the BDCP's significant effect on agricultural land. As suggested by the DSC (Delta Stewardship Council), the DEIR/EIS should consider an alternative designed to minimize agricultural land losses, such as emphasizing restoration of tidal marsh at Suisun Marsh. This alternative has the potential to mitigate both loss of agricultural land as well as the BDCP's adverse water quality effects by dampening saltwater intrusion into the Delta. The failure to evaluate alternatives that would avoid or substantially lessen the significant impacts of any conservation measures other than CM-1, or one that would reduce the BDCP's significant effect on agricultural lands, violates CEQA's mandate that an EIR evaluate a reasonable range of alternatives to the project or to its location that would feasibly attain most of the project's basic objectives while reducing or avoiding any of its significant effects.	Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A. Please see Master Response 4 for more information regarding alternatives to the proposed project. The alternatives included in the EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, Draft EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS. The originally proposed habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21) would not be included as part of the Proposed Action, except to the extent required to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b). The potential impacts to agricultural resources from Alternatives 4A, 2D and 5A are presented in in Section 4 of the RDEIR/SDEIS. Please see Master Response 18 for information regarding agricultural mitigation. For more information regarding impacts to agriculture and its associated mitigation measures please see Chapter 14 of the FEIR/EIS.
1785	88	The BDCP abuses the program EIR process. The BDCP abuses the intent of CEQA's program EIR process. The decision to perform a project-level analysis of Conservation Measure (CM) 1, but only a program level analysis of CMs 2-22, appears designed to avoid meaningful environmental review and evaluation of the feasibility and secondary impacts associated with what is essentially mitigation for the new diversion and conveyance project impacts. By purporting to evaluate the impacts of CMs 2-22, the substance of which is undefined but critical to understanding of project impacts, the EIR arbitrarily concludes that many impacts of CMs 2-22 could be significant and unavoidable. This determination effectively insulates these CMs from meaningful future environmental review because the BDCP proponents may find that impacts of the CMs once refined are "within the scope" of the BDCP program EIR. The decision whether supplemental environmental review will occur, and at what level, is left to the BDCP proponents. This is akin to the fox guarding the hen house as there is no clear process by which the public can review and comment on future decisions	Please refer to 2015 RDEIR/SDEIS Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis, for more details on how the project is analyzed on a project level and the CMs and Environmental Commitments are analyzed on a program level. This approach is not intended to hide subsequent environmental impacts, but instead is a systematic approach to analyze impacts at a later date, and which meets CEQA and NEPA requirements. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. The FEIR/EIS analyzes all alternatives, including Alternative 4A. Restoration would still occur under Alternative 4A in the form of environmental commitments, but on a more limited scope than the conservation measures.

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		regarding the need for additional environmental review. The process for review of future decisions is set forth in Appendix 31A. Nowhere in Appendix 31A is there any guarantee for public review of, or comment on, environmental determinations regarding future changes or additions to the BDCP. As noted throughout the County's comments and by many other commenters, the BDCP and BDCP DEIR/EIS do not contain information sufficient, or in a sufficient format, to adequately inform decision-making about project impacts. Due to the lack of meaningful information about the substance of about CMs 2-22 in this EIR, or analysis of their impacts, future actions related to these "Conservation Measures" should be treated as new CEQA projects, subject to all the requirements for public review and notice that would apply to a new project, and not as modifications to the BDCP as vaguely identified in this DEIR/EIS.	
1785	89	The Mitigation Monitoring and Reporting Program should be circulated for public review and comment. The DEIR/EIS generally discussed responsibility for the various CMs. CM1 is to be managed by DWR; CM2 will be managed by DWR and USBR (U.S.Bureau of Reclamation), while CMS 3-22 will be managed by a larger group of agencies with the specific responsibilities to be described in the Mitigation Monitoring and Reporting Program (MMRP) that has yet to be issued. For the public to understand how the proposed mitigation will be accomplished, it is important to know who will be responsible for implementing it and how. This is especially critical given the nature of the project--authorization for 50 years of take of endangered species. The USBR is not a party to the draft Implementing Agreement, which casts doubt on its role in managing any of the CMs. The DEIR/EIS should explain whether and how DWR alone could manage CM2 without USBR. Ultimately, the MMRP should be circulated for public review and comment prior to its adoption.	The Mitigation Monitoring and Reporting Plan has been made available to the public along with the Final EIR/EIS. Neither CEQA or NEPA require the MMRP to be made available as part of the public review period for the Draft EIR/EIS.
1785	90	Due to the vast length of the DEIR/EIS and number of related documents (including appendices and ancillary studies) which it states constitute the DEIR/EIS, it was not feasible for County staff to conduct a detailed review of the analysis of all alternatives in the time provided for public review and comment. Therefore the County's comments focus largely on the analysis and impacts of the preferred project, Alternative 4. To the extent other alternatives are the same or substantially similar to Alternative 4, the County's comments on the DEIR/EIS and/or its objections to Alternative 4 apply equally to those other analyses and alternatives. Similarly, the County's discussion of proposed mitigation measures focuses on language used in mitigation as presented to mitigate impacts of Alternative 4. To the extent that the same or substantially similar mitigation measures are proposed for other alternatives, these comments apply equally to that mitigation.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1785	91	Chapter 2: Project Description Project Objectives:	The ESA and CESA processes are proceeding which will result in a Biological Opinion and 2081(b) incidental take permit. The lead agencies will comply with the requirements that result from that process. The ESA and CESA compliance process does not negate the underlying project purpose to make physical and operational

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		The DEIR/EIS states that DWR's "fundamental purpose" in adopting the BDCP is to make physical and operational improvements to the SWP system. (DEIR/EIS, p. 2-2, lines 30-31.) Given that the BDCP is intended to be an HCP and NCCP, defining its fundamental purpose in a way that does not specifically include contributing to the recovery of endangered and threatened species, is inconsistent with the purpose of an HCP. The DEIR/EIS further states there is a need for state agencies to "strike a reasonable balance" between "competing public policy objectives" of addressing the conflict between at-risk Delta species and the need for water supply for people and communities. (DEIR/EIS, p. 2-1, line 19.) The federal ESA does not allow for this type of balancing when it comes to the protection of endangered species, which Congress intended to afford "the highest of priorities." (Tennessee Valley Auth. v. Hill (1978) 437 U.S. 153, 174.) When an action constitutes "an actual present negative impact on the [species'] population that threatens the continued existence and recovery of the species ..., the Endangered Species Act leaves no room for balancing policy considerations" and the action threatening the species must yield to the ESA's higher purpose. (Palila v. Hawaii Dep't of Land & Natural Resources (D. Haw. 1986) 649 F. Supp. 1070, 1082, a.ff'd, 852 F.2d 1106 (9th Cir. 1988).) In any event, as discussed in detail in our comments in Sections II.G and H, above, the BDCP fails to meet even its own dubious objectives because DEIR/EIS evidence and comments of experts suggests that the BDCP will not meaningfully contribute to the recovery of endangered and threatened species and, in fact, likely will harm the very species it purports to protect. The DEIR/EIS further states that a project objective is to "restore and protect the ability of the SWP and CVP to deliver full contract amounts of water." In what years have the SWP and CVP delivered full contract amounts of water? With the project, in how many years will the SWP and CVP be able to deliver full contract amounts of water? Where is this spelled out in the EIR? To the extent that contracts provide for far more water than has ever been, or ever can be, delivered, in light of hydrologic and other (biological) constraints, this objective is arbitrary and capricious and appears designed to bias the analysis and selection of alternatives towards those that would favor water exports over environmental protection. Page 2-3:36-38: What is meant by "develop projects that reduce stressors (etc.) in a manner that creates a stable regulatory framework under the ESA"? Is this the no surprises rule?	improvements to the system to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. Please also refer to Master Response 3, related to the purpose and need and Master Response 29, regarding the ESA. The reference to the objective in Chapter 2, Project Objectives and Purpose and Need to restore and protect the ability of the SWP and CVP to deliver up to full contract amounts also includes the following: “when hydrologic conditions result in the availability of sufficient water, consistent with the requirements of state and federal law and the terms and conditions of water delivery contracts and other existing applicable agreements.” Whether full contract amounts are currently delivered does not negate the objective for the project to achieve this aim when possible. The EIR/EIS does not include the requested information because it is not relevant to the analysis of water supply effects of the action alternatives, presented in Chapter 5, Water Supply.
1785	92	Chapter 5: Water The County has significant concerns about the potential impacts of the BDPC on its water supply. Detailed comments on the BDCP, BDCP DEIR/EIS and the BDCP's potential effects to upstream water rights holders and water users, including Sacramento County, have been developed by the North State Water Alliance (NSWA), of which Sacramento County is a member. The County adopts the comments of the NSWA and incorporates them by reference in these comments. In addition, the County offers the following comments related	The action alternatives could only deliver the amount of water diverted under the existing SWP and CVP water rights and in accordance with the existing and future related regulatory requirements. Delta outflow requirements would be increased under Alternatives 4H2, 4H3, 4H4, 7, and 9. More information on the ranges of action alternatives operational criteria, based on water year types and specific flow criteria, can be found in Chapter 3, Section 3.6.4.2, North Delta and South Delta Water Conveyance Operational Criteria, Final EIR/EIS. The No Action Alternative and HCP action alternatives were evaluated at 2030 conditions which include

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		to the DEIR/EIS. There is general recognition that increasing water flowing through the Delta will promote a healthier Delta. As a by-product of the increased flows to promote Delta health, there will now be additional water available for cross-delta transfers -- at a new intake north of the current diversion location. Maintaining the required Delta outflow is left up to the SWP and CVP and it seems that the water supply necessary to maintain Delta outflows and allow Delta exports will come at the expense of users north of the Delta. Users north of the Delta may have water supply contracts in excess of their current demand that are allocated toward future growth. However, the future use of this water could be subject to a review as a "covered action" within the scope of the Delta Plan, to see if it is consistent with the BDCP. This could produce a scenario where Delta exports will still be allowed, while a north of Delta user's water supply uses are restricted in order to maintain the regulatory required Delta outflow (i.e., changes in reservoir operation and/or water supply availability). The operational changes to upstream reservoirs, and impacts to upstream water supply, are not adequately addressed in the DEIR/EIS and are unclear at this point.	population growth projected by existing general plans as compared to the Existing Conditions. The additional population growth would increase water demands, including an increase of water demands in areas North of the Delta (primarily in El Dorado, Placer, and Sacramento counties) of 443,000 acre-feet per year of users of water rights water and CVP water supplies as compared to Existing Conditions, as described in Section 5.3.3.1 of Chapter 5, Water Supply, of the Final EIR/EIS. Section 30.1.3, Urban Land Use and Water Use by Hydrologic Region, of Chapter 30, Growth Inducement and Other Indirect Effects, of the EIR/EIS, describes long-term water demand in the hydrologic regions based on projections from the California Water Plan which includes assumptions that water conservation will be implemented by 2060 in accordance with State law. Reponses to all comments received during the official comment period for the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS are provided in the final EIR/EIS. Please refer to the list of commenters provided to locate the NSWA letter and associated responses.
1785	93	Section 5.3 Environmental Consequences: In the DEIR/EIS's assessment of the continued long-term operation of the CVP and SWP, the modeling analysis assumes that the SWP and CVP are solely responsible for providing any needed water for the BDCP's implementation. The primary factors for analysis are considered to be Delta outflow requirements and SWP/CVP reservoir storage, along with conveyance and regulatory export requirements. Furthermore, the section implies that under excess conditions (Delta outflow standards met), any transferred water released to the Delta should not be counted as transfer water. The discussion in Section 5.3 of water transfers is too simplistic and does not provide the public with the information necessary to be informed of the impact of the BDCP. There may be times when the Delta is in excess conditions and transfers could still occur. If so, this discussion in the EIR is incorrect and misleads the public.	As described in Chapter 3, Description of Alternatives, the action alternatives considered in the Final EIR/EIS do not include specific water transfers. The EIR/EIS acknowledges that water transfers would continue in a similar manner as historic transfers and in accordance with State and Federal laws and regulations. The EIR/EIS also acknowledges that the use of water transfers between agencies could increase in the future as SWP, CVP, and other surface water supplies are reduced due to climate change, sea level rise, and increased water demand in the Delta watershed, as described in Appendix 1E, Water Transfers in California: Types, Recent History, and General Regulatory Setting, and Appendix 5D, Water Transfer Analysis Methodology and Results, of the Draft EIR/EIS. Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project level analysis of impacts upstream of the Delta is highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. Rather, it provides an analysis of how transfers relate to the proposed water conveyance facilities. As indicated in Appendix 5D, the analyses are conservative because it is not known if adequate water would be available from other water users for transfer. As shown in Table 5D-8, the maximum cross-Delta transfers under the action alternatives would be greatest under Alternative 8 because there would be the most available capacity. Any future water transfers will require separate approvals. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed. With regards to water transfers, please also see Master Response 43.
1785	94	The primary factors used for analysis are considered to be Delta outflow requirement and SWP/CVP reservoir storage along with conveyance and regulatory export requirements. The plan does not take into account future water uses (future demands) for users north of the Delta (a right may exist, but the ultimate demand has not been realized). The DEIR/EIS should contain a detailed evaluation of the BDCP's effect on future water supply for upstream entities, including the Sacramento County Water Agency (SCWA) and the	The No Action Alternative and HCP action alternatives were evaluated at 2030 conditions which include population growth projected by existing general plans as compared to the Existing Conditions. The additional population growth would increase water demands, including an increase of water demands in areas North of the Delta (primarily in El Dorado, Placer, and Sacramento counties) of 443,000 acre-feet per year of users of water rights water and CVP water supplies as compared to Existing Conditions, as described in Section 5.3.3.1 of Chapter 5, Water Supply, of the Final EIR/EIS. Section 30.1.3, Urban Land Use and Water Use by

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		reliability of water supply for those entities.	Hydrologic Region, of Chapter 30, Growth Inducement and Other Indirect Effects, of the Final EIR/EIS, describes long-term water demand in the hydrologic regions based on projections from the California Water Plan which includes assumptions that water conservation will be implemented by 2060 in accordance with State law.
1785	95	The BDCP would increase conveyance capacity and lead to increased Delta exports. While the BDCP will decrease the number of years in which there is a demand for cross Delta water transfers, it will increase the average annual quantity of transfer water conveyed compared to existing conditions. However, the analysis of any potential upstream impacts from increased transfer volumes is not included as part of this DEIR/EIS. This approach improperly defers the analysis of these indirect project impacts and thus deprives the public and decisionmakers of the opportunity to comment on a potentially substantial adverse effect of the BDCP.	The proposed project aims to stabilize water supplies, and exports could only increase under certain circumstances. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same to the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. The proposed project would not affect upstream water rights. It aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. The project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. The CALSIM II modeling performed for conveyance facility operations takes into account projected future demand for water supply in areas upstream of the Delta (as part of the future No Action baseline) prior to calculating Proposed Project diversion estimates to ensure that no area-of-origin protections or upstream water rights are affected by project conveyance facilities. Please see Appendix 5A of the FEIR/FEIS for additional modeling details. Please see Master Response 26 regarding area of origin.
1785	96	The DEIR/EIS states that post-September storage in Folsom Lake will increase, to support increased releases from Folsom to meet the required Delta outflow. The analysis also implies that increased releases from Folsom will be required in the future under the No Action Alternative, due to the rise in sea levels, climate change, and increased north of Delta demands. Given the minimum flow requirements in the American River and projections of consecutive dry years, increased releases from Folsom to provide increased Delta outflows related to the BDCP places American River water users at greater risk of substantial impacts to water supply.	The comment is consistent with the information presented in Chapter 5, Water Supply, in the Draft EIR/EIS. The project is not addressing methods to mitigate the effects of climate change and sea level rise. The impacts related to implementation of Alternatives 1 through 9 are indicated by the comparison of conditions under Alternatives 1 through 9 as compared to the No Action Alternative. It should be noted that the No Action Alternative and all alternatives include assumptions for future climate change and sea level rise; however, no changes in regulatory requirements are assumed in the future. Therefore, in drier years, the CALSIM II model outputs result in dead pool conditions in Folsom Lake which could affect American River water rights holders. The “dead pool” conditions presented in the CALSIM II monthly model in the EIR/EIS occur because the model only calculates and reports SWP and CVP water operations at an average monthly basis, the model cannot simulate changes that occur on a weekly basis by water users and SWP and CVP operations. In addition, the model cannot make decisions that occur in real-time, such as drought operations during the ongoing drought. Instead the model includes average operating criteria for all dry periods, and does not reflect specific changes. Please see Master Response 25 regarding upstream reservoir effects.
1785	97	Chapter 6: Surface Water Effects on Sacramento River Flows: The analysis appears to consider change in flows only with respect to the BDCP's potential to increase flows and cause flooding. A major concern to Sacramento County is the project's	Changes in monthly flows in the Sacramento River at Freeport are presented in Figures C-20-1 through C-20-6 and Tables 20-1 through 20-25 in Appendix 5A, Section C, of the EIR/EIS. Changes in daily maximum elevation in the Sacramento River at Freeport are presented in Tables C-29-1-1 through C-29-1-25 in Appendix 5A, Section C. Changes in daily minimum elevation in the Sacramento River at

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		potential to reduce flows, especially at times of year key recreation facilities are in use, and/or cause changes in water levels that adversely affect recreational uses. (DEIR/EIS, pp. 6-44 - 6-45.) Flow effects were evaluated for wet years and an average of all years. (Figures 6-10 and 6-11.) However, because recreation effects are caused by lowered river levels, they are most likely to be experienced in normal or dry years, when any lowering of river levels may adversely affect operation of marinas. Contrary to the statement in Chapter 15, Recreation that the BDCP will not affect flows (DEIR, p. 15-64, lines 1-2.), Figure 6-10 indicates that under all four operating scenarios, Alternative 4 will decrease monthly average flows compared to existing conditions, as well as the No Action Alternative, in the months most critical to recreation uses -- April through September. Figure 6-10 suggests the potential for the BDCP to lower river levels, but more information is needed for Sacramento County to understand the BDCP's potential effects on recreation. Specifically, what will be the monthly changes in river levels at Freeport and Hood, and what is the modeled maximum daily increase and decrease in river levels at those locations? This information should be presented by month as well as daily, as the potential for an adverse effect to recreation depends on the precise effect on any given day. If river levels are lowered significantly on weekdays, the effects on recreation may be less than if levels are lower on weekends. Operational criteria should be written to avoid any substantial lowering of river levels.	Freeport are presented in Tables C-29-2-1 through C-29-2-25 in Appendix 5A, Section C. Final EIR/EIS, Chapter 15, Recreation, states that the action alternatives are not expected to result in a substantial decrease or increase in Delta surface water levels; therefore, surface water elevations are not discussed further in the chapter. Please refer to Appendix 5A, Section C, CALSIM II and DSM2 Modeling Results, EIR/EIS, for more information. Also, as discussed in Chapter 6, CALSIM modeling results indicate that effect to Sacramento and San Joaquin river flows are less than significant. Additionally, the project would result in a reduction of reverse flow conditions in the Old and Middle rivers, creating a positive change, in the majority of months on a long-term average basis compared to Existing Conditions and the No Action Alternative. Therefore, these are not discussed further in Chapter 15.
1785	98	BDCP-related changes in Sacramento River flows and water levels may have a substantial adverse effect on recreational facilities. Launch ramps, marinas, and fishing access areas are designed to meet current flows in the Delta. The modeling in Exhibit 5A addresses the average flow, but the analysis provided in Chapter 6 only addresses impacts with peak flows. A change in sustained flows could adversely impact recreation and must be analyzed. The affected marinas and recreation al l depend on the operation of the proposed diversion pumps and the resulting river flows. Without an operating plan, the County is unable to identify which marinas or other recreation amenities will be impacted, and to what degree. Supplemental environmental review is needed when an operating plan is identified, and before the BDCP is approved, so the precise effects on flows and water levels can be evaluated. Moreover, as discussed in section II.E.3, above, regarding the DEIR/EIS baseline, in order for the County to understand the impacts that will occur from changes in flows, the DEIR/EIS needs to provide an analysis of BDCP effects at various points in time, not 60 years out, to see _effects that will occur in the interim. North Delta diversions will increase over time, as will predicted effects of climate change, whereas Project effects from increased diversions will occur immediately and for decades before other changes take full effect. By showing only long-term changes, the Project's shorter and nearer term impacts are hidden.	Changes in daily maximum elevation in the Sacramento River at Freeport are presented in Tables C-29-1-1 through C-29-1-25 in Appendix 5A, Section C. Changes in daily minimum elevation in the Sacramento River at Freeport are presented in Tables C-29-2-1 through C-29-2-25 in Appendix 5A, Section C. In the BDCP/California WaterFix RDEIR/SDEIS, Alternatives 4A, 2D, and 5A also were evaluated under projected climate change conditions in the Year 2025 conditions. Final EIR/EIS Chapter 15, Recreation, states that the action alternatives are not expected to result in a substantial decrease or increase in Delta surface water levels; therefore, surface water elevations are not discussed further in the chapter. Please refer to Appendix 5A, Section C, CALSIM II and DSM2 Modeling Results, Final EIR/EIS, for more information. Also, as discussed in Chapter 6, CALSIM modeling results indicate that effect to Sacramento and San Joaquin river flows are less than significant. Additionally, the project would result in a reduction of reverse flow conditions in the Old and Middle rivers, creating a positive change, in the majority of months on a long-term average basis compared to Existing Conditions and the No Action Alternative. Therefore, these are not discussed further in Chapter 15.

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1785	99	Effect on American River Flows: The DEIR/EIS identifies changes in Folsom Lake levels as a result of the Project but not American River flows. The DEIR/EIS seems to attribute downstream reductions to climate change and increased north Delta diversions that are not project-related. The DEIR/EIS needs to explain whether and how the BDCP will affect flows in the American River. If no change is expected, the evidence and analysis supporting that determination must be provided.	Changes in monthly flows in the Sacramento River at Freeport are presented in Figures C-19-1 through C-19-6 and Tables 19-1 through 19-25 in Appendix 5A, Section C, of the EIR/EIS.
1785	100	Accuracy of Flood Mapping Information: The County administers FEMA within the BDCP project area. Some of the information used in the analysis of Delta Flood Risks (DEIR/EIS, Section 6.1.5, pp. 6-18 - 6-23) is dated. For example, Figure 6-7 depicts the floodplain as being mapped in 2009. It would be more informative/appropriate if the DEIR/EIS cited the Sacramento County DFIRM map, dated August 16, 2012. Further, this reference would necessitate revisions to the text found in Section 6.1.5.1 (FEMA Analyses). For example, Reclamation District (RD) 744, 755, 551 are now in the Special Flood Hazard Area Zone AE, and RD 554 is currently mapped as protected by provisionally accredited levees. Section 6.1.5.2 (FEMA Flood Areas): The DEIR/EIS should be revised to clarify that Courtland, Locke, and Walnut Grove are subject to the Flood Insurance Rate Map, dated August 16, 2012. These Delta legacy communities, as mapped, are not protected from the one percent annual chance flood due to levee de-accreditation. Also, Walnut Grove is not in the northern part of Tyler Island (RD 563) as described on page 6-22. It is more accurate to describe East Walnut Grove and RD 554 as protected by provisionally accredited levees, and West Walnut Grove on Grand Island RD 3, where levees were de-accredited resulting in Zone AE on the effective FIRM. Further, this section omits any mention of Hood and Ryde.	The Existing Conditions description was developed in accordance with conditions in 2009 when the Notice of Preparation and Notice of Intent were prepared.
1785	101	Chapter 7: Groundwater Water Supply Impacts to Delta Communities: The BDCP is likely to substantially deplete municipal and agricultural water supplies within the Delta construction area, from construction area dewatering as well as construction-induced liquefaction and settlement (such as from pile driving, tunnel boring and operation of other heavy equipment), which could adversely affect groundwater levels, and operation and integrity of wells. The DEIR/EIS glosses over these serious effects by characterizing them as "temporary," even though construction will take place for 10 years or more. (See discussion of Impact GW-1, DEIR/EIS, pp. 7-46 - 7-48.)	As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Draft EIR/EIS and the BDCP/California Water Fix RDEIR/SDEIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route. DWR would consult with local agencies. As described under Impact GW-1 in Chapter 7, Groundwater, in the Draft EIR/EIS, the impacts due to dewatering during construction of the conveyance facilities may not be able to be fully mitigated to a level of less than significant or become not adverse because replacement water supplies may not meet the preexisting demands or planned land use demands of the affected party, including agricultural production wells. The effects of dewatering could be reduced through installation of seepage cutoff walls during dewatering. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the Draft EIR/EIS). The impacts to agricultural production due to temporary construction activities that could result in disruption of irrigation or drainage infrastructure, and could

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		The DEIR/EIS makes no effort to estimate the quantity of water that the BDCP would make unavailable for existing uses. As mitigation, the DEIR/EIS proposes to offset domestic losses attributable to dewatering (but not losses or adverse effects attributable to diminished groundwater quality, or from losses caused by construction-induced liquefaction and settlement). Measures proposed to achieve this objective include installing sheet piles to depths below groundwater elevations, deepening or modifying wells used for domestic purposes to maintain water supplies at preconstruction levels, or securing potable water supplies from offsite sources. (Mitigation Measure GW-1, DEIR/EIS, pp. 7-47 - 7-48.). No analysis or evidence is provided to quantify the extent of the potential impact (including the amount of water supply that could be lost due to construction) or to demonstrate that such mitigation measures are capable of avoiding significant effects to groundwater levels, wells, and water supply. Further, it is not clear whether the DEIR/EIS evaluated the secondary impacts associated with well deepening, including increased energy use and air quality impacts from the additional pumping that will be required to obtain water from deeper wells. Moreover, these mitigation measures are inadequate because they require Delta water users to agree to physical alterations of their property (which are not likely to be given to facilitate construction of the intake and tunnel facilities) and/or to accept a substitute water supply, of unknown quantity and quality. This type of mitigation has been held to be illegal under CEQA. (Gray v. County of Madera (2008) 167 Cal.App.4th 1099.) Even if provision of a substitute supply were legal, particularly with respect to agricultural water supply losses, the practical feasibility of securing "a temporary alternative water supply" is dubious at best. How much water will be needed to compensate for BDCP-related losses, and where and how would the replacement water be obtained? What evidence is available that an alternative water supply of adequate quantity and quality to sustain agricultural uses is available, and what would be the impacts and costs of securing and delivering this alternate supply? Mitigation measures that are so undefined that it is impossible to assess their effectiveness are legally inadequate. (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 727 [mitigation calling for purchases of replacement groundwater supplies without identifying whether water was in fact available was inadequate to mitigate project effects on groundwater supplies]; Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260 [plan for active habitat management failed to describe anticipated management actions or include standards or guidelines for actions that might be taken].)	jeopardize agricultural production. Implementation of Mitigation Measures AG-1, GW-1, GW-5, and WQ-11 will reduce the severity of these impacts by implementing activities such as siting project footprints to encourage continued agricultural production; monitoring changes in groundwater levels during construction; monitoring seepage effects; relocating or replacing agricultural infrastructure in support of continued agricultural activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other stakeholders in developing optional agricultural stewardship approaches; and/or preserving agricultural land through off-site easements or other agricultural land conservation interests. However, these impacts remain significant and unavoidable and adverse to agricultural resources. Please also see Master Response 18 regarding agricultural impact mitigation. For additional information regarding significant and unavoidable impacts, please see Master Response 10.
1785	102	Compensating farmers for production losses attributable to a reduction in available groundwater supplies, as proposed by the mitigation measure, is inadequate because it does not "maintain water supplies" and thus fails to meet the performance criteria set forth in the mitigation measure. Moreover, the affected area includes many permanent crops, including fruit trees. These crops are an essential part of the Delta economy, as well as a defining aspect of its visual and historic character. If agricultural water supply and groundwater levels are significantly affected for up to 10 years of construction, plus an	The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the Draft BDCP EIR/EIS). The impacts to agricultural production due to temporary construction activities that could result in disruption of irrigation or drainage infrastructure, and could jeopardize agricultural production. Implementation of Mitigation Measures AG-1, GW-1, GW-5, and WQ-11 will reduce the severity of these impacts by implementing activities such as siting project footprints to encourage continued agricultural production; monitoring changes in groundwater levels during construction; monitoring seepage effects; relocating or replacing agricultural infrastructure in support of continued

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		unknown period of time following construction for supplies to recharge and recover, it is reasonable to assume that these permanent crops will be lost, which will have secondary impacts to agriculture, wildlife, and the aesthetics, economy and essential character of the Delta communities. The DEIR/EIS must be revised to include actual analysis of the extent of impacts to local water supply, including evidence and analysis relating to the availability, adequacy and means of providing any "temporary alternative water supply" to both municipal and agricultural uses, as well as the attendant secondary impacts that will result if water supply is significantly depleted for an extended period of time.	agricultural activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other stakeholders in developing optional agricultural stewardship approaches; and/or preserving agricultural land through off-site easements or other agricultural land conservation interests. However, these impacts remain significant and unavoidable and adverse to agricultural resources. Please also see Master Response 18 regarding agricultural impact mitigation. For additional information regarding significant and unavoidable impacts, please see Master Response 10.
1785	103	Effects on Sacramento Valley CVP Water Users: The DEIR/EIS discusses the potential for the BDPC to result in "minor decreases in water supply availability to CVP water users in the Sacramento Valley ..." (See Analysis of Groundwater Conditions in Areas that Use SWP/CVP Water Supplies, DEIR/EIS, p. 7-32, lines 30-40.) The estimated decrease in supply is 50,000 AFY. The section concludes, "[a] 2% increase in groundwater use in the Sacramento Valley to make up for any shortfalls in surface water supply is not anticipated to substantially impact the groundwater resources as long as the additional pumping is not concentrated in a particular area of the valley." This claim requires additional analysis. Who exactly are the Sacramento Valley CVP contractors that are being referenced? What is their distribution through the valley? What is the respective decrease in surface water for each? Overall, the analysis of these impacts appears to focus on San Joaquin and Tulare Lake basins as well as on agricultural users, as opposed to municipal users. As noted above, a primary concern for the County is how growth that is already planned (whether in the Delta or north of the Delta) will be impacted by the BDCP. The DEIR/EIS indicates the BDCP will have a negative impact on certain unidentified groundwater supplies. The ability to accommodate projected and planned growth within the area of SCWA Zone 40 relies on the availability of specific groundwater and surface water supplies. SCWA has a defined plan for providing water to its Zone 40 service area. This plan is a conjunctive use plan that includes both surface water and groundwater. Other purveyors who use the same groundwater basin also employ a conjunctive use program. These plans have a defined amount of the resource that is or will be used to meet current and future customer needs. In considering the 2% proposal one must assume that the increase is not applied uniformly over the entire Sacramento Valley. No information is provided as to where additional pumping will take place, whether it will it interfere with existing conjunctive use programs, or whether it will exacerbate existing groundwater overdraft or cause groundwater overdraft in locations where that condition does not presently exist. The DEIR/EIS states that additional pumping will not be concentrated in a particular area of the valley, but doesn't describe the criteria that will be used to make that decision or how that decision may impact current and future users of the groundwater basin. How can	The "Sacramento Valley CVP contractors" referred to in this comment are the CVP agricultural contractors in the Shasta-Trinity Division (near Redding) and Sacramento River Division (including users of the Tehama-Colusa Canal). The increased groundwater use would result if the CVP contract water volumes were reduced. As indicated Tables C-13-14 through C-13-25, the CVP contract amounts are similar under the No Action Alternative and Alternatives 1 through 5. However, under Alternatives 6 through 9, CVP contract amounts would be slightly less than under the No Action Alternative; and it is anticipated that the groundwater use would slightly increase over the No Action Alternative due to implementation of the proposed project. The chapter states that, "A 2% increase in groundwater use in the Sacramento Valley to make up for any shortfalls in surface water supply is not anticipated to substantially affect the groundwater resources as long as the additional pumping is not concentrated in a particular area of the valley. Therefore, the Sacramento Valley groundwater basin is not included in the groundwater analysis presented in this chapter."

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		individual purveyors and water users who participate in an existing or future groundwater management program be assured that they will not be negatively impacted by a proposal to increase groundwater pumping so that additional surface water can be redirected to the Delta or the south state? The DEIR/EIS does not provide enough information for the County to assess whether BDCP implementation will jeopardize planned Zone 40 water supplies.	
1785	104	Page 7-28, Table 7-4 Delta Region Groundwater Management Plans: The reference to Sacramento County Water Agency GWMP should be deleted as that document has been superseded by the groundwater management plan for the Sacramento Central Groundwater Authority. The reference to Sacramento County Water Agency Central Sacramento County GWMP should be edited to read: Entity/Entities: Sacramento Central Groundwater Authority Document Title: Central Sacramento County GWMP Adoption Date: 11/8/2006	The reference has been modified in the Final EIR/EIS.
1785	105	Chapter 8: Water Quality Insufficient Evaluation of Water Quality Impacts Upstream and Immediately Downstream of Intakes: Sacramento County is a co-permittee along with the incorporated municipalities within the County in the municipal separate storm sewer system (MS4) National Pollutant Discharge Elimination System permit (NPDES No. CAS082597, Order No. RS-2008-0142). The co-permittees comprise the Sacramento Stormwater Quality Partnership (Partnership). The County and the Partnership, have strong concerns about proposed CM-19 (urban stormwater treatment) and its effect on our municipal stormwater program. The Partnership has identified a number of significant problems with CM-19 and the DEIR/EIS's evaluation of stormwater and water quality-related issues, including, but not limited to, a lack of justification for CM-19 ; insufficient commitments to adaptive management and monitoring programs to protect upstream and Delta water quality; insufficient evaluation of water quality impacts upstream and immediately downstream of the proposed intakes; inconsistency with the Antidegradation Policy and water quality regulations; and critical technical errors and omissions. The County and Partnership's specific concerns with the BDCP and DEIR/EIS are detailed in their comments on the BDCP and DEIR/EIS, which the County incorporates by reference into these comments.	This comment raises a number of comment topics, which are addressed separately below. Regarding justification for CM19 as part of the BDC, please see Master Response 5 regarding the role of CM19 in BDCP. Note that under Alternative 4A, CM19 would not be implemented. Considerable scientific uncertainty exists regarding the Delta ecosystem, including the effects of CVP and SWP operations and the related operational criteria. To address this uncertainty, DWR, Reclamation, DFW, USFWS, NMFS, and the public water agencies will establish a robust program of collaborative science, monitoring, and adaptive management. It is assumed the Collaborative Science and Adaptive Management Program (AMMP) developed for Alternative 4A would not, by itself, create nor contribute to any new significant environmental effects; instead, the AMMP would influence the operation and management of facilities and protected or restored habitat associated with Alternative 4A. Collaborative science and adaptive management will support the proposed action by helping to address scientific uncertainty where it exists, and as it relates to the benefits and impacts of the construction and operations of the new water conveyance facility and existing CVP and SWP facilities. The collaborative science effort is expected to inform operational decisions within the ranges established by the biological opinion and 2081b permit for the proposed action. However, if new science suggests that operational changes may be appropriate that fall outside of the operational ranges evaluated in the biological opinion and authorized by the 2081b permit, the appropriate agencies will determine, within their respective authorities, whether those changes should be implemented. An analysis of the biological effects of any such changes will be conducted to determine if those effects fall within the range of effects

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			analyzed and authorized under the biological opinion and 2081b permit. If NMFS, USFWS, or DFW determine that impacts to listed species are greater than those analyzed and authorized under the biological opinion and 2081b Bay Delta Conservation Plan/California WaterFix permit, consultation may need to be reinitiated and/or the permittees may need to seek a 2081b permit amendment. Likewise, if an analysis shows that impacts to water supply are greater than those analyzed in the EIR/EIS, it may be necessary to complete additional environmental review to comply with CEQA or NEPA. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A. Alternative 4A would have substantially less effect on Delta water quality such that significant impacts were only identified for electrical conductivity (EC) at Emmaton and Prisoners Point, and mercury associated with the limited tidal habitat restoration that would be implemented. The significant impacts to EC are to be mitigated through real-time operations that could not be completely represented in the modeling on which the EC assessment is based. Please see significance table in the Final EIR/EIS, Executive Summary and Final EIR/EIS, Chapter 8, Water Quality as well as Final EIR/EIS, Appendix 8I, Mercury. Regarding assessment of water quality impacts on the Sacramento River upstream of the Delta, please see Master Response 14. Regarding the State of California's antidegradation policy, antidegradation analyses are the responsibility the State Water Resources Control Board and Regional Water Quality Control Boards as they make findings and decisions regarding water rights, changes in water quality objectives, and issue NPDES permits. Antidegradation analyses consider degradation relative to water quality criteria as well as socioeconomic impacts associated with not allowing the identified degradation to occur. The State or Regional Water Board, as appropriate, makes findings regarding the proposed regulatory action (e.g., new water quality objective or NPDES permit) weighing the identified degradation and socioeconomic impacts, relative to the benefit to the people of the state. The water quality assessment in the Draft EIR/EIS does make impact determinations relative to water quality degradation thresholds provided in 8, Section 8.3.2.3 of the Final EIR/EIS.
1785	106	Effects of Sediment Entrainment at the North Delta Intakes and Sediment Removal Under CM-2 on Eutrophication in the Delta and San Francisco Bay: The DEIR/EIS fails to evaluate the project-specific and cumulative effects of sediment entrainment at the north Delta intakes as well as sediment removal under CM-2, which will result in excavation of a minimum of one million cubic yards (MCY) of sediment from channels and drains every other year plus removal of another 1 MCY within one mile of the Fremont Weir every five years, [Footnote 5: DEIR/EIS, p. 11-199, lines 2-9; BDCP, p. 67, lines 11-17.] on eutrophication in the Delta and San Francisco Bay. The proposed north Delta intakes will remove massive amounts of sediment from the Sacramento River annually through entrainment, and CM-2 will remove sediment upstream that will reduce overall sediment loads in the Delta. The removal of this sediment has the potential to have significant adverse effects on water quality by reducing turbidity downstream in the Delta and San Francisco Bay. Reduced turbidity has been invoked as a possible mechanism making	Both the public draft BDCP and the RDEIR/SDEIS (developed and circulated in 2015, which included 3 new Alternatives including the new preferred alternative, 4A) included analysis of effects of less sediment. Under Alternative 4A, to the maximum extent practicable, the first and preferred disposition of the sediment removed by the North Delta Diversion will be to reintroduce it to the water column in order to maintain Delta water quality (specifically, turbidity, as a component of Delta Smelt critical habitat). DWR will collaborate with USFWS and CDFW to develop and implement a sediment reintroduction plan that provides the desired beneficial habitat effects of maintained turbidity while addressing related permitting concerns (the proposed sediment reintroduction is expected to require permits from the Central Valley Regional Water Quality Control Board and USACE). USFWS and NMFS will have approval authority for this plan and for monitoring measures, to be specified in the plan, to assess its effectiveness.

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		San Francisco Bay more prone to eutrophication than in decades past. Specifically, the concern is that phytoplankton are increasingly less constrained by light and are able to convert more of the available nutrient supply into biomass. [Footnote 6: Cloem, J.E., Jassby, A.D. (2012). Drivers of change in estuarine-coastal ecosystems: Discoveries from four decades of study in San Francisco Bay. Rev. Geophys., 50, RG4001, doi:10.1029/2012RG000397; http://www.waterboards.ca.gov/sanfranciscobay/water_isues/programs/planningtmdls/amendments/estuarineNNE/Nutrient_Strategy%20November%202012.pdf, SFEI, San Francisco Bay Nutrient Management Strategy, November 2012, Page 1.] The same argument can be applied to the Delta, where it is believed that turbidity is a constraint on primary productivity. The BDCP proponents have been vocal in their concern about the potential adverse effect on their water supplies from increased eutrophication in the Delta.	
1785	107	Effects on Mercury Concentrations from Implementation of CMs 2-22: The DEIR/EIS acknowledges the potential for restoration activities to increase the generation of methylmercury within the Delta. (Impact WQ-14, DEIR/EIS, p. 8-446.) CM-12 (Methylmercury Management) is identified both in the text of this section and within the BDCP as the conservation measure that will address methylmercury by developing project-specific control measures to minimize the impact of restoration on methylization. However, the implementation language found in CM-12 indicates that this conservation measure only applies to tidal wetlands restoration (CM-4). Section 3.4.12.2.1 of the BDCP explains: 3.4.12.2.1 Project-Specific Mercury Management Plans: For each restoration project under CM4 Tidal Natural Communities Restoration, a project-specific methylmercury management plan will be developed and will incorporate all of the methylmercury management measures discussed below or will include an explanation of why a particular measure should not or cannot be incorporated. Each project-specific plan will include the following components. (BDCP, p. 3.4-259.) The DEIR/EIS should be expanded to include an analysis of methylmercury-related impacts and their link to all proposed habitat restoration-related conservation measures, not just CM-4. Moreover, if the DEIR/EIS is relying on CM-12 to mitigate methylmercury impacts, it should be revised to clearly apply to all CMs with the potential to result in methylmercury impacts, consistent with the DEIR/EIS's analysis that finds significant impacts from CMs 2-22, not just CM-4.	The quantitative analysis of mercury concentrations was limited to the wetlands restoration assumptions included in the CALSIM II and DSM2 models. Because the other conservation measures that addressed restoration were only considered in a programmatic manner and analyzed qualitatively, the mercury quantitative analysis did not calculate changes in methylmercury. Methylmercury generation was addressed under Impact WQ-14 for all restoration areas, as described in Final EIR/EIS, Chapter 8 Water Quality. As described in Section 3.5.2.3 of Chapter 3, Description of Alternatives, in the Draft BDCP EIR/EIS, Conservation Measure 12 would be applied to all restoration areas that could increase methylmercury generation. Please also see Master Response 14.
1785	108	Chapter 9: Geology and Seismicity The BDCP is likely to have significant adverse impacts to County residents, homes, and water supply wells from construction-related vibration and excavation. The accuracy and adequacy of data supporting the analysis of these impacts is essential. It appears that the	Impact GEO-4 describes the potential effect of excavations and Impact GEO-5 describes the effect of construction-related ground motions during construction of the water conveyance features. The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies are following the appropriate legal process and

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		DEIR/EIS lacks relevant data in several areas to support an adequate impact analysis. Data issues aside, the entire section is inadequate because the data that is available is not presented in a manner reasonably calculated to inform the public and decisionmakers of the BDCP's potentially significant effects.	are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached.
1785	109	Adequacy of Seismic Boring Data: With regard to data, the seismic boring data is insufficient to support a project-level analysis because at least one of the bores is not deep enough, nor close enough to the affected area, to accurately reflect actual conditions. Specifically, the analysis relies on data from five test bores, shown in Figure 9-4. The only bore (B4) near the intake structure of the project, which is near Hood, is located near Locke. Bore B4 is only 106 feet deep, compared to the 300-foot depth of the other four bores. Bore B4 does not even reach the proposed top of the conveyance tunnels. Additional bores near Hood to at least 300 feet would seem warranted to determine the impacts of the seismic-like impacts from project construction (pile driving and other severe construction techniques). Figure 9-6 shows general geology of the project area and levels of possible liquefaction hazard levels. This map omits the geology of the area near Hood/Courtland. This should be detailed (similar to Figure 9-3) since this area will experience substantial project-related geological disturbance and has existing development that could be significantly impacted.	DWR's Delta Habitat Conservation and Conveyance Program released a description of an expanded geotechnical investigation effort in October 2014, the draft Geotechnical Exploration Plan – Phase 2. That document presents a general geotechnical exploration plan with the rationale, investigation methods, and criteria for obtaining subsurface soil information and laboratory test data to support preliminary engineering and final design of the Modified Pipeline/Tunnel Option (MPTO) with north Delta pumping plants as well as the MPTO with Clifton Court pumping plant. The program involves approximately 600 boring and cone penetration test locations. In proposed tunnel alignments and at pump shafts and safe heaven areas, the explorations will include advancing boreholes to a depth of approximately 300 feet. Regarding Figure 9-6, the Partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) includes a revised Figure 9-6, which is based on more recent liquefaction hazard mapping and shows levee seismic vulnerability, as primarily affected by liquefaction hazard.
1785	110	Failure to Present Data and Analysis in a Manner Reasonably Calculated to Inform the Reader: The omission of data is hardly the most notable failing of the Geology and Seismicity chapter. With regard to the overall analysis, the discussion of seismic hazard risk is illustrative of the DEIR/EIS's deficiency as an informational document. On page 9-28 (line 4) the DEIR/EIS discusses seismic hazard maps and the limited area and number that are available. It further states the BDCP construction area is not mapped and, "the Seismic Hazards Mapping Act requirements will not affect the project unless and until the area is mapped." One question that arises from this statement is: with a project this large and the potential effects so high, should the requirements apply? The answer to that question would seem to depend on whether the project area is subject to significant earthquake risk. The DEIR/EIS discussion of the environmental setting would be the logical place the reader would expect to find that information. However, the discussion of existing geologic hazards is so technical and full of jargon it is incomprehensible to the average reader. A prime example of this problem is found in Section 9.1.1.4.2 Earthquake Ground Shaking, which reads, in part: "9.1.1.4.2 Earthquake Ground Shaking	As discussed in the 2013 Draft EIR/EIS Chapter 9, Geology and Seismicity, Impact GEO-5, pile driving and other heavy equipment operations would cause vibrations that could initiate liquefaction and associated ground movements in places where soil and groundwater conditions are present to allow such movements to occur. The movements could result in compaction, settlement, loss of bearing capacity, and lateral spreading of the levee material, thereby causing levee failure. Also described are the codes and standards that would be adhered to with respect to pile driving and the measures that would be implemented to minimize the potential for construction-induced liquefaction and other ground movements. Additionally, if the proposed project makes any modification to a levee that is part of the federal flood control system, the proposed project proponents must secure approval from USACE through the Section 408 permitting process. Please see Master Response 16 for more information regarding seismic impacts.

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		"The potential of earthquake ground shaking in the Delta was evaluated in the seismic study using the 18 Probabilistic Seismic Hazard Analysis (PSHA) method (California Department of Water Resources 19 2007a). This method permits the explicit treatment of uncertainties in source geometry and 20 parameters, as well as ground motion estimation. In a PSHA, the probabilities of exceeding various levels of ground motion at a site are calculated by considering seismic source locations and geometry, rates of various earthquake magnitudes, and ground motion attenuation from the energy source to the site. The uncertainties associated with source parameters and ground motion estimation are incorporated in the analysis using a logic tree approach that uses multiple parameter values. "The standard PSHA assumes a Poissonian process for earthquake occurrences or a time-independent earthquake recurrence model. In the seismic study, however, a time-dependent recurrence model was used to calculate the earthquake potential (California Department of Water Resources 2007a). The time-independent PSHA analysis was also performed for comparison purposes. "In a time-dependent model, the time of the last earthquake is used to estimate earthquake recurrence interval or frequency (a non-Poissonian process). Because many of the San Francisco Bay region seismic sources do not have sufficient information on the times of last earthquakes, only seven of the major faults were characterized using the time-dependent model: the San Andreas, Hayward Rodgers Creek, Calaveras, Concord Green Valley, San Gregorio, Greenville, and Mt. Diablo Thrust. Therefore, the overall model used in the seismic study is not a pure time-dependent model." (DEIR/EIS, pp. 9-17 - 9-18.) This one subsection goes on to present six more pages of highly technical information and data without any intelligible summary or conclusion about the relative earthquake risk in the project area, an issue of major concern to Sacramento County and its residents due to the significant risks to safety and property should the BDCP intake and transmission facilities be damaged by an earthquake. Here, as in many other areas, the DEIR/EIS's presentation of information essential to understanding the BDCP's impacts fails to comply with NEPA's readability requirement as well as CEQA's requirement that EIRs be written in plain language, with technical information translated in a manner that will actually inform the reader and decisionmakers. (CEQA Guidelines, [Section] 15140.)	
1785	111	Failure to Evaluate Project-Related Geologic Impacts to Local Water Supply: Discussions of construction-induced geologic impacts indicate the potential for significant impacts from dewatering, construction-induced liquefaction, and settlement (such as from pile driving, tunnel boring and operation of other heavy equipment). (See, e.g., discussions for Alternative 4 in impacts GEO-2, GEO-3, GEO-5.) These discussions are very general and fail to recognize the significant risk to wells and water supply intakes within the project area, as well as the risk of loss of water supply or diminished water quality. The area that the BDCP covers has a high level of reliance on groundwater, and the DEIR/EIS should	Mitigation Measure GW-1 provides for implementation of measures to offset domestic and agricultural water supply losses attributable to construction dewatering activities. Seepage cut-off walls, such as sheet pile walls and slurry cut-off walls would isolate the areas to be dewatered (shorten the radius of influence) and minimize the extent of potential subsidence. Additional geotechnical exploration and analyses will be performed as part of the next engineering phase.

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		explicitly evaluate possible water quality changes or reduced yield from aquifers, especially given the depth that the tunnels are being constructed. Moreover, discussion of operations-related geologic impacts, such as liquefaction damage (GEO-8), focuses on damage to the BDCP's infrastructure but does not address the potential impacts to the many agricultural wells in the area nor M&I water system damage. The DEIR/EIS should be revised to specifically address impacts to construction and operations-induced geologic impacts to local water supply and water quality. Concrete mitigation measures that will avoid adverse effects to local water supply must be included with the analysis, and the entire discussion must be recirculated for public review and comment.	
1785	112	Chapter 11: Fish and Aquatic Resources Effect of Loss of Sacramento River Sediment on Fish and Downstream Habitat: The proposed north Delta intakes will remove massive amounts of sediment from the Sacramento River annually through entrainment. The removal of this sediment has the potential to have significant adverse effects on fish species by reducing turbidity. Reduction in turbidity is associated with increased predation losses of small fish and increased concerns for eutrophication in San Francisco Bay. Species such as salmonids rely on turbidity for cover, and smelt require it for proper feeding behavior. Smelts' need for sediment is especially related to their ability to detect copepods for feeding. For reasons not entirely understood, copepod capture rates are higher in turbid water. They may also benefit from being less viable to their own predators. The DEIR/EIS fails to consider the effect of loss of Sacramento River sediment on these fish species. Nor did the DEIR/EIS consider the effect of reduced Sacramento River sediment loads on existing and proposed downstream habitat, including the value of the BDCP's own proposed habitat restoration projects. Specifically, the DEIR/EIS did not evaluate whether decreases in sediment supply (from reduced downstream transport of Sacramento River sediment from project entrainment) will interfere with creation of new intertidal habitat in the west Delta and whether habitat restoration in the Delta by the BDCP will utilize sediment that is required to maintain intertidal marshes further downstream in San Francisco Bay. The Science Panel specifically took the BDCP to task on this point, noting that the BDCP "ignores crucial data [regarding sediment supply] that should have been incorporated into trajectories concerning the restoration of wetland and associated aquatic habitat." (Delta Science Program Report, Ex. B at p. 58. [see ATT 2]) The Science Panel's report noted that the BDCP assumes a constant sedimentation concentration for the time period of the plan, yet it indicates that sediment concentration has been declining over the past 50 years and that the BDCP conservation measure will further reduce the sediment supply by an additional 8-9%." (Id. at p. 13.)	Both the public draft BDCP and the RDEIR/SDEIS (developed and circulated in 2015, which included 3 new Alternatives including the new preferred alternative, 4A. Alternative 4A) included analysis of effects of less sediment. Under the new preferred alternative (Alternative 4A), to the maximum extent practicable, the first and preferred disposition of the sediment removed by the North Delta Diversion will be to reintroduce it to the water column in order to maintain Delta water quality (specifically, turbidity, as a component of Delta Smelt critical habitat). DWR will collaborate with USFWS and CDFW to develop and implement a sediment reintroduction plan that provides the desired beneficial habitat effects of maintained turbidity while addressing related permitting concerns (the proposed sediment reintroduction is expected to require permits from the Central Valley Regional Water Quality Control Board and USACE). USFWS and NMFS will have approval authority for this plan and for monitoring measures, to be specified in the plan, to assess its effectiveness.

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		Moreover, in addition to the issue of direct entrainment of sediment by the intakes, the habitat suitability indices (HSIs) used to evaluate the value of restored habitat did not take future decreases in upstream sediment supply into account. (See Appendix 5.E., Section 5.E.4.4.1.1. Habitat Suitability Analysis.) As a result of this omission, HSIs for future periods are inflated for Delta and longfin smelt, which require turbid water for successful feeding behavior. The BDCP further states, "it was assumed that turbidity would remain constant between scenarios. However, there is reason to believe that turbidity may decrease in the future because of changes in sediment input and retention in the Delta (unrelated to the BDCP) (Schoellhamer 2011), which would decrease the HSI values derived in this analysis." (BDCP, p. 5E-15, line 8.) Despite acknowledging that declining sediment supply and the impact of CM-1 will mean a much lower sediment supply, these facts are not incorporated into the analysis and the DEIR/EIS does not address the issue at all. Rather, as noted by the Science Panel, "the loss of sediment supply creates great uncertainties in the rate and potential for restoration of these habitats, while only the most optimal circumstances are modeled or estimated." (Delta Science Program Report, Ex. B, at p. 58.) The failure to account for project-related and cumulative decreases in turbidity in the HSIs used to evaluate the value of restored habitat undermines the BDCP's and DEIR/EIS's assumptions about the beneficial effects of proposed habitat restoration activities.	
1785	113	Use of Fish Models for the BDCP Analyses: The BDCP used a variety of models to evaluate the project's potential effects on salmon. As described in detail in the report by anadramous fisheries expert Dave Vogel (prepared for the Sacramento Valley Water Users/North State Water Alliance) (Comments on the Public Draft Bay-Delta Conservation Plan (BDCP) and Draft BDCP Environmental Impact Report/Environmental Impact Statement, Dave Vogel, June 6, 2014 (Vogel Report)), the models used for the BDCP were particularly constrained because of a lack of empirical data, incorrect data, and very low reliability and confidence in the models' outputs. Some of the fish models related to salmon survival and behavior are based on faulty data rendering model run outputs invalid and incapable of comparing BDCP alternatives. In many instances, inputs to the models were based on inflated and biased fish survival estimates that would not provide valid comparisons of the BDCP scenarios. Although the BDCP claims that "[t]he methods used reflect the best available tools and data regarding fish abundance, movement, and behavior" (BDCP, p. 5.B-i.), the Vogel Report explains why that assertion is not correct. As noted by the Science Panel and the Vogel Report, when the models suggested unfavorable results (i.e., adverse impacts on salmonids), they were downplayed or not used. Conversely, when the models suggested favorable results (i.e., beneficial impacts on salmonids), they were overplayed and used. Because there was such heavy reliance on	The methods used in the draft BDCP and EIR/EIS were developed in association with resource agencies using best available data and, as the commenter notes, limitations were discussed in the draft BDCP technical appendices and effects analysis. An RDEIR/SDEIS was developed and circulated in 2015, which included 3 new Alternatives including the new preferred alternative, 4A. The evaluation of the effects of Alternative 4A is included in the RDEIR/SDEIS and acknowledges the uncertainty in the potential effects based on the analyses that were conducted, noting that the magnitude of the various interacting factors on salmonid survival will be investigated as part of the adaptive management and monitoring program. As described in the analysis of Alternative 4A, potential adverse effects would be minimized through bypass flow criteria and real-time operations, and mitigated through various environmental commitments including habitat restoration, nonphysical barrier at Georgiana Slough, and localized predatory fish reduction.

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		models for the BDCP analyses and impact determinations, it is important to understand the very serious limitations of those models. The documentation for various models describes some of the limitations, but those discussions are fragmented and buried in the voluminous appendices and are commonly not carried forward into the main body of the BDCP document. Nor are the limitations clearly disclosed in the DEIR/EIS. Problems with the models themselves, the DEIR/EIS's failure to plainly disclose the limitations in the models, and the selective use of data and results favorable to the BDCP, deprive the public of meaningful information necessary to informed decisionmaking and cast serious doubt on the integrity and validity of the DEIR/EIS's determinations as to the BDPC's impacts on fish. Also see Airport Comments, Ex. E hereto. [see ATT 5]	
1785	114	Chapter 12: Terrestrial Biological Resources See Airport Comments, Ex. E hereto. [see ATT 5]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1785	115	Chapter 13: Land Use Impact on Delta Communities: The DEIR/EIS's conclusion that the action proposed under CM-1 (conveyance) will have a significant and unavoidable impact associated with the "creation of physical structures adjacent to and through a portion of an existing community" (LU-3) does not convey the full scope of the BDCP's impact on Delta communities. The scale of both the proposed water conveyance (operations and diversion infrastructure) and the 21 habitat restoration measures are massive, making the resulting short- and long-term impacts difficult to comprehend/grasp. When evaluated in its entirety, in concert with the numerous identified construction-related impacts of the conveyance facility, occurring over a 10-12 year period, and restoration actions, occurring over a 50-year period, it is unfathomable to conclude that the proposed habitat conservation plan will not just "create physical structures" in and around existing communities but will permanently and adversely alter the very much valued and generation- old agricultural land use pattern for which the Delta is known.	The EIR/EIS analyzes all alternatives, including Alternative 4A. Please also refer to Final EIR/EIS Chapter 14, Agricultural Resources, regarding impacts to agriculture. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e,g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.
1785	116	Implementation of the BDCP will result in a lengthy list of significant and unavoidable impacts (at least 48 of them). Sacramento County is particularly hard hit. Specifically, the proposed water export facility construction and operations will cause long- term and irreversible land use compatibility impacts, along with significant disruption (and likely permanent destruction) of the existing rural and agricultural land use pattern, along with future land uses contemplated under Sacramento County's 2030 General Plan. According to the DEIR/EIS, permanent surface features associated with the water conveyance facility that would fall within Sacramento County include three water intakes (with associated pumping plants and other features), an intermediate forebay, a	Since the time of the Draft EIR/EIS, the project has been refined such that there are fewer significant and unavoidable impacts as a result of the proposed project. Additionally, the footprint of Alternative 4A has been refined such that there are fewer impacts generally. Alternative 4A is estimated to conflict with 17 residential structure and 5 recreational structures. The proposed project would be incompatible with existing land uses on 1,731 acres—but only 975 acres of that would be a permanent impact. Between the Draft EIR/EIS and the Final EIR/EIS, the project proponents have attempted to respond to stakeholder concerns and reduce impacts wherever possible. Policy DP P2 requires that parties responsible for proposed actions avoid or reduce incompatibilities with existing or planned uses when feasible. In some cases, commitments and mitigation measures identified in this document (see, for example, Final EIR/EIS

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		borrow/spoil area, shaft locations, tunnel muck storage areas, and transmission lines. (DEIR/EIS, p. 13-109.) These industrial uses would be sited on land designated as Agricultural Cropland, Agricultural-Residential, Low Density Residential, Medium Density Residential, Natural Preserve, and Recreation. (Id.) Alternative 4 would require the removal of at least 81 permanent structures within Sacramento County, including 19 homes and 8 recreational facilities (DEIR/EIS, Table 13-12, p. 13-112.) and be incompatible with existing land uses on covering at least 2,112 acres. (DEIR/EIS, Table 13-11, p. 13-108.)	Chapter 14, Agricultural Resources, Mitigation Measure AG-1: Develop an ALSP to preserve agricultural productivity and mitigate for loss of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones) will help meet this requirement. Please also see Master Response 18 with regards to agricultural impact mitigation.
1785	117	Incompatibility with Delta Plan Policy DP-2: Delta Plan Policy DP-2 requires that the BDCP "Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats." The DEIR/EIS illogically concludes that "avoidance of all incompatibilities is likely to be considered infeasible; thus, activities associated with CM-1 would be compatible with Policy DP P2." (DEIR/EIS, p. 13-107, line 41.) The Sacramento County community of Hood would be hardest hit. The DEIR/EIS acknowledges that this small historic community would experience substantial and permanent adverse changes to the community and character as a result of the significant construction impacts and the addition of permanent project structures that would irretrievably alter community character. The impacts to Hood are plainly incompatible with Delta Plan Policy DP-2, and it is disingenuous for the DEIR/EIS to conclude otherwise. There is no evidence that an alternative that does not include facility construction in Hood or other Sacramento County Delta communities is infeasible. In fact, the cost of repairing levees (an element of Alternative 9) has been estimated to be only $4 billion, compared to the $25 billion or greater cost to construct Alternative 4. (Economic Sustainability Plan for the Sacramento-San Joaquin River Delta, Delta Protection Commission, January 19, 2012, Executive Summary at p. 11, attached as Exhibit G. [see ATT 7]) [Footnote 7: The entire Economic Sustainability Plan can be found at http://www.delta.ca.gov/res/docs/ESP/ESP_P2_FINAL.pdf.] Also see Airport Comments, Ex. E hereto. [see ATT 5]	While as many mitigation measures as feasible have been developed, the preferred alternative does still result in significant and unavoidable impacts. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Therefore, less land would be affected from the project due to the removal of Conservation Measures 2-21. Additionally, DWR is revising the Socioeconomic Impact Analysis for the project based on changes included in the RDEIR/SDEIS. Please also refer to Master Response 11 regarding consistency with local plans. Please also see Master Response 31 for a discussion of the proposed project and Delta Plan consistency.
1785	118	Chapter 14: Agricultural Resources Lost Agricultural Production: Temporary and short-term construction of facilities would convert approximately 1,315 acres of Important Farmland and 837 acres of land subject to Williamson Act contracts or in 38 Farmland Security Zones to other uses. Physical structures would also permanently convert approximately 4,975 acres of Important Farmland, including 4,281 acres of Prime Farmland, 158 acres of Farmland of Statewide Importance, 339 acres of Unique Farmland, and 197 acres of Farmland of Local Importance and 3,080 acres of land subject to Williamson Act contracts or in Farmland Security Zones to other uses. (DEIR/EIS, pp. 14-109, 14-111.)	Please refer to the index of commenters to find other letters of interest submitted during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods and their responses, and specifically to the response to comment 1655-106.

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		According to the DEIR/EIS, construction of the water diversion and conveyance facility (CM-1) will result in significant impacts to agriculture in the Delta for a minimum of 10 years. However, the DEIR/EIS terms this decade-long period as "temporary." Subjecting growers, who make their living from the affected agriculture, to a decade of significant and unavoidable impacts will bring the primary economic driver in the Delta to a grinding halt. The proposed mitigation measures included in the DEIR/EIS fail to adequately address the issue of lost agricultural production on prime farmland and how/if growers will be fairly compensated for lost revenues wh ile the land is out of production. In addition, the DEIR/EIS fails to analyze and disclose whether agricultural operations in the Delta will remain viable once the activities contemplated by the BDCP are complete. The BDCP will result in the permanent removal of a significant amount of prime farmland from production, construction activities will "temporarily" remove a significant additional amount of prime farmland from production, and direct and indirect impacts from construction-related activities will adversely affect even more prime farmland. Drainage patterns will likely change, water quality will likely change, and growers could be faced with buyers finding alternate sources of supply with land out of production for extended periods of time. In addition, the BDCP's proposed restoration of some Delta islands could put other islands at risk of flooding, further threatening local agriculture. With a significant amount of farmland removed from production or production otherwise adversely affected, the DEIR/EIS must analyze and disclose whether the prolonged adverse effects on agriculture in the Delta will result in any permanent loss of agriculture in the region.	
1785	119	Air Quality Impacts to Crops: The DEIR/EIS also fails to address the potential adverse effects to crops from project related air emissions. Fugitive dust can substantially reduce crop yield, and significant dust-generating activities are proposed to occur in and adjacent to agricultural areas. Impact AG-2 - Other Effects on Agriculture as a Result of Constructing and Operating the Proposed Water Conveyance Facility, should be revised to include an analysis of effects on agriculture as a result of BDCP-related air emissions, including but not limited to particulate matter.	Please refer to Master Response 18 Agricultural Impacts and the Final EIR/EIS Chapter 22 related to Air Quality.
1785	120	Salinity Impacts to Crops: Impact AG-2 discusses effects on agriculture as a result of change in salinity (as Electrical Conductivity [EC]), but there is no discussion of EC increases other than at Emmaton and the San Joaquin River. Did the DEIR/EIS evaluate EC increases in the Sacramento County Delta community areas, and is there an adverse effect to agricultural intakes near the BDCP intakes? (See DEIR/EIS, p. 14-122.) The discussion of impacts also appears to be internally inconsistent. The discussion at page 14-122 first describes the increase in frequency with which EC objectives will be exceeded (lines 1-35), but then says that following implementation of Scenarios H1-H4, there would	Please refer to the index of commenters to find other letters of interest submitted during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods and their responses, and specifically to the response to comment 1655- 110.

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		be a decrease in the number of days in which the EC objective is exceeded. This apparent inconsistency should be explained. Note too that the analysis is based on a comparison with the No Project Alternative, which relies on future baseline water quality conditions. Impacts to EC levels, and potential adverse crop effects, will occur immediately upon operation of the new intake structures, and the project has the potential to result in significant adverse impacts to agricultural water salinity levels in the short and near term. In order to understand potential adverse impacts to agricultural water supplies, an analysis must be provided that compares BDCP-related water quality changes to the existing conditions in the Delta and Sacramento River, considering current hydrology. Basing an analysis solely on a future baseline that includes changes due to climate change and upstream diversions that will not occur in full for decades results in a failure to evaluate potentially significant adverse changes that will occur in the intervening decades.	
1785	121	Agricultural Land Mitigation: Mitigation Measure AG-1 calls for the purchase of agricultural conservation property interests as mitigation for the BDCP's significant impacts to agricultural lands. What evidence is there that sufficient agricultural land of comparable quality to the land being destroyed in Sacramento County is or will be available for mitigation purposes, within the affected project area? What are the estimated costs of this mitigation land, and how will acquisition of the interests be funded? Will purchase of the property interests be required to occur prior to destruction of existing agricultural land and operations by construction of the BDCP facilities? If land that is acquired for agricultural mitigation is allowed to be "double counted" as satisfying biological mitigation objectives, how will the lead agencies ensure that the total mitigation acreage is equal to the total land lost by the BDCP? Depending on the lands selected, allowing mitigation land to be counted as mitigating multiple impacts could result in a net loss of total resources if the BDCP results in a loss of land with biological resource value (e.g., Swainson's hawk foraging land) that is not also Important Farmland, and mitigation credit for the Swainson's hawk habitat loss is allowed to occur on land that is being protected to satisfy farmland mitigation requirements for loss of other farmland that did not qualify as Swainson's hawk foraging habitat.	Please see Master Response 22 regarding the adequacy of mitigation measures. Also please refer to response 1785-117.
1785	122	Chapter 15: Recreation A key question of importance to Sacramento County is the BDCP's effects on river flows and river level s, as changes in river levels have the potential to have a significant impact on river-dependent recreational uses, including marinas and riverside parks. The Recreation section contains no analysis of BDCP effects on river levels and the resulting effect on river-dependent recreational uses. The reader has to comb through the section to find any	As stated in Final EIR/EIS Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Operations of Alternative 4 and the new preferred alternative, 4A, are not expected to result in a substantial decrease or increase in Delta surface water levels. Please refer to Appendix 5A, Section C, CALSIM II and DSM2 Modeling Results, EIR/EIS, for more information. Section C.29 reports changes in the monthly

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		discussion of this issue. Buried between a summary of noise impacts and a list of reservoirs that are not being evaluated is the following statement: "CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are not discussed further." (DEIR/EIS, p. 15-64, lines 1-2.) This statement is not supported by any analysis or evidence demonstrating that flow effects on river levels will not adversely affect recreational uses. Other evidence in the record shows that the BDCP will affect flows in the Sacramento River and possibly American River as well. (See Figures 6-10 and 6-11.) Changes in flows, and river levels, may have a significant adverse effect on recreational uses along both these rivers, including rivers and parks. Impacts to marinas and recreation depend on how the diversion pumps are operated. Without an operating plan, the County is unable to identify the marinas or other recreation amenities that may be adversely affected by the BDCP. The lack of detailed information about BDCP operations, and information about changes in flows and water levels in the vicinity of specific recreational areas that may be adversely affected, makes it impossible for the County to know what the BDCP's impacts on this resource will be.	averaged daily minimum elevation of the Sacramento River at Freeport (see tables beginning on page 5A-C1106). Results for each alternative are presented by month, probability of exceedance, and by water year type. Results are also presented in comparison to Existing Conditions and the No Action Alternative. The modeling results for the future No Action Alternative indicate that water levels may continue to change as climate change occurs within the Delta. For the full modeling simulation period, the Alternative 4 would result in one month during which average daily minimum water elevation would be lower when compared to Existing Conditions. Depending on the operational scenario selected, results indicate that daily minimum water surface elevations would be 0.3 feet or 0.4 feet lower on average during the month of March. However, during other months, the average daily minimum water surface elevation would increase when compared with Existing Conditions. For example, average daily minimum water elevations in September would increase by 0.9 to 1.3 feet under the proposed project, depending on which operational scenario was selected.
1785	123	Methods for Analysis: The determination of effects (DEIR/EIS, Section, 15.3.2, p. 15-62, line 21) attempts to identify a "substantial impact" by using 82 years of simulations (Section C of the modeling results). The DEIR/EIS establishes a significance threshold of a 10 percent or greater reduction in the frequency of recreation facility availability, based on reservoir levels. The remainder of the DEIR/EIS analysis is based on a 50-year operation period. Using 82 years of simulations to establish a 10 percent substantial impact appears to understate the impacts that would occur in a 50-year operating permit. Using 82 years of simulations minimizes the peak and low flow impacts by spreading them out over a period that is more than 50 percent longer than the BDCP life. Because the operating permit is only 50 years, impacts should be measured against a 50-year benchmark. If the appropriate baseline were used, recreation impacts likely would be substantial. Moreover, to the extent the analysis focuses on reservoir levels, it fails to consider flow-related recreational impacts, including impacts to marinas and recreational areas along the Sacramento and American Rivers.	As stated in Final EIR/EIS Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures. The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies rather than pursuing a 50-year operating permit.
1785	124	In assessing overall recreation impacts, the DEIR/EIS emphasizes the comparison of project effects with the No Action Alternative as opposed to the existing conditions. (See Impact REC-6 - Cause a Change in Reservoir or Lake Elevations Resulting in Substantial Reductions in Water-Based Recreation Opportunities and Experiences at North- and South-of-Delta Reservoirs and discussion at p. 16-87.) The DEIR/EIS assumes sea level rise at a specific rate over 50 years and builds sea level rise into the No Action Alternative. Using the future baseline conditions of the No Action Alternative as the yardstick for measuring project impacts minimizes the BDCP's actual recreation impacts on reservoirs and rivers. Impacts to the river will occur immediately when BDCP diversions commence, whereas the modeled No	Please see Section 15.3.1 “Methods of Analysis” regarding baselines used in the Recreation chapter. Please also see Final EIR/EIS Chapter 4, Section 4.2.1.1 “CEQA and NEPA Baselines” regarding explanations of each baseline used in the document. Please see more Master Response 1 for more information regarding baselines.

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		Action baseline conditions will not occur for decades into the future. By comparing impacts against the No Action Alternative, instead of existing conditions, the DEIR/EIS fails to evaluate and disclose significant impacts to recreation uses that are likely to occur in the years immediately following commencement of operations and into the future unless and until the predicted future climatic influences actually occur. For example in the DEIR/EIS's 82-year simulation period, the loss of recreation access under existing conditions is 22 years out of 82; under the No Action Alternative it is 50 years out of 82; and under Alternative 4 it is 41 years out of 82. The DEIR/EIS thus concludes Alternative 4 would be an improvement as compared to the No Action Alternative. (See DEIR/EIS, pp. 15-87 - 15-88). By failing to evaluate the BDCP's impacts against existing conditions, the DEIR/EIS fails to disclose that the BDCP will substantially decrease access to recreation (by a factor of almost 2). Using the threshold of significance set forth for impacts to reservoirs (10 percent or greater reduction in frequency of recreation facility availability), it would appear that the BDCP would have a significant impact when compared to existing conditions, because it reduces frequency of availability 50 percent of the time, compared to just 26 percent of the time under existing conditions, a 24 percent reduction in availability.	
1785	125	Construction Impacts to Cosumnes River Preserve: Although it concludes that impacts to recreation from construction will be significant and unavoidable, the DEIR/EIS (Impact REC-2 - Result in Long-Term Reduction of Recreation Opportunities and Experiences as a Result of Constructing the Proposed Water Conveyance Facilities, DEIR/EIS, p. 15-70.) improperly minimizes the severity and extent of significant and unavoidable impacts to the Cosumnes River Preserve recreation area and recreation experience that will occur for five years or more as a result of BDCP construction by discussing purported beneficial effects of proposed conservation measures that are uncertain to occur because they are unfunded and have not been subject to project-specific environmental review. Rather than focusing on impacts that will occur during construction, the extensive discussion of purported long-term benefits and attempt to rely on them to minimize and justify construction impacts that will occur for over eight years is improper and biased. This sort of balancing might be appropriate in a Statement of Overriding Considerations; it has no place within the body of the EIR. It is disingenuous to imply, as the DEIR/EIS does, that construction of CM-1 will result in anything other than significant and unavoidable impacts to the Cosumnes River Preserve.	Impacts that are likely to occur during construction for each location, including Cosumnes River Preserve, are discussed in Impact REC-2.
1785	126	Impacts to American River Parkway Upstream of Discovery Park: The DEIR/EIS refers to goals and policies of the American River Parkway Plan, including policies specific to the Discovery Park Land Use area. (DEIR/EIS, p. 15-47.) The DEIR/EIS recognizes impacts to Discovery Park but fails to look at the 23 miles of river upstream from Discovery Park on the American River and how BDCP-related flows will impact recreation on the river. A change in flow standards will impact access to recreation on the river, parking,	As stated in Final EIR/EIS Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter.

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		and trails and may cause scouring of river banks, trails, and access areas near the American River. The DEIR/EIS should be revised to evaluate the BDCP's effect on American River flows upstream of Discovery Park and attendant recreation impacts. The revised analysis should address the additional American River Parkway Plan land use policies for the following potentially impacted land use areas: Woodlake Area, Cal Expo Area, Paradise Beach Area, Campus Commons Area, Howe Avenue Area, Watt Avenue Area, Sara Park Area, Arden Bar Area, River Bend Park Area, Sarah Court Access, Ancil Hoffman County Park, Rossmoor Bar Area, San Juan Bluffs, Sacramento Bar Area, Sunrise Recreation Area, Sunrise Bluffs, and Sailor Bar Area.	
1785	127	Impacts to Staten Island: In addition to tunneling through the Staten Island nature preserve, the BDPC would build a tunnel shaft, a launch shaft, a vent shaft, two reusable tunnel material (RTM) areas and a conveyor facility, two temporary access roads, a permanent access road, temporary work areas, and a temporary barge unloading facility on the island (DEIR/EIS, Table 15-15 and Mapbook Figure 15 -4, p. 15-254.) The DEIR/EIS downplays the significant adverse effect this construction will have on recreational opportunities and the visitor experience at Staten Island. Staten Island receives significant amounts of visitors -- over 3,000 per year according to staff at the Nature Conservancy, which manages conservation easements on the island. Not only would recreation use be substantially diminished during the years of construction, but the placement of RTM areas, shaft locations, and a permanent access road would cause permanent surface impacts and would permanently displace portions of the preserve that are used by recreationists. The BDCP would result in the permanent loss of a substantial portion of the preserve. The fact that the preserve as a whole would not be permanently lost or closed does not mean the significant diminishment of the quality of the island as a nature preserve, and diminishment of the visitor experience due to the intrusion of these industrial elements, would not be a significant adverse impact on a recreation facility.	The design of CM 1 (water conveyance facilities) has been revised to reduce the project footprint on Staten Island. Specifically, the proposed tunnel launch facilities, large reusable tunnel material storage areas, a barge landing site, and high voltage transmission lines would not be located on the island. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4 and 4A have both been revised since the Draft EIR/EIS to lessen project impacts on Staten Island.
1785	128	Page 15-29, Line 10: The DEIR/EIS incorrectly identifies a softball field and playground as recreation elements in Discovery Park. Page 15-46: Under the heading "Sacramento County General Plan" all citations for references are linked to the City of Sacramento's 2030 General Plan. The DEIR/EIS fails to address Sacramento County's General Plan in this section and substituted goals and policies for the City's General Plan. The DEIR/EIS must be revised to evaluate the County General Plan.	The softball field and playground text has been updated. The Sacramento County General Plan citations have been updated as well.
1785	129	Chapter 16: Socioeconomics This section addresses effects on regional economics in the Delta. (See DEIR/EIS, Impact	Impacts from the project on agricultural economics are discussed in Impacts ECON-6, 12, and 18. Please refer to Section 16.3.2.1 of Chapter 16 of the Final EIR/EIS, where it describes that potential incompatibilities with local plans or policies, or with those not binding on the state or federal governments, do not necessarily

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		ECON-1, p. 16-54.) However, the analysis in this chapter does not use the best available evidence to evaluate BDCP impacts, and displays bias by quantifying and emphasizing favorable effects while relegating large unfavorable effects to short, qualitative discussions (See Comments on the BDCP EIR/EIS Socioeconomic Analysis prepared for Sacramento County by Dr. Jeffrey Michael, May 16, 2014 (Michael Report), attached as Exhibit H). [see ATT 8] For example, this chapter does not use nor differentiate the praised and peer-reviewed Economic Sustainability Plan (ESP) generated by the Delta Protection Commission for any of its data or project impact analysis. The ESP is merely referenced and summarily dismissed even though in some areas, like agricultural productivity data, the ESP is more current and accurate than that used in the DEIR/EIS. Similarly, the DEIR/EIS fails to quantify the economic impacts on agriculture of Conservation Measures 2-22, stating the lack of quantification is "because the information required as input to the IMPLAN model was not available" even though other assessments -- including the BDCP August 2013 Statewide Economic Impact Report -- found data to quantify and estimate extremely large negative impacts of implementing the BDCP CMs 2-22 on agriculture production in the Delta. Further, in several important areas the impact analysis is incorrect or omits important evidence that the BDCP will have more severe adverse socioeconomic effects. Significantly omitted from the chapter's discussion is the BDCP's potential effect on the agricultural economy through reduced crop yield as a result of project particulate emissions. (See comments under Air Quality, above.) Likewise, the DEIR/EIS omits, or uses inadequate evidence, to establish the baseline for impact analysis on issues of locally vital socioeconomic concerns to the Delta. Specifically, the DEIR/EIS does not provide adequate evidence relating to recreation spending, total Delta agricultural revenue, temporary and permanent loss of Delta agricultural production during construction, then operation and maintenance of the isolated conveyance facility, long-term loss to the recreation economy from the construction and operation of the isolated conveyance facility, and the negative impact of the BDCP on community character in the Delta. (See Michael Report, attached as Ex. H. [see ATT 8]) This has the effect of distorting the analysis to minimize the BDCP's true impacts. The biased and underestimated impacts of the analysis chapter do not provide the public with true information required for CEQA/NEPA compliance, and are not the basis on which any informed plan and project decision can be made.	translate into adverse environmental effects under NEPA or CEQA. Additionally, please refer to Sections 16.2.2.5, 16.3.1.1, and 16.3.1.2 regarding the use of the IMPLAN model.
1785	130	Chapter 17: Aesthetics and Visual Resources The DEIR/EIS (pp. ES-118 - ES-119.) identifies seven significant aesthetic impacts of the BDCP. The identified degradation of the visual values and resources is directly attributable to a menu of activities and physical features including, but not limited to, the construction of physical structures, new transmission line corridors, and fugitive light emitting from the various water operation locations (i.e., intakes). Despite its conclusion that five of the seven impacts will remain adverse and significantly unavoidable even after the implementation of proposed mitigation measures, the DEIR/EIS downplays their real world effect. For example,	The noted text is within the summary section; please refer to Chapter 17 of the DEIR/EIS in its full context. The DEIR/EIS also states, for example under the NEPA summary for Alternative 1A, that “the intensity of the activities in contrast to the current rural/agricultural nature of the area would be substantial. Construction of Intakes 1–5 and the accompanying pumping plants, surge towers, borrow/spoil areas, and RTM areas would introduce visually dominant and discordant features in the foreground and middleground views, and these elements would be very noticeable to all viewer groups….Therefore, because of the long-term nature of construction combined with the proximity to sensitive receptors, razing of residences and agricultural buildings, removal of vegetation, and changes to topography through grading, this overall effect of conveyance facility construction on existing visual quality and character is considered adverse.” In addition,

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		the DEIR/EIS concludes that construction that would "last up to 9 years and would change the existing visual character in the vicinity of project elements from those of agricultural, rural residential, or riparian and riverine settings to areas involving heavy construction equipment, temporary construction structures, work crews, other support vehicles and other activities that would modify and disrupt short- and long-range views" would merely "be disruptive to some viewers." (DEIR/EIS, p. 17-60, emphasis added.) Far from being just "disruptive" to "some," the construction and operation of the large-scale physical features of the proposed conveyance and water operations facility, in concert with the addition of significant levels of artificial light/glare to the night sky of this rural portion of County, will result in a substantial adverse permanent change in the scenic quality and natural beauty of the Delta.	Appendices 17A, 17D, and 17E provide detailed information pertaining to affected viewers and viewer sensitivities. Chapter 17 of the 2013 Draft EIR/EIS under Mitigation Measure AES-6c (Implement a Comprehensive Visual Resources Management Plan for the Delta and Study Area) states that the visual resources management plan will recognize and work with the evolving visual landscape as it relates to climate change and sea level rise. It will establish proactive design and management measures that protect the evolving landscape and visual integrity of the study area and will not facilitate reactive design and management measures that could adversely alter the visual landscape of the study area. For more information on Visual Impacts please see Section 17.3.3 Effects and Mitigation Approaches of the 2013 Draft EIR/EIS. Please refer to Final EIR/EIS Chapter 31, Other CEQA/NEPA Required Sections, Sections 31.5.2.12 through 31.5.2.19, which analyzes the potential effects of mitigation measures for aesthetic/visual resources.
1785	131	As stated in the County's comments on the Land Use chapter, the size and scale of the proposed conveyance and water operation facility (i.e., CM-1), including the intakes, forebay, pumping plants, surge towers, and transmission line corridors, are massive and will alter the physical landscape of the Delta, substantially degrading its unique scenic qualities and values in perpetuity. Invasive impacts also will occur from the extensive lighting required during both construction and operation of the completed conveyance facility. Dewatering near the intakes and pumping plants, and certain pipeline and intermediate forebay construction would take place seven days per week and 24 hours per day, while other construction activities would occur five days per week (Monday through Friday) up to 24 hours per day. (DEIR/EIS, p. 3-83.) Further, construction of each intake structure would take up to four years to complete and would occur Monday through Friday for up to 24 hours per day. To facilitate nighttime construction large-scale lighting systems will be needed. The DEIR/EIS acknowledges that evening and nighttime construction activities will require the use of "extremely bright lights" which would negatively affect nighttime views of and from the work area. (DEIR/EIS, p. 17-75.) Nighttime construction could also result in headlights flashing into nearby homes when construction vehicles are turning onto or off of construction access routes. In addition, significant artificial light and/or glare occurring during construction and post-construction of BDCP infrastructure could have an indirect effect on wildlife in the vicinity of the BDCP facilities. It is also possible that this newly introduced artificial light source could reduce the productivity of local livestock.	EIR/EIS Chapter 17 Aesthetics and Visual Resources address at impact AES-4. The impact assessment concluded that construction and operation of the BDCP could result in significant visual impacts by creating a new source of light and/or glare. The EIR/EIS proposed mitigation to reduce these impacts including liming construction to daylight hours in some areas and installing visual barriers.
1785	132	Impacts related to the proposed surge towers (at each intake location) would be two- old, causing both permanent daytime and nighttime impacts. For example, under Alternative 4 (intakes 2, 3 and 5), the surge towers will be range from 70 to 105 feet in height. (DEIR/EIS, p. 3-87, lines 7-9.) Given the limited elevation change in the Delta, these towers will introduce a series of imposing physical structures on the rural landscape. In addition, due to their height, the surge towers will require the use of safety lights that would alert low-flying	Please refer to response 1785-130. The commenter does not provide specifics on where they feel there are inconsistencies or vagueness occurring in the mitigation or supply information on specific mitigation measures or elements of the measures they feel would result in visual blight; therefore, this response cannot address those concerns.

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		aircraft to the presence of these structures (DEIR/EIS, p. 17-75, lines 9 and 10.), thereby causing a new source of permanent fugitive light/glare for residents living in and around the communities of Freeport, Hood, and Courtland. These impacts will not only change the Delta's visual character but also permanently diminish the quality of life for Delta residents. While mitigation is proposed to help reduce the severity of these impacts, inconsistences and vagueness in the description of mitigation proposed to address various aesthetic impacts prevent the County from assessing its effectiveness. Moreover, rather than substantially lessening the BDCP's impacts, as required by CEQA, much of the aesthetic impact mitigation appears likely to create its own visual blight, trading one set of adverse impacts for another.	
1785	133	Mitigation Measure AES-1b: Mitigation Measure AES-1b calls for installing visual barriers between construction work areas and sensitive receptors and along access routes to block views of construction work. The DEIR/EIS acknowledges that such barriers would "introduce a visual intrusion" but claims they would "greatly reduce the visual effects" associated with the massive construction project. (DEIR/EIS, p. 17-185, lines 16-17.) In its discussion of Alternative 1A, the DEIR/EIS asserts, " [t]he visual barriers are an effective means of reducing the visibility of active construction work areas, thereby minimizing the impact on existing localized visual quality." (DEIR/EIS, p. 17-62, lines 23-35.) However, the DEIR/EIS does not provide any information about these barriers until much later in the document, in the discussion of impacts under Alternative 4, where the barriers are described as being "a minimum of 6 feet tall." (DEIR/EIS, p. 17-185.) Due to the size and scale of construction activity, and the fact that much construction-related activity will occur well above or below the grade of the existing roadway network, it is likely the barriers themselves would need to be massive -- much taller than 6 feet -- in order to shield views from residents, visitors or passing motorists. How large would they need to be to effectively shield views from the various types of affected sensitive receptors, considering their actual locations relative to proposed facilities, construction areas, and construction truck routes? No information is provided regarding the estimated maximum linear extent of visual barriers required "to prevent light spill from truck headlights toward residences." Given the extent of construction, and limited number of roads in the area, their winding nature, and the location of homes adjacent to the road, it is easy to visualize a "mitigation" measure that results in barricading both sides of a scenic highway, creating a virtual tunnel experience for drivers and residents alike. The DEIR/EIS should include a map showing the precise areas in which it is assumed that visual barriers must be installed under the proposed mitigation, and the height of the barriers in each area. The map should include the precise location of all sensitive receptors, so that residents can assess the relative benefit or impact that the proposed mitigation may have.	Mitigation measures are detailed the first time they appear in the analysis. Please refer to Mitigation Measure AES-1b, Install Visual Barriers between Construction Work Areas and Sensitive Receptors, which specifies information on the barriers (DEIR/EIS page 17-62, lines 6-25). As stated in the measure, “While the visual barriers would introduce a visual intrusion, they would greatly reduce the visual effects associated with visible construction activities and screening construction activities and protecting privacy is deemed desirable.” This measure is intended to screen “construction work areas” not construction haul routes. This measure is intended to screen views of construction areas and help with screening construction lighting to a degree. Screening for haul routes is provided in Mitigation Measure AES-4c, which is intended to screen light coming from vehicle headlights. As such, Mitigation Measures AES-4c and AES-1b mitigate different impacts. Mitigation Measure AES-1b uses a 6-foot barrier around work areas because that height is taller than most people in the standing position, so it would provide effective screening at eye-level. Mitigation Measure AES-4c uses a 5-foot barrier (note, this is a minimum height) along access routes because that height is taller than most vehicle and truck headlights and, thus, would “prevent excessive light spill toward residents.” There are various types of privacy slats and some have larger gaps and others do not. Current privacy fence slat designs can provide up to 98% privacy (provided is an example: http://eprivacylink.com/budgetlink/) and would be effective in screening intermittent headlights passing by. The linear amount and location of barriers needed as a result of Mitigation Measures AES-1b and AES-4c would depend on the alternative and would be established during the detailed design process if an alternative is chosen and moves forward through the architectural review process. Also, please refer to the analysis where the impact is described and states on page 17-75, lines 7-8, of the DEIR/EIS “Nighttime construction could also result in headlights flashing into nearby residents’ homes when construction vehicles are turning onto or off of construction access routes.” Mitigation Measure AES-4c is established to mitigate that effect and, as titled, the measure reads “Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences.” As identified in the measure, “BDCP proponents will evaluate construction routes and identify portions of access routes where the use of visual barriers would minimize the introduction of new light and glare from construction truck headlights and the impact on nearby residents. The project proponents will install a visual barrier along portions of access routes where screening would

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		Without more detailed information about the mitigation, it is impossible to assess whether such barriers would "greatly reduce" the visual effects of 10 years or more of construction activity, as asserted by the DEIR/EIS. Based on the limited (and inconsistent) information provided, logic would dictate that the barriers themselves would have the visual effect of creating a fortress in the currently rural bucolic Delta setting and would simply substitute one significant adverse visual impact for another. A determination that such barriers would have any effect in reducing visual impacts, let alone be capable of "greatly reducing" such effects, defies logic, is clearly arbitrary and capricious, and is yet another example of the DEIR/EIS's attempt to minimize the scale of the BDCP's impacts to Delta communities.	prevent excessive light spill toward residents from truck headlights being used during nighttime construction activities." Therefore, these measure do not establish the need to install continuous barriers that would create a barricade or tunnel effect. Mitigation is established to lessen visual impacts as much as possible but cannot mitigate for every scenario, which is why impacts have been found to be significant and unavoidable. In addition, mitigation must be balanced with not creating impacts that would greatly compound project impacts. For example, Mitigation Measure AES-1b does not propose installing a large wall that is, for example, 20-feet tall or higher because while such a wall would act to limit views of construction for residential viewers at eye level and roadway users on a higher levee road; such a feature being in place for 9 years would negatively compound visual effects because of the visual intrusion such a wall would create. Note, the last paragraph of Mitigation Measures AES-1b and AES-4c speak to the impacts associated with the proposed mitigation.
1785	134	Mitigation Measure AES-1g Implement Best Management Practices to Implement Project Landscaping Plan: Mitigation Measure AES-1g provides: "In addition to the guidance set forth in DWR's WREM No. 30a, Architectural Motif, State Water Project, the BDCP proponents will utilize landscaping treatments to visually enhance key gateways, major thoroughfares, and scenic roadway corridors by using the following: street trees, welcome signs, decorative lighting, and other streetscape design techniques." (DEIR/EIS, p. 17-189.) This mitigation measure does not describe the DWR guidance nor does the DEIR/EIS explain how it applies to or will minimize the adverse effects of introducing massive industrial facilities into the rural Sacramento River Delta. The DEIR/EIS must explain what is intended by "visually enhancing key gateways, major thoroughfares, and scenic roadway corridors by introducing street trees, welcome signs, decorative lighting, and other streetscape design techniques." Does the BDCP intend to install welcome signs to welcome Delta visitors to the CM-1 facilities? How would welcome signs and decorative lighting, which would attract attention to the massive proposed facilities, substantially lessen the significant adverse change in the aesthetics of the Delta caused by the introduction of a decade of construction activity and the permanent introduction of massive industrial facilities? If the BDCP intends to rely on mitigation techniques and performance standards in other documents, those techniques and standards must be described in the BDCP DEIR/EIS so that the public and decisionmakers can understand what exactly is proposed and evaluate whether the proposed mitigation is feasible and capable of reducing the project's adverse effects. The DEIR/EIS is also ambiguous about when Mitigation Measure AES-1g will be implemented. At one point, (DEIR/EIS, p. 17-172.) the DWR guidance is quoted as requiring	The guidance for DWR's WREM No. 30a is provided on DEIR/DEIS age 17-49, lines 30-40 and page 17-172, lines 12-23 (RDEIR/SDEIS page 17-50, lines 3-14; page 17-177, lines 37-46, and page 17-178, lines 1-2). As stated in Mitigation Measure AES-1g, this mitigation will help reduce visual impacts by helping to "restore and maintain local character, improve aesthetics, and reduce the visual scale of the proposed water conveyance elements in the study area"; by utilizing "landscaping treatments to visually enhance key gateways, major thoroughfares, and scenic roadway corridors by using the following: street trees, welcome signs, decorative lighting, and other streetscape design techniques"; and by using "native trees, shrubs, and grasslands will be planted to preserve the visual integrity of the landscape, provide habitat conditions suitable for native vegetation and wildlife, and ensure that a maximum number and variety of well-adapted plants are maintained." The bulleted items that follow in the mitigation measure provide additional detail. Landscape plantings and decorative site features are commonly used measures to improve site aesthetics, as opposed to sites devoid of vegetation, which also help to reduce the apparent scale of structures and aid in screening facilities. These elements would be established as part of the detailed design process, which will be driven by mitigation that evolves out of this document. The analysis and the supporting simulations in the chapter provide the impact analysis and findings. The Mitigation Monitoring and Reporting Plan, a separate document, provides the performance standards and effectiveness criteria. Visual mitigation provides measures to lessen the visual appearance of the proposed project and improve project aesthetics but cannot substantially lessen the significant adverse change in the aesthetics of the Delta because of the nature of the project, which is why the impacts are significant and unavoidable. Mitigation Measure AES-1g has been revised to specify that "Associated vegetation will be planted as part of the construction of each proposed facility so that landscaping is in place prior to completion of each facility."

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		planting within 1 year of project completion. However, Mitigation Measure AES-1g specifically calls for landscape mitigation planting to be installed "within 2 years following project completion." (DEIR/EIS, p. 17-190.) Which deadline will apply to the mitigation as used in the BDCP? What is the basis for this significant -- 2-year delay in implementing mitigation? Mitigation plantings should be installed immediately following construction of each project element, not deferred until two years after completion of the entire project. Deferring mitigation for up to two years until the entire project is complete is unreasonable and only exacerbates the severity of project impacts by extending the time in which the public is exposed to the visual scarring associated with BDCP construction and facilities.	
1785	135	Mitigation Measure AES-4b: Minimize Fugitive Light from Portable Sources Used for Construction: This mitigation measure is so vague as to be meaningless. The measure repeatedly describes that light and glare will be "minimized" "to the extent feasible." (DEIR/EIS, p. 17-200, lines 1-15.) No information is provided by which to assess how minimization or feasibility will be assessed. What is the minimum spacing assumed to be required to meet safety requirements? When will a proposed lighting plan be developed and who will assess the proposed lighting plan's compliance with this mitigation measure?	The exact sources of portable sources of nighttime lighting use would vary depending on many factors including, but not limited to, the construction activity, location where construction is taking place, type of facility being built, and portable lighting available to the contractor. The types (makes and models) that could be used are not known at this stage in the planning process. Therefore, this measure cannot provide detailed specifics, as requested. As written, Mitigation Measure AES-4b, establishes that regardless of make and model that the project proponents and its contractor will ensure light and glare will be “minimized to the maximum extent feasible, given safety considerations” so that portable lighting sources are evaluated independently to avoid a one-size fits all approach that could actually result in greater light and glare impacts. The measure does specify, however, that portable lights will be raised to a height no greater than 20 feet. Note that “extent feasible” is used in correlation with “given safety considerations.” This language is set forth to acknowledge that construction areas must be lit in a manner to protect its workers, which may include residents local to the project area, so that they would not be injured or die due to unsafe lighting conditions. As described in the visual analysis, lighting would be designed through coordination with local agencies through an architectural review process and this would include the use of portable sources of nighttime lighting for construction. Furthermore, WREM No 30a requires coordination and an architectural review process with local agencies (page 17-75, lines 15-18 of the DEIR/EIS). This applies to construction lighting. The Mitigation Monitoring and Reporting Plan, a separate document, provides the performance standards and effectiveness criteria.
1785	136	Mitigation Measure AES-4c: Install Visual Barriers along Access Routes, Where Necessary, to Prevent Light Spill from Truck Headlights toward Residences: The visual barriers required by mitigation measure AES-4c are intended to address significant adverse effects of night lighting by preventing "light spill from truck headlights toward residences." (DEIR/EIS, p. 17-199, lines 23-24.) The barriers are described as a being "a minimum of 5 feet high" that "will provide a continuous surface impenetrable by light. This height may be obtained by installing a temporary structure, such as fencing (e.g., chain link with privacy slats)." (DEIR/EIS, p. 17-200.) The requirement that barriers to mitigate light spill be 5 feet high is inconsistent with mitigation requiring 6-foot visual barriers to shield views of construction activity. (See Mitigation Measure AES-1b.) What is the basis for	Mitigation Measures AES-4c and AES-1b mitigate different impacts. Mitigation Measure AES-4c pertains to visual barriers “along access routes” whereas Mitigation Measure AES-1b pertains to visual barriers at “construction work areas.” A 5-foot barrier (note, this is a minimum height) along access routes would be taller than most vehicle and truck headlights and, thus, “prevent excessive light spill toward residents.” A 6-foot barrier around work areas is taller than most people in the standing position so would provide effective screening at eye-level. There are various types of privacy slats and some have larger gaps and others do not. Current privacy fence slats designs can provide up to 98% privacy (provided is an example: http://eprivacylink.com/budgetlink/) and would be effective in screening intermittent headlights passing by. The linear amount of barriers needed as a result of Mitigation Measures AES-4c and AES-1b would depend on the alternative and would be established during the detailed design process.

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		the 5-foot requirement for barriers intended to shield light spill from truck headlights versus 6 feet to shield construction views? Further, a chain link fence with privacy slats does not meet the mitigation's performance standard of a "continuous surface impenetrable by light" as a chain link fence with privacy slats, is neither a continuous surface nor is it impenetrable by light. As with the barriers proposed under Mitigation Measure AES-1b, due to the fact that much construction-related activity will occur well above or below the grade of the existing roadway network, it is likely the barriers themselves would need to be massive -- much taller than 5 feet -- in order to effectively shield views from the various types of affected sensitive receptors, considering their actual locations relative to proposed facilities, construction areas and construction truck routes. No information is provided regarding the estimated maximum linear extent of visual barriers required "to prevent light spill from truck headlights toward residences." This mitigation measure, like Mitigation Measure AES-1b, raises more concerns than it addresses.	Mitigation is established to lessen visual impacts as much as possible but cannot mitigate for every scenario, which is why impacts have been found to be significant and unavoidable. In addition, mitigation must be balanced with not creating impacts that would greatly compound project impacts. For example, Mitigation Measure AES-1b does not propose installing a large wall that is, for example, 20-feet tall or higher because while such a wall would act to limit views of construction for residential viewers at eye level and roadway users on a higher levee road; such a feature being in place for 9 years would negatively compound visual effects because of the visual intrusion such a wall would create.
1785	137	Additional Mitigation for Impacts of Permanent Structures: The proposed mitigation measures largely address long-term construction impacts to aesthetics. Mitigation on permanent facilities is limited to transmission line location, a spoil/borrow material management plan, aesthetic design treatments, and fugitive light mitigation. The County would like to see additional mitigation to address the significant impacts of permanent facilities with more specificity. In that vein, the County requests that the DEIR/EIS incorporate the following additional mitigation, at a minimum: The following measures will be implemented, to the extent feasible, to minimize aesthetic impacts of all BDCP structures and other facilities in the Delta including, but not limited to: * Provide landscaping as appropriate to break up undesirable visual patterns, or block facilities from view. * Use design motifs on structures in keeping with the natural setting or similar themes (e.g., rivers, historical place). * Minimize the height of structures when feasible. * Locate structures as far away from the River Road as feasible. * Minimize obtrusive fixtures on buildings, e.g., antennas or other equipment that could be located in another less obtrusive location. * Provide shielding for fixtures to buildings that cannot be relocated.	Please refer to Mitigation Measures AES-1a through 1g in the EIR/EIS. These measures apply to the construction of permanent features, influence how these features would appear when finished, and already include the suggested elements provided by the commenter. For example, Mitigation Measure AES-1g states that “Landscape berms, combined with tree and shrub plantings will be used to help screen built features from existing viewpoints by allowing for additional height. The landscape berms will be constructed in a manner that has a more natural form, as opposed to one that is highly regular and levee-like. The berms will be seeded with a native meadow erosion control seed mix and be planted to comply with directions set forth below;” and Mitigation Measure AES-1e states that “The proponents will evaluate similar, local well-designed water conveyance structures, including those with historic value and use these features as design precedent to develop designs for the intake facilities, pumping plants, control structures, fish screens, operable barriers, and bridges, so that the resultant design will complement the natural landscape, be aesthetically pleasing, and minimize the effects of visual intrusion of the facilities on the landscape, to the extent feasible. Where no local design precedent exists, the project proponents will research structure designs outside the local area. For example, the Freeport Regional Water Project intake facility design incorporates aesthetic design treatments that create a landmark feature in the landscape. The project proponents will consider design details to ensure that all intake structures are complementary of one another so that these facilities do not create further visual discordance in the landscape.” Mitigation Measure AES-1g has been revised to include minimizing the height of structures when feasible and minimizing the visual intrusion of ancillary features (e.g., antennas or other equipment) through proper siting.

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1785	138	Cumulative Visual impact of Barrier Mitigation: It should be noted that the DEIR/EIS does not address the cumulative impact of the visual barriers called for in Mitigation Measures AES-1b and AES-4c. Because no information is provided about the extent of the proposed mitigation, the severity of the impact cannot be assessed. However, given the extent of construction activity and the size and scope of proposed facilities, it is reasonable to assume that extensive barriers would be required, and these barriers themselves would fundamentally and adversely affect the visual character of the scenic roadways, residences, recreation areas, and other visitor serving uses in the Delta.	Please refer page 17-307, lines 36-44, of the 2013 Draft EIR/EIS that establishes how Mitigation Measures AES-1b and AES-4c "would partially reduce impacts by… installing visual barriers between construction work areas and sensitive receptors…" Note, the last paragraph of Mitigation Measures AES-1b and AES-4c speak to the impacts associated with the proposed mitigation.
1785	139	Inconsistency with the Sacramento County General Plan: The Sacramento-San Joaquin River Delta is long known for its collection of unique natural and scenic resources, particularly those located along and proximate to the designated scenic corridors and roadways that run through the Delta. The protection and preservation of these resources is recognized in the General Plan's Circulation Element. For example, several County roadways in the Delta run on the crowns of levees along the rivers and sloughs. These narrow roads often provide uninterrupted views of water/riparian habitat on one side and views of rich farmland on the other. In addition, these roads run through the Delta's historic (legacy) communities of Courtland, Freeport, Hood, Isleton, Locke, Ryde, and Walnut Grove and provide direct access to the Delta's recreational resources. The River Road (Highway 160) is a designated scenic corridor. The scenic corridor designation extends 500 feet to each side of the river, as measured from the middle of the channel or by a minimum of a corridor 300 feet from the edge of the river. The Circulation Element includes specific objectives and policies that call for the following: Retention of the River Road's (State Route 160) designation as an official State and County Scenic Highway and to preserve and enhance its scenic qualities. Further, Policy CI-53 states that roadway improvements along established scenic corridors shall be designed and constructed so as to minimize impacts to the scenic qualities of the corridor. The Delta's unique scenic values and qualities are well documented. The size, scale and location of the proposed BDCP facilities will have significant and unavoidable impacts to the scenic qualities of the scenic State Route 160 corridor. The DEIR/EIS's failure to identify adequate and appropriate mitigation for permanently impacting these longstanding scenic qualities, or an alternative that would substantially lessen or avoid the impacts and conflicts with County General Plan policies, is neither good public policy nor an acceptable outcome under CEQA and NEPA.	Final EIR/EIS Chapter 17 analyzes impacts to visual character under Impact AES-1, scenic vistas under Impact AES-2, and scenic roadways under Impact AES-3 and accounts for impacts to the existing setting that would be seen from local roadways. The analysis addresses how the scenic route would be affected by the proposed project and its alternatives and concludes that there will be significant and unavoidable impacts to the scenic route because of the negative visual effects that would occur. Even if the realignment was not proposed, impacts would still be significant and unavoidable due to the proposed intake facilities that would require tree removal and the introduction of built structures that would negatively affect views from the scenic route. These actions, alone, could affect the scenic highway designation without a realignment of SR 160. Therefore, the only way to ensure SR 160 remains in compliance with the State Scenic Highway Program and the County Circulation Element would be if these changes (i.e., the proposed project) would not occur. Visual mitigation provides measures to lessen the visual appearance of the proposed project and improve project aesthetics as much as possible but cannot substantially lessen the significant adverse impacts to SR 160 because of the nature of the project, which is why the impacts are significant and unavoidable. For additional information regarding significant and unavoidable impacts, please see Master Response 10.
1785	140	Chapter 18: Cultural Resources	The commenter's opinion related to the DEIR/EIS is acknowledged. This comment regarding Section 106 consultation was addressed in the Recirculated DEIR/EIS through the addition of Section 18.2.1.3, which

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		The DEIR/EIS fails to clearly identify the methodology used to evaluate cultural resource impacts, and it does not evaluate the full range of potential impacts to cultural resources within Sacramento County. It also does not accurately describe the Section 106 consultation process. Incomplete Discussion of Regulatory Setting: The DEIR/EIS omits regulatory information regarding the following Special Planning and Neighborhood Preservation Areas, as identified in the Zoning Code of Sacramento County, Title V: Courtland (504-500); Locke (504-400); Walnut Grove (504-20). (See DEIR/EIS, Section 18.2.3.6, p. 18-38.) The DEIR/EIS should be revised to include regulatory information regarding these areas, which are subject to additional protective measures because of their unique historic and cultural resources. Failure to Identify Scope of Cultural Resource Impact Evaluation: The DEIR/EIS states, "As necessary, additional site-specific studies and analyses will be conducted pursuant to CEQA, NEPA, and Section 106 of the National Historic Preservation Act (NHPA) as part of the second tier environmental review [emphasis added] for the program-level components of the selected alternative pursuant to mitigation measures identified in this chapter." (DEIR/EIS, p. 18-1, lines 9-12, emphasis added.) The DEIR/EIS needs to clearly state at what level cultural resources have been evaluated and how future studies and analyses will proceed. The sentence cited above provides the only reference to "tiered" or "program-level" analysis in the Cultural Resources chapter; however, "phased identification" is noted in a later section regarding Section 106 of the National Historic Preservation Act. (DEIR/EIS, p. 18-29, lines 6-7, ("phased identification and evaluation of cultural resources will be completed as authorized by 36 CFR 800.4 [b][2] and 36 CFR 800.14 [b][1].").) The document needs to clearly state at what level (programmatic or project) cultural resources were reviewed for this DEIR/EIS; if there are on-going identification and/or consultation efforts; and what analysis/studies may happen in the future. It should be revised to provide a clear methodology that states at what level cultural resources have been reviewed in the DEIR/EIS and how "tiered," "phased," and all other future studies will be conducted. Project level review must be conducted for the selected/preferred project.	provides information on Section 106 consultation and development of a Programmatic Agreement. The regulatory setting provides information about the policies and plans for each county, including Sacramento County. The reference to Sacramento County's Conservation Element in general, and to the Historic Structure Preservation objective in particular, addresses this comment. The scope of cultural resources impact evaluation was addressed in the Recirculated DEIR/EIS through Sections 18.3.5.2 (Mitigation Measure CUL-2 and Mitigation Measure CUL-6) which provide greater detail about the tiered/phased approach. For additional information about the approach to cultural resources identification and evaluation, please see Master Response 20. Final EIR/EIS, Chapter 13, Land Use, discusses the federal, state, and local plans, policies, and regulations that govern land use in the study area. Generally state and federal agencies, as well as some local or regional agencies involved with the location or construction of facilities for the production, generation, storage, treatment, or transmission of water are not subject to local land use regulations and inconsistency with a specific local land use regulation is not by itself an adverse effect on the environment. Conflicts with local land use policies, regulations, or plans, even those that are applicable to DWR as a state agency, do not by themselves constitute adverse alterations of, or effects on, the physical environment. To the extent that action alternatives are incompatible with such land use designations, goals, and policies, any related environmental effects are discussed in the respective resource chapters.
1785	141	Incomplete Discussion of lmpacts to Historic Districts: The DEIR/EIS fails to evaluate the full range of potential impacts to cultural resources. Impacts to historic districts must include impacts to the district and to the contributing resources that make up that district. For example, potential impacts must be identified to both the Locke National Historic Landmark District and to the 53 contributing resources within the district. The Walnut Grove Japanese American Historic District contains 22 contributing resources and the Walnut Grove Commercial/Residential Historic District contains 18. The DEIR/EIS must also evaluate potential impacts to the proposed Delta	National Heritage Areas are not automatically considered historic properties for the purpose of NEPA or Section 106, nor as historical resources for the purpose of CEQA, nor are they historic districts by definition. The National Historic Landmark designation is a particular level of designation within the National Register; the reference to the Locke historic district's listing in the NRHP is adequate documentation that it qualifies as an historic property under NEPA and historical resource under CEQA. However, the National Historic Landmark status of the Locke historic district will be added to Section 18B.1.2.1.5 of the Final EIR/EIS. The scope of cultural resources impact evaluation was addressed in the Recirculated DEIR/EIS through

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		National Heritage Area. Both Appendix 18B, which forms the basis for the DEIR/EIS cultural resources section, and the DEIR/EIS impact analysis itself, must be revised to address potential impacts to the proposed National Heritage Area, and both to Historic Districts and the historic resources that contribute to those districts. In its discussion of Historic Districts (Section 18.1.7.4), the DEIR/EIS omits regulatory information regarding National Historic Landmark (NHL) Districts and National Heritage Areas. As identified in Code of Federal Regulations, Title 36, Part 65 "the purpose of the National Historic Landmarks Program is to identify and designate National Historic Landmarks, and encourage the long range preservation of nationally significant properties that illustrate or commemorate the history and prehistory of the United States." In addition to being a Historic District listed on the National Register of Historic Places, the Town of Locke was listed as a National Historic Landmark on 12/14/1990. In Section 85301 of Senate Bill X7-1 (Delta Reform Act of 2009), the Legislature charged the Delta Protection Commission (DPC) with developing: "A proposal to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place .... The Commission shall include in the proposal a plan to establish state and federal designation of the Delta as a place of special significance, which may include application for a federal designation of the Delta as a National Heritage Area." In accordance with the Delta Reform Act, the DPC prepared a Feasibility Study for a Sacramento-San Joaquin Delta National Heritage Area (July 2012). As noted by the National Park Service, "National Heritage Areas (NHAs) are designated by Congress as places where natural, cultural and historic resources combine to form a cohesive, nationally important landscape." The regulatory framework must include information regarding the National Historic Landmarks Program and note that Locke was listed as an NHL on 12/14/1990. A discussion regarding National Heritage Areas must also be added. The DEIR/EIS also should identify that in accordance with the Delta Reform Act, the Delta Protection Commission prepared a Feasibility Study for a Sacramento-San Joaquin Delta National Heritage Area (July 2012) and present the results of its findings.	Sections 18.3.5.2 (Mitigation Measure CUL-2 and Mitigation Measure CUL-6) which provide greater detail about the tiered/phased approach. For additional information about the approach to cultural resources identification and evaluation, please see Master Response 20.
1785	142	Consultation with Native American Organizations: The DEIR/EIS indicates that Native American organizations have been notified of the BDCP project [Footnote 8: "In addition, representatives of the following Native American organizations also responded and indicated that there were no objections or concerns about the BDCP at that time, but wished to be kept apprised of future progress on the project: Wintun Environmental Protection Agency; Cortina Indian Rancheria (CIR); Rumsey	Consultation with Native American tribes and other interested parties under Section 106 is the responsibility of federal agencies. The DEIR/EIS, Section 18.2.1.3, outlines the steps required for compliance with Section 106 that will be followed under a Programmatic Agreement (PA). The 2015 Recirculated DEIR/EIS (Section 18.2.1.3) was revised with updated information on Section 106 compliance specific to the proposed project. As stated in the RDEIR/S, a Section 106 Programmatic Agreement (PA) is being developed and the USACE will be the lead federal lead agency. Consultation

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		Indian Rancheria; and the United Auburn Indian Community of Auburn Rancheria. No additional comments have been received to date." (DEIR/EIS, p. 18-5, lines 21-25.)]; however, it is not clear whether consultation has occurred under Section 106 of the National Historic Preservation Act. The DEIR/EIS does not summarize consultation efforts under Section 106 and simply notes that "steps will be completed in consultation with the SHPO and Indian Tribes, the ACHP, and other interested parties that choose to participate in the Section 106 process." (DEIR/EIS, p. 18-29, lines 17-18.) In summary, the document fails to demonstrate that Section 106 consultation has occurred. Notification does not constitute consultation. The DEIR/EIS should be revised to summarize what Section 106 consultation has occurred to date. Inadequate Information and Analysis of Section 106 Process: The DEIR/EIS does not adequately introduce, define, or discuss the Section 106 process. The following sentence is an example: "Section 106 review will be performed for relevant federal actions that qualify as undertakings and that are necessary to implement the BDCP." (DEIR/EIS, p. 18-29, lines 5-6, emphasis added.) According to 36 Code of Federal Regulations section 800.1, "[t]he section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings though consultation among the agency official and other parties with an interest in the effects of the undertakings on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties." (Emphasis added.) Section 106 is not a "review." The purpose of the process is to provide meaningful consultation among interested parties. The reference to "relevant federal actions" is redundant. By definition, undertakings are subject to Section 106 consultation. The DEIR/EIS implies that the BDCP is subject to Section 106, and states that "Section 106 review will be performed." (DEIR/EIS, p. 18-29, lines 5-6, emphasis added.) According to the National Preservation Institute, Section 106 review should be conducted during preparation of any EIS. Scoping, identification, and assessment of effects should be done during the analysis leading to the draft EIS (DEIS), and the results should be presented in the DEIS. Consultation to resolve adverse effects should be coordinated with public comment on the DEIS, with the results reported in the final EIS (FEIS). Any Memorandum of Agreement (MOA) developed under Section 106, or the final comments of the ACHP, should be addressed in the ROD. Unless there is some compelling reason to do otherwise, the Section 106 MOA should be fully executed before the ROD is issued, and the ROD should provide for implementation of the MOA's terms. (National Preservation Institute, NEPA and Section 106 of the National Historic Preservation Act:	between the federal lead agency and interested parties is addressed throughout the PA, which will be fully executed before the ROD is issued. Section 106 consultation with interested parties did not occur prior to the public release of the DEIR/EIS. Although much of the study area was not legally accessible for cultural resources surveys, other methods were employed to identify cultural resources within it. Data compiled from record searches, a search of the Native American Heritage Commission's sacred lands file, correspondence with the Native American community, archival map research, aerial photographs, a sensitivity analysis for unidentified prehistoric and historic-era archaeological resources and limited field surveys for archaeology and the built environment were sufficient to characterize the types of resources likely to be present and potential effects of the BDCP alternatives upon them. The findings and mitigation measures outlined in the DEIR/EIS were developed as part of the CEQA process. The County's request to be a consulting party in the Section 106 process is noted. As described in the RDEIR/SDEIS, the section 106 process will be led by the Army Corps of Engineers. For additional information about Native American outreach efforts, including identification and analysis of impacts on archaeological sites, Traditional Cultural Properties, and cultural significance of biological resources, please see Master Response 21.

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		General Rules for NEPA -- Section 106 Coordination, available at http://www.npi.org/NEPA/sect106 (accessed 5/2014), emphasis added.) The DEIR/EIS does not summarize the Section 106 consultation conducted to date, nor does it specify whether the findings and mitigation measures outlined were developed through the Section 106 process. The DEIR/EIS indicates that Section 106 consultation will occur; in order for consultation to be meaningful, the process should already be underway. As a cooperating local agency, the County has not been notified of Section 106 consultation for the BDCP. The County requests participation in the Section 106 process as a Consulting Party. In conclusion, the County finds the DEIR/EIS deficient in its discussion of Section 106 of the National Historic Preservation Act. The relationship between Section 106 and the EIR/EIS must be defined and a summary of consultation and findings provided. To accomplish this, DEIR/EIS sections 18.2.1.2 (Section 106 of the National Historic Preservation Act of 1966) and 18.2.1.3 (Compliance with Section 106 of the National Historic Preservation Act for the BDCP) will require substantial revision. Finally, the County seeks notification of the Section 106 process for the BDCP and requests participation as a Consulting Party.	
1785	143	Errors in Built Historical Resources Evaluation Report: There are several erroneous Sacramento County Assessor's Parcel Numbers (APNs) noted within the Built Historical Resources Evaluation Report. Because street addresses are less reliable, the correct APN is critical. The APNs should contain 10-digits. It appears that for those APNS that contain extra numbers, the first two digits (3 and 4) are extraneous. For example, the APN for the Vorden Cannery is noted as 341460060057. The APN should be 146-0060-057. Further, historic resources are not accurately identified and documented in the Built Historical Resources Evaluation Report. For example, the report includes a description of the George B. Greene House, which was assigned survey identification number of PT0_016_001. The report describes the property at 11275 River Road, Courtland, and notes its APN as 341320210044. (As noted in the previous comment, the first two digits of this APN are incorrect; therefore, the correct APN is 132-0210-044). The associated maps depict the Greene House at this APN; however, the aerial underlay of the maps does not appear to depict the Greene House. The rooflines of the buildings on the aerial maps do not match the photo of the Green House in the Built Historical Resources Evaluation Report. Sacramento County has two records for Greene-Hemly parcels in the vicinity of Courtland. One is located at 11300 Randall Island Road (APN 132-2021-0044); and the second is located approximately three miles to the south and has a mailing address of 11275 Highway 160 or River Road (APN 146-0020-0450). The address, APN, aerial maps, and photographs for the Greene House do not appear to match and as a result, the location of the property is	The apparent discrepancy in APNs do not interfere with the reader's ability to understand resource analyses.

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		unclear. The discussion of the Rosebud Rancho (PTO_010_002) also appears to be based on incomplete and or inaccurate information about this resource. The Built Historical Resources Evaluation Report concludes that the Rosebud Rancho, originally designed by Nathaniel Goodell (architect of the Governor's Mansion), should be de-listed from the National and California Registers of Historic Places because of damage it sustained from a fire in 1989. The property was restored and reconstructed in the 1990s by local historic architect Bob McCabe in keeping with the National Park Service Treatment of Historic Properties, which includes interrelated guidelines for Preservation, Rehabilitation, Restoration, and Reconstruction. (See Sacramento River Delta Historical Society Newsletter, June 1994, attached as Exhibit I.) [see ATT 9] The property has not been officially de-listed, nor does the County support de-listing. The proposed Pipeline Tunnel Options (PTO) will directly and indirectly impact Rosebud Rancho. The DEIR/EIS must evaluate these impacts in relation to Rosebud Rancho as a historic resource listed on the National Register. The DEIR/EIS relies on the Built Historical Resources Evaluation Report. Errors and the lack of clear documentation of historical resources in that report undermine the validity of the impact analyses and determinations described in the DEIR/EIS. Appropriate corrections and clarifications to that report must be made and the DEIR/EIS impact analyses revised accordingly.	
1785	144	Chapter 19: Transportation General Comments: The Sacramento County Department of Transportation (DOT) anticipates that the BDCP will significantly change the nature of travel in the Delta. Heavy construction traffic will be introduced for many years into a setting that is accustomed to a rural way of life. Not only will people be affected by traveling with a heavy increase in construction traffic, but pavement conditions in the Delta will deteriorate to a point of disrepair. Much of the Delta's early roadway network was built over old trails that ran along the tops of levees. Roadways were built with the structural standards of that time, and they no longer meet the present structural standards. Construction impacts to roadways will be significant, and roadways may need to be reconstructed to current structural standards. Close coordination with Sacramento County on the nature and extent of mitigation will be required.	The lead agencies are committed to minimizing and remedying such damage. Table 19-10 of BDCP Chapter 19, Transportation, identifies roadway segments that are deficient. Mitigation Measures TRANS-2a, b, and c seek to eliminate or reduce traffic on those segments or to improve the condition of those pavement sections if use cannot be avoided. However, this may not be feasible for all segments. Mitigation Measure TRANS-2c also includes remediation of roads to their condition prior to project construction, or better. Mitigation Measure TRANS-2c also includes coordination with affected agencies to accomplish this objective.
1785	145	Traffic Effects to Delta Way of Life: Sacramento County roads Hood Franklin, Lambert, Twin Cities, Sutter Slough, River, Walnut Grove, Isleton, and Race Track will all experience significant hourly volume increases during construction, even though level of service (LOS) calculations may show acceptable operations. (See, e.g., DEIR/EIS, Table 19-8, p. 19-49.) Various alternatives show that some	The transportation analysis used passenger car equivalents (PCEs) for construction equipment in the determination of BDCP impacts to roadway segment level of service. As discussed in Mitigation Measure TRANS-1c, the project proponents are committed to negotiating with local agencies to address their fair share of capacity improvements necessary to mitigate impacts of

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		of the study roads will operate unacceptably in Sacramento County when construction traffic is added. For these roadways, as specified in Mitigation Measure TRANS-1c, the BDCP proponents shall be responsible for capacity enhancements needed to mitigate the BDCP's substantial adverse effects to County residents and communities. While roadway capacity is one measure of operations on a roadway, the nature of the construction traffic for the BDCP will consist of significant amounts of heavy equipment on roads that do not normally experience this type of traffic. Were passenger car equivalents (PCE's) for construction equipment traffic taken into consideration with this volume analysis? Residences and activities that occur along these roadways will experience a difference in roadway operations for a significant length of time. The length of construction and nature of traffic (heavy vehicles) should also be taken into consideration in assessing the nature and extent of the BDCP's impacts.	construction traffic.
1785	146	Of significant concern to the County is the BDCP's impact on the safety of Delta citizens from an increase in roadway safety hazards, including interference with emergency routes during construction on already heavily congested roadways including I-5, I-80, SR 50, SR 99, SR 160, Lambert Road, Grant Line Road, Hood Franklin Road & River Road. (See DEIR/EIS, Impact TRANS-3 - Increased Safety Hazards and Interference with Emergency Routes, p. 69.) BDCP construction traffic will greatly increase an already lengthy law enforcement response time to the residents of the river Delta communities. Current emergency law enforcement response times to the communities of Locke, Hood, Isleton, and the many recreational sloughs and islands are in excess of 25 minutes. Based on the Sheriff Department's experience with prior roadway and bridge construction projects in that area, the BDCP impact of roadway hazards, traffic control, and interference will increase this response time to more than 60 minutes. The only mitigation noted is a "good faith effort" to enter into agreements to enhance capacity of affected roads. This measure does not guarantee that mitigation or improvement will occur. Moreover, the impact discussion indicates that mitigation measure TRANS-1c will not reduce the severity of the impact to a less than significant level. (See DEIR/EIS, p. 19-70, lines 18-22.) This is unacceptable and will adversely affect law enforcement response and community safety for a period of 9 to 12 years. In that vein, quality of life impacts from construction traffic should be addressed in this document as well. Traffic and road disruption not only has an adverse effect on agricultural and recreational uses within the Delta, the safety of Delta residents and the Delta economy, but in doing so conflicts with the co-equal goals for the Delta as adopted by the Legislature (as noted in our comments above, regarding the project's inconsistency with the Delta Reform Act).	2013 Draft EIR/EIS Chapter 19, Transportation, page 19-36 identifies interference with emergency services as an effect. Impact TRANS-3 further discusses this problem and its effects. Mitigation Measure TRANS-1a includes provisions to ensure that construction vehicles allow continual access for emergency vehicles at the time of an emergency. Mitigation Measure TRANS-1c also seeks to work with affected jurisdictions to enhance capacity of congested roadway segments where construction traffic will substantially affect transportation facilities. However, some significant impacts may be unavoidable as discussed on page 19-70 of the 2013 Draft EIR/EIS Chapter 19, Transportation. Further, construction traffic impacts on congested roadway segments would only be considered significant and unavoidable if local transportation agency agreements are not successful. DWR will work in good faith toward successful transportation capacity agreements. This approach for these mitigation measures is appropriate given the level of construction design available for this project. Construction traffic would be focused on several locations in the Delta, including at proposed intake structures, TBM shaft structures, the intermediate forebay and Clifton Court Forebay. The vast majority of the tunnel alignment would be underground and would not affect transportation or emergency access.
1785	147	Mitigation for Capacity-Related Traffic Impacts: Mitigation Measures TRANS 1-b:	Please see the Mitigation Monitoring and Reporting Plan for details on how mitigation measures would be implemented.

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		Mitigation measure TRANS-1b calls for limiting construction activities so that construction traffic remains below acceptable LOS (level of service) levels on roadways. In the County's experience, more than likely it will not be efficient or feasible for construction-related traffic to be confined to designated or approved routes. Moreover, it is almost impossible to enforce. How will this mitigation measure be achieved? Will someone perform hourly volume counts on various roadways in the study area and shut down construction traffic if LOS capacities are reached? These mitigation measures should require that the transportation management plan specify short- and long-term roadway use and include enforcement provisions. However, due to the significant uncertainties in the feasibility of this mitigation, the DEIR/EIS should not rely on it to determine that impacts could be mitigated below a level of significance.	
1785	148	Mitigation Measure TRANS-1c: This mitigation measure calls for making good faith efforts to enter into mitigation agreements to enhance capacity on congested roadway segments. What constitutes a good faith effort? Also, more information is needed about the specific capacity enhancement projects that will be required to mitigate impacts. What is the expected location and extent of these improvements, and where have the impacts of capacity enhancement been studied? If roads must be widened to mitigate BDCP traffic, will homes, businesses or agricultural land be lost? Which of the needed improvements are included in an existing program of planned improvements and what is the funding status of that program? Making a good faith effort or paying a fair share is not sufficient mitigation if there is no evidence that mitigation will actually result. (Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1122 (traffic impact fee inadequate mitigation because no plan for requiring fees from other projects or definite commitment to make road improvements was in place).) Finally, any needed capacity or improvement work needed to ensure that roads will be in a condition to survive the construction activity that will occur should be performed by the BDCP proponents prior to BDCP construction.	BDCP EIR Chapter 19, Transportation, Table 19-9 identifies the segments on which Mitigation Measure TRANS-1c, Make Good Faith Efforts to Enter into Mitigation Agreements to Enhance Capacity of Congested Roadway Segments, would be applied. Mitigation Measure TRANS-2c also notes that pre-construction analyses of existing pavement conditions will be conducted just prior to starting construction for any proposed construction traffic travel routes. See Master Response 22, Mitigation, Environmental Commitments, Avoidance and Minimization Measures, and Alternative-Specific Environmental Commitments and the Response to Comment BDCP 1606-60, found in the index of commenters who submitted letters during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods. Mitigation Measures TRANS-1c takes a legally accepted approach to funding traffic mitigation by attempting to create a framework under which the Project Proponents will be able to pay their fair shares for any transportation-related improvements partly necessitated by whatever action alternative may be approved and implemented. In short, the Proponents are trying to create a "reasonable mitigation plan." (See Save Our Peninsula Committee v. Monterey County Board of Supervisors (2001) 87 Cal.App.4th 99, 139-142.) Because the Proponents do not control the transportation facilities in question, however, the cooperation of the entities that do have such control will be key to the success of creating a reasonable mitigation plan. Because the Proponents have no way of being certain whether such cooperation will be forthcoming, especially from entities that have actively opposed new conveyance facilities in the Delta, the Draft EIR/EIS conservatively assumes that the impacts to which Mitigation Measures TRANS-1a, 1b, and 1c are addressed will be potentially significant and unavoidable. In the absence of an existing reasonable mitigation plan or framework, the Proponents could have chosen to simply disavow any responsibility to mitigate and call the impact significant and unavoidable due to the absence of an existing framework. (See Tracy First v. City of Tracy (2009) 177 Cal.App.4th 912, 936-938.) But the Proponents instead chose to reach out to other entities in order to make their best efforts to reach agreements that will result in actual mitigation, consistent with the CEQA (and constitutional) principle that any "mitigation measure must be 'roughly proportional' to the impacts of the project." (State CEQA Guidelines, § 15126.4[a][4][B], citing Dolan v. City of Tigard, 512 U.S. 374 (1994).) Mitigation Measure TRANS-1c requires the Proponents to make a "good faith effort to enter into mitigation agreements with affected state, regional, or local agencies" in order to assure all affected

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			parties that the Proponents will undertake such efforts in a sincere problem-solving approach and with a desire to reach accommodation and achieve success. The commenter correctly points out that, if these efforts do not bear fruit, the impacts will be significant and unavoidable. Success can only occur with the cooperation of the entities that control the transportation facilities in question. More details on how Measure TRANS-1c will be implemented can be found in the Mitigation Monitoring and Reporting Program for the proposed project. The commenter raises questions about the potential impacts of this mitigation measure. Section 31.5.2 of Chapter 31 of the Draft EIR/EIS addresses the physical consequences of implementing Mitigation Measure TRANS-2c, which will involve essentially the same improvements expected to arise out of Measure TRANS-1c if it is successfully implemented. If the impacts turn out to be materially worse than expected, some amount of additional environmental analysis under CEQA and NEPA could be necessary.
1785	149	Impacts to Physical Condition of Roadways: The DEIR/EIS appropriately recognizes that BDCP construction traffic is likely to substantially degrade Delta roads. However, the analysis of construction impacts does not address the full scope of the BDCP's impacts to County roads, and mitigation is not adequate to avoid or substantially lessen significant impacts.	The lead agencies expect that Mitigation Measures TRANS-2a to c will reduce the severity of impacts. However, the proponents acknowledge that the mitigation measures may not reduce the impacts to less-than-significant levels as discussed in Draft EIR/EIS Chapter 19, Transportation, page 19-68.
1785	150	Impacts to Side Roads: The DEIR/EIS identifies roadway segments for impact study based on the likelihood that they would be utilized for construction-related activities. (See DEIR/EIS, Table 19-1, p. 19-5.) The analysis does not evaluate the impacts to side roadways that may be used during construction. An evaluation of current goods movement operations in the Delta has revealed that a large percentage of sub-contract haulers do not adhere to prescribed hauling routes, primarily due to limited oversight and enforcement. Specifically, Herzog Road, Vorden Road, Russell Road, and Terminous Road will be negatively affected. Degradation of these and all roadway segments must be adequately mitigated to the satisfaction of Sacramento County Department of Transportation.	Please see the Mitigation Monitoring and Reporting Plan for details on how mitigation measures would be implemented.
1785	151	Impact TRANS-2: The DEIR/EIS suggests that the only roadway segments that will be damaged by the project are those identified as being in presently unacceptable condition (as in Tables 19-10 and 19-26). Mitigation is limited to impacts to road segments identified in those tables, namely roads with currently unacceptable road conditions that have traffic added to them. This approach fails to account for impacts to presently acceptable roadways that will substantially deteriorate as a result of project traffic. These impacts also need to be recognized and mitigated. Any construction traffic that will be added to both these types of	Mitigation measure TRANS-2c notes that all affected roadways would be returned to preconstruction condition or better following construction. This mitigation measure has been updated to clarify that this applies to all roadway segments, including those that are currently acceptable.

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		roadways, due to the nature of heavy loads, is expected to break down pavement conditions significantly. Due to the age and condition of the infrastructure in the Delta, roads not built to current standards will deteriorate more rapidly as a result of heavy construction traffic, the existing geologic and hydrologic conditions in the area (roadways constructed on levees and on peat or in tidal areas), the heavy volume of construction traffic, and the nature of that traffic (heavily laden trucks), the BDCP likely will result in significant deterioration of roadways that are presently in acceptable condition. Impacts will not be limited to roadways that are identified in the DEIR/EIS (Table 19-26) as currently deficient. Road deterioration can result in additional traffic delays, damage to vehicles, and increased safety hazards. The analysis should be revised to evaluate potential effects to the Delta's entire roadway network as existing conditions will be greatly impacted by the extensive construction work.	
1785	152	Mitigation Measures TRANS-2a and b: These measures call for prohibiting or limiting construction activity on existing physically deficient roadway segments if feasible. While this is a good idea, it may not be feasible.	The lead agencies acknowledge that prohibiting or limiting construction traffic on existing physically deficient roadway segments may not be feasible in all cases. Mitigation Measure TRANS-2c will improve physical conditions of such segments. This measure will also ensure that construction activities will not worsen pavement conditions, relative to Existing Conditions.
1785	153	Mitigation Measure TRANS 2-c: This mitigation measure addresses the effect of construction traffic on roadways that currently have unacceptable pavement conditions by improving the physical condition of affected roadways. While the County appreciates the inclusion of Mitigation Measure TRANS-2c, it is too narrowly focused to adequately mitigate the BDCP's impacts to County roads. As shown in Table 19-5 - Existing Pavement Conditions in the Study Area, the pavement conditions on most of the Sacramento County roadway segments in the study area are unacceptable. (DEIR/EIS, p. 19-19.) Furthermore, the few that are classified as acceptable have a Pavement Condition Index (PCI) rating on the border of unacceptable. Adding construction traffic to these roadways will make them deteriorate to unusable conditions. Furthermore, any roads used, whether they have an existing pavement deficiency or not, are expected to deteriorate due to the nature of construction activity. Roadways with a current PCI slightly higher than 56 out of 100 may be considered "acceptable," but they are very close to becoming unacceptable. The introduction of significant amounts of heavy construction traffic will quickly cause them to deteriorate into the unacceptable category. Mitigation measure TRANS-2c fails to account for or mitigate significant impacts to these roadway segments. All roadways that will carry construction traffic will be affected (including side roads) and should be subject to this mitigation measure, not just the roads identified in the Pavement Conditions tables such as 19-10 and 19-26. Due to the lengthy construction period, the BDCP proponents should not only be required to restore roadways to pre-construction condition or better at the end of the construction	As discussed in Mitigation Measure TRANS-2c, the lead agencies are committed to negotiating with local agencies to address their fair share of capacity improvements necessary to mitigate impacts of construction traffic. For more information regarding the preferred alternative and its impacts and associated mitigation measures on transportation please see 4.3.15 Section 4 of the RDEIR/SDEIS.

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		period, but they also should be required perform routine maintenance on substandard or damaged roadways prior to and throughout construction activities to ensure that roads remain safe and in acceptable condition for other users, including emergency vehicles. As drafted, this mitigation measure requires restoration of roads to their "pre- construction" condition. This seems impractical. For roads that are presently deficient, or on the verge of being deficient, the DEIR/EIS should explain how the contractor ultimately will restore these roads to an "unacceptable" condition. Rather than "restoring" roads to an unacceptable condition, at the end of construction activities, the BDCP proponents shall deliver acceptable roadways back to Sacramento County as determined by the director of the Department of Transportation.	
1785	154	Regarding the BDCP proponents' obligation to pay the BDCP's "fair share" of road repair costs, mitigation measure TRANS-C (page 19-182) states: "The fair share amount would be either the cost to return the affected roadway segment to its preconstruction condition." (DEIR/EIS, p. 19-182, emphasis added.) Either the word "either" is misplaced, or the measure has omitted an alternate means of calculating fair share amount. Please clarify and correct what is intended.	The correct phrasing is “The fair share amount would be either the cost to return the affected roadway segment to its preconstruction condition or a contribution to programmed planned improvements.” This is shown correctly on page 19-69 of the Draft EIR/EIS. Page 19-182, lines 13-14, will be corrected.
1785	155	Railroad Corridor Use: The BDCP proposes to use railroad corridors for construction access. (See, e.g., Figure M3-1 sheets 8, 9, and 1). Sacramento County Department of Transportation does not support the use of railroad corridors for construction roads. Even railroad corridors that are infrequently or not used any more can be turned into transportation amenities for alternative modes of travel (i.e., pedestrians, bicycles, equestrians, etc.). The use of these corridors for construction or operation access roads is not supported without further study.	This is a comment on the location of access roads along abandon railroad lines. The commenter’s opposition will be considered during the project design process.
1785	156	Job Site Access: The entrance and egress for construction-related job sites must be wide enough for doubles trucks [Footnote 9: California Legal Truck-Semitrailer-Trailers, as defined at http://www.dot.ca.gov/hq/traffops/engineering/trucks/truckmap/truck-legend.pdf.] to go out and come in from the same direction. Provisions also must be made for maintenance and repair of affected side roads. On levee roads within the County, contractors routinely set up entrance ramps going one direction (e.g., west bound) and egress ramps going out in the same direction so as to keep the traffic flowing. Trucks thus go around the block to get back to the site, such as a borrow pit. This causes damage to side roads when they cut back across the islands to get back to the stockpiles. The DEIR/EIS needs to provide more detail showing how trucks are to enter and leave the job sites and follow haul routes. Without this information, Department of Transportation is unable to evaluate the full scope of potential traffic and road impacts or comment on the adequacy of the proposed mitigation measures.	The lead agencies acknowledge your concerns about job site access and highway truck turn radius compliance. Such design considerations will be addressed during development of detailed site specific construction traffic management plans as discussed in Mitigation Measure TRANS-1A.

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1785	157	Bridges: The DEIR/EIS appears to evaluate only impacts to drawbridges. (See DEIR/EIS, p. 19-23.) An evaluation of "other bridges" should be included in the DEIR/EIS. At a minimum, the DEIR/EIS should include a listing and map of all stationary bridges affected by the construction and future operation of water operation facilities linked to CM-1. The aging drawbridges listed in Table 19-6 Roadway and Rail Draw Bridges in the Study Area, are currently operating at their threshold capacity. As a result, any additional transportation-related activities that occur as a result of the BDCP can easily put these bridges above their safe operating levels of service. Presently, no oversized and/or overweight trucks over 80,000 pounds are allowed on most of Sacramento County's drawbridges, including Freeport Bridge, Snodgrass Bridge, Walnut Grove Bridge, and Tyler Road Island Bridge. Does the existing traffic impact analysis take into account the weight limits for these draw bridges, and the limitations on road use and construction vehicle access they present? To help the reader understand how the constraints imposed by drawbridges might affect construction traffic routing, the DEIR/EIS should include a location map identifying all existing drawbridges. Use of these bridges for the construction of the proposed water operation/diversion facilities (i.e., CM-1) must be coordinated with and approved by the Department of Transportation for structural limits on each bridge. Lastly, the "Notes" section on page 19-24, includes an incorrect numerical reference for Sacramento County; it should read "24", not "23".	The BDCP proponents acknowledge your concerns about staying within bridge load limits and proper training of drivers. These issues will be included in traffic management plans as discussed in Mitigation Measure TRANS-1a: Implement Site-Specific Construction Traffic Management Plan. Mitigation Measure TRANS-2c: Improve Physical Condition of Affected Roadway Segments as Stipulated in Mitigation Agreements or Encroachment Permits also notes that major improvements such as bridge upgrades or repairs are not anticipated, but may be determined necessary as construction plans are developed. If such improvements are required, alternative transportation means may be used to eliminate the need for upgrades or repairs. The roadway segment analysis and level of service (LOS) performance measures incorporates truck volumes (by axle) in the facility type and traffic volumes thresholds. On the other hand, the roadway segment analysis does not directly take into account weight limits for draw bridges. Large construction equipment / material that require special traffic management plans due to weight / length would be required by Mitigation Measure Trans 1-A to be completed by the BDCP proponents in consultation with the applicable transportation entities.
1785	158	Existing Conditions: Page 19-20: Table 19-5 Existing Pavement Condition in the Study Area: The DEIR/EIS incorrectly identifies Isleton Road as having a Pavement Condition Index (PCI) of 85. The correct PCI for this road is 60.	A pavement rating of 60 and 85 are classified as good or better.
1785	159	Bicycle Access and Safety: As recognized in Impact TRANS-7, bicycle routes will be adversely affected by BDCP construction. Impacts, however, are not limited to access. Moreover, simply posting warning signs about road hazards is insufficient to mitigate adverse effects to bike routes and to the safety of cyclists. Not only will access to bike routes need to be maintained during construction, but bike routes will need to be maintained during construction activity. Mitigation Measure TRANS-2c should be modified to provide for ongoing maintenance to bicycle routes as well as vehicular routes.	The comment about the importance of maintenance of bike routes is acknowledged and will be forwarded for inclusion in traffic management plans.
1785	160	Barge Traffic: Page 19-184, lines 39-40: Barge traffic that requires the operation of drawbridges located in	As described in the mitigation measure TRANS-1a, Chapter 19, Transportation, of the Final EIR/EIS, DWR will ensure development of site-specific construction traffic management plans (TMPs) that address the specific steps to be taken before, during, and after construction to minimize traffic impacts, including the mitigation

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		Sacramento County will be subject to a 72-hour advance notice by the project contractors/proponents to the DOT (Department of Transportation). DOT will require a two-week advance notice of barge traffic at the Twin Cities Road Bridge.	measures and environmental commitments identified in this EIR/EIS. DWR will be responsible for developing the TMPs in coordination with the applicable jurisdictions, including Caltrans for state and federal facilities and local agencies for local roads, transit providers, rail operators, and commercial barge operators, the U.S. Coast Guard, boating organizations, marinas, city and county parks departments, and the California Department of Parks and Recreation (DPR), where applicable. DWR will also ensure that the TMPs are implemented prior to beginning construction at a site.
1785	161	Air Traffic Effects: The DEIR/EIS does not include Sacramento International Airport within the transportation study area, and therefore potential adverse effects to air traffic operations associated with the increased risk and likelihood of bird strikes associated with CMs 2-11 were not included in the transportation analysis. However, the five-mile general flight zone encompasses the entire Freemont weir component of CM-2. (DEIR/EIS, p. 30, lines 4-6.) The east levee of the Yolo Bypass is 2.00 miles from Sacramento International's west runway (16R/34L) and 3.16 miles from the east runway (16L/34R). The west levee is 3.60 miles and 4.83 miles from the west and east runways, respectively. The Fremont weir concrete structure is 5.00 miles from the west runway. The flight paths for both runways cross near and over the BDCP Conservation Zone 2. Therefore, attracting more birds to this area would put them in the path of approaching and departing aircraft.	Alternative 4A includes fewer acres of habitat restoration as a part of the proposed project. Note that Alternative 4A does not propose any actions in the Yolo Bypass and thus none of the provisions of CM2 would be implemented.
1785	162	Chapter 20: Public Services and Utilities Effects on Law Enforcement, Fire Protection and Emergency Response Services: The DEIR/EIS acknowledges that existing demand for local law enforcement protection in Sacramento County already exceeds the supply of resources. (See DEIR/EIS, p. 20-17, lines 20-23.) Growing demand and a relatively slower growing resource base leads to an inability to maintain historic levels of service. The County disagrees with the DEIR/EIS's determination that the BDCP will not have a significant impact on public service demands. This determination is not supported by evidence or analysis.	As stated in Final EIR/EIS, Chapter 20, the proposed project would not result in a permanent increase in population that could tax the ability to provide adequate law enforcement, fire protection services, and medical services. The increase in construction workers anticipated during the construction period could increase demands for these services during this period; however, the increase in worker population would be minimal and spread out over the large multi-county study area. This additional population would constitute a minor increase in the total 2020 projected regional population of 4.6 million.
1785	163	Projected employment estimates are roughly 4,000 or more workers over the length of the 9 to 12 year project. (DEIR/EIS, p. 20-39.) The DEIR/EIS indicates the workforce population would primarily come from within the existing five-county labor force already served by law enforcement and only specialty positions would be hired from outside. What is the basis for this determination? There is no language in the DEIR/EIS citing specific hiring practices to favor local residents. New residencies created by the workforce would likely also include additional family members. An increase in workforce population moving to the area of this size would also likely increase the demand on law enforcement.	An estimated peak of 2,278 workers would be needed during construction of the preferred alternative (Table 20-2). It is anticipated that many of these construction jobs would be filled from the existing labor force in the five-county Plan Area region. Employment impact data was drawn from the analysis of Delta regional employment and income (see Section 16.3.1.2 of Final EIR/EIS Chapter 16, Socioeconomics, for a description of that methodology). However, construction of the conveyance tunnels may require specialized skills resulting in recruitment of specially trained workers coming from outside the five-county region. As described in Chapter 16, Socioeconomics, Impact ECON-2, this additional population would constitute a minor increase in the total 2020 projected regional population of 4.6 million. Therefore, the increase in workforce population would not significantly increase demand on law enforcement.

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1785	164	The scale and duration of the construction required also could result in increased demand on law enforcement, especially near major construction sites. (DEIR/EIS, p. 20-40.) The mitigation offered would provide 24-hour onsite private security to ensure no adverse effect on local law enforcement. According to the Sacramento County Sheriff's Department, private security may offer limited deterrent to potential thefts; however, it does not negate the need for law enforcement to respond to crimes that do occur. Additionally, the BDCP is highly contentious and continues to draw significant criticism and opposition from political and ecological groups. A threat assessment has been completed by the California Central Intelligence Center indicating an elevated threat for destructive acts both during construction and upon completion. The high profile and controversial nature of the BDCP, which puts it at an unusually high risk for criminal behavior, only increases the potential burden on law enforcement and the risk to the safety of Delta residents.	Security personnel will serve as the first line of defense against criminal activities and nuisances at construction sites. Private patrol security operators hired to provide site security will have the appropriate licenses from the California Bureau of Security and Investigative Services. Individual security personnel will have a minimum security guard registration license that meets the California Bureau of Security and Investigative Services requirements for training and continuation training as required for that license. Security personnel will greatly minimize the impact on law enforcement as a result of the proposed project. While they will likely not be able to prevent all crime as a result of the proposed project, they will minimize the impact to a less than significant level. Please see Appendix 3B Environmental Commitments in the 2015 RDEIR/SDEIS for more information.
1785	165	Failure to Analyze Impacts of Wastewater Treatment and Disposal: Project tunnel boring activities will generate "substantial" amounts of contaminant-laden wastewater, in rural areas, that will require treatment and disposal. (DEIR/EIS, p. 20-119.) The DEIR/EIS states wastewater treatment services required for the preferred alternative "would be provided by temporary facilities and treated onsite. Construction of Alternative 4 would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities. This effect would not be adverse." (p. 20-120.) No evidence or analysis is provided in support of the determination that impacts from the treatment and disposal of a substantial amount of wastewater would not be adverse. Although the volume of wastewater is characterized as "substantial" (DEIR/EIS, p. 20-119.), the total amount of wastewater is not quantified, and the type of treatment that is proposed and impacts of such treatment are not specified. What type of wastewater treatment process is proposed for the tunnel boring wastewater? What are the estimated concentrations of contaminants that will be in the wastewater? What type of treatment process and associated treatment facilities will be implemented? What are the impacts of constructing and operating the wastewater treatment facilities, and where and how will the wastewater be disposed? What will the impacts of wastewater disposal be? Because no information is provided about this potential impact, the County is unable to assess the actual scope of impacts or any necessary mitigation. The DEIR/EIS's bare conclusion about wastewater treatment and disposal impacts, without any explanation of its factual and analytical basis, violates CEQA's requirement that an EIR "include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal. (1988) 47 Cal.3d 376, 405.)	For additional information on the treatment and use of RTM please see Master Response 12. As discussed in Final EIR/EIS, Chapter 8, Water Quality, as part of the Environmental Commitments (Appendix 3B) for each alternative, DWR will be required to conduct project construction activities in compliance with the State Water Board's NPDES Stormwater General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ/NPDES Permit No. CAS000002).
1785	166	Lack of Water Supply Analysis for CM-1 Activities: The Preferred Project (Alternative 4) would require massive amounts of water for workers,	Please note that the preferred alternative is now Alternative 4A. It is anticipated that if there are existing water lines in the vicinity of the construction sites, the field office

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		operations, and concrete batch plants. The DEIR/EIS cites a total potable water demand of 165.7 million gallons of water over the nine-year construction period. (DEIR/EIS, Table 20-3, p. 20-45.) This is the equivalent amount of water required to serve 200 or more homes, under average potable water consumption rates in the Sacramento area. The DEIR/EIS on page 20-120 concludes: CEQA: While construction of Alternative 4 would require 165.7 million gallons of potable water, this supply could be met by non-municipal sources without any new water supply entitlements. Additional needs for wastewater treatment and potable water could also be served by non-municipal entities. Water for construction activities would be brought to the site in water trucks. Wastewater services for construction crews would be provided by temporary portable facilities. Construction of Alternative 4 would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities. This impact would be less than significant. Mitigation is not required. The discussion of operational water supply impacts (DEIR/EIS, pp. 20-127 - 20-130.) suffers from the same flaws as the construction water analysis. The DEIR/EIS does not adequately discuss/analyze where water needed to support BDCP operations will come from or indicate the potential impacts that could result from the shifting of this large amount of water from the aquifer or surface water in the river/Delta. No evidence or analysis supports the determination (DEIR/EIS, p. 20-130.) that the BDCP's construction or operational water demands can be met from available entitlements and supplies or what the impacts of supplying water would be. What non-municipal sources are proposed to be used to supply project water? What evidence supports a determination that adequate supplies exist, and that the BDCP's use of those supplies will not adversely affect other uses, such as local residents or agricultural uses? If water is proposed to be pumped from local groundwater wells, more information is needed about well locations and capacities, and aquifer capacity, as well as pumping-related impacts, including potential interference with other area wells, aquifer depletion, subsidence, and potential surface water depletion impacts to the Sacramento or San Joaquin Rivers. What is the quality of the proposed project water sources, and will any treatment be required to meet drinking water standards? Water for construction activities is estimated to amount to 147 million gallons. What is the proposed source for that water, and how many trucks, of what size, would be required to supply the water? Were the truck trips associated with delivering water to the construction sites factored into the project traffic impact analysis and impact determinations? Without this information, there is no evidence to support the DEIR/EIS's determination that there are adequate supplies of water to serve the project, and that the BDCP would not require or result in the construction of new water or wastewater treatment facilities.	will connect to them. Because construction of this alternative would primarily occur in rural parts of the Plan Area, and is not likely to occur in areas with municipal water service, it is not expected to impact municipal water systems. If there are no existing water lines in the vicinity, then field offices will require construction of a water tank. Water for construction will be provided by available sources to the extent possible; if needed, water may be brought to the construction sites in water trucks. Construction impacts associated with trucks, including water trucks, are addressed in Final EIR, Chapter 19, Transportation, Chapter 22, Air Quality and Greenhouse Gases, and Chapter 23, Noise. As such, this alternative would not likely adversely affect municipal water supplies. Additionally, the potable water demand would be temporary and limited to the construction period. See Master Response 18 related to agricultural mitigation.

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		Finally, there is no mention of potential impacts to local water systems, particularly wells, due to BDCP construction. Potential impacts include possible geological degradation of the aquifers due to partial or full soil liquefaction due to construction or operation of the BDCP.	
1785	167	Relocation of Hood Fire Station: A number of alternatives would require relocation of the Hood Fire Station. Mitigation Measure UT-2 proposes replacement of the station to maintain the existing service response times of 5 to 10 minutes. (DEIR/EIS, p. 20-42.) The DEIR/EIS does not identify any possible locations for replacement of the fire station, so it is impossible for the County to assess whether this mitigation measure is viable and what the potential impacts of relocating the station might be.	While mitigation measure UT-2 does not identify a precise location for a Hood Fire Station, the measure does provide a performance standard to maintain the current 5-10 minute average response time. Should any of these alternatives be selected as the preferred alternative, the mitigation monitoring and reporting program would identify the potential locations for a new fire station that would maintain the desired performance standard and requirements of the CFD. The new preferred alternative (Alternative 4A) would not require the relocation of the Hood Fire Station.
1785	168	Solid Waste Impacts Associated with Project Operation: The BDCP will generate nearly 300,000 cubic yards of dry solids requiring land disposal. The DEIR/EIS states, "[a]s designed, it is anticipated that a portion of the solids would be stored and reused at alternative facilities and some portion would be transported for offsite disposal." (DEIR/EIS, p. 20-128.) Where are the alternative facilities that will be used for dry solids storage and reuse? How much area is required to store the solids? Will the storage area be lined to ensure that solids storage does not contaminate groundwater? What type of containment system will be provided to ensure that stored solids do not present runoff or erosion problems? Solids storage has the potential to result in odor and vector impacts. What measures will be implemented to avoid these types of impacts? How many truck trips would be required to move solids to storage areas, and were these trips factored into the traffic impact analyses?	All solid waste management activities for the construction and operations and maintenance associated with the proposed project would be conducted in accordance with regulations set forth by CalRecycle, and any applicable IWMP developed for affected jurisdictions. Please see Appendix 20A, Table 20A-6 for a listing of each potential facility's name, location, permitted capacity, remaining capacity, maximum permitted daily throughput, and proximity to the statutory Delta. The area required to store solids varies with each alternative. Please see Final EIR/EIS Chapter 20 for specific amounts. As discussed in Final EIR/EIS, Chapter 8, Water Quality, as part of the Environmental Commitments (Appendix 3B) for each alternative, DWR will be required to conduct project construction activities in compliance with the State Water Board's NPDES Stormwater General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ/NPDES Permit No. CAS000002). Compliance with this NPDES will require sufficient containment systems to prevent contamination of groundwater and runoff or erosion problems. Implementation of BMP 13 (Appendix 3B, Environmental Commitments) would require development of a project-specific construction debris recycling and diversion program to achieve a documented 50 percent diversion of construction waste. For purposes of this analysis, the volume of construction debris generated during construction was based on estimated truck trips that were assumed to be potentially associated with disposal of construction debris at a landfill. This includes all trips by trucks categorized as Heavy Construction T7 that are likely to carry debris (flatbed, dump, and tractor) detailed in Final EIR/EIS, Chapter 22, Air Quality and Greenhouse Gases (Appendix 22B, Air Quality Assumptions).
1785	169	Lack of Water Supply Analysis for Conservation Measures 2-22: Impact UT-8 (DEIR/EIS, p. 20-56, line 37) discusses needed water for BDCP mitigation and	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA

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		restoration activities. Again, there is no analysis of where these water supplies will originate or the impacts of obtaining and delivering that water. While specific details about mitigation and restoration projects may not be known, that does not excuse the failure to evaluate, at a program level, the projected water demand of those activities and likely sources for project water. In numerous areas the DEIR/EIS analysis of water export project (CM-1) impacts, and the viability of the HCP/NCCP itself, depends on the success of conservation measures 2-22. If these conservation measures are not feasible because there is an insufficient water supply to ensure their success, or the impacts of supplying that water will be so great as to negate other anticipated BDCP benefits, the public needs to know, so that the merits of the project can be adequately considered.	Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Draft EIR/EIS. Alternative 4 (also known as BDCP) remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Draft EIR/EIS may be utilized by other programs for implementation of the long-term conservation efforts. For HCP alternatives tidal wetland restoration would not require any additional water and for other forms of restoration, the quantity of water (that could be obtained from groundwater sources would not exceed the agricultural land needs in restoration areas, therefore no new source of water for these activities is anticipated. See Master Response 18 related to agricultural mitigation. As the Environmental Commitments associated with the preferred alternative would not generally require treated water or wastewater treatment facilities, new or expanded services are unlikely. Because the location and construction or operation details (i.e., water consumption and water sources associated with various conservation measures) surrounding these facilities and programs have not yet been developed, the need for new or expanded water or wastewater treatment facilities is uncertain. Once the proposed project reaches this level of design the needs and impacts of supply water to implement the relevant Environmental Commitments will be analyzed and considered.
1785	170	Correction to Table of Water Service Providers (Appendix 20A): The SCWA address provided in Table 20A-8 is incorrect. (DEIR/EIS, p. 20A-29.) The correct address is 827-7th Street, Room 301, Sacramento, CA 95814.	The address has been corrected.
1785	171	Chapter 21: Energy Inadequacy Due to Data Discrepancies, Omissions and Overall Complexity: The DEIR/EIS's analysis of BDCP energy impacts fails to comply with CEQA and NEPA in several respects. The problems relate both to its readability and use as an informational document. With regard to readability, the complicated text makes it very difficult for the reader to easily understand the potential impacts of each alternative. The presentation of data also makes it difficult for the reader to obtain a clear understanding of the BDCP's impacts. The tables are unclear, not described very well, and the information does not seem to be consistent with other parts of the document. For example, Table 21-11 provides information on annual average pumping and net energy use (in gWh -- gigawatt hours) for the alternatives for the north Delta and south Delta, with "points of comparison" relative to the No Action Alternative (NEPA baseline) and Existing Conditions (CEQA baseline). However,	The document and energy analysis reflects several years of collaboration, responses to requests for additional information, careful thought, accumulation of the latest scientific information, and thorough analyses. Although the analyses that support the Draft EIR/EIS, including the energy chapter, are complex, the lead agencies have made every attempt to present the information in plain language and in a clear format with emphasis on the information that is useful to the public, agencies, and decision makers. For more information, please see Response to Comment BDCP1787-255, found in the index of commenters who submitted letters during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods, and Master Response 38 regarding the length and complexity of the document. Please see section 21.1 for discussion regarding conversion of energy units between kilowatt (kW), megawatt (MW), and gigawatt (GW). Please see Section 21.3.1.2 for a discussion of energy requirements for the CVP and SWP south Delta pumping plants (total Delta exports). Section 21.3.1.2 indicates that changes in energy requirements for

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		the impact determinations refer to the maximum power requirements in MW, which are completely different from the figures provided in Table 21-11, and do not appear to come from any other reference source in the section. In addition, the significance conclusions seem to be based only on the north Delta energy use (from Table 21-11), which is much lower than energy use for the south Delta. However, it is unclear why only north Delta energy use would be used here and what the relationship to the "maximum power requirement" to operate the alternative would be. If the information is in the section, it is not clear and buried. Why include both north and south Delta energy use in Table 21-11 if only north Delta energy use is relevant to the significance conclusions? As detailed below, the section also fails to clearly describe or analyze key elements related to energy use, including transmission infrastructure and the need for new power generating facilities.	each action alternative will depend on the CALSIM-II simulated north Delta diversions and the total CVP and SWP Delta exports. As noted in Final EIR/EIS, Chapter 21, Energy, the project would not result in the construction of any new power plants, including hydroelectric dams. Accordingly, the project would not require flooding of new reservoirs, which as noted above, results in the majority of GHG emissions from hydroelectric reservoirs.
1785	172	Lack of Clear Description of Electrical Transmission Infrastructure: Although the Energy chapter is a logical place to go to find descriptions of the electrical transmission infrastructure that will be associated with the BDCP, this information is actually scattered throughout other topical chapters. While it makes sense to describe the physical impacts of that infrastructure in the relevant topical chapters, this chapter should clearly articulate what facilities are needed, and where they may be located. The DEIR/EIS states: "DWR will conduct a System Impact Study which will evaluate the electrical transmission and power needs for the conveyance facilities. The study will be completed in time to procure the necessary power to support construction and operation of the facilities [ ]. This System Impact Study for BDCP is expected to take between five and seven years." (DEIR/EIS, p. 21-22.) This statement appears to imply that the impact of the project's energy demand on the existing transmission system is totally unknown at this time. Because the DEIR/EIS intends to provide a project-level review of impacts, it must include sufficient evidence and articulate the likely magnitude and scope of any impacts. Otherwise, existing plans or facilities may be inadequate to handle the system changes, necessitating further construction impacts, but we will only know this after the project has been approved. Deferring the analysis until a later time deprives reviewers of the information necessary to make meaningful comments on this topic.	Please refer to Section 21.3.2.1 from Chapter 21 of the Draft EIR/EIS, which discusses the potential for new energy resources. Project activities could lead to reduced available CVP hydroelectricity to other California electricity users, and the substitution of the lost electricity with electricity from other sources could indirectly result in the replacement of the renewable CVP hydroelectricity with fossil fuel-derived electricity. However, these purchases would be caused by dozens of independent electricity users, who had previously purchased CVP power, making decisions about different ways to substitute for the lost power, and these decisions are beyond the control of Reclamation or any of the other Lead Agencies. Monitoring to determine the actual indirect change in energy source as a result of project actions would not be feasible. Consequently, it would be speculative to predict where any additional electricity purchases would occur. Please also see Master Response 19 for additional information on the procurement of renewable energy and the response to Comment BDCP2006-50, found in the index of commenters who submitted letters during the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS comment periods.
1785	173	Improper Deferral of Impacts Associated with New or Expanded Electrical Power Generating Facilities: Although the BDCP will consume vast amounts of energy, the DEIR/EIS fails to evaluate whether the BDCP's energy demand will result in the need for new or expanded electrical power generation facilities, and what the impacts of developing and operating such facilities would be. Rather the DEIR/EIS merely states, "The potential for new or expanded electrical power generation facilities is therefore not discussed in this section as it will be addressed	As indicated in Section 21.3.2.1 of Chapter 21 of the Draft EIR/EIS, SWP procures power through long-term and mid-term contracts based on year-ahead and month-ahead outlooks, and these are documented through demand forecasts submitted to CEC and CAISO and compliance demonstrations submitted to CAISO. Consequently, because SWP would be able to verify adequate capacity to accommodate the project, discussion of new or expanded power generation facilities is not warranted.

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		through SWP power purchase programs." (See DEIR/EIS, p. 21-32, lines 11-13.) This sentence highlights our continuing concerns about this chapter (and others), and the fact that analyses critical to understanding the scope and magnitude of potential project impacts are being deferred to a future time. If new or expanded electrical power generation facilities are needed either directly or indirectly as a result of the BDCP, then that information must be disclosed and described in this DEIR/EIS.	
1785	174	Lack of Analysis to Support Impact Determination: The analysis of alternatives (DEIR/EIS, p. 21-40 onward) is conclusory. Although the energy demands reported are substantial, the analysis consists of a single paragraph, which states that "all feasible control measures" will be used to reduce energy consumption, even though measures are not described, and no mitigation is provided that ensures compliance. There is no connection between the stated energy consumption and the significance conclusion, because no nexus is provided between the information in the preceding 40 pages and why that information could lead to a conclusion that impacts are less than significant or not substantial. Alternative IA will use an average of 158 gWh/yr [gigawatt hours per year] during the nine-year construction period, which is roughly equivalent to the amount of power consumed by 14,000 average American homes each year. During the operational period, the energy consumption increases to 308 gWh/yr, which is roughly equivalent to the amount of power consumed by 29,000 average American homes each year. [Footnote 10: Source: US Energy Information Administration, located at http://www.eia.gov/tools/faqs/faq.cfm?id=97&t=3.] It is worth noting that Alternative 1A is not even the most energy-intense alternative; some will require substantially more energy. By comparison, Alternative 9 will only require 9 gWh/yr to operate, but no attempt is made in the analyses to compare the alternatives to one another. An argument could easily be made that if there is an alternative that could substantially achieve the project goals but uses hundreds of gWh less of energy, that it would be a wasteful or inefficient use of energy to adopt a more energy-intense alternative. The lack of a clear comparison hinders the ability of the public and decisionmakers to evaluate the relative merits of the various alternatives. The data on each alternative (DEIR/EIS, pp. 21-29 - 21-31) should be consolidated in a table using uniform metrics for easy comparison. There are substantial differences in energy loss between the alternatives, which should be clearly displayed.	As noted by the commenter, the reader may refer to pages 21-29 through 21-31 of the Draft EIR/EIS for a discussion of pumping and energy requirements for each alternative. In addition, Table 29-11 summarizes annual average pumping and net energy use for all action alternatives, allowing the reader to make a comparison between alternatives. The lead agencies have established thresholds of significance from which energy impacts have been evaluated consistent with the requirements outlined in Section 15064.7 and Appendix F of the CEQA Guidelines. As indicated in Chapter 21, the project would incorporate measures, such as including off-peak pumping and use of gravity, to maximize efficient use of energy.
1785	175	Inadequate Cumulative Impact Analysis: The cumulative impact analysis inappropriately concludes that impacts will be less than significant by comparing the energy demand of this project to the total energy demand of the state. (DEIR/EIS, p. 21-61.) In Friends of Oroville v. City of Oroville (2013) 219 Cal.App.4th 832, the Court of Appeal rejected the comparison of project greenhouse gas	Text has been revised in Section 5, Revisions to Cumulative Impact Analyses, in the RDEIR/SDEIS to revise the Energy impact analysis and prepare findings consistent with Section 21.3.3.17 of the Chapter 21 from the Draft EIR/EIS. Energy use for the proposed project is within the planned maximum capacity for the CVP and SWP.

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		emissions against statewide emissions as a basis for determining the significance of impacts. The court stated, "[o]f course, one store's GHG (greenhouse gases) emissions will pale in comparison to those of the world's eighth largest economy." This same logic applies to the DEIR/EIS's analysis of the BDCP's energy consumption. There is unlikely to be any single project in California that will ever result in significant cumulative energy consumption if the comparison point is the energy consumed by all operations throughout California. In addition to the comparison problem, even though the first sentence references construction energy, the remainder of the analysis only addresses operational energy. No analysis of cumulative construction energy use and impacts has been provided.	Construction activities were added to the RDEIR/SDEIS as Impact ENG-3.
1785	176	Chapter 22: Air Quality and Greenhouse Gases Failure to Adequately Evaluate Health Effects of Pollutant Emissions: The DEIR/EIS identifies numerous adverse health effects caused by exposure to pollutants that will be emitted during construction and operation of the BDCP, including adverse effects from particulate matter, ozone, NO2 and CO. (See DEIR/EIS pp. 22-4-6.) The DEIR/EIS states, "Mobile and stationary construction equipment exhaust, employee vehicle exhaust, and dust from clearing the land would generate emissions of ozone precursors (ROG and NOx), CO, PM10, PM2.5, and SO2." (DEIR/EIS, p. 22-224, lines 35-36.) The DEIR/EIS further states that emissions of a number of these pollutants will exceed air quality standards and that the highest levels of dangerous emissions will occur in Sacramento County communities where the intake and pumping plant and forebay sites will be built. (See Impact AQ-2: Generation of Criteria Pollutants in Excess of the SMAQMD Thresholds during Construction of the Proposed Water Conveyance Facility, DEIR/EIS, p. 22-229, lines 6-10, 22-29.) However, the DEIR/EIS does not provide any information about the potential for these BDCP emissions, other than particulate emissions, to result in adverse health effects. Despite the acknowledged potential for adverse effects from pollutants such as ozone, NOx, CO and others, the DEIR/EIS's assessment of adverse health effects appears to have been limited to an evaluation of risks from particulate matter exposure, including diesel particulate matter (DPM). (See DEIR/EIS, pp. 22-35, lines 10-11 and Impact AQ-11: Exposure of Sensitive Receptors to Health Threats in Excess of SMAQMD's Health-Risk Assessment Thresholds, DEIR/EIS, pp. 22-249-250 (failing to evaluate health effects of BDCP emissions for any pollutants other than particulate matter).) The DEIR/EIS does not evaluate or explain whether the BDCP's emissions of pollutants other than particulate matter would have adverse health effects on Sacramento County residents. To satisfy CEQA's informational mandate, the DEIR/EIS must include an analysis that correlates the BDCP's emission of air pollutants, both from construction activity and heavy truck traffic, to its impact on human health on residents of the County and greater Delta. (Sierra Club v. County of Fresno (2014) 226 Cal.App.4th 704.) That analysis must explain whether the BDCP-related levels of emissions from all pollutants that have the potential to cause adverse health effects, not	In light of Sierra Club v. County of Fresno, additional text has been added to Chapter 22, Air Quality and Greenhouse Gases, Section 22.3.2.1, to identify the purpose of the project plan area air districts' criteria pollutant thresholds and describe the analysis undertaken by the air districts to establish the numeric limits. The discussion highlights that while the criteria pollutant thresholds are derived from air quality plans developed to meet and attain the State and federal health-based ambient air quality standards, they are not indicators of potential project-level human health impacts. This additional context narrows application of the air districts' criteria pollutant thresholds and defines their purpose in evaluating project-level air quality impacts—the thresholds are only used to assess the project's effect on regional attainment of the ambient air quality standards. An additional section has also been added to Section 22.3.2.1 to disclose that while criteria pollutant emissions do impact human health, adverse health effects are highly dependent on a multitude of interconnected variables (e.g., cumulative concentrations, local meteorology and atmospheric conditions, the number and character of exposed individuals [e.g., age, gender]). Moreover, health effects related to ozone are a product of emissions generated by numerous sources throughout a region. Existing models have limited sensitivity to small changes in criteria pollutant concentrations, and as such, translating project-generated criteria pollutants to specific health effects would produce meaningless results. In other words, minor increases in regional air pollution from project-generated ROG and NOX would have nominal or negligible impacts on human health. As an example, the Bay Area Air Quality Management District's Multi-Pollutant Evaluation Method requires a 3 to 5 percent increase in regional ozone precursors to produce a material change in modeled human health impacts. Based on 2008 ROG and NOX emissions in the Bay Area, a 3 to 5 percent increases equates to over 20,000 pounds per day or ROG and NOX. Please refer to Section 22.3.2.1 and Section 22.3.4 (cumulative impacts) for a general discussion on how changes in regional criteria pollutant emissions (ROG and NOX) associated with the project could lead to health outcomes. Since localized pollutants generated by a project can directly affect adjacent sensitive receptors, the analysis of project-related impacts to human health focuses only on those localized pollutants with the greatest potential to result a significant, material impact on human health. This is consistent with the current state of practice, available literature, and limitations in relating project-level criteria pollutant levels to specific health endpoints (e.g., asthma, cardiovascular disease). The pollutants of concern analyzed in the RDEIR/SDEIS include 1) locally concentrated particulate matter and carbon monoxide, 2) diesel particulate

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		just particulate matter or TACs, will in fact have adverse effects on sensitive receptors.	matter, and 3) C. immitis (Valley Fever). Please refer to Impacts AQ-9 through AQ-18.
1785	177	Failure to Evaluate Potential for Crop Damage/Loss or Nuisance: The BDCP will create substantial amounts of fugitive dust, in exceedance of regulatory thresholds. BDCP construction will occur in and around areas of high value agricultural production. The DEIR/EIS does not evaluate the potential for BDCP-related fugitive dust emissions to adversely affect agricultural uses, including the potential for reduced crop yield. Moreover, fugitive dust emissions have the potential to violate State nuisance law (Health & Safety Code section 41700), which prohibits the "discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property."	DWR has identified several environmental commitments to reduce construction-related criteria pollutants where necessary. These commitments include electrification of heavy-duty off-road equipment and fugitive dust control measures, as described in Appendix 3B. With respect nuisance laws, as discussed in Final EIR/EIS, Chapter 22, Air Quality and Greenhouse Gases, Section 22.2.3, all local air quality management agencies in the BDCP Plan Area have adopted rules and regulations (including nuisance rules) to protect human health, ensure the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) are met, and comply with State nuisance law. The regulations adopted by the air quality management agencies act as performance standards for engineers and construction contractors; their implementation is considered an environmental commitment of the agencies implementing the project. This commitment is discussed further in Final EIR/EIS, Appendix 3B, Environmental Commitments. See Master Response 18 related to agricultural mitigation.
1785	178	Impacts of CM-2: The DEIR/EIS inadequately analyzes the effect on air traffic from CM-2 (Yolo Bypass Fisheries Enhancement), which will include the excavation of a minimum of 1 MCY of sediment every other year from channels and drains plus removal of another 1 MCY within one mile of the Fremont Weir every five years. (DEIR/EIS, p. 11-199, lines 2-9; BDCP, p. 67, lines 11-17.) There are a multiplicity of impacts which could result from CM-2 which have either not been addressed or have been inadequately addressed. Increased particulate pollution from dust produced during the large excavation process may impact air quality and adversely impact visibility for pilots of aircraft operating in the vicinity. The excavation of 1 MCY of soil also has the potential to attract large flocks of birds because prey, seeds, and nutrients would be exposed. This would have the potential to increase the likelihood of bird strikes during periods of sediment removal, and therefore significantly impact flight operations at Sacramento International Airport. Page 22-403 indicates that CM-2 could generate significant construction-related NOx and particulate matter, but provides no modeling or other analysis. While it is understood that an analysis of cumulative effects need not be as comprehensive as an analysis of the BDCP, this section is far too vague. A good faith effort to estimate the magnitude of the impacts must be made, and is lacking here.	Table 22-24 in Final EIR/EIS, Chapter 22, Air Quality and Greenhouse Gases, identifies potential construction and operational emissions that may be generated by implementation of CM2–CM11, including fugitive dust from excavation activities. With respect to the analysis of nitrogen oxides, particulate matter, and other emissions from implementation of CM2-CM11, CEQA Guidelines, § 15146, state that the degree of specificity in a program EIR's impact analysis need only be as detailed as the description of the elements in the program. As discussed in Section 22.3.1.6, construction effects would vary depending on the habitat restoration and enhancement conservation actions implemented under the BDCP. Information on the location and types of construction equipment required for each conservation measure is currently unavailable. Consequently, a quantified analysis of potential criteria pollutant emissions is not possible, and a qualitative assessment of air quality effects resulting from the proposed program was performed. A qualitative assessment and the associated level of detail are sufficient for a program-level EIR. For more information, please refer to Master Response 2. The lead agencies acknowledge your concerns about fugitive dust and its impacts on visibility for aircraft. Final EIR/EIS, Chapter 22, Air Quality and Greenhouse Gases, discusses fugitive dust emissions. Mitigation Measure AQ-18: Develop an Air Quality Mitigation Plan (AQMP) to Ensure Air District Regulations and Recommended Mitigation are Incorporated into Future Conservation Measures and Associated Project Activities, includes implementing basic and enhanced dust control measures recommended by local air districts in the project area. Applicable control measures may include, but are not limited to, watering exposed surfaces, suspending project activities during high winds, and planting vegetation cover in disturbed areas. Please see the response to Comment 1785-223.

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1785	179	Incorrect Threshold for PM10: Page 22-35, line 16: This line states that the Sacramento Metropolitan Air Quality Management District (SMAQMD) uses a mass emission threshold for PM10, which is not accurate. The current thresholds for SMAQMD are located here http://airquality.org/ceqaguideupdate/Ch2TableThresholds.pdf and show that a concentration-based threshold is used. Later portions of the EIR/EIS accurately use the concentration-based threshold, so it is assumed that the statement on this line is merely an error that did not impact later analysis. Please correct.	This threshold has been corrected and updated in the 2015 RDEIR/SDEIS.
1785	180	PM10 dispersion modeling: Page 22-37, Section 22.3.1.4: This section describes the dispersion modeling methodology. The section specifically states in multiple places that modeling for PM10 was only completed for Alternative 4, but never addresses why this was the only alternative to receive this analysis. Either add a justification for this decision, or add PM10 dispersion modeling for each alternative. Given that the EIR/EIS analyzes DPM and PM2.5 fugitive dust for all alternatives, it is particularly odd that PM10 modeling was limited to only one of the alternatives. There is nothing about the characteristics of PM10 which would make it appropriate to model PM2.5 and yet not appropriate to model PM10. Page 22-233 includes the mitigation for exposure to severe particulate matter concentrations. While this measure appears accurate, it may need to be expanded based upon the additional analysis that is required, as noted above. Appendix 22c, page 7, line 16 accidentally references DPM; this line should be deleted. Appendix 22c, page 17, line 29 incorrectly states that SMAQMD has no significance threshold for PM2.5. The current thresholds for SMAQMD are located here http://airquality.org/ceqaguideupdate/Ch2TableThresholds.pdf, and indicate that the threshold for PM2.5 is to be no greater than 5% of 12 micrograms per cubic meter (annual arithmetic mean). The result of this error is that no analysis of PM2.5 impacts has been provided for the SMAQMD jurisdiction, which is a serious oversight. Analysis of PM2.5 for the SMAQMD jurisdiction must be included.	The 2015 RDEIR/SDEIS has been updated to include a localized PM10 analysis for the other alternatives. The 2015 RDEIR/SDEIS has been updated to include the mitigation measures for particulate matter impacts in all applicable alternatives. Appendix 22c of the 2015 RDEIR/SDEIS includes an updated discussion, and the incorrect reference to DPM in the section has been removed. The 2015 RDEIR/SDEIS includes a localized PM2.5 analysis for evaluation against the appropriate updated thresholds from the SMAQMD jurisdiction.
1785	181	Chapter 23: Noise There are numerous noise-sensitive receptors associated with residential and recreational land uses in the Delta that will be significantly impacted by the BDCP. The DEIR/EIS's analysis with respect to these receptors is inadequate. Failure to Use Correct Thresholds of Significance:	The traffic noise impact assessment was revised to use the same thresholds as construction noise. Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies. The assessment uses a 5 dB increase threshold for traffic noise where loudest-hour traffic noise levels are predicted to be 60 dBA Leq or greater. This is revised from the previous draft which used 12 dB to define a substantial increase. It should be noted that the County General Plan policy appears to apply to capacity increasing transportation projects, not vehicle use from construction activities, which of itself does not cause a permanent increase in

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		Page 23-14 provides the correct thresholds for non-transportation noise, and the correct code section for the control of noise generated on-site by construction operations. However, the DEIR/EIS does not include thresholds for impacts associated with transportation noise. The Noise chapter includes an analysis of noise generated by off-site trips, but fails to use the County significance thresholds. According to page 23-24, lines 18 and 19, the analysis used Caltrans Protocol, which requires an increase of 12 dB before a substantial impact occurs. The County standards are much more rigorous. General Plan Policy NO-9 includes language applicable to capacity-enhancing roadway projects or new roadway projects, but the latter portion of this policy also applies in general. Sacramento County relies on the standards at the end of this policy to determine, pursuant to the CEQA Guidelines, whether a project will result in a substantial increase in ambient noise. In accordance with this policy, an impact is significant if it affects the pre-project noise environment as specified in the policy. Include this policy language in the chapter, and provide the attendant analysis. Page 23-35 and all other similar tables (those which show impacts due to noise increases on area roadways) will need to be modified to reflect the more stringent County standards for those roadways that are in the County (and which affect sensitive receptors), consistent with the comment above.	noise levels. Generally the project would not modify existing roadways. The proposed project would realign segments of SR 160 around the footprints of new intake structures, but this would not necessarily increase capacity. The County General Plan policy indicates that transportation projects resulting in an increase of 1.5 to 3 dB where existing pre-project noise levels are 60 dBA or greater would be considered to result in an impact requiring consideration of mitigation. This increase threshold is slightly more stringent than the 5 dB DWR increase threshold. However, the DWR threshold is used for activities that do not result in a permanent increase in noise levels. To describe the effects of noise level increases, Section 23.1.1 includes a discussion about human response to changes in noise level. A 3 dB change is considered a barely noticeable difference, while a 5 dB change is considered to be discernible and readily noticeable. As stated in Final EIR/EIS, Chapter 23, construction noise impacts are considered to be Significant and Unavoidable. This is based on an analysis that considers worst-case conditions. These conditions would not necessarily occur on a routine basis. However, although alternative haul routes for truck traffic may be an effective measure in some cases, significant impacts are still likely after mitigation. The construction of noise barriers for mitigation of traffic noise on local roads is generally not a feasible option, due to driveway access and line-of-sight requirements. However, traffic noise impacts due to the construction of the proposed project would cease after the construction period ends.
1785	182	Impact NOI-1 and Mitigation Measure NOI-1b: While we concur that the impact is likely to be significant and unavoidable in some areas (DEIR/EIS, p. 23-41, lines 22-25), the mitigation measure for this impact (NOI-1b) must be expanded to include performance standards. No definition of "reasonable measures" is included (see DEIR/EIS, p. 23-42, lines 8-16), which makes it infeasible for the County to determine whether this measure will address the impact to County citizens to the extent feasible. Mitigation measures that are so undefined that it is impossible to assess their effectiveness are legally inadequate. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260 (plan for active habitat management failed to describe anticipated management actions or include standards or guidelines for actions that might be taken).)	As stated in Final EIR/EIS, Chapter 23, construction noise impacts are considered to be “Significant and unavoidable.” This is based on an analysis that considers worst-case conditions (e.g., six pieces of construction equipment operating simultaneously and continuously in one location). These conditions would not necessarily occur on a routine basis. Although alternative haul routes for truck traffic may be an effective measure in some cases, significant impacts are still likely after mitigation. From Appendix 3B, Section3B.5.5: DWR and contractors hired to construct any conveyance components of the project will implement a site-specific noise abatement plan to avoid or reduce potential construction-, maintenance-, and operation-related noise impacts. This section also includes environmental commitments to reduce noise levels where exceedances are anticipated to occur.
1785	183	Noise Impacts to Campgrounds (Regional Parks): Noise impacts to campgrounds are insufficiently analyzed under all alternatives. The DEIR/EIS fails to identify the specific campgrounds that would be impacted and fails to measure the potential loss of revenue associated with camping including boat launch fees, day use fees, and consumer purchases. Long-term impacts (two years or greater) to a public or private campground could result in complete business losses. Further, mitigation measures NOI-1a and NOI-1b are inadequate to address noise impacts to recreational users because they are designed to mitigate to standards applicable to	Specific campgrounds and other recreation sites within the 1,400-foot noise buffer of the proposed project construction activities are listed under each alternative in Impacts REC-1 and 2. Socioeconomic impacts related to recreation are discussed in Final EIR/EIS, Chapter 16, Socioeconomics, under Impacts ECON-5, 11, and 17. Wherever feasible and as much as possible, the document has included mitigation measures and environmental commitments to reduce impacts. Unfortunately, some impacts are unavoidable.

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		residential housing tracts not transient recreation occupancy. These standards fail to account for consumer choice and thus do not avoid significant impacts to campers, who seek a quieter, more rural destination. Moreover, mitigation measures for noise impacts include notice to surrounding residents but fail to include notification to impacted overnight recreation visitors to the Delta. The BDCP proponents should be required to provide notice of noise-generating activity to operators of all affected recreation facilities and also to post notices at those facilities of the hours and days when significant noise impacts will occur, and the type of activity that will cause the adverse effects, so that recreational users can adjust their use of the facilities accordingly.	
1785	184	Noise Impacts to Waterfowl: See Airport Comments, Ex. E hereto. [see ATT 5] For the Yolo Bypass, the excavation proposed under CM-2 will occur during the dry season when waterfowl are not present. However, that is the time when large numbers of grassland species will be displaced due to excavation in the grasslands. No mention of any seasonal limitation on tunnel boring was found. Noise and vibration, as well as associated activity, from year round tunnel boring has the potential to disturb wintering waterfowl from as early as October through March. To reduce the potential for aircraft collisions with displaced waterfowl, it would be preferable to avoid boring the tunnels during the months with high numbers of wintering waterfowl (i.e., October-March).	The commenter states that it would be preferable to limit tunnel boring activities associated with CM1 to outside of the winter months (i.e., October to March) to avoid the time of year when there are high numbers of waterfowl in the project area. Habitat availability for wintering waterfowl in the Central Valley is not limited and birds move around the landscape in response to flood of managed wetlands and agricultural fields, and hunting activities throughout the winter months. Waterfowl and geese are continuously moving between grasslands, grain fields, and wetlands throughout the winter season. Although waterfowl may be temporarily displaced from some cultivated lands and managed wetlands in the Delta as a result of construction associated with CM1, there is equal opportunity for those individuals to move to other suitable habitat within the Delta, the Yolo Bypass, Suisun Marsh, or south toward San Joaquin Valley. There is a large amount of habitat that is currently managed for waterfowl throughout the Central Valley and we cannot speculate on where displaced birds would move to within a large landscape with continually changing foraging and roosting opportunities. See Master Response 18 related to agricultural mitigation. The preferred alternative is now Alternative 4A and no longer includes CM2.
1785	185	Page 23-14, line 10, references the City of Isleton, but this section is on Sacramento County and should not reference the City.	The organizational structure of EIR/EIS Chapter 23 Noise places the discussion of city or local plans under the primary header of the county those jurisdictions are located within. Isleton is located in Sacramento County and the brief reference to the Isleton General Plan was to indicate the plan for that jurisdiction does not include a noise element.
1785	186	Chapter 24: Hazards and Hazardous Materials Inadequate Analysis of Bird Strike Hazards: The County has serious concerns about the BDCP's significant increase in hazards and risk to human health as a result of increased bird strikes. Sacramento International Airport currently ranks first among airports within the FAA's Western Pacific Region, and within the top ten nationally, in reported bird strikes. Numerous aspects of the BDCP have the potential to significantly increase bird strikes. For example, notch operation of the Fremont Weir and subsequent inundation of the Yolo Bypass during mid-November through mid-May coincides with the period during which the majority of damaging bird strikes occur, particularly near Sacramento International. Most damaging strikes are caused by waterfowl, which would be the most likely species to be attracted to the inundated Yolo Bypass. As	Please note that the preferred alternative is now Alternative 4A, which no longer includes an HCP. Therefore, under Alternative 4A, there would be substantially fewer acres of multiple habitat types enhanced and restored. Operational elements associated with Fremont Weir modifications would not be incorporated as part of this alternative, because Yolo Bypass improvements contemplated in the BDCP (under CM2) would not be implemented as part of Alternative 4A; instead, they would be assumed to occur as part of the No Action Alternative because they are required by the existing BiOps. In total, Alternative 4A would restore substantially fewer acres of habitat compared to Alternative 4. To minimize bird-aircraft strikes to the greatest extent possible, project proponents will consult with the potentially affected airports in the study area, as well as with USFWS during the project-level environmental assessments for individual restoration activities, when site-specific locations and design plans are finalized. At that time, appropriate management plans, strategies, and protocols would be developed to reduce,

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		detailed in the comments of the Sacramento County Department of Airports (attached), the DEIR/EIS analysis of this risk is inadequate because it (1) relies on incomplete data that results in minimizing the potential for bird strikes; (2) omits consideration of the effect of numerous BDCP-related actions on increased bird strikes; and (3) does not include adequate mitigation to attempt to reduce risks.	minimize and/or avoid wildlife hazards on air safety. Site-specific avoidance, minimization, and mitigation measures will be developed during future environmental review once information on the design, location, and implementation of habitat restoration and enhancement is sufficient to permit a project-level analysis.
1785	187	Impacts of CM-2: The DEIR/EIS inadequately analyzes the effect on air traffic from CM-2 (Yolo Bypass Fisheries Enhancement), which will include the excavation of a minimum of 1 MCY of sediment from channels and drains every other year plus removal of another 1 MCY within one mile of the Fremont Weir every five years. (DEIR/EIS, p. 11-199, lines 2-9; BDCP, p. 67, lines 11-17.) These massive sediment removal actions will have the potential to attract large flocks of birds because prey, seeds, and nutrients would be exposed. This would have the potential to substantially increase the likelihood of bird strikes during periods of sediment removal. Further, increased particulate pollution from dust produced during the large excavation process may impact air quality and adversely impact visibility for pilots of aircraft operating in the vicinity. Taken together, sediment removal has the potential to significantly impact flight operations at Sacramento International Airport as well as the safety of air passengers.	Please see response to Comment 1785-186.
1785	188	Inadequate Discussion of HazMat Plans: While the DEIR/EIS includes a fairly detailed discussion of the numerous environmental regulations that could potentially apply to the proposed CMs, it fails to discuss/describe the full suite of Sacramento County-related hazardous materials (HazMat) ordinances. This is important because most every business (including construction activity lasting over 90 days) must file a Hazardous Materials Business Plan (HMBP) with the local Certified Unified Program Agency (CUPA). The DEIR/EIS makes no mention of this requirement. The DEIR/EIS should be revised and expanded to describe all relevant Sacramento County specific HazMat ordinances that are applicable to the proposed water operation and habitat restoration CMs being proposed. At a minimum, the following chapters from the Sacramento County Area Plan should be included in the environmental document's analysis: Chapters 6.34 (Underground Storage Tanks (USTs)), 6.35 (Aboveground Storage Tanks (ASTs)), 6.96 (Hazardous Materials Business Plans (HMBPs)) and California Accidental Release Prevention (Cal ARP) Program), and 6.98 (Hazardous Waste). Page 24-37 (lines 4-7) of the DEIR/EIS discusses the environmental commitments, which include developing Stormwater Pollution Prevention Plans (SWPPPs), Spill, Prevention, Containment, and Countermeasure (SPCC) Plans, and Hazardous Materials Management Plans (HMMPs). However, the draft environmental document should also describe "development, completion and submittal" of the HMBP, per Health and Safety Code section 255 07(a). This comment applies to any portion of the DEIR/EIS where HMMPs are	In the draft EIR/EIS, Section 24.2.2.4, there is a discussion of the Hazardous Materials Release Response Plans and Inventory that covers the Hazardous Materials Business Plan. Text in this section has been added to make this clear. Section 24.2.3.1, Certified Unified Program Agencies, also indicates that for each county, Certified Unified Program Agencies regulate and oversee the following: - Hazardous materials business plans. - California accidental release prevention plans or federal risk management plans. - The operation of ASTs and USTs. - Universal waste and hazardous waste generators and handlers. - Uniform Fire Code implementation. - Onsite hazardous waste treatment. - Inspections, permitting, and enforcement. - Proposition 65 reporting. - Emergency response. The lead agencies acknowledge your request that chapters from the Sacramento County Area Plan be

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		discussed. The DEIR/EIS should also include a mitigation measure that commits the State and/or federal government to coordinating the preparation of all future emergency response plans for the Delta with the applicable Sacramento County department(s).	included in the EIR/EIS. However, we believe that the Draft EIR/EIS regulatory section provides sufficiently detailed information to fulfill the requirements of both CEQA and NEPA, and that it is not necessary to specifically identify for each county in the proposed project's plan area programs and regulations that are part of a federal or state program or regulation. The California Underground Storage Tank Program is described in Section 24.2.2.5 of the Draft EIR/EIS; the Aboveground Petroleum Storage Act is described in Section 24.2.2.6; the Cal ARP Program is described in Section 24.2.2.15; and other federal and state regulations governing how hazardous waste is controlled, transported, stored, and disposed of is discussed in Sections 24.2.1 and 24.2.2. The lead agencies respectfully acknowledge your request to add mitigation committing the state and/or federal government to coordinating the preparation of all future emergency response plans. However, there were no "significant" impact determinations for which this would be required or applicable. Therefore, this change will not be implemented for the Final EIR/EIS.
1785	189	Mitigation Measure HAZ-1a: This proposed mitigation measure calls for preconstruction surveys, including soil and groundwater testing, at known or suspected contaminated areas within the construction footprint of the proposed water conveyance/operations facilities (CM-1) and remediation and/or containment of contamination. However, HAZ-1a should also commit the State and/or federal government to conduct a Phase 1 Environmental Site Assessment (ESA) performed in compliance with the American Society for Testing and Materials (ASTM) Practice E 1527-13, and which is free of "data gaps."	As indicated in Final EIR/EIS, Chapter 24, Hazards and Hazardous Materials, once a conveyance alternative is chosen, a conveyance-alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction. A final determination of whether a site constitutes a Recognized Environmental Conditions will be made later in the process, when a corridor-specific ISA is performed that includes more detailed site-specific ASTM-compliant Phase I investigation after an alignment (EIR/EIS alternative) is chosen.
1785	190	Need for a Phase 2 Environmental Site Assessments: Any known or potential hazardous materials contamination revealed during a Phase 1 ESA triggers the need for a Phase 2 ESA. The Phase 2 ESA shall be performed in accordance with a Site Assessment Workplan (SAW) to be reviewed and accepted by the Local Enforcement Agency (LEA) prior to the investigatory work being performed. When completed, the resulting work product shall be submitted for review to the LEA for evaluation for case-closure status, or to receive directive(s) for further assessment toward the goal of case-closure status (Health and Safety Code [Section] 25187(a)(1)).	See Response to Comment 1785-189.
1785	191	Impact HAZ-5: Regarding the onsite fire suppression system, all wells proposed to be used for onsite fire suppression should be tested for contamination prior to reliance on them for fire suppression. Any wells demonstrating contamination should not be used for fire suppression, due to the risk of contaminating surface and groundwater.	No wells were necessarily proposed for use as part of an onsite fire suppression system. In the event that a well needs to be used for fire suppression with water, the EIR/EIS states that "fire protection using water will be provided by a potable water system either from the nearest municipal clean water conveyance system or from a self-contained filtration and treatment system that takes water from an adjacent waterway or a site well or tank."
1785	192	Mitigation Measure HAZ-8:	This issue is addressed in the public services section of the Final EIR/EIS – Chapter 20.

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		This measure acknowledges that the BDCP's impact from the increased risk of bird strikes is adverse (NEPA) and significant and unavoidable (CEQA). Nevertheless, consultation with the County Department of Airports to determine the best management practices to reduce the level of risk will occur only after plans are finalized. Deferring consultation has the potential to limit the number and type of suitable practices available for discouraging hazardous wildlife near airports. To be effective, consultation should occur well before any detailed plans are developed.	For a discussion of Mitigation measures and environmental commitments, please refer to Master Response 22 (Mitigation, Environmental Commitments, Avoidance and Minimization Measures and Alternative-Specific Environmental Commitments) and best management practices. Additionally a Mitigation, Monitoring and Performance Plan will be prepared to specify how BMPs will be implemented and any issues addressed during construction of any new facilities.
1785	193	The discussion of the Aboveground Petroleum Storage Act (APSA) of 2007 on page 24-19 (lines 29-36) of the DEIR/EIS should be corrected to read as follows: "California adopted a statewide program to determine the amount and type of hazardous substances being stored in aboveground tanks under the Health and Safety Code Division 20, Chapter 6.67, Sections 25270-25270.13. APSA applies to storage tank facilities with aggregate petroleum storage capacities of [delete]greater than[delete] 1,320 gallons or more and requires development and implementation of a SPCC Plan consistent with 40 CFR 112. Facilities must submit annual Tank Facility Statements and, depending on Certified Unified Program Agency (CUPA) requirements, may be required to submit to periodic inspection." Page 24-24 Local Plans, Policies, and Regulations: The DEIR/EIS should, at a minimum, include a reference to the Sacramento County Area Plan.	Text has been revised to indicate that facilities that have above ground storage tanks containing petroleum with an aggregate storage capacity of 1,320 gallons or more are subject to the APSA. The commenter refers to "the Sacramento County Area Plan." It is assumed that this is reference to the Sacramento Area Plan for Emergency Response to Hazardous Materials Incidents in Sacramento County. This plan outlines appropriate response actions to hazardous materials incidents within Sacramento County and is administered by the Sacramento County Environmental Management Department, which has been designated as the Sacramento region's Certified Unified Program Agency (CUPA). In Chapter 24, of the Final EIR/EIS, under Local Plans, Policies, and Regulations, there is a general discussion of what each county's CUPA regulates and oversees (i.e., documents, plans, and activities). Therefore, there is no need to have a separate discussion for the Sacramento Area Plan for Emergency Response to Hazardous Materials Incidents in Sacramento County. The bullet list of documents and activities includes emergency response, which covers hazardous materials.
1785	194	Chapter 25: Public Health Failure to Address Potential for Loss of Life: The DEIR/EIS does not discuss or analyze the potential for increased bird strikes or the increased potential for loss of life as a public health risk associated with the BDCP. Both the CEQA and NEPA analyses conclude the project will result in significant, adverse, and unavoidable increases in bird strikes. Additional information demonstrating the potential for a significant increase in bird strikes is contained in the attached comments of the Sacramento County Department of Airports (Ex. E). [see ATT 5] Increased bird strikes increases the risk of serious, if not catastrophic, airplane accidents that would result in substantial injury and loss of life. This significant impact of the BDCP should be disclosed in the DEIR/EIS. To the extent the impact is unavoidable, the Lead Agencies and BDCP proponents must set forth the specific considerations they believe the known project benefits (primarily a modest increase in water availability for south of Delta commercial agricultural operations -- all other benefits of CMs 2-22 are purely speculative at this point since no specific projects, funding, environmental analysis or commitment has been made to them) justify a significant increase	This issue, i.e., the potential for increased bird strikes due to implementation of the proposed project, is discussed in Final EIR/EIS Chapter 24, Hazards and Hazardous Materials, Impact HAZ-8. Mitigation Measure HAZ-8 (Consult with Individual Airports and USFWS, and Relevant Regulatory Agencies) will minimize, to the greatest extent possible, hazards related to increased bird-aircraft strikes as a result of implementing conservation measures in the vicinity of airports. See Master Response 18 related to agricultural mitigation.

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		in the risk of loss of human lives.	
1785	195	Need for Well and Septic System Abandonment: Facilities such as sedimentation basins, solids lagoons, and forebays and all areas that will be inundated by the BDCP have the potential to create public health hazards as a result of surface and groundwater contamination, due to the presence of septic systems and wells. The DEIR/EIS should include a mitigation measure that will require all septic systems and all wells (including but not limited to agricultural, monitoring, and domestic water) that will be inundated as part of this project to be abandoned under permit from the Sacramento County Environmental Management Department (pursuant to Uniform Plumbing Code Section 722 and Sacramento County Code 6.28.030).	As described in Final EIR/EIS, Chapter 20, Public Services and Utilities, implementation of pre-construction surveys, and then utility avoidance or relocation if necessary, would minimize any potential disruption to wells and septic systems. Mitigation Measures UT-6a, UT-6b, and UT-6c would require relocation or modification of existing utility systems, including, but not limited to, public and private ditches, pumps, and septic systems, in a manner that does not affect current operational reliability to existing and projected users. See Master Response 18 related to agricultural mitigation. As described in Appendix 3B, Environmental Commitments, the project proponents will ensure that applicable standards, guidelines, and codes, which establish minimum design criteria and construction requirements for tunnels, canals, levees, pipelines, excavations and shoring, pumping stations, grading, and foundations, bridges, access roads, structures, and other facilities, will be followed by the project engineers, where applicable, in the design of project facilities and will be included as minimum standards in the construction specifications.
1785	196	Chapter 28: Environmental Justice General Comments: The Environmental Justice chapter repeatedly acknowledges the fact that census blocks with a meaningfully greater minority population and block groups with low-income populations exist throughout the study area and specifically along the modified pipeline/tunnel alignment associated with the preferred alternative. Largely because of this fact, each of the alternatives analyzed results in disproportionate effects on minority and low-income communities and the DEIR/EIS admits that even with mitigation, these effects would remain disproportionate and adverse. The environmental justice analysis lacks any discussion of alternatives that could avoid or minimize the disproportionate effects on environmental justice populations and the reasons why such alternatives were not chosen. Additionally, there is no explanation as to why it is infeasible to relocate the planned structures outside areas where high concentrations of environmental justice populations live or why the proposed facilities need to be located where they are. Further, the DEIR/EIS analysis dismisses identified effects associated with the project because they would "affect the general population." However, this ignores the overarching fact that minority and low-income communities predominate the study area. Thus, even if the effect impacts the "general population" because that population contains a high concentration of minority and low-income communities, any impact in that area would result in a disproportionate effect on environmental populations necessitating appropriate mitigation.	The commenter's opinion related to environmental justice impacts are acknowledged. The commenter's suggestions will be considered in the project decision-making process. This chapter specifically focuses on environmental justice communities rather than the general population because it follows Council on Environmental Quality guidance, which identifies three factors to be considered to the extent practicable when determining whether environmental effects are disproportionately high and adverse, as described in Section 28.5.2.
1785	197	Land Use -- Removal/Relocation of Permanent Structures:	The commenter's opinion related to environmental justice impacts are acknowledged. Impacts listed in Final EIR/EIS, Chapter 28 were identified by first identifying all adverse effects in other resource chapters, and

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		As mitigation for the removal/relocation of permanent structures, DWR will provide compensation to "property owners." The proposed mitigation does not necessarily address the effects of this impact on environmental justice populations. It is reasonable to assume that the minority and low-income communities that constitute the environmental justice populations of concern are renters rather than property owners. As a result, the proposed mitigation does not address the effect of this impact on environmental justice populations. The mitigation for this impact should be re-evaluated and additional mitigation specific to alleviating the effect on environmental justice populations should be proposed.	then reviewing them to determine if any of those environmental consequences may disproportionately affect an environmental justice population, per guidance from the EPA Toolkit for Assessing Potential Allegations of Environmental Injustice. Impacts ECON-1 and 7, which describe temporary and permanent economic effects during construction and operation and maintenance of the conveyance facilities, do not constitute adverse socioeconomic impacts. Therefore, they are not carried forward in the Environmental Justice chapter. Whereas property owners may be entitled to financial compensation because they may not be able to sell their property due to the project or eminent domain, it is reasonable to assume that renters would be able to leave and find another rental. Their investment in the property would not be a permanent loss.
1785	198	Land Use -- Physical Structures Around and Through Existing Communities: Several of the proposed alternatives identify impacts that would negatively affect the community of Hood in Sacramento County. Construction activities would bisect Hood and would substantially alter the setting of that community. Additionally, permanent structures associated with the alternatives would substantially alter Hood's surroundings. Only TRANS-1a and TRANS 1-b are identified as mitigation to address the effects of these impacts. Yet, these measures only address the environmental impacts associated with increased traffic resulting from the BDCP. The proposed mitigation does not address the effects on environmental justice populations. Admittedly, the only way to mitigate these impacts would be to select a different alternative or approach that is not located near environmental justice populations. Nevertheless, the DEIR/EIS should acknowledge this adverse impact.	Impacts near and in Hood are described in Final EIR/EIS, Chapter 28 for Alternatives 4 and 4a, the new preferred alternative, with regards to land use, socioeconomics, aesthetics and visual resources, and noise.
1785	199	Socioeconomics: Construction and operation of the BDCP would reduce agricultural land under cultivation resulting in the direct and indirect loss of a varying number of agricultural jobs each year. Although the analysis admits that this impact will have a disproportionate effect on minority and low-income populations, the true effect of this impact is not clear. A certain number of agricultural jobs will be lost each year, but for how long? Fifty years? Ten years? The analysis is incomplete without an explanation of the number of years over which the expected job losses will occur. Additionally, there is no analysis of the effect these job losses will have on Sacramento County resources associated with unemployment, child support, and other financial assistance programs. The County is obligated by state law to support all incompetent, poor indigent persons that are County residents not otherwise supported or relieved by family, friends, their own means, or state institutions. Job loss and unemployment created by BDCP impacts may result in unmitigated strain on the County programs like its child support collection and enforcement program, its General Assistance program (funded entirely by the County's general fund), and medical support programs for the indigent. There is no discussion of	The commenter's opinion related to the BDCP and Draft EIR/EIS is acknowledged. The commenter's suggestions will be considered in the project decision-making process. Socioeconomic impacts related to jobs, including specific numbers of jobs lost, are described under each alternative in Final EIR/EIS, Chapter 28, Environmental Justice.

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		mitigation for these losses and strain on County programs. Although the BDCP will result in the creation of jobs, the DEIR/EIS admits that newly created jobs would not be filled by displaced agricultural workers because the required skills for the new jobs are not comparable.	
1785	200	Groundwater: The DEIR/EIS claims that BDCP effects on local groundwater resources would not result in a disproportionate effect on environmental justice populations because local groundwater changes and effects on wells adjacent to dewatering areas would be mitigated, and thus these effects are not evaluated. (DEIR/EIS, p. 28-22, lines 8-11.) As discussed in comments regarding Chapter 5, Groundwater (above), the mitigation proposed for impacts to local wells is not adequate under CEQA and thus the BDCP likely will have significant impacts to groundwater supplies. The affected areas all have disproportionately high minority and/or low-income populations, and thus the DEIR/EIS must be revised to address and acknowledge this additional adverse effect on environmental justice populations.	As described in Section 28.5.3.1, while there are significant and unavoidable groundwater impacts, that does not necessarily correlate with disproportionate effects on environmental justice communities. The action alternatives would generally improve patterns of conjunctive use and the potential for groundwater overdraft by increasing surface water reliability in the export service areas. Effects on local groundwater resources and increased use of surface water in export areas would not result in a disproportionate effect on environmental justice populations because local groundwater changes and effects on wells adjacent to dewatering areas would be mitigated and groundwater changes in export areas would be beneficial. Therefore, these effects are not carried forward for analysis.
1785	201	Chapter 29: Climate Change See Airport Comments, Ex. E hereto. [see ATT 5] Water Temperature: The DEIR/EIS purports to provide an analysis of how the BDCP affects the resiliency and adaptability of the BDCP area to the effects of climate change. Specifically, it claims to analyze "the clear and measurable ways that the BDCP alternatives will ameliorate these impacts or add flexibility to the system so that the Plan Area can continue providing water supply benefits with sufficient water quality and supporting ecosystem conditions that maintain or enhance aquatic and terrestrial plant and animal species." (DEIR/EIS, pp. 29-3 - 29-4.) Notwithstanding the fact that the DEIR/EIS, in fact, contains no such analysis, but rather bare conclusions, the statement itself reveals the project bias inherent throughout the DEIR/EIS. CEQA requires that an EIR evaluate a project's potential to have a significant adverse effect on the environment. With respect to the BDCP's effects on resiliency and adaptability of the plan area to climate change effects, the available evidence suggests that impacts will be significant and adverse, by decreasing water quality (increasing salinity), and reducing flows, when climate change is doing the same thing.	Please refer to Master Response 19 (Climate Change) for information regarding how the EIR/EIS deals properly and thoroughly with issues related to climate change. Additionally, Master Response 31, Compliance with Applicable Delta Reform Act Requirements, Issue 2, Climate Change, has a listing of the numerous chapters and appendices in the EIR/EIS that address and demonstrate the importance of climate change in the evaluation of the proposed project's alternatives as well as how environmental baselines were developed under CEQA and NEPA. For information on EIR/EIS baselines, please see Master Response 1. (NEPA/CEQA Conclusions). Also, see Chapter 20, Section 29.3 in the FEIR/EIS for information on how the alternatives will achieve the stated objectives (Chapter 2) of increasing resiliency and adaptability to climate change over the No Action/No Project Alternative.
1785	202	With respect to delta smelt, which already are endangered, a key factor in smelt survival is water temperature, including sufficient cold water flows through the Delta. According to the DEIR/EIS, climate change will cause Delta waters to warm and become more saline, decreasing suitable habitat for delta smelt. Without any meaningful analysis or evidence, the DEIR/EIS nevertheless concludes that the BDCP, which will increase exports by as much as 18 percent (See DEIR/EIS, Table 29-25, p. 29-2 1), will "help buffer potential negative	Model results show that long-term average Delta outflow under Alternative 4 (scenarios H1 - H4 at LLT) would be similar to that under Existing Conditions and No Action Alternative, with a minor increase in flows during the winter months and a minor reduction in flows during the spring months relative to Existing Conditions due to the shift in system inflows caused by climate change, as well as increased water demand expected in the LLT. In wet water year types, this trend is more evident, while in other water year types, Delta outflow under Existing Conditions and the No Action Alternative is generally within the range of

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		effects of increased water temperatures thereby adding resiliency to increased water temperatures." It does not follow that if more water is exported from the Delta, including in the north Delta, where it does not have the chance to flow south and dilute salinity and decrease temperature, that the project can "add resiliency to increased water temperatures." What specific evidence and analysis supports the conclusion that restoring habitat on a large scale will "add resilience to increased water temperatures" and that any such resilience will benefit delta smelt? The mere citation to multiple technical appendices in support of this naked conclusion is insufficient to satisfy CEQA's requirement that E IRs be organized and written in a manner that makes them "meaningful and useful to decisionmakers and to the public." (Pub. Resources Code, [Section] 21003(b).) An EIR should be written in a way that readers are not forced "to sift through obscure minutiae or appendices" to find important components of the analysis. (San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 659; California Oak Foundation v. City of Santa Clarita (2005) 133 Cal.App.4th 1219, 1239.)	Alternative 4 H1 - H4 scenarios. For more information and specific modeling results for all Alternatives, please refer to Final EIR/EIS, Chapter 5, Water Supply, and Appendix 5A, BDCP/California WaterFix EIR/S Modeling Technical Appendix. Alternative 4A would not serve as habitat conservation plans/natural community conservation plans (HCPs/NCCPs) under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization under ESA Section 7 and CESA Section 2081(b). The BDCP, the Draft EIR/EIS, the RDEIR/SDEIS, and the Final EIR/EIS attempt to balance readability, the need for accurate and thorough technical analyses of the numerous complex issues involved for each resource potentially affected by the project, and responses to public and agency requests for information. This balance has been accomplished through combining analyses and referencing back to similar information between Alternatives in the Draft EIR/EIS (beginning with most details in Alternative 1A, Alternative 4, the proposed project, and referencing the Effects Analysis of the BDCP, Chapter 5 and extensive appendices). Extensive graphs, tables and figures have been prepared to assist with simplifying the complex science analysis required to assess impacts. The impacts under each resource chapter of the Final EIR/EIS are summarized in the beginning of each chapter and the longest and most complex chapters include a Readers' Guide to help navigate through the materials and provide an outline for the chapter. Furthermore, for certain resources, the analysis described in the Final EIR/EIS are supported by more detailed and technical analyses contained in the corresponding appendices. These efforts to eliminate duplication and avoid inclusion of highly technical analyses in the text of the Final EIR/EIS are consistent with CEQA's and NEPA's focus on the readability of the document and reduction in paperwork, while still presenting adequate information to analyze and disclose the significant and adverse environmental impacts and effects of the project and its alternatives. Legal sufficiency of the Final EIR/EIS depends on the substantive content, procedural compliance, and the overall quality and readability of the documents. The lead agencies involved the public and agencies throughout the preparation of the 2013 draft BDCP and its draft EIR/EIS as well as the 2015 RDEIR/SDEIS in order to identify significant environmental issues and alternatives deserving of study, and to deemphasize insignificant issues, and to narrow the scope of the document. Nevertheless, because of the highly technical and complex nature of the proposed project and the importance of the Delta as a natural resource and to the California water supply, the 2013 Draft EIR/EIS and the 2015 RDEIR/SDEIS contains considerable amounts of information. In drafting the BDCP, its EIR/EIS, the 2015 RDEIR/SDEIS, and the Final EIR/EIS, the lead agencies focused on presenting information in plain language and in a clear format with emphasis on information that is useful to the public, agencies, and decision makers. As noted, the Final EIR/EIS combines the informational requirements of CEQA and NEPA, summarizes relevant information, focuses on the significant environmental impacts of the alternatives and mitigation measures to avoid or substantially reduce those impacts, avoids duplication, and utilizes technical appendices to avoid including highly technical analysis in the text of the Final EIR/EIS. This approach balances the needs for technical information and readability of the Final EIR/EIS, and is fully consistent with the procedural and informational

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			requirements of CEQA and NEPA. Please refer to Master Response 38 (Length of the Environmental Document) for additional information.
1785	203	Chapter 31: Other CEQA/Nepa Required Sections Impact BIO-179 - Loss or Conversion of Habitat for Wintering Waterfowl as a Result of Implementation of Conservation Components and Mitigation Measure BIO-179b - Conduct Food Studies and Monitoring to Demonstrate Food Quality of Palustrine Tidal Wetlands in the Yolo and Delta Basins: Both of these note that the Yolo Watershed will lose 2,600 acres of wetlands. The mitigation measure will study where there is a loss in food production. If it is determined that the loss results in a reduction in the food available to waterfowl, additional acres will be protected or creation of managed wetlands will occur in the Yolo Watershed. This could attract waterfowl to the Yolo Bypass even when it is not inundated. Creation of managed wetlands within the five-mile radius of Sacramento International Airport would constitute an increased attractant to waterfowl, which would result in an increase in the potential of aircraft bird collisions with air traffic from the airport.	Please see response to comment 1785-224.
1785	204	Appendix 3B: Environmental Commitments The Summary of Environmental Commitments (page 3B-50) and the Subtitle 3B.1.13 (page 3B-27) should read: "Develop and Implement Spill Prevention, [delete]Containment[delete] Control, and Countermeasure Plans"	The text has been reviewed. No change is necessary.
1785	205	Page 3C-4 (Construct Detour Roads): Throughout the DEIR/EIS when discussing potential traffic access issues/impacts, there are incorrect references to Table 3C-7, which is titled "Borrow, Spoils and Reusable Tunnel Material Storage." The correct table reference or cite is Table 3C-8, on page 3C-5 8 ("Access and Construction Work Areas"). The applicable corrections should be made. Further, the DEIR/EIS also should include language, possibly in the transportation-related mitigation measures, that all proposed detour road construction be planned, coordinated with, and approved by Department of Transportation.	As part of design plans and as described in Mitigation Measure TRANS-1a, construction traffic management plans will be prepared for roadways affected during the construction period. The project proponents will also ensure that any impacts to traffic flow are coordinated with the Department of Transportation or affected local jurisdiction.
1785	206	Page 3C-4 (Construct New Perimeter Berm/Widen Levee Top): According to the DEIR/EIS, it will be necessary to widen levees in order to realign SR160 and/or to provide turnout access for maintenance and construction. This work should be coordinated with and approved by Department of Transportation.	Please see Chapter 19 (Transportation), Final EIR/EIS, for more information on coordination with the Department of Transportation, including Caltrans assumptions and requirements for the realignment of SR 160.
1785	207	Page 3C-5 (Excavation): The DEIR/EIS indicates that the massive amounts of excavated material will be hauled offsite. This hauling activity is expected to damage existing roadways significantly. As noted in our comments regarding the Traffic chapter, mitigation should be revised to require the BDCP proponents to perform routine maintenance on damaged roadways throughout the construction period and at the end of the construction activity deliver an acceptable roadway back to Sacramento County. This applies to both imported	As part of design plans and as described in Mitigation Measure TRANS-1a, construction traffic management plans will be prepared for Sacramento County roadways affected during the construction period. The project proponents will also ensure TMPs direct that roads be maintained during construction. Additionally, mitigation measure TRANS-2c notes that all affected roadways would be returned to preconstruction condition or better following construction.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		material hauling and construction equipment hauling.	
1785	208	Page 3C-5 (Under Foundation Pile Driving): This activity will require the use of heavy equipment. Where this heavy equipment will damage the roadway the applicant shall repair both during construction as well as deliver an acceptable roadway back to Sacramento County at the completion of construction.	Please refer to the response to Comment 1785-207.
1785	209	Any structure, forebay, tunnel, etc., that is part of the BDCP that may disrupt the use of an existing roadway or transportation facility in Sacramento County must be identified, discussed with County staff, and mitigated prior to the commencement of construction work. The type of mitigation must be approved by Sacramento County, which must issue an encroachment permit.	Please refer to the response to Comment 1785-207.
1785	210	Page 3C-12 (Parking, Lighting, Fencing): It should be noted that these activities near levees cannot interfere with levee maintenance. All activities near levees must be coordinated with the appropriate Reclamation District and with the County to ensure that maintenance needs are not impeded.	Please see Appendix 6A for a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the project proponents. Before and/or during construction of the CWF water conveyance facilities, project proponents will explore opportunities with local reclamation districts and the Central Valley Flood Protection Board (CVFPB) to address potential conflicts regarding levee maintenance, inspection, and flood fighting activities on project and non-project levees. DWR will look to enter into agreements with local reclamation districts with jurisdiction in the Delta to ensure levee management activities by both government and local agencies are not interrupted during construction of the water conveyance facilities. In addition, DWR will comply with all applicable flood protection requirements and regulations to ensure flood neutrality during construction and operations of the CWF.
1785	211	Page 3C-13 (New Utility Corridors): The construction impacts of the new transmission lines should be mitigated similar to the comments above.	The construction impacts of the new transmission lines are covered under each appropriate resource chapter. The final alignment of the new transmission lines is not yet determined. Proposed locations of electrical transmission lines are shown in Figure 3-25.
1785	212	Page 3C-58 (Table 3C-8, Access and Construction Work Areas Roads): The applicant will have to coordinate with Sacramento County Maintenance and Operations staff to ensure that the construction roads meet County standards. Furthermore, the placement of these roads must be approved by Sacramento County.	As part of design plans and as described in Mitigation Measure TRANS-1a, construction traffic management plans will be prepared for Sacramento County roadways affected during the construction period. The project proponents will also ensure that any impacts to traffic flow are coordinated with the Department of Transportation or affected local jurisdiction.
1785	213	Page 3C-59 (Table 3C-8 Access and Construction Work Areas Detour Roads): All detour roads will need to be coordinated with Department of Transportation.	Please refer to the response to Comment 1785-212.
1785	214	Page 3C-59 Table 3C-8, Access and Construction Work Areas Temporary and New Access/Haul Roads): All temporary and new access/haul roads will need to be coordinated with Department of Transportation.	Please refer to the response to Comment 1785-212.
1785	215	Appendix 5C: Description of Alternatives	The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the

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		Page 5C.2-5 (Rules for North Delta Intake Diversions): The new bypass flow rules for the north Delta intakes are not completely spelled out in their entirety and are only described as to how they will operationally impact various species and operational aspects. "COA" does not have an identified acronym in the BDCP and is not identified as a Coordinated Operations Agreement until Appendix A.5. These rules have the potential to substantially affect operation of the Freeport Intake, and adversely affect water quality and supply in the Delta. Without any details about the rules or analysis of their broader impact, the County is unable to determine whether and to what extent County resources may be affected.	federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see RDEIR/SDEIS Section 4.1.2, Description of Alternative 4A, for additional information on Proposed Project operations. Also please refer to Master Response 28, Operational Criteria. Please see Master Response 28 and 29 for more information regarding operational scenarios and compliance with ESA respectively.
1785	216	[ATT 1: Exhibit A. Letter dated February 26, 2014 from Vivian Helliwell, Chairman of the California Advisory Committee on Salmon and Steelhead Trout, to Charlton H. Bonham, Director of California Department of Fish and Wildlife. Regarding recommendation to deny incidental take permit and Natural Communities Conservation Plan for Bay Delta Conservation Plan. Same as BDCP1597-ATT 3.]	Master Response 45 provides an overview of the BDCP and addresses the requirements for issuance of an incidental take permit and NCCP.
1785	217	[ATT 2: Exhibit B. Delta Science Program Independent Review Panel Report, BDCP Effects Analysis Review, Phase 3. Dated March 2014. Same as BDCP1597-ATT 5.]	Please see response to comment 1785-64.
1785	218	[ATT 3: Exhibit C. Articles from BDCP Blog at http://baydeltaconservationplan.com/news/blog. Correcting Stubborn Myths, dated December 12, 2013. Correct Stubborn Myths Part II, dated January 10, 2014.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1785	219	[ATT 4: Exhibit D. Review of Draft BDCP EIR/EIS and Draft BDCP from the Delta Independent Science Board. Dated May 5, 2014. Same as BDCP1448-ATT 1, ATT 2, and ATT 3.]	This attachment has been responded to in letters BDCP 1448 and RECIRC 2546.
1785	220	[ATT 5: Exhibit E. Letter dated February 11, 2014 from J. Glen Rickelton, Manager of Planning and Environment for Sacramento County Department of Airports, to Don Thomas, Senior Planner for the Municipal Services Agency of the Department of Water Resources. Comments regarding the BDCP DEIR/DEIS.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Individual responses to comments are provided as part of letter BDCP 1785.
1785	221	[From ATT 5:] Chapter 1 - Introduction: Page 27, Line 20-21: The National Environmental Policy Act (NEPA) requires lead agencies to identify known issues of controversy. The U.S. Fish and Wildlife Service is a NEPA lead agency for the BDCP. As a signatory to the "2003 Memorandum of Agreement (MOA) Between the Federal Aviation Administration (FAA), the U.S. Air Force, the U.S. Army, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service (Service), and the U.S. Department of Agriculture (USDA) to Address Aircraft-Wildlife Strikes, " the Service is aware of the FAA's concern about hazardous wildlife attractants on and near airports. One of the three activities of most concern identified in the MOA is "development of	The potential for increased bird strikes from construction of restoration actions is presented in Final EIR/EIS Chapter 24, Hazards and Hazardous Materials, under Impact HAZ-8, Increased risk of bird-aircraft strikes during implementation of conservation components that create or improve wildlife habitat. Sacramento International Airport is included in this analysis.

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		conservation/mitigation habitats or other land uses that could attract hazardous wildlife to airports or nearby areas". The signatory agencies agreed to work cooperatively to "... evaluate the situation and develop mutually acceptable solutions to reduce the identified strike probability." The DEIR/DEIS admits that even with the implementation of Mitigation Measure HAZ 8, the resulting impacts of the BDCP on increasing risk of bird-aircraft strikes will still be significant and unavoidable. At a minimum, the potential to increase bird-aircraft strikes and resulting significant impact on public safety should be listed as a known issue of controversy and considered along with the other identified issues.	
1785	222	[From ATT 5:] Chapter 3 - Description of Alternatives: Conservation Measure 2 Yolo Bypass Fisheries Enhancement (CM2) will lower the Fremont Weir from 32.8 feet to a notch gate of 17.5 feet. The purpose of this measure is to increase the frequency and duration of inundation in the Yolo Bypass, thereby increasing fish habitat. The notch gate will allow for the Yolo Bypass to be inundated in dry and below average rainfall years when passive overtopping of the weir would not occur. Operation of the notch gate is designed to achieve the biological goal to "provide access to at least 7,000 acres of inundated floodplain habitat within the Yolo Bypass and Cache Slough ROA (Restoration Opportunity Area) for at least 30 days in at least 70% of years." Inundation of such a large area when the surrounding land is dry, as it would be in below average rainfall years, has the potential to attract large, fish eating birds that are not normally in close proximity to Sacramento International, such as gulls, white pelicans and double-crested cormorants. Additionally, the longer period allows more opportunity for birds to prey on the fish utilizing the enhanced habitat. Most airports in other regions of the United States experience the highest number of reported bird strikes during the summer months, but one of the two peaks in the number of reported strikes and damaging strikes near Sacramento International occurs in the winter months when the waterfowl population is greatest due to migratory patterns. CM2 will alter the flooding regime of the Yolo Bypass by increasing the duration, area and volume of Bypass inundation between mid-November and mid-May. CM2 therefore has the potential to attract hazardous wildlife into the vicinity of Sacramento International, and directly into the flight paths of the airport's two parallel runways, precisely at the time when wintering migratory waterfowl populations reach their peak. This potential effect is of concern because data published by the FAA (Federal Aviation Administration) and USDA Wildlife Services indicate that waterfowl were responsible for the highest percentage of aircraft damaged by wildlife strikes nationally between 1990 and 2011.	Page 4.3.20-7 of the REIR/SDEIS, includes a discussion and mitigation measure intended to reduce the impact of Impact HAZ-8: Increased Risk of Bird–Aircraft Strikes during Implementation of Environmental Commitments that Create or Improve Wildlife Habitat For more on Mitigation Measure HAZ-8: Consult with Individual Airports and USFWS, and Relevant Regulatory Agencies, please see Mitigation Measure HAZ-8 under Impact HAZ-8 in the discussion of Alternative 4 in Chapter 24, Hazards and Hazardous Materials, of the Final EIR/EIS.
1785	223	[From ATT 5:]	The commenter expresses concern that dredging in proximity to Fremont Weir and associated channels would attract large flocks of birds that could increase the likelihood of bird strikes at the airport. Alternatives 1A-9 presented in the Draft EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 of the

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		Chapter 11 - Fish and Aquatic Resources: Page 199, line 2-9: Every five years one million cubic yards of sediment will be removed within one mile of the Fremont Weir and during alternating years an additional one million cubic yards of sediment will be removed from the new channels, toe drain, and Tule drain. This action will have the potential to attract large flocks of birds because prey, seeds, and nutrients would be exposed. Therefore, the likelihood of bird strikes could increase during sediment removal activities at the Fremont Weir and associated channels due to increased bird activity across flight paths. It is important to note that the approach and departure flight paths for an airport are determined by the FAA (Federal Aviation Administration), not the airport operator. Therefore, any action undertaken by another entity that causes increased wildlife activity near an airport cannot be offset by the airport.	BDCP conservation strategy. Additional Alternatives 4A, 2D and 5A, do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative. Additionally, please note that Alternative 4A is now the preferred alternative and no longer contains an HCP/NCCP. The general potential for alternatives to contribute to bird-aircraft collisions is presented in Chapter 24, Hazards and Hazardous Materials, of the Final EIR/EIS.
1785	224	[From ATT 5:] Chapter 12 - Terrestrial Biological Resources: The DEIR/DEIS states that many species of birds will lose foraging habitat from CM2, but there will be no significant effect on nesting habitat. The potential loss of 3,500 acres of foraging habitat for many species of raptors and flocking birds and subsequent displacement of individuals was not addressed. Proposed mitigation efforts only focus on long-term conservation of foraging habitat and nesting sites, not the immediate displacement of these individuals or where they would alternatively go to forage. The Department is concerned that destruction of grasslands in the Fremont Weir could cause displaced birds to be attracted eastward to the managed grassland at Sacramento International. Per FAA (Federal Aviation Administration) regulations, the airfield is consistently maintained as mowed short turf, which may be viewed as suitable foraging habitat by the displaced grassland species. This could have the potential to increase the presence of hazardous wildlife on the airfield, as well as adjacent farmlands. Although Department wildlife biologists actively manage the airport to reduce the likelihood of bird aircraft collisions on airport property, FAA Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants on or near Airports (Hazardous Wildlife AC) states "increasing the intensity of wildlife control efforts is not a substitute for eliminating or reducing a proposed wildlife hazard".	The commenter expresses concern that the loss of grassland from the Fremont Weir improvements associated with CM2 would displace birds that could ultimately be attracted to grasslands at the Sacramento International Airport. As stated on page 12-2067 of the Draft EIR/EIS, the improvements to the Fremont Weir would result in the permanent loss of 388 acres and temporary disturbance of 239 acres of grassland. These losses represent 5% and 3% of the total grassland within Conservation Zone 2 (Yolo Bypass), respectively. Considering the remaining grassland habitat available within the Yolo Bypass and the availability of grasslands and grain and hay fields surrounding the Bypass, and considering that these areas would be more suitable than the mowed short turf at Sacramento International Airport it is unlikely that CM2 would displace a substantial number of grassland bird species to the effect of increasing the densities at the Sacramento International Airport. Furthermore, Yolo Bypass would be periodically inundated, as it is under existing conditions in wet years. Habitat availability for foraging raptors and other birds would not differ substantially from existing conditions under the implementation of CM2 with the exception that the duration of inundation would be expected to be longer in certain years. There is no reason to expect that the managed grassland at Sacramento International would be more attractive to avian wildlife with the implementation of CM2 than under existing wet years. Alternatives 1A-9 presented in the Draft EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 of the BDCP conservation strategy. Additional Alternatives 4A, 2d and 5A, do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative. Additionally, please note that Alternative 4A is now the preferred alternative and no longer contains an HCP/NCCP. The general potential for alternatives to contribute to bird-aircraft collisions is presented in Chapter 24, Hazards and Hazardous Materials, of the Final EIR/EIS.
1785	225	[From ATT 5:] Impact BIO-178 Loss or Conversion of Habitat for Waterfowl and Shorebirds as a Result of Water Conveyance Facilities Construction determines that there will be significant impacts on nesting birds and foraging habitat. Although Mitigation Measure 75, Conduct	The commenter states that Chapter 12 of the Final EIR/EIS has not addressed where foraging waterfowl will go if displaced by construction activities. The commenter further states that waterfowl could be attracted to the Yolo Bypass with implementation of CM2. Although the waterfowl analysis presents impacts by watershed, wintering habitat for waterfowl and geese is not limited in the Central Valley and waterfowl and geese are continuously moving between grasslands, grain fields, and wetlands throughout the winter

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		Preconstruction Nesting Bird Surveys and Avoid Disturbance of Nesting Birds, is expected to reduce the effects to nesting birds to less than significant, the displacement of foraging waterfowl during migration is not addressed. The projected footprint effect of the conveyance facilities is 5,500 acres of cultivated land. BDCP will protect 16,000 acres of currently cultivated crops and restore an additional 12,000 acres. The Department is concerned that the anticipated construction activities in the Delta and subsequent displacement of foraging waterfowl, coupled with CM2 and inundation of the Yolo Bypass, will create a synergistic effect having the potential to attract displaced waterfowl. This effect could be exacerbated due to the actions described in DEIR/DEIS Chapter 15, Impact Recreation 11, which will reduce hunting opportunities in the Yolo Bypass. The reduction of hunting will provide a refuge for displaced waterfowl, and a resulting greater bird strike risk near County airports.	season. Although waterfowl may be temporarily displaced from some cultivated lands and managed wetlands in the Delta as a result of construction associated with CM1, there is equal opportunity for those individuals to move to other suitable habitat within the Delta, the Yolo Bypass, Suisun Marsh, or south toward San Joaquin Valley. With the implementation of CM2, the Yolo Bypass would be periodically inundated, as it is under existing conditions in wet years. Habitat availability would not differ substantially from existing conditions under the implementation of CM2 with the exception that the duration of inundation would be expected to be longer in certain years. There is a large amount of habitat that is currently managed for waterfowl throughout the Central Valley, including areas of the Yolo Bypass which also provide restrictions on hunting, and we cannot speculate on where displaced birds would move to within a large landscape with continually changing foraging and roosting opportunities. The general potential for alternatives to contribute to bird-aircraft collisions is presented in Chapter 24, Hazards and Hazardous Materials, of the Final EIR/EIS. Alternatives 1A-9 presented in the Draft EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 (CM2) of the BDCP conservation strategy. Additional Alternatives 4A, 2d and 5A, do not include CM2 as a project component. These improvements are assumed instead under the No Action Alternative. Additionally, please note that Alternative 4A is now the preferred alternative and no longer contains an HCP/NCCP.
1785	226	[From ATT 5:] Page 730-31, lines 33-35 and 41-43 CEQA/NEPA Effects: This discussion addresses disruption of waterfowl or shorebirds near to construction work. It specifies that preconstruction nesting inspections be conducted to minimize displacement of nesting birds, but does not address what will happen to displaced foraging migratory waterfowl. The pipeline will traverse multiple areas in the delta that hold migratory waterfowl. Construction of the proposed tunnels will displace birds around these work sites, but the DEIR/DEIS has no analysis on the potential redistribution of birds displaced from construction work as it proceeds through the delta. Within the context of CEQA, potentially significant nesting and foraging impacts could occur. Such impacts, and the potential for affecting current and projected higher numbers of aircraft operations, are not addressed.	Please see response to comment 1785-225.
1785	227	[From ATT 5:] Pg. 733-34, Line 42-3: Mitigation Measure BIO-179b Conduct Food Studies and Monitoring to Demonstrate Food Quality of Palustrine Tidal Wetlands in the Yolo and Delta Basins. This measures states "If studies show that the assumption of no effect was inaccurate, and the food quality goal of 1:1 compensation for wintering waterfowl food value is not met, additional acreage of protection or creation of managed wetland and management will be required." If implemented, actions to bolster the quantity of food and habitat for winter waterfowl would have potential to increase waterfowl foraging in the Yolo Bypass	See response to comment 1785-244.

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		watershed, thereby increasing the possibility of bird strikes involving the species most likely to cause damage to aircraft. Because the majority of damaging bird strikes reported for Sacramento International occurs outside airport property, an increase in foraging habitat would have the potential to exacerbate an already tenuous situation by expanding known hazardous wildlife attractants. Increasing the aquatic habitat in such close proximity to the airport may result in the unintended synergistic effect of inducing birds foraging east of the airport to fly through the flight paths of arriving and departing aircraft to reach water west of the airport, and vice versa. If the birds cross aircraft approach and departure zones at elevations beyond the harassment techniques deployed by airport wildlife biologists, the likelihood of bird-aircraft collisions will likely increase.	
1785	228	[From ATT 5:] Page 742, line 24-39: This section discusses indirect effects on waterfowl and shorebirds, but still only focuses on the displacement of nesting waterfowl or shorebirds. There is no discussion about the impact of the location where the displaced waterfowl will go to, and the resulting potential for greater numbers of birds near County airports.	See response to comment 1785-225.
1785	229	[From ATT 5:] Chapter 13 - Land Use: The DEIR/DEIS references the 1994 Comprehensive Land Use Plan for Sacramento International. The 2013 Airport Land Use Compatibility Plan (ALUCP) for Sacramento International Airport was updated in December 2013 and should be used in any subsequent analyses. Pg. 23 Ln. 33-34: This section states that most uses would be compatible unless water causes ground fog or attracts large numbers of birds. The FAA (Federal Aviation Administration) Wildlife AC (Advisory Circular), which is referenced in the 2013 ALUCP, considers "land uses that cause movement of hazardous wildlife onto, into, or across the airport's approach or departure airspace or air operations area (AOA)" [Footnote 1: Any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.] to be incompatible with airport operations. Land uses identified in the Wildlife AC as those known to attract hazardous wildlife include wetlands, aquaculture, and agriculture. The FAA recommends the following separation criteria for land use practices that attract hazardous wildlife: 5,000 feet from the AOA of airports serving piston-powered aircraft; 10,000 feet from the AOA of airports serving turbine-powered (jet) aircraft, such as Sacramento International, and five miles for all airports if the attractant could cause wildlife movement into or across the approach or departure airspace. The extended inundation of the Yolo Bypass from CM2 is within five miles of Sacramento International's AOA, with a portion even within 10,000 feet, and has the potential to affect aircraft operations with an	This plan, and subsequent analysis, has been updated in the Final EIR/EIS.

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		increase in both bird activity and ground fog. Pg. 65 Ln 12-19: This section states that some of the footprint of the plan is yet unknown, so the entire plan was not evaluated within the context of the A LUCP. Even though the exact plan footprint is unknown, portions of the Plan Area are within the Airport Influence Area, the Traffic Pattern Area, and the Secondary Approach Area, as identified in the ALUCP, and therefore should be examined.	
1785	230	[From ATT 5:] Chapter 15 - Recreation: Pg. 105 Impact Rec. 11: Inundation of the Yolo Bypass would decrease hunting opportunities, which in turn could have the potential for increasing the number of waterfowl using the area due to reduced hunting pressure and an increase in available flooded habitat.	Alternatives 1A-8 presented in this Final EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 of the BDCP conservation strategy. The Lead Agencies acknowledge the commenter's opinion about the potential effects of CM 2 on recreation. Additional Alternatives 4A, 2D and 5A, do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.
1785	231	[From ATT 5:] Chapter 19 - Transportation: SMF (Sacramento International Airport) is outside of the transportation study area and therefore was not included in the transportation analysis. This resulted in a failure to analyze the potential impacts associated with the increased risk and likelihood of bird strikes associated with CM2-11. There is a lack of analysis on the effects that increased bird aircraft collisions could have on air traffic operations at the airports within five miles of the plan area. Page 30, line 4-6: The DEIR/DEIS states the five mile radius encompasses some of the plan area when in fact the entire Fremont weir component of CM2 is within the five mile radius of Sacramento International.	The potential for increased bird strikes from construction of restoration actions is presented in Final EIR/EIS, Chapter 24, Hazards and Hazardous Materials, under Impact HAZ-8, Increased risk of bird-aircraft strikes during implementation of conservation components that create or improve wildlife habitat. Sacramento International Airport is included in this analysis.
1785	232	[From ATT 5:] Chapter 22 - Air Quality and Greenhouse Gases: The DEIR/DEIS fails to analyze the CM2 project that would excavate a minimum of one million cubic yards (MCY) of sediment every other year effects on aviation. Increased particulate pollution from dust produced during the large excavation process will impact air quality and could adversely impact visibility for pilots of aircraft operating in the vicinity. The excavation of one MCY of soil also has the potential to attract large flocks of birds because prey, seeds, and nutrients would be exposed. This would have the potential to increase the likelihood of bird strikes during periods of sediment removal.	The analysis of CM2 was conducted at the program-level and includes a qualitative assessment of potential air quality and fugitive dust impacts. Please refer to response to comments BDCP510-7 and BDCP1785-178, found in the index of commenters.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1785	233	[From ATT 5:] Chapter 23 - Noise: The DEIR/DEIS only studied the impact of noise on waterfowl near Mayberry Farms (308 acres). It did not analyze the thousands of acres that may be impacted throughout the Delta and in the Yolo Bypass during excavation of sediment and displacement of foraging waterfowl.	The potential impact of noise on avian species resulting from the construction and operation of the water conveyance facilities and from construction-related restoration activities is analyzed in Final EIR/EIS, Chapter 12. The chapter includes a quantitative analysis of expected noise impacts on sandhill crane and a qualitative analysis of potential noise impacts on other avian species including waterfowl. No changes were made to the EIR/EIS based on this comment. For additional information regarding sandhill crane, please see Master Response 17.
1785	234	[From ATT 5:] Chapter 24 - Hazards and Hazardous Materials: Sacramento International currently ranks first within the FAA's (Federal Aviation Administration) Western Pacific Region and within the top ten nationally in the number of reported bird strikes. Notch operation of the Fremont Weir and subsequent inundation of the Yolo Bypass during mid-November through mid-May would coincide with the period during which the majority of damaging bird strikes occur, particularly near Sacramento International. Most damaging strikes are caused by waterfowl, which would be the most likely species to be attracted to the inundated Yolo Bypass. The bird strike data analyzed in the DEIR/DEIS was a national search of all strikes from 1990-2008 as recorded on the FAA Strike Database. Reliance solely on this database can yield misleading results because it does not provide sufficient details about the seasonality of local bird strikes and the contributory factors, nor is it representative of the true level of activity as bird strike reporting is not mandatory. FAA estimates only 30-40% of bird strikes are actually reported. Using data from all of the County airports near the plan area reveals that November through January are the months most likely to incur strikes. The FAA strike database includes 1,479 strikes recorded from the airports that are within a five-mile radius of the plan area. Additional analysis needs to be conducted using the strike data from the airports that will be affected in and near the plan area. The large tracts of agriculture near SMF (Sacramento International Airport) already attract substantial number of hazardous wildlife. The Department is concerned that the land use changes contemplated in the project will exacerbate this situation.	Please see response Comment 1785-186.
1785	235	[From ATT 5:] Page 36 Line 41-45: Impact HAZ-8 Increased Risk of Bird-Aircraft Strikes During Implementation of Conservation Measures That Create or Improve Wildlife Habitat. The analysis states that increases in aircraft and bird collisions under NEPA would be adverse and under CEQA would be significant and unavoidable. It goes on to propose consultation with airports and the Service to reduce risk. Such consultation should include discussions now with the FAA, and identification of methods of active harassment and/or removal of	The lead agencies will consult with the FAA, as required. The lead agencies also acknowledge the commenter's comment that the Sacramento International Airport will not be able to provide harassment assistance due to permitting restrictions restricting airport biologists regarding wildlife control on airport property.

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		hazardous wildlife that would be implemented within the proposed conservation areas within the FAA (Federal Aviation Administration)-recognized five-mile airport radius in the event the BDCP conservation measures precipitate an increase in hazardous wildlife. The airport will not be able to provide assistance in harassment due to permitting restrictions that restrict airport biologists to conducting wildlife control on airport property.	
1785	236	[From ATT 5:] Page 71-72: This section acknowledges the potential for an increase in hazardous wildlife and that such risks will continue to be adverse with plan implementation. Measure HAZ 8 specifies consultation with airports only after plans are finalized to determine ways to reduce impacts to aircraft operations. The late initiation of consultation with airports may limit the number and effectiveness of measures available to decrease hazardous wildlife attractants from the project, potentially resulting in an irreversible increase in hazardous wildlife on and near County-operated airports.	Please see response to Comment 1785-192.
1785	237	[From ATT 5:] Page 71 Line 37-38: The FAA (Federal Aviation Administration) wildlife strike database is now current through September 2013. Given the significant change in the number of reported strikes from the timeframe used in the DEIR/DEIS (January 1990-August 2008), it is recommended that updated data be used future analyses. Additionally, the information analyzed included data from the entire country, which is not reflective of data for the potentially affected airports. The DEIR/DEIS states that the majority of strikes occur between July and October; however when data from the just the five airports mentioned in the Plan is reviewed it is evident that most strikes occur from June-August and November-January.	As necessary, updated data will be used during the project-level environmental assessments for individual restoration activities, when site-specific locations and design plans are finalized. The statement regarding when in the year most strikes occur is based on the January 1990-August 2008 data at the time the impact analysis was written.
1785	238	[From ATT 5:] Page 72 Line 31-34: When discussing measures to reduce hazards in Wildlife Hazard Management Plans (WHMP), it is unclear if the statement is for WHMPs in general or refers to a specific airport's plan. Sacramento International's WHMP does not promote filling of wetlands as a habitat modification practice. The use of a radar-based alert system is also not a management practice per Sacramento International's WHMP. Radar-based wildlife detection and alert systems have thus far been shown to produce potentially useful analytical data, but in practice are largely incapable of enabling an aircraft to evade a wildlife collision.	Mitigation Measure HAZ-8 (BDCP/California WaterFix EIR/EIS) gives examples of the types of measures that can be used to reduce wildlife hazards through habitat modification, wildlife control, and the use of a radar-based alert system. These are just examples, as indicated in the text, and are not attributed to any specific Wildlife Hazard Management Plan.
1785	239	[From ATT 5:] Page 72 Line 35-37: Mitigation Measure HAZ 8 involves consultation with the airports; however only after "site-specific locations and design plans are finalized", which is	The lead agencies acknowledge the commenter’s recommendation to acquire a migratory bird depredation permit. All authorizations necessary for project implementation will be obtained. Please see Master Response 45 regarding required approvals and permits.

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		oftentimes too late to implement proposed changes. Involving airports and other regulatory agencies earlier in the process would allow for issues to be addressed while there is still an opportunity for design revisions to be made without creating delays. The main tenet of Sacramento County's wildlife management program is habitat modification. Land is managed with the goal of minimizing the attractiveness of airport property; however, because it is impossible to deter all wildlife, active harassment and removal efforts are conducted by qualified biologists pursuant to an annually renewing depredation permit obtained from the Service. Given that a goal of the BDCP is to improve habitat, it is recommended that the acquisition of a depredation permit be considered to allow the harassment of migratory birds to minimize the risk of bird-aircraft strikes.	Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP. Therefore, under this alternative there would be substantially fewer acres of habitat enhanced and restored.
1785	240	[From ATT 5:] Page 72 Line 40: Correction needed - Last sentence mentions CM3-CM11, but it should be CM2-CM11.	Text correction made per comment.
1785	241	[From ATT 5:] Chapter 25 - Public Health: No mention of the potential for increased bird strikes and potential for loss of life is made. The CEQA and NEPA analysis shows adverse and significant and unavoidable increases in bird strikes resulting from the project. Consultation alone will do nothing to diminish the impacts, especially if it occurs after project designs are finalized as proposed in Mitigation Measure HAZ 8. In order to adequately address the increases, active engagement of airports, the FAA (Federal Aviation Administration) and other regulatory agencies should occur earlier in the design process, as well as consideration of obtaining a federal depredation permit to allow harassment of migratory birds.	To minimize bird-aircraft strikes to the greatest extent possible, project proponents will consult with the potentially affected airports in the study area, as well as with USFWS during the project-level environmental assessments for individual restoration activities, when site-specific locations and design plans are finalized. At that time, appropriate management plans, strategies, and protocols would be developed to reduce, minimize and/or avoid wildlife hazards on air safety. Site-specific avoidance, minimization, and mitigation measures will be developed during future environmental review once information on the design, location, and implementation of habitat restoration and enhancement is sufficient to permit a project-level analysis. Lead agencies would comply with all applicable federal, state and local laws and regulations. Please note that the preferred alternative is now Alternative 4A, which no longer includes an HCP. Therefore, under this alternative there would be substantially fewer acres of habitat enhanced and restored. Operational elements associated with Fremont Weir modifications would not be incorporated as part of this alternative, because Yolo Bypass improvements contemplated in the BDCP (under CM2) would not be implemented as part of Alternative 4A; instead, they would be assumed to occur as part of the No Action Alternative. Alternative 4A would restore up to 15,548 acres of habitat under Environmental Commitments 3, 4, 35 and 6–11 as compared with 83,800 acres with Conservation Measures 3–11 under Alternative 4.
1785	242	[From ATT 5:] Chapter 29 - Climate Change: 29.6.1.2 Climate change could result in sea level rise and destruction of the remaining marsh outside levees throughout the Delta. The potential loss in habitat specifically to waterfowl could displace unknown numbers of waterfowl until the restoration projects are completed. There seems to be no analysis on where displaced waterfowl would go. There is the potential that the increased inundation of the Yolo Bypass would provide suitable habitat	The commenter states that there is no analysis of where waterfowl that may be displaced from climate change will go and that there is concern that there will be increased concentration at the Yolo Bypass. Although the waterfowl analysis presents impacts by watershed, wintering habitat for waterfowl and geese is not limited in the Central Valley and waterfowl and geese are continuously moving between grasslands, grain fields, and wetlands throughout the winter season. Although waterfowl that use shallow flooded habitat may be displaced in portions of the Delta due to climate change, there is equal opportunity for those individuals to move to other suitable habitat that is restored, created, formed in the future within other parts of the Delta, Suisun Marsh, or other parts of the

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		for the displaced birds and increase the concentration of waterfowl in the vicinity of Sacramento International during the peak of waterfowl migration. This result could increase the aviation hazard of bird strikes with air traffic in and out of the airport.	Sacramento and San Joaquin Valleys. With the implementation of CM2, the Yolo Bypass would be periodically inundated, as it is under existing conditions in wet years. Habitat availability would not differ substantially from existing conditions under the implementation of CM2 with the exception that the duration of inundation would be expected to be longer in certain years. There is a large amount of habitat that is currently managed for waterfowl throughout the Central Valley, including areas of the Yolo Bypass which also provide restrictions on hunting, and we cannot speculate on where displaced birds would move to within a large landscape with continually changing foraging and roosting opportunities. The general potential for alternatives to contribute to bird-aircraft collisions is presented in Chapter 24, Hazards and Hazardous Materials, of the Final EIR/EIS. Alternatives 1A-9 presented in the Draft EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 (CM2) of the BDCP conservation strategy. Additional Alternatives 4A, 2d and 5A, do not include CM2 as a project component. These improvements are assumed instead under the No Action Alternative. Additionally, please note that Alternative 4A is now the preferred alternative and no longer contains an HCP/NCCP.
1785	243	[From ATT 5:] Chapter 31 - Other CEQA/NEPA Required Sections: Mitigation measure HAZ 8 acknowledges that the impact from the project on increasing risk of bird strikes is adverse (NEPA) and significant and unavoidable (CEQA); however, consultation with the FAA (Federal Aviation Administration) and airport operators to determine the best management practices to reduce the level of risk will occur only after plans are finalized. This provision has the potential to limit the number and type of suitable practices available for discouraging hazardous wildlife near airports.	The lead agencies will consult with the FAA, as required. Sacramento International Airport will not be able to provide harassment assistance due to permitting restrictions restricting airport biologists regarding wildlife control on airport property. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP. Therefore, under this alternative there would be substantially fewer acres of habitat enhanced and restored.
1785	244	[From ATT 5:] Impact BIO-179 Loss or Conversion of Habitat for Wintering Waterfowl as a Result of Implementation of Conservation Components and Mitigation Measure BIO-179b Conduct Food Studies and Monitoring to Demonstrate Food Quality of Palustrine Tidal Wetlands in the Yolo and Delta Basins, note that the Yolo Watershed will lose 2,600 acres of wetlands. The mitigation measure will study where there is a loss in food production. If it is determined that the loss results in a reduction in the food available to waterfowl, additional acres will be protected or creation of managed wetlands will occur in the Yolo Watershed. This could attract waterfowl to the Yolo Bypass even when it is not inundated. Creation of managed wetlands within the five-mile radius of Sacramento International would constitute an increased attractant to waterfowl, which would result in an increase in the potential of aircraft bird collisions with air traffic from SMF (Sacramento International Airport).	The commenter expresses concern that the mitigation for tidal restoration impacts on wintering waterfowl includes a measure to protect or create additional managed wetlands in the Yolo Watershed if food studies demonstrate that the tidal wetlands do not provide equal food value to the managed wetlands that have been impacted. As stated on page 12-1937 of the Draft EIR/EIS, the replacement of 600 acres of managed seasonal wetlands with 2,000 acres of palustrine tidal wetlands in the Yolo watershed would not be expected to alter food productivity within the Yolo watershed. However, because the analysis is based on assumptions on food availability and quality that have not been measured, Mitigation Measure BIO-179a is in place to ensure a less-than-significant impact of habitat conversion on wintering waterfowl within the Yolo watershed. Habitat availability for wintering waterfowl in the Central Valley is not limited and birds are moving around the landscape in response to flood up of managed wetlands and agricultural fields throughout the winter months. There is no reason to expect that the tidal wetlands in the Yolo Bypass would be more attractive to avian wildlife than other habitat throughout the valley. Nevertheless, the Draft EIR/EIS does assess the potential for restoration projects to increase bird-aircraft collisions (Impact HAZ-8) and offers mitigation (MM-Haz 8) to coordinate with individual airports and USFWS in siting future restoration actions.

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1785	245	[ATT 6: Exhibit F. Letter dated July 11, 2013 to Russell Stein, Chief of Environmental Management at the Department of Water Resources, from Dan Ray, Chief Deputy Executive Officer of the Delta Stewardship Council. Regarding comments on the 2013 administrative draft of the BDCP EIR/EIS.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1785	246	[ATT 7: Exhibit G. Economic Sustainability Plan for the Sacramento-San Joaquin River Delta, Executive Summary. From the Delta Protection Commission. Dated January 19, 2012.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1785	247	[ATT 8: Exhibit H. Comments on the BDCP EIR/EIS Socioeconomic Analysis. Prepared for Sacramento County by Dr. Jeffrey Michael. Dated May 22, 2014.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1785	248	[From ATT 8:] The analysis of environmental and socio-economic impacts depends critically on the specification of baseline conditions (the no-action alternative) and an adequate array of alternatives. The EIR incorrectly uses a weak and unrealistic no-action alternative that results in serious understatements of the adverse effects of the proposed tunnels on the Delta economy and environment. The EIR/EIS fails to consider a reasonable range of alternatives, including those which would achieve the project goals and be beneficial rather than harmful to Sacramento County, other areas within the Delta, and the environment. The incorrect, inconsistent and inadequate description of no-action and action alternatives results in serious errors in the Socioeconomic Analysis (chapter 16) as well as other sections of the EIR/EIS.	Please refer to Section 4.2.1.1 of Chapter 4, Approach, regarding baselines, which explains why the CEQA analysis compares the potential impacts to existing conditions while the NEPA analysis compares the potential impacts to the No Action Alternative. Please also refer to Master Response 4 regarding the selection of alternatives.
1785	249	[From ATT 8:] No-Action Alternative is incorrect and inconsistent. BDCP uses an extremely weak and inaccurate no-action alternative. The no-action alternative used in the EIR/EIS assumes that the state and other state and local agencies take no action to comply with the Delta Reform Act of 2009 in the absence of BDCP. Furthermore, the EIR/EIS no-action alternative is inconsistent with other critical BDCP planning documents, including the critical issue of the no-action level of water exports used in chapter 9 of the BDCP and the BDCP statewide economic impact report that is being used as the basis for negotiations about BDCP cost allocations and its implementation agreement. The inaccurate EIR/EIS no-action alternative is less protective of the environment, and provides a lower level of in-Delta water quality and flood control than can be reasonably expected in the absence of the BDCP. Because of the inaccurate and inconsistent baseline, the EIR/EIS badly understates the adverse impacts of BDCP on the environment and areas of the Delta region such as Sacramento County.	Please refer to Section 4.2.1.1 of Chapter 4, Approach, regarding baselines, which explains why the CEQA analysis compares the potential impacts to existing conditions while the NEPA analysis compares the potential impacts to the No Action Alternative. Please refer to EIR/EIS Section 3.5.1 of Chapter 3, Alternatives which provides a detailed discussion of the elements included in the No Action Alternative.. Please also refer to Master Response 4 regarding alternatives.
1785	250	[From ATT 8:]	Model results show that long-term average Delta outflow under Alternative 4 (scenarios H1 - H4 at LLT) would be similar to that under Existing Conditions and No Action Alternative, with a minor increase in flows

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		No-Action Water Exports in the EIR/EIS appear to be too high and are inconsistent with other BDCP documents. BDCP chapter 9 uses a level of water exports, which it calls the Existing Conveyance Scenario, that is more than 1 million acre feet per year lower than the EIR/EIS no-action scenario. A footnote on page 1-2 of the EIR/EIS states that all BDCP chapters and appendices should be considered part of the full EIR/EIS. Thus, there is a critical lack of internal consistency within the EIR/EIS. This low-export "existing conveyance" scenario is also being used as the baseline in the cost allocation discussions for BDCP. If this "existing conveyance scenario" were used as the no-action baseline for the EIR/EIS, the baseline level of environmental protection and in-Delta water quality would be higher, and thus the adverse impacts of the BDCP on Sacramento County would be larger.	during the winter months and a minor reduction in flows during the spring months relative to Existing Conditions due to the shift in system inflows caused by climate change, as well as increased water demand expected in the LLT. In wet water year types, this trend is more evident, while in other water year types, Delta outflow under Existing Conditions and the No Action Alternative is generally within the range of Alternative 4 H1 - H4 scenarios. For more information and specific modeling results for all Alternatives, please refer to Final EIR/EIS Chapter 5, Water Supply, and Appendix 5A, BDCP/California WaterFix EIR/S Modeling Technical Appendix. For additional information regarding modeling, please see Master Response 30.
1785	251	[From ATT 8:] No-Action Habitat Enhancement is Too Low and Alternative Habitat Options Are Ignored. A number of the Conservation Measures included in the BDCP, most notably the Yolo Bypass Enhancements, can be reasonably assumed to take place without the BDCP and its tunnels. These projects rely on funding that is independent of the BDCP. Thus, many of these conservation projects should be included in the no-action baseline, and thus the environmental and other benefits (i.e. flood control) would be higher than in the baseline, and the beneficial impacts of BDCP would be lower.	Please note that the cumulative and No-Action projects have been updated in the Final EIR/EIS (see Appendix 3D). Also, note that the new proposed project, Alternative 4A, does not include large-scale habitat restoration or Yolo Bypass Enhancements, which is included in the No Action Alternative.
1785	252	[From ATT 8:] BDCP ignores many alternative approaches to improving habitat that would be less harmful or even beneficial to Sacramento County. In particular, BDCP ignores opportunities to upgrade the existing levee system in ways that would both increase the physical reliability of water exports and improve riparian habitat in the Delta. The levee system acts simultaneously as a water conveyance system and critical habitat. While the shortcomings of the current levee system in serving these purposes is part of the project need, the EIR/EIS fails to consider the most obvious action alternative - investing in improvements to the existing system.	Please refer to Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements, for a discussion of the levee system. Please refer to Master Response 4 regarding development of alternatives. For more information regarding the purpose and need of the proposed project please see Master Response 3. Please see Master Response 5 for additional detail on the BDCP and the alternatives involving an HCP component.
1785	253	[From ATT 8:] Seismic Levee Upgrades are ignored as an alternative. Protection from the impacts of an earthquake-induced flood is often presented as the most important justification for the tunnels. Considering the importance of flood risk to the case for the BDCP, it is imperative that the BDCP consider alternative methods of reducing this risk that would be less damaging to Delta communities and avoid the negative environmental impacts of constructing and operating the tunnels. The common-sense alternative of seismic-levee upgrades has been proposed and evaluated positively in other assessments but has been ignored by BDCP. Most notably, the Department of Water Resources identified Seismic Levee Upgrades as one of 3 promising alternatives for Delta Risk Reduction in a January	See response to comment 1785-252.

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		2008 report to the legislature [Footnote 1: Risks and Options to Reduce Risks to Fishery and Water Supply Uses of the Sacramento/San Joaquin Delta. A Report Pursuant to Requirements of Assembly Bill 1200, Laird. Department of Water Resources & Department of Fish and Game, January 2008. Available online at http://www.water.ca.gov/floodsafe/fessro/levees/drms/docs/AB1200_Report_to_Legislature.pdf] one year before the 2009 Notice of Preparation for BDCP. This date may be significant since BDCP representatives have cited this date as justification for leaving out alternatives that have been suggested after 2009. Also, it is significant to note that preliminary analysis for DRMS phase 2 found that a seismic levee upgrade scenario had lower implementation costs and higher economic benefits than isolated conveyance strategies similar to the BDCP proposal. [Footnote 2: See Appendix N of the Delta Protection Commission Economic Sustainability Plan, available at http://forecast.pacific.edu/DESP/report/Appendix%20N.pdf] Seismic levee upgrades were also the principal recommendation in the Delta Protection Commission's Economic Sustainability Plan. This strategy of seismically-improved habitat levees would further water supply reliability, ecosystem enhancement, and make critically-needed flood control improvements in the Delta to enhance its socio-economic and environmental sustainability. The exclusion of seismic levee upgrades in any of the alternatives highlights the flaws in the process BDCP used to develop alternatives in 2007, as described in Appendix 3A and 3G of the EIR/EIS. More detailed discussion of the inadequate alternatives and its importance to evaluating the socio-economic effects of BDCP on Sacramento County is in the appendix to these comments.	
1785	254	[From ATT 8:] Through Delta Conveyance alternatives are inadequately analyzed and developed. BDCP included one alternative with a through-Delta conveyance approach. This alternative includes over a dozen modifications to the Delta, and was one of the best performing alternatives in the evaluation of BDCP chapter 9. [Footnote 3: While the chapter 9 analysis finds that the BDCP preferred project is superior, it is based on some dubious claims that the through-Delta alternative is not technically-feasible. The technical infeasibility claim is remarkable considering how much simpler the through-Delta technology and approach is compared to the preferred twin tunnels.] While there are many opportunities to add and subtract, resize, and adjust operations of individual elements of a through-Delta strategy, no such effort was made for through-Delta options. In contrast, over a dozen configurations of isolated conveyance were analyzed by BDCP, not to mention many different operating scenarios for isolated conveyance options. The through-Delta alternatives would be significantly less harmful to Sacramento County, and less costly for the water exporters than the BDCP. The failure to adequately analyze and develop through Delta alternatives is an important flaw in the EIR/EIS, and its analysis of impacts on Sacramento County.	Please refer to Master Response 4 and Final EIR/EIS, Chapter 3, Description of Alternatives.

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1785	255	[From ATT 8:] The EIR/EIS invalidly ignores the Delta Protection Commission's peer-reviewed Economic Sustainability Plan (ESP). While the report is acknowledged on page 16-32, 33, its data and analysis of project impacts are ignored. The EIR/EIS justifies this by stating that "the ESP sometimes used assumptions and data different than those applied for the analysis in this chapter." The EIR/EIS should be more specific on the differences, and why the data and analysis used in the EIR/EIS is better. The ESP took its descriptions of conveyance and habitat directly from BDCP's 2010 project description. With respect to the water conveyance and habitat projects analyzed, the main difference in the documents is the ESP looked at the 5 intake options (alternative 1), whereas the preferred project now is alternative 4 with 3 intakes.	Please refer to Final EIR/EIS, Section 16.3.2.1 of Chapter 16, where it describes that potential incompatibilities with local plans or policies, or with those not binding on the state or federal governments, do not necessarily translate into adverse environmental effects under NEPA or CEQA. Additionally, please refer to Sections 16.2.2.5, 16.3.1.1, and 16.3.1.2 regarding the use of the IMPLAN model. Please also note that the preferred alternative is now Alternative 4A and no longer includes an HCP.
1785	256	[From ATT 8:] The data in the ESP (Economic Sustainability Plan) is actually more current and accurate than used in the EIR, including the data on agricultural production in the Delta. The DPC (Delta Protection Commission) ESP uses 2009 field level data on crop production, whereas the EIR/EIS is based on a 2007 land-use survey compiled by the Department of Water Resources. A peer-review panel convened by the Delta Stewardship Council's Independent Science Board praised the ESP analysis of Delta agriculture as "state of the art", yet this analysis is ignored by the EIR/EIS in favor of older and less detailed data. In addition, the 2013 BDCP statewide economic impact study utilized the same data as DPC ESP instead of the 2007 DWR survey. Furthermore, there is no meaningful difference in the descriptions of the CMs 2-22 measures in the 2010 BDCP documents used as the basis for the ESP, and the CMs 2-22 descriptions in the current EIR/EIS. Thus, there is no valid reason why the EIR/EIS does not cite the estimates of agricultural revenue loss from implementing CMs 2-22 from the DPC ESP or utilize its detailed and more recent data to establish baseline levels of agricultural production in the Delta.	CMs 2-21 were analyzed qualitatively at a programmatic level in the EIR/EIS. Please refer to Master Response 2 for more information regarding project- and program-level analysis. Additionally, the Final EIR/EIS uses the Economic Sustainability Plan as one of many sources of information. Please refer to Sections 16.3, and 16.3.1.4, regarding the methodology and approach for the analysis, in particular about crops and agricultural economics, used in Final EIR/EIS Chapter 16. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.
1785	257	[From ATT 8:] The EIR/EIS invalidly fails to quantify the economic impacts on agriculture of Conservation Measures 2-22, even though other assessments have found these measures to have extremely large negative impacts on agriculture production in the Delta. The EIR/EIS fails to quantify large and permanent losses in economic activity while focusing on temporary economic impacts of construction activity. The habitat conservation measures (CMs 2-22) would impact substantially more agricultural land than the proposed conveyance project (CM 1), and multiple reports have found that CMs 2-22 would cause a larger direct decrease in agricultural production than the proposed conveyance project itself. The EIR/EIS states that these impacts were not quantified "because the information required as input to the IMPLAN model was not available." This statement is clearly false, as the available data was sufficient for the BDCP itself to produce estimates in its August 2013 Statewide Economic	CMs 2-21 were analyzed qualitatively at a programmatic level in the EIR/EIS. Please refer to Master Response 2 for more information regarding project- and program-level analysis. Additionally, the EIR/EIS uses the Economic Sustainability Plan as one of many sources of information. Please refer to Sections 16.3, and 16.3.1.4, regarding the methodology and approach for the analysis, in particular about crops and agricultural economics, used in Final EIR/EIS, Chapter 16. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Impact Report. [Footnote 4: See page 5.1-16 of the Statewide Economic Impact Report available at http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Draft_BDCP_Statewide_Economic_Impact_Report_8-5-13.sflb.ashx]	
1785	258	[From ATT 8:] The BDCP Statewide Economic Impact Report estimates an $89 million annual loss in Delta agricultural production from CMs 2-22. Similarly, the Delta Protection Commission (DSP) found the habitat measures in CMs 2-22 would reduce agricultural production by $32-$132 million annually depending on the locations used for conservation. [Footnote 5: See page 145 of the Economic Sustainability Plan, or Figure C, page 14 of Executive Summary of the Economic Sustainability Plan.] These estimates are only the direct effects, and do not include indirect and induced (i.e. multiplier) effects from the lost income from decreased agricultural production or effects on value-added processing such as winemaking. Using multipliers from the DPC ESP (Economic Sustainability Plan), the total economic impact of CMs 2-22 could be an annual loss of between $100-400 million in economic output for the 5-county Delta region. [Footnote 6: The DPC ESP estimated that the $795 million in lost direct Delta agricultural production results in $2.6 billion in total economic impact in the five Delta Counties considering direct impacts as well as value-added manufacturing such as wineries, an output multiplier of approximately 3.3. The range of $100 to $400 million in total annual economic impacts is based on applying this multiplier to the range of $32-132 million loss in direct revenue from CM 2-22.] Thus, even the lowest and most optimistic estimate of the economic impact of CMs 2-22 on Delta agricultural production is a very significant effect.	CMs 2-21 were analyzed qualitatively at a programmatic level in the EIR/EIS. Please refer to Master Response 2 for more information regarding project- and program-level analysis. Additionally, the EIR/EIS uses the Economic Sustainability Plan as one of many sources of information. Please refer to Sections 16.3, and 16.3.1.4, regarding the methodology and approach for the analysis, in particular about crops and agricultural economics, used in Final EIR/EIS, Chapter 16. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures.
1785	259	[From ATT 8:] The EIR/EIS estimates of total Delta recreation spending and total agricultural revenue are significantly lower than other, more recent assessments. The EIR/EIS estimates revenue Delta agriculture at $697 million in 2007, whereas the DPC ESP (Delta Protection Commission Economic Sustainability Plan) estimated it to be $795 million in 2009. The EIR/EIS estimates recreational spending at only $236 million, 25% less than the $312 million estimate in the DPC ESP. No explanation is provided for the discrepancy in these estimates, and it appears the EIR/EIS simply elected to rely on the numbers that would reflect more favorably on the project by minimizing its actual impacts. Since the EIR/EIS's estimates of baseline economic activity in the Delta are too low, its estimates of the impacts of BDCP actions on the Delta economy are also likely to be too low.	The EIR/EIS uses the Economic Sustainability Plan as one of many sources of information. Please refer to Sections 16.3, and 16.3.1.4, regarding the methodology and approach for the analysis, in particular about crops and agricultural economics, used in Final EIR/EIS, Chapter 16. Additionally, the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures; therefore, agricultural land is substantially less impacted with the new preferred alternative.
1785	260	[From ATT 8:] The EIR/EIS underestimates temporary loss of agricultural production during construction of isolated conveyance facility at only $5.2 million (page 16-168). The loss is far too low	See response to comment 1785-259.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		considering the area of greatest construction impact in the north Delta is some of the highest value farmland in the region. The DPC ESP (Delta Protection Commission Economic Sustainability Plan) estimated a loss of roughly 8,000 acres from the tunnels configuration with 5 intakes in this region would displace $10 to $15 million of annual production. Alternative 4 is estimated to only impact 5,600 acres with the 3 intakes, and thus the direct impact would be $7 to $10.5 million using the estimates in the ESP, up to two times higher than the figure relied on in the EIS/EIR. Furthermore, the estimated $7 to $10.5 million loss does not take into account the broader impacts of construction, such as disrupting transportation and other services that support production on agricultural land, which would not be directly displaced by construction, as well as impacts on structures and facilities that support agricultural production on surrounding land. While the EIR/EIS correctly notes that these impacts are not included, it should be stressed that the effect of omitting these important economic impacts means that all of the quantified economic impacts are lower than will actually occur. The actual economic impacts of the BDCP on the Delta communities will be significantly greater.	
1785	261	[From ATT 8:] The EIR/EIS underestimates permanent loss of agricultural production during operation and maintenance of the isolated conveyance facility at only $3.8 million (page 16-174). Based on the analysis in the DPC ESP (Delta Protection Commission Economic Sustainability Plan), the actual gross revenue loss for an estimated 4,500 acres permanently removed from production due to the isolated conveyance facility would be $5 to $8 million. These figures are only based on the land directly removed from production. Impacts resulting from disruption and damage to transportation, support and processing infrastructure during construction and operation of the facility would add to these totals. In addition, agriculture in the Delta, including Sacramento County, will be harmed from increased levels of salinity resulting from the operation of the Delta tunnels. The EIR/EIS water quality chapter claims that the impacts of the tunnels on salinity will be minimal based on the BDCP's modeling, but these results are strongly disputed. Furthermore, the State has repeatedly violated current water quality standards in the Delta or relaxed standards in dry years such as 2014. Given this history of weak enforcement in the current system, the tens of billions of dollars borrowed to build the isolated conveyance system, and the fact that this debt will be repaid from revenues of water sales from the Delta, the risk of BDCP actually operating differently than described in the EIR and serious degradation of Delta water quality through excessive north Delta diversions is great. The DPC ESP modeled plausible scenarios where increased salinity as a result of the tunnels could reduce agricultural gross revenue in the Delta by $80 million per year. It is impossible to know exactly what the effect of the tunnels will be on Delta water quality as it depends upon the future actions of agencies under heavy political and financial stress. However, the EIR/EIS should at least acknowledge a risk that losses to Delta agriculture from implementing the BDCP could be 20-25 times greater than estimated	See response to comment 1785-259.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		in the EIR/EIS.	
1785	262	[From ATT 8:] The EIR/EIS underestimates long-term loss to the recreation economy from the construction and operation of the isolated conveyance facility, and these impacts disproportionately harm Sacramento County. The EIR/EIS accurately conveys the devastating impact of the tunnels on recreation activity during the construction period; many of the most harmful impacts would occur in Sacramento County locations in the North Delta. The EIR/EIS correctly notes in the construction impact section that (page 16-167, lines 23-25) "recreation-dependent businesses including marinas and recreational supply retailers may not be able to economically weather the effects of multiyear construction activities and may be forced to close as a result." Despite the predicted permanent closure of recreation providing businesses from construction, the EIR/EIS rather remarkably predicts that the effects on recreation during the operation and maintenance period will be minor. Recreation businesses that close during a decade of construction are unlikely to reappear once the tunnels are operating. The facilities will deteriorate during the closure period, and, as found in chapter 10 of the DPC ESP (Delta Protection Commission Economic Sustainability Plan) found that the flood zone and other regulatory constraints in the Delta make it difficult if not impossible to build new facilities, even in the EIR/EIS optimistic assumption that recreational visitors will choose return to a Delta that has been so significantly altered by the presence and operation of the giant diversion structures.	Final EIR/EIS, Section 16.3.1.5 of Chapter 16, Socioeconomics, discusses how Delta recreational economics are analyzed qualitatively in the chapter. Under the new preferred alternative, 4A, in the RDEIR/SDEIS, ECON-5 describes the closure of recreational facilities that would result in adverse effects. As described in ECON-5, the multi-year schedule and geographic scale of construction activities and the anticipated decline in recreational spending would be considered an adverse effect. A number of commitments and mitigation measures would contribute to the reduction of this effect.
1785	263	[From ATT 8:] The EIR/EIS underestimates the negative impact of BDCP on community character in the Delta. The EIR/EIS suggests that the temporary economic impacts from construction activity would have positive impacts on community character, but this prediction is based solely on redundant numbers of temporary construction jobs. In many places, the devastating impacts on community character from construction, including abandoned buildings, are correctly identified. However, much like the recreation sector, the community character discussion seems to suggest these effects are temporary -- when it is likely, and much more reasonable to assume, that the severe impacts from a decade-long construction project will persist for decades and could lead to permanent blight and decline.	The chapter does use “short-term” and “long-term” to describe the temporary (e.g., not permanent) effects related to the construction period. It would be speculative to assume that impacts would persist once construction is complete, operations and maintenance are ongoing, and construction areas have been restored to their original condition or enhanced. Additionally, areas temporarily used for construction activities, such as staging areas, barge unloading facilities, and RTM, would be restored to their original conditions whenever possible, as described in Appendix 3B, Environmental Commitments. The project proponents will consult relevant parties, such as landowners, reclamation districts, flood protection agencies, federal and state agencies with jurisdiction in the Delta, and counties, in developing such site-specific spoil, RTM, and dredged material reuse plans. Delta region, and mitigation for effects, are addressed in Impact ECON-1: Temporary effects on regional economics in the Delta region during construction of the proposed water conveyance facilities; effects on community characteristics are discussed in Impact ECON-3: Changes in community character as a result of constructing the proposed water conveyance facilities; effects on the recreation and tourism economy are discussed in Impact ECON-5: effects on recreational economics as a result of constructing the proposed water conveyance facilities; and effects on agricultural production values are discussed in Impact ECON-6: Effects on agricultural economics in the Delta region during construction of the proposed water conveyance

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			facilities. The permanent operations and maintenance effects on these socioeconomic impact topics are discussed in Impact ECON-7, Impact ECON-9, Impact ECON-11, and Impact ECON-12. Additionally, effects on recreational resources, including specific businesses such as marinas, are addressed in Chapter 15, Recreation, Final EIR/EIS. (See Impact REC-1 and Impact REC-2 for impact discussions and mitigation.)
1785	264	[From ATT 8:] The EIR/EIS overstates the positive impact of BDCP on South-of-Delta Hydrologic regions. The socioeconomic impacts of BDCP on agricultural areas South-of-Delta are likely to be negative. The EIR/EIS focuses on optimistic and qualitative estimates of the water supply reliability benefits, and ignores the cost of constructing the facilities. However, other BDCP studies show that the economic benefits of the BDCP to south-of-Delta agriculture will be far less than their cost to finance the tunnels. Most notably, the BDCP Statewide Economic Impact Report estimates (page 5.1-21) that implementing BDCP will increase gross agricultural revenue in areas south-of-Delta by only $134 million per year. If the gross revenue change is only $134 million, the net revenue change -- not including increased water supply costs -- will be far below $100 million.	The Statewide Economic Impact Report is not part of the EIR/EIS. Potential impacts to Delta socioeconomics under the new preferred alternative 4A, can be found in Section 16.3.3, Chapter 16, Socioeconomics, of the Final EIR/EIS.
1785	265	[From ATT 8:] BDCP estimates debt service and operations and maintenance of the tunnels will result in annual costs of approximately $1.2 billion to the water contractors, and alternative estimates have ranged as high as $2 billion per year. BDCP chapter 8 and most other BDCP documents state that the costs will be allocated proportional to water received. This suggests the share of costs allocated to south-of-Delta agriculture will be at least 60% of the annual debt service and operating costs, which range between $1.2 billion and $2 billion in reports prepared for Westlands Water District and other contractors. [Footnote 7: See November 20, 2013 presentation to Westlands Water District posted at http://www.mercurynews.com/ci_24795356/delta-tunnels-plans-true-price-tag-much-67] Thus, agricultural users' share of the annual costs would be at least $700 million per year and plausibly exceed $1 billion. When these annual costs of nearly $1 billion to south-of-Delta agriculture are compared to the BDCP's estimated $134 million increase in agricultural revenue in these regions, it is clear that BDCP is likely to result in economic harm to south-of-Delta agriculture. Even the BDCP's best-case scenario would have debt service costs to farmers that are more than five times higher than the estimated change in gross revenue, so implementing BDCP would result in a significant net economic loss to agricultural contractors south of the Delta. Thus, the EIR/EIS conclusion that BDCP will provide economic benefits to south-of-Delta agriculture is contradicted by BDCP's own documents.	The construction of the water delivery facilities is estimated to cost $16 billion (in undiscounted 2012 dollars), an amount that would be paid for by the state and federal water contractors who rely on Delta exports. The range of costs for water vary widely among contractors south of the Delta. Costs depend on the source of water, transport facilities, energy requirements, among other factors. For the agricultural customers of the CVP, prices range from $100 per acre-foot to more than $400 per acre-foot. The Metropolitan Water District of Southern California, which buys water from the SWP, estimates that the cost of the proposed project would translate into about $5.00 extra per household, per month in its service area. The final cost of water from the new conveyance facilities would be determined by numerous factors. A number of these significant factors, such as the project yield and allocation of costs, have yet to be determined. Funding sources for the proposed project are described in Chapter 8, Implementation Costs and Funding Sources, BDCP. Please see Master Response 5 regarding costs of implementation and funding for the proposed project. Also, see response to comment 1785-264.
1785	266	[From ATT 8:] Chapter 30 of the BDCP EIR/EIS briefly mentions the likely effect of the excessive agricultural	Please see Master Response 5 regarding costs of implementation and funding for the proposed project. Please also note that the preferred alternative is now Alternative 4A and no longer includes an HCP or

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		costs. The EIR/EIS states (page 30-40) that financing agreements for the BDCP could result in transfers of water from agricultural to urban users so that urban users would pick up a larger portion of BDCP costs. While the EIR/EIS does not estimate the magnitude of the transfers it predicts, the size of the difference between benefits and costs for agricultural users suggest that the water transfers could be substantial. However, the EIR/EIS does not discuss the environmental and economic effects that would result from the water transfers that would be forced by BDCP financing. Much like the impacts of a drought, the water transfers contemplated by the BDCP would result in fallowed fields and increased pressure on already overdrafted groundwater resources. This is just one of the critical areas where the failure of BDCP to complete an Implementing Agreement or financial plan undermines the credibility of the analysis in the EIR/EIS.	Conservation Measures. Please also refer to Appendix 5D regarding water transfers. Please also see Master Response 43.
1785	267	[From ATT 8:] The overstatement of south-of-Delta benefits is not limited to agriculture. In the absence of Delta conveyance, the Metropolitan Water District's plans indicate that it would develop at least 500,000 acre-feet of additional local water supplies. [Footnote 8: See Metropolitan Water Districts Integrated Regional Plan at http://www.mwdh2o.com/mwdh2o/pages/yourwater/irp/IRP2010Report.pdf] Building these alternative water supplies would create thousands of jobs in South-of-Delta area that will not exist if BDCP is implemented, a socio-economic loss that is not accounted for in the EIR/EIS. In addition, since these substantial new water supplies would not be developed, the EIR/EIS overstates the benefits from water supply reliability because it ignores these alternatives that would be implemented without it. As stated in section 1, these additional south-of-Delta alternative water supplies should be included in the No-Action alternative.	Please note that the cumulative and No-Action projects have been updated in the Recirculated Draft EIR/Supplemental Draft EIR/S. Also, see response to comment 1785-264.
1785	268	[From ATT 8:] The EIR/EIS does not consider socio-economic impacts that could result from increased flood risk in the Delta from implementing BDCP. BDCP would result in dramatic alterations to flood control systems in Sacramento County that could increase flood risk in the region. The BDCP would make large alterations in levees for both the conveyance and habitat elements that increase socio-economic risk in Delta communities such as Sacramento County. The conclusion of the DPC ESP (Delta Protection Commission Economic Sustainability Plan) states the following finding: "Levees are the fundamental infrastructure that supports the Delta and its economy." (page 278) In addition, as discussed in Section 1 of this review, the BDCP fails to consider alternative approaches such as seismic levee improvements to meet the project goals and objectives that would result in substantial flood protection improvements throughout the Delta, including Sacramento County. Chapter 10 of the DPC ESP identified inadequate flood protection and a complex regulatory environment as the biggest constraints and barriers to new investment in Delta legacy communities. Furthermore, the same catastrophic flood events that concern BDCP due to	Please refer to Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements, for a discussion of the levee system. Please see Master Response 5 for additional detail on the BDCP and the alternatives involving an HCP component. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e,g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of

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		their effect on water exports would lead to devastating losses of lives and property within Delta communities. The socioeconomic chapter of the EIR/EIS completely ignores this flood risk to the Delta, and thus it ignores how the BDCP proposed project increases the risk to communities through the alteration of the levee system, and the BDCP ignores alternatives that could simultaneously protect Delta communities and water exports through levee upgrades.	the CEQA/NEPA process.
1785	269	[ATT 9: Exhibit I. Sacramento River Delta Historical Society Newsletter. June 1994.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1786	1	Having finally had the opportunity to flip through at least some of the overwhelming documentation in support of this project, my fears were one-hundred percent validated. There are no ifs, ands or buts about it: THIS PROJECT WILL DESTROY THE DELTA. It is truly shocking how anti-preservation-of-the-Delta this project is across the board. Virtually everything I was able to flip through had major problems in terms of compliance with CEQA and NEPA as well as numerous other laws.	Due to the highly technical and complex nature of the proposed project and the importance of the Delta as a natural resource and to the California water supply, the 2013 draft EIR/EIS, 2015 RDEIR/SDEIS, and Final EIR/EIS contain considerable amounts of information. In drafting the BDCP, it's EIR/EIS, the 2015 RDEIR/SDEIS, and the Final EIR/EIS, the lead agencies focused on presenting information in plain language and in a clear format with emphasis on information that is useful to the public, agencies, and decision makers. The EIR/EIS combines the informational requirements of CEQA and NEPA, summarizes relevant information, focuses on the significant environmental impacts of the alternatives and mitigation measures to avoid or substantially reduce those impacts, avoids duplication, and utilizes technical appendices to avoid including highly technical analysis in the text of the EIR/EIS. This approach balances the need for technical information and readability of the EIR/EIS and is fully consistent with the procedural and informational requirements of CEQA and NEPA. See Master Response 38 regarding the length of the environmental documents. The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached.
1786	2	It is extremely disconcerting that the powers that be have already been convinced politically or otherwise that an isolated facility, and the so-called Preferred Alternative for that matter, is a done deal. It strikes me as pure insanity that, in light of the dire state of the Delta ecosystem, state and federal fish and wildlife agencies, in particular, could even remotely consider issuing any semblance of a fifty-year assurance to the Projects that if the Projects do x, y and z, then they will be essentially be completely off the hook for any water commitments or other measures needed in the future to protect fish and wildlife resources within the Delta Watershed. That is especially insane when x, y and z are nothing but an experiment and one that the instant EIR/EIS confirms will destroy the Delta in the process.	Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e,g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
			Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process. Please see Master Response 5 for more information about analysis of the BDCP. The proposed project was developed to meet the standards of the federal and state Endangered Species Acts, as such it is intended to be environmentally beneficial, not detrimental, and is designed to improve native fish migratory patterns and allow for greater operational flexibility. Where the alternative does not include preparation of an HCP, ESA compliance for construction and operation of water intakes in the north Delta and associated conveyance facilities would be achieved solely through Section 7. For these alternatives, USFWS and NMFS would not issue a permit and would not act as a lead agency for NEPA compliance. Where Section 7 is the ESA compliance strategy, USFWS and NMFS will assume roles as cooperating agencies for purposes of the NEPA review. For the Proposed Action, the USFWS and NMFS will conduct an internal ESA section 7 consultation prior to issuance of an Section 10(a)(1)(B) permit for the Proposed Action. These federal agencies will coordinate the ESA consultation process and other environmental review processes, such as the National Environmental Policy Act (NEPA), consistent with federal regulations. In addition, the USFWS and NMFS will consult with the United States Bureau of Reclamation (Reclamation) to complete biological opinions or a joint biological opinion prior to federal action to carry out the proposed project. For more information on permitting processes, please see 1.1.5.2 of Section 1 Introduction of the RDEIR/SDEIS and Master Response 45.
1786	3	There is so much legally and practically wrong with the BDCP Plan and its Draft EIR/EIS and Implementing Agreement, that it has been quite frustrating to try to review the documents and comment on them. I will defer to the many others who have embraced this monstrosity in greater detail and will unfortunately only be able to comment on a handful out of what I estimate to be on the order of hundreds of fundamental legal and other flaws. I highly doubt anyone with any meaningful say on the approval of this project is going to read these comments, but if by chance any such person should, for the sake of the Delta which this project purports to protect, and from someone who was raised in the Delta and genuinely cares about its well-being, I respectfully request and urge that you PLEASE DO NOT APPROVE THIS PROJECT. This is clearly not the solution to address the so-called co-equal goals. Not even close.	The Proposed Project is the result of more than seven years' collaboration and consultation with numerous stakeholders, agencies, public water agencies and environmental organizations. The organizations that have participated in the Steering Committee, public meetings or written letters to provide input on the Plan include: American Rivers, Bay Institute, Defenders of Wildlife, The Endangered Species Coalition, Environmental Defense Fund, The Golden Gate Salmon Association, National Audubon Society, Natural Resources Defense Council, the Nature Conservancy, and Planning and Conservation League. The feedback was used to guide the development and subsequent revisions of the Proposed Project and its associated EIR/EIS to reflect concerns addressed from the various groups. All of the documents, studies, administrative drafts, and meeting materials have been posted online since 2010 in an unprecedented commitment to provide public access and government transparency. Although the RDEIR/SDEIS, EIR/EIS and much of the proposed project has been drafted by scientists working for a private consulting firm (ICF) working for the Lead Agencies, the Agencies' scientists have been review and contributing, and their judgments are reflected throughout the EIR/EIS and the proposed project itself. The State is most interested in putting forth the best project that meets the goals of ecosystem improvement and water supply reliability. To the degree that the current Plan is endorsed by some environmental organizations serves as confirmation that the proposed Plan protects species, habitats and the Delta ecosystem in a way that is compatible with their goals. The

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			website includes correspondence from agencies and NGOs received prior to the start of the formal comment period. Comments received during the comment period are to be included in the Final EIR/EIS. The lead agencies have carefully reviewed and considered the public comments received in response to the environmental analysis presented to the public. Please see Master Response 42 for more information about how comments were reviewed and responded to.
1786	4	The Preferred Project is Contrary to the Delta Reform Act of 2009. The Preferred Project Fails to Achieve the Co-Equal Goals in a Manner that Protects and Enhances Delta Values. Speaking of those so-called co-equal goals, from reviewing the various documents associated with the project, it is crystal clear that the proponents of this project did not advance past the first sentence in Water Code section 85054. Section 85054 provides in full as follows: "Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. It is simply not possible for one to read through, even the "mere" (132 page) executive summary, for the BDCP Draft EIR/EIS ("DEIR/EIS") and walk away thinking this project in any manner "protects," much less "enhances," the "unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." Simply look at the summary of the countless significant and unavoidable impacts to those values. What kind of twisted interpretation can be given to the phrase "as an evolving place" to justify the undisputed destruction of those values rather than their protection, much less, enhancement? The Projects' conveyance facilities can be improved in numerous ways (e.g., by constructing the state of the art fish screens on the existing South Delta export facilities that were required by the CALFED Record of Decision [ROD] to be operational by 2006) that do not involve the mass destruction and impairment of those values. And to confirm the fact that the BDCP Proponents are indeed entirely overlooking the second sentence in section 85054, all one has to do is review the stated project objectives which say absolutely nothing about protecting, much less enhancing, those values, either as an evolving place or otherwise. Instead, the objectives only mention more reliable water supplies and the Delta ecosystem, i.e., the first sentence (except, of course, they change the phrase "more reliable water supply for California" to "more reliable water supply for	Please see the response to Comment 2, above, which discusses the development of Alternative 4A and the proposed project's compliance with the Federal and State Endangered Species Acts. For more information regarding project purpose and need, please see Master Response 3. For more information regarding development of alternatives and screening, please see Master Response 4. For more information regarding significant and unavoidable impacts, please see Master Response 10. For more information regarding BDCP compliance with the Delta Reform Act, please see Master Response 31 and Appendix 3I of the Final EIR/EIS. For more information regarding 4A consistency with the Delta Plan, please see Appendix 3J of the Final EIR/EIS.

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		exporters").	
1786	5	The Preferred Project Substantially Increases Reliance on the Delta Rather than Reduce that Reliance. Another provision of the Delta Reform Act of 2009 that apparently none of the BDCP Proponents have yet had the opportunity to review is the following: The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. (Wat. Code, [Section] 85021, emphasis added.) It defies logic and common sense how anyone could examine the BDCP from up-close or even far away and somehow conclude that the 50 or 60 or more billion dollar BDCP is indeed a project that is in furtherance of reducing the BDCP Proponents' reliance on the Delta for meeting their water supply needs. This project is obviously in furtherance of doing the complete opposite of reducing that reliance. For starters, the entire concept of improving the reliability of Delta water supplies is at odds with the policy of reducing reliance on the Delta because the more reliable that Delta water supply is for exporters, the more it can and will be relied upon by those exports. But the BDCP, however, goes considerably beyond that and unashamedly (and quite frankly, unbelievably) goes so far as to make the following objective one of the project's express objectives: Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts, when hydrologic conditions result in the availability of sufficient water, consistent with the requirements of state and federal law and the terms and conditions of water delivery contracts and other existing applicable agreements. (DEIR/EIS, p. ES-8, emphasis added.) How in the world will "restoring" and "protecting" the ability of the Projects "to deliver up to full contract amounts," i.e., something the projects have NEVER been able to do, in any manner, even remotely, reduce the Projects' reliance on the Delta to meet their future water supply needs? The answer is obviously that it will not. Instead, the entire purpose of this objective is undeniably to substantially increase the Projects' reliance on the Delta to meet their future water supply needs, which should make this project dead on arrival if the persons in charge of enforcing the reduced reliance policy choose to duly enforce that policy. While it is true that any improved reliability of Delta water supplies for exporters will, by definition or otherwise, arguably increase the exporters' reliance on those supplies, what is	The projected water demands in the No Action Alternative and all of the EIR/EIS alternatives include the assumptions that water conservation and other measures will be implemented by 2060 through local agencies to reduce water demand by 20 percent as compared to the Existing Conditions in accordance with State law, as described Section 30.1.3 of Chapter 30, Growth Inducement and Other Indirect Effects. The range of alternatives included in the Draft EIR/EIS included alternatives which result in reductions in SWP and CVP water deliveries south of the Delta as compared to the Existing Conditions and the No Action Alternative. The No Action Alternative and Alternatives 4H1, 4H2, 4H3, 4H4; 5; 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under Existing Conditions (shown in Tables 5-5 and 5-8). Similarly, Alternatives 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under the No Action Alternative (shown in Tables 5-6 and 5-9). It is assumed that water users would need to implement separate methods to reduce water demands or provide alternative water supplies in drier years, such as those methods currently used during droughts.

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		being proposed by the BDCP Proponents and what is set forth in the above-referenced project objective is simply off the charts and manifestly unacceptable and contrary to that reduced reliance policy.	
1786	6	The Preferred Project Substantially Impairs, Rather than Improves Water Quality Within the Delta. Yet another significant policy which is likewise entirely being overlooked by the BDCP Proponents is the policy set forth in Water Code section 85020 which provides: The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta: . . . (e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta. (Emphasis added.) It is nothing short of appalling how the DEIR/EIS has handled the BDCP's impacts to surface and groundwater quality within the Delta. In direct contravention of the above policy, rather than improve that water quality, the DEIR/EIS concludes that both surface and groundwater quality will be "significantly" and "unavoidably" adversely impacted. (See e.g., DEIR/EIS, p. ES-63.)	The EIR/EIS analyzes all alternatives, including Alternative 4A, the preferred alternative. Alternative 4A would have substantially less effect on Delta water quality such that significant impacts were identified for electrical conductivity (EC) at Emmaton and Prisoners Point, and mercury associated with the limited tidal habitat restoration that would be implemented. The significant impacts to EC are to be mitigated through real-time operations that could not be completely represented in the modeling on which the EC assessment is based.
1786	7	The Preferred Project is Contrary to Numerous Other Laws and Policies. The Delta Reform Act of 2009 is, of course, not the only source of legislative policies and declarations imposing restrictions on the design of the BDCP. A few of those other sources will be briefly discussed below. Delta Protection Act of 1992. "The Legislature finds and declares that the Sacramento-San Joaquin Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and it is the policy of the state to recognize, preserve, and protect those resources of the delta for the use and enjoyment of current and future generations." (Pub. Resources Code, [Section] 29701, emphasis added.) "The Legislature further finds and declares that the basic goals of the state for the delta are the following: (b) Protect, maintain, and, where possible, enhance and restore the overall quality of the delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities." (Pub. Resources Code, [Section] 29702, emphasis added.) "The Legislature further finds and declares as follows:	tate constitutional restrictions require the reasonable and beneficial use of water, and state laws require that water pumped from the Delta be put to beneficial uses. Beneficial uses include agricultural, municipal, and industrial consumptive uses; power production; and in-stream uses including fish protection flows. DWR's fundamental purpose of the proposed project is to make physical and operational improvements to the SWP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. By establishing a point of water diversion in the north Delta and new operating criteria, the proposed project is designed to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational flexibility. For more information on the project's compliance with other laws and policies, please see Master Response 45.

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		(a) The delta is an agricultural region of great value to the state and nation and the retention and continued cultivation and production of fertile peatlands and prime soils are of significant value. (b) The agricultural land of the delta, while adding greatly to the economy of the state, also provides a significant value as open space and habitat for water fowl using the Pacific Flyway, as well as other wildlife, and the continued dedication and retention of that delta land in agricultural production contributes to the preservation and enhancement of open space and habitat values. (c) Agricultural lands located within the primary zone should be protected from the intrusion of nonagricultural uses." (Pub. Resources Code, [Section] 29703, emphasis added.) Suffice it to say that it is undisputed that the proposed BDCP will permanently destroy, not "[p]rotect, maintain, and, where possible, enhance," tens of thousands of acres of agricultural land within the Delta, much of which in the primary zone, and, as with Delta surface water quality and ground water quality, the DEIR/EIS concludes that agricultural land as well as recreational opportunities will be "significantly" and "unavoidably" adversely impacted. (See e.g., DEIR/EIS, p. ES-111 & ES-112.) Moreover, how causing significant and unavoidable adverse impacts to surface and ground water quality and to agriculture and recreational activities in the Delta could be fairly said to be consistent with the basic goals of the state to "[p]rotect, maintain, and, where possible, enhance and restore the overall quality of the delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities," is simply mind-boggling. (Pub. Resources Code, [Section] 29702, emphasis added.) Clearly, causing such impacts is by no means consistent with that goal.	
1786	8	Water Code Section 12980 et seq. "The Legislature finds and declares that the Delta is endowed with many invaluable and unique resources and that these resources are of major statewide significance." (Water Code, [Section] 12981, subd. (a), emphasis added.) "The Legislature further finds and declares that the Delta's uniqueness is particularly characterized by its hundreds of miles of meandering waterways and the many islands adjacent thereto; that, in order to preserve the Delta's invaluable resources, which include highly productive agriculture, recreational assets, fisheries, and wildlife environment, the physical characteristics of the Delta should be preserved essentially in their present form; . . ." (Water Code, [Section] 12981, subd. (b), emphasis added.) Neither the construction of a huge isolated facility through the Delta nor any of the related intakes, forebays, vertical shafts, etc., nor the diversion of fresh water inflows into such an	The proposed project was developed to meet the standards of the federal and state Endangered Species Acts. By establishing a point of water diversion in the north Delta and new operating criteria, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. The proposed project would not remove levees or close access to waterways. Chapter 16 of the EIR/EIS and RDEIR/SDEIS Appendix 16A (Socioeconomics) identify the unique features of the Delta and describe the potential effects on Delta communities. Please see chapter 15 for a discussion on impacts to recreation. Impacts to agriculture are identified and discussed in Chapter 14; the lead agencies have proposed measures that would support and protect agricultural production in the Delta by securing agricultural easements and/or by seeking opportunities to protect and enhance agriculture with a focus on maintaining economic activity on agricultural lands. Please see Master Response 18 for more information on agricultural mitigation and Master Response 24 for information on the Delta As a Place. Please also see Appendix 3J, Alternative 4A (Proposed Project) Compatibility with the Delta Plan, regarding

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		isolated facility, come anywhere remotely close to "preserv[ing]" "the physical characteristics of the Delta . . . In their present form; . . . ." (Ibid.) Such construction and operation constitute an obvious and destructive alteration of the present physical characteristics of the Delta in direct contravention of the Legislature's findings and declarations in section 12981.	specific compatibility with the proposed project. For more information regarding project purpose and need, please see Master Response 3.
1786	9	Delta Protection Act of 1959. "The Legislature finds that the maintenance of an adequate water supply in the Delta sufficient to maintain and expand agriculture, industry, urban, and recreational development in the Delta area as set forth in Section 12220, Chapter 2, of this part, and to provide a common source of fresh water for export to areas of water deficiency is necessary to the peace, health, safety and welfare of the people of the State . . . ." (Wat. Code, [Section] 12201, emphasis added.) If water is exported at the northernmost tip of the Delta via an isolated facility as proposed by the BDCP, then such water is plainly not providing a "common source of fresh water for export," instead, it is providing an isolated source of fresh water for export which is entirely devoid of common benefits to essentially the entirety of the Delta and, hence, which is squarely contrary to section 12201 and "to the peace, health, safety and welfare of the people of the State."	This comment addresses a feature of Alternative 4 (known also as the BDCP). Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) is being considered. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts.
1786	10	Water Code section 12205 provides: "It is the policy of the State that the operation and management of releases from storage into the Sacramento-San Joaquin Delta of water for use outside the area in which such water originates shall be integrated to the maximum extent possible in order to permit the fulfillment of the objectives of this part." (Emphasis added.) Since, as just noted, one of the "objectives of this part" is to "provide a common source of fresh water for export" (Wat. Code, [Section] 12201, emphasis added), the Projects have a duty to integrate their releases from storage into the Delta "to the maximum extent possible" to provide that "common" source. Diverting any amount of such releases into an isolated canal, which by definition is entirely devoid of the required commonality of benefits, is obviously not providing the "common" source of fresh water to the maximum extent possible. Rather, it would be blatantly disregarding that mandate. Water Code sections 12203 and 12204, respectively, provide: "It is hereby declared to be the policy of the State that no person, corporation or public or private agency or the State or the United States should divert water from the channels of the Sacramento-San Joaquin Delta to which the users within said Delta are entitled."	The action alternatives have been developed to only change the amount of water diverted under the existing SWP and CVP water rights and in accordance with the existing and future related regulatory requirements. Reservoir operations and diversions by the SWP and CVP are regulated by the State Water Resources Control Board in accordance with the State Water Code and other regulatory requirements; as well as the requirements of the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and State Department of Fish and Wildlife. The amount of water to be diverted from the Delta is determined by these agencies based upon river water levels and flow, water available in the system, the presence of threatened and endangered fish species, and water quality standards (see Chapter 3, Section 3.6.4.2, North Delta and South Delta Water Conveyance Operational Criteria, EIR/EIS). Some parties have described a “Delta pool,” “common pool,” or the Delta as a source of water, but this is not a generally accepted theory, nor is it part of California’s water law. Please review Master Response 32, Water Rights, as well as Master Response 14, Water Quality, for more information on the state and federal projects’ operational obligations and analysis of the proposed project’s effects on salinity levels in the Delta.

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		"In determining the availability of water for export from the Sacramento-San Joaquin Delta no water shall be exported which is necessary to meet the requirements of Sections 12202 and 12203 of this chapter." Even assuming that the "common pool" mandate could somehow be circumvented, before one drop of water is placed into an isolated facility, there needs to be a comprehensive analysis regarding how many drops of water, and at what times of year, and during what hydrological and ecological situations, etc., can such drops of water be legally deemed to be surplus to what "users within [the] Delta are entitled" (Wat. Code, [Section] 12203) and surplus to what is "necessary to meet the requirements of Sections 12202 and 12203 of this chapter." (Wat. Code, [Section] 12204.) Until that comprehensive analysis is duly undertaken (which thus far it has not), a discussion, much less the development and threatened approval of a plan, to improve the Projects' conveyance facilities in the Delta is entirely premature and misplaced.	
1786	11	Watershed Protection Act. Water Code section 11460 provides: "In the construction and operation by the department [i.e., the SWP and CVP] of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein." (Emphasis added.) In light of the conceded significant and unavoidable adverse impacts to the water quality in the Delta that will result from implementation of the BDCP, and the resulting significant and unavoidable detriment to humans and environmental resources that utilize and depend upon that water quality, the implementation of the BDCP would squarely violate this fundamental duty that the Projects' specifically avoid any such detriment from their operations. The BDCP as proposed simply makes a mockery of this and essentially every other law intended to protect the Delta and its water supply and quality, and all of its "natural [and "irreplaceable"] resource[s] of statewide, national, and international significance . . . ." (Pub. Resources Code, [Section] 29701, emphasis added.) It is nothing short of amazing and deeply disconcerting that there could be so much momentum, even by those who could care less about the Delta, to implement a project, such as the BDCP, that is so completely at odds with so many legislative declarations and policies. This is truly a sad state of affairs.	This comment addresses Alternative 4 (known also as the BDCP) and is an opinion on its merits. Please see the response to Comment 9, above, for information on the current preferred alternative, Alternative 4A. For more information about the obligations of the Public Trust Doctrine, please see Master Response 13. For more information regarding project purpose and need, please see Master Response 3. For more information regarding area of origin protections, please see Master Response 26.

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1786	12	The Preferred Project is Contrary to the CALFED Record of Decision. As if being squarely contrary to nearly every legislative declaration and policy intended to protect the Delta from something like the BDCP was not enough, the BDCP is also squarely contrary to the CALFED Record of Decision's thirty (30) year plan, which was adopted on August 28, 2000 and, hence, has about another 15 years before it expires. According to the CALFED Record of Decision (ROD), "Carrying out [its] mission, achieving the objectives, and adhering to the solution principles will ensure that CALFED fulfills its commitment to continuous improvement in all of the four problem areas." (DEIR/EIS, App. 3A, attmt. 1, p. 8.) With regard to the CALFED ROD's objectives, those objectives are the following: CALFED developed the following objectives for a solution: -Provide good water quality for all beneficial uses. -Improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta to support sustainable populations of diverse and valuable plant and animal species. -Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system. -Reduce the risk to land use and associated economic activities, water supply, infrastructure and the ecosystem from catastrophic breaching of Delta levees. (DEIR/EIS, App. 3A, attmt. 1, p. 9.) The BDCP not only fails to meet all of those objectives, but, instead, it actually impairs several, if not all, of those objectives. The BDCP results in significant and unavoidable adverse impacts to surface and groundwater quality within the Delta and, hence, entirely defeats the first objective. That impairment also defeats the third objective by directly limiting the beneficial water supply available to in-Delta diverters, not to mention to the in-Delta environmental resources. As discussed further below, the decade-plus construction of the BDCP has the clear potential to increase rather than "[r]educe the risk to land use and associated economic activities, water supply, infrastructure and the ecosystem from catastrophic breaching of Delta levees." Hence, rather than be in furtherance of the CALFED ROD's solution and its four basic objectives, the BDCP directly impairs the fulfilment of that solution and objectives.	This comment is an opinion on the merits of the BDCP and its consistency with the CALFED ROD. All of the action alternatives presented in this Final EIR/EIS meet or substantially meet the purpose and need and project objectives identified in Chapter 2, Project Objectives and Purpose and Need, which are similar to those identified in the CALFED ROD. For more information regarding project purpose and need, please see Master Response 3.
1786	13	The CALFED Record of Decision's requirement that "any CALFED solution must satisfy the	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. A modified proposed project (Alternative 4A/California WaterFix) is being considered. For

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		following [six] solution principles: -Reduce Conflicts in the System. Solutions will reduce major conflicts among beneficial uses of water. -Be Equitable. Solutions will focus on solving problems in all problem areas. Improvements for some problems will not be made without corresponding improvements for other problems. -Be Affordable. Solutions will be implementable and maintainable within the foreseeable resources of the Program and stakeholders. -Be Durable. Solutions will have political and economic staying power and will sustain the resources they were designed to protect and enhance. -Be Implementable. Solutions will have broad public acceptance and legal feasibility, and will be timely and relatively simple to implement compared with other alternatives. -Have No Significant Redirected Impacts. Solutions will not solve problems in the Bay-Delta system by redirecting significant negative impacts, when viewed in their entirety, within the Bay-Delta or to other regions of California. (DEIR/EIS, App. 3A, attmt. 1, p. 9.) Is there really any need at this point to say anything further? Could anyone that has spent any fair amount of time learning about the BDCP and reviewing the DEIR/EIS claim with a straight face that the BDCP satisfies any of those solution principles, much less all of them? It should appear manifestly clear that: 1. The BDCP by no means "reduces conflicts in the system," instead it creates the mother of all conflicts in the system. 2. The BDCP is by no means "equitable" since it is unashamedly focused on Project exporters and (ostensibly at least) the Delta ecosystem, and intends to significantly destroy Delta values and resources in its wake. 3. The BDCP is by no means "affordable." To this day the BDCP Proponents still refuse to pay all of the costs associated with the project presumably because it would not be affordable for them to do so. 4. The BDCP is by no means "durable," since it is too expensive, it will not produce anywhere near the water the BDCP Proponents are banking on, and the vast majority of experts agree it will result in the ultimate destruction of the resources it is purportedly designed to protect	additional detail on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Responses 4 and 5.

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		and enhance, namely fish and wildlife. 5. The BDCP is by no means "implementable." It is laughable and sad at the same time to suggest that the BDCP has "broad public acceptance" and "legal feasibility." It patently has neither. And with regard to whether it "will be timely and relatively simple to implement compared with other alternatives," if this is not the most convoluted and time-consuming project to implement in the western hemisphere if not the world, then it is unquestionably a runner up. 6. And last, but certainly not least, it would literally be difficult to design a project that had more "significant redirected impacts" than the BDCP. The sheer number of significant and unavoidable adverse impacts to the Delta amply tells the story. The BDCP's redirection of significant impacts is egregious, blatant and entirely unacceptable and unfair. If being squarely contrary to the Delta Reform Act of 2009, the Delta Protection Acts of 1959 and 1992, Water Code sections 12980 et seq., and the Watershed Protection Act are not enough reason to abandon the BDCP and go back to the drawing board, then its respectfully requested and urged that the powers that be revisit and considered the foregoing CALFED ROD mission statement, objectives and solution principles, which the powers that be themselves came up with and approved, and reject the BDCP in its present form and work towards crafting a true solution that myself, the Central Delta Water Agency and everyone else could get behind and support.	
1786	14	Substantially improving the levee system throughout the entire Delta would be a wonderful place to start along with installing the state of the art fish screens at the existing South Delta facilities which, of course, were supposed to be implemented within the first seven years of the CALFED ROD program and which are now approximately eight years past due.	The California Department of Water Resources' Levee Repairs and Floodplain Management Office is responsible for administering levee programs through evaluation and direct rehabilitation of structural deficiencies in California's levee system. Overall levee repairs and improvement programs administered by DWR will continue with available funding. For additional information on the relationship between the proposed project and Flood protections in the Delta, please see EIR/EIS Appendix 6A BDCP/California WaterFix Coordination with Flood Management Requirements. In addition, existing provisions included in the recent Biological Opinions require improvements to the south Delta export facilities as it pertains to increasing fish survival and salvage, which will not be affected by implementation of the proposed project.
1786	15	The DEIR/EIS Fails to Properly Address the Impacts from the Substantial Erosion of the "Common Pool" That Would Result From the Construction of an Isolated Facility. One of the most significant negative effects, if not the most significant negative effect, from the BDCP on the short and long term viability of the Delta and its water supply, water quality, ecosystem and all of its "natural [and "irreplaceable"] resource[s] of statewide, national, and international significance . . ." is the BDCP's substantial and unlawful	Please see the responses to Comments 10 and 11, above.

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		impairment of the "common pool" requirement mandated by the Delta Protection Act of 1959 via the BDCP's construction of an isolated facility. The Delta Protection Act of 1959's mandate that exports from the Delta be taken from the "common pool" within the Delta, and not from the uppermost northern tip of the Delta as proposed by the BDCP, has ensured that the state and federal government, as well as the millions of people who receive Delta export water and the owners and operators of hundreds of thousands of acres of farmland that utilize such water, have a direct stake in ensuring that the Delta water quality remains fresh. Under the common pool requirement, what is good for the goose is good for the gander. It does not take a masters degree in water-related political science to realize that the substantial, if not entire, removal from that much voting and political power in the state (and, in the end, essentially greed) of the fundamental vested interest in preserving the water quality within the Delta as a whole would be at the top of the list of the most foolish things a person could advocate if a person was truly interested in preserving the short and long term viability and, hence, water quality of the Delta estuary. At the end of the day, what is really keeping the Delta fresh and from turning into an inland sea as a result of corruption and greed is the fact that the Projects themselves want the Delta to be fresh because they currently export water from what is essentially the bottom of the Delta.	
1786	16	The DEIR/EIS must discuss and acknowledge the direct and indirect impacts from approximately 2/3rds of the state losing its direct beneficial interest in the water quality in the Delta. That discussion must include a thorough discussion and analysis of the environmental impacts with and without an isolated facility during a drought emergency where the Governor (and even the President) can simply, with the stoke of a pen, wipe out any and all laws and protections with respect to protecting water quality in the Delta. [footnote 1: See for example, Government Code section 8571: "During a state of war emergency or a state of emergency the Governor may suspend any regulatory statute, or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of any state agency, including subdivision (d) of Section 1253 of the Unemployment Insurance Code, where the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency."] In that event, the DEIR/EIS must thoroughly examine, and compare and contrast, how Delta water quality, and all of its natural values and resources that depend on that quality, will fare with and without an isolated facility. The same type of analysis must also be performed with respect to the so-called apocalyptic levee failure scenario. Mitigation measures as well must be thoroughly discussed and ultimately adopted to mitigate the impacts that would result with an isolated facility during such emergency	The project proposes to stabilize water supplies, and exports could only increase under certain circumstances. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be similar to the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while providing ecosystem benefits. The EIR/EIS presents results of Delta water quality analyses for existing conditions, No Action Alternatives and action alternatives. These analyses use model results from CALSIM II and DSM2 to estimate potential changes in water quality constituent concentrations from action alternatives. Both drought and wetter year conditions are represented in these analyses to estimate the potential effects during varying hydrologic conditions. These results are included in the water quality impact analyses and results supporting the conclusions are included in Appendices 8O -8N. For more information on the enforceability of mitigation measures and environmental commitments, please see Master Response 22. Emergency conditions are not normally evaluated in an EIS/EIR, as the details of those conditions are unknown and represent a non-typical environmental condition on which to base EIR/EIS analyses.

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		events. Moreover, the DEIR/EIS must thoroughly explain what it would take for the Projects to export 15,000 cubic feet per second (or more) through the so-called 9,000 cubic feet per second isolated facility. In particular, how many pumps and what other modifications would need to be made, and how much would it cost, to divert substantially beyond 9,000 and, hence, effectively eliminate the common pool once and for all and, hence, send the final death blow to the Delta. The omission of all of the foregoing information constitutes a fatal flaw of the DEIR/EIS because, among other reasons, it "subverts the purposes of CEQA [by] omit[ting] material necessary to informed decisionmaking and informed public participation." (Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal.App.4th 1170, 1202.)	
1786	17	The DEIR/EIS Fails to Properly Address the Impacts to Levee Integrity from the Construction of the BDCP. As CEQA Guidelines section 15064 explains: (d) In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project. (1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. . . . (2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. As Guidelines section 15126.2, subdivision (a), further provides: Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. As Guidelines section 15151 provides: An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. . . The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure. While it is indisputable that a levee failure anywhere within the vicinity of the proposed new	For additional information on the relationship between the proposed project and Flood protections in the Delta, please see EIR/EIS Appendix 6A BDCP/California WaterFix Coordination with Flood Management Requirements. See Appendix 6A, Section 6A.6.3.2, FEIR/EIS, for information on potential impacts to levee integrity due to increases in construction traffic. Potential impacts from tunnel boring machines and dewatering can also be found in Section 6A.6.3.2. Also, see Section 6A.6.2.1.3 for a discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for information on project consistency with USACE, CVFPB, and DWR flood standards and regulations.

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		conveyance facilities would rank among the highest of impacts on the significance scale and would be devastating to both the environment as well as to humans (not to mention to the construction of those facilities), in the tens of thousands of pages comprising the DEIR/EIS there appears to be only the tiniest of references to the potential for the construction of the new conveyance facilities to undermine the integrity of the numerous levees that such construction will directly and indirectly impact. Two of the many potentially significant impacts on levee integrity which have thus far not been adequately investigated, discussed or analyzed, much less mitigated, include: (1) the tunnel boring machines' potential impacts on levee integrity; and (2) the impacts on levee integrity from the extensive dewatering of groundwater to facility the construction of the conveyance facilities.	
1786	18	The DEIR/EIS Fails to Properly Address the Tunnel Boring Machines' Potential Impacts on Levee Integrity. While the DEIR/EIS appears to at least acknowledge that the tunnel boring machines (TBMs) have the potential to cause subsidence of the ground surface, [footnote 2: "Localized settlement could occur during construction of BDCP water conveyance facilities. In particular, settlement above tunnels could occur in response to removal of earth materials at the tunnel face, convergence of voids created around the tunnel excavation, and stress redistribution around the excavated tunnel. The magnitude and extent of ground settlement depends on the excavated diameter of the tunnel, the amount of ground cover above the tunnel, excavation methods, workmanship, details of tunnel construction, and the geotechnical properties of the ground." (DEIR/EIS, p. 3B-7.)] the DEIR/EIS does not give any meaningful attention to the potential for the TBMs to impair the integrity of the numerous levees they will cross under (not once but twice where there are parallel tunnels) via TBM induced subsidence, settlement, vibration or otherwise. While the DEIR/EIS states that "[b]ased on the preliminary data regarding Delta ground conditions, it is assumed that an earth pressure balancing TBM will be used for all tunneling" (DEIR/EIS, p. 3B-7), is it well-established that: The development of very large settlement (>150 mm) in a localized area, or sinkholes, over EPB driven tunnels is much more common than is generally recognized. Shirlaw and Boone (2005) record 57 cases in 77 km of urban tunnelling in Canada and Singapore. The overall frequency was greater than one per 1.4 km of EPB driven tunnel. (See the enclosed excerpt [Enclosure No. 1] from "Controlling the risk of sinkholes over EPB driven tunnels--a client perspective," p. 1 [i.e., p. 439], the full version of which can be found via this link: http://books.google.com/books?id=0P19OPlcHyoC&pg=PA439&lpg=PA439&dq=controlling+t	Environmental commitments described in Section 3B.2.1.1 and 3B.2.1.2 of Appendix A, RDEIR/SDEIS will be implemented to prevent potential surface settlements and impacts to the existing facilities from tunneling. The potential for ground failure to occur on a tunneling project is affected by a variety of possible contributing factors. These factors may include, but not be limited to, unexpected ground conditions, inappropriate type of tunnel boring machine for the ground conditions, or miss-operation of the tunnel boring machine. The risk of ground failure during tunneling is avoided by ensuring the proper controls are in place to address the factors noted above. An appropriate subsurface exploration program and good quality geotechnical baseline report are used to reduce the risk of unexpected ground conditions. A thorough and robust tunnel design process is used to reduce the risk of utilizing an inappropriate type of tunnel boring machine. The potential for mis-operation of the tunnel boring machine is avoided by utilizing a qualified contractor, training of tunnel boring machine operators, and proper inspections during construction. In addition, quality assurance and quality control processes are essential throughout implementation of these practices. Use of these practices significantly reduce the risk of an event such as the cited partial levee failure.

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		he+risk+of+sinkholes+over+EPB+driven+tunnels+-+a+client+perspective&source=bl&ots=3n l GEeP-FI&sig=nn2-XsMghDx3QwkiEYRTHx2k0s4&hl=en&sa=X&ei=QdrXU-aMOKbt8QHLz YGIAQ&ved=0CCQQ6AEwAg#v=onepage&q=controlling%20the%20risk%20of%20sinkholes %20over%20EPB%20driven%20tunnels%20-%20a%20client%20perspective&f=false) Not only is settlement common from Earth Pressure Balancing TBMs (as well as other types of TBMs), but the unique soil characteristics in the Delta and the fragility of the levees that overlie those soils make the risks of the TBMs' impairment of the integrity of those levees, and potential to cause their overtopping or failure, all the more significant. DWR's engineers, themselves, plainly acknowledge the following: [The] [d]epth and diameter of soft ground tunnels [as proposed by the BDCP] are pushing the state of the art for tunneling projects in North America. (See the enclosed excerpt [Enclosure No. 2] from DWR's report entitled, "Delta Habitat Conservation and Conveyance Program: "The Pipeline/Tunnel Option," p. 3 [i.e., p. 367], the full version of which can be found via this link: http://books.google.com/books?id=Lpbe_nnYPqwC&pg=PA357&lpg=PA357&dq=Delta+Habi t at+Conservation+and+Conveyance+Program:+%E2%80%9CThe+Pipeline/Tunnel+Option&so u rce=bl&ots=Y64LSS5_Cu&sig=0NrSAnAUlx1niZxxz8FtJ-nzaIE&hl=en&sa=X&ei=N9bXU9i LFIGP8gGBoIF4&ved=0CDIQ6AEwAw#v=onepage&q=Delta%20Habitat%20Conservation%2 0and%20Conveyance%20Program%3A%20%E2%80%9CThe%20Pipeline%2FTunnel%20Opti on&f=false.) The fact that the BDCP tunnels will be "pushing the state of the art" is all the more reason why the public and decision makers must be presented with an "adequa[te], complete[], and . . . good faith effort at full disclosure" of the TMBs' potential impacts on levee integrity. (Guidelines, [Section] 15151.) Included in that full disclosure there must be a thorough discussion and analysis of the recent partial levee failure cause by a TBM crossing under a levee in Newark, California in connection with the San Francisco Public Utilities Commission's "Bay Division Pipeline Reliability Upgrade Project." Enclosed herewith as Enclosure No. 3 is a photo of that failure extracted from Westlands Water District's November 20, 2013 power point presentation entitled, "District Workshop, Bay Delta Conservation Plan & Delta Habitat Conservation & Conveyance Program." Pursuant to the Environmental Impact Report for that San Francisco pipeline, "[t]he diameter of the tunnel bore [was] approximately 16 feet" and "the depth of the tunnel would be between approximately 70 and 103 feet below mean sea level." (See pages 3-57 & 3-17, respectively, from the SFPUC's "Bay Division Pipeline Reliability Upgrade Project," Final	

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		EIR, Volume 1, excerpts of which are enclosed herewith as Enclosure No. 4.) In contrast to the 16-foot diameter bores for the San Francisco pipeline, the BDCP intends to have not one, but two, 40-foot inside-diameter bores crossing under numerous levees. The depth of those borings will be similar to the San Francisco borings: "The tunnel invert elevation is preliminarily assumed to be at 100 feet below mean sea level (msl), primarily to avoid peat deposits." (DEIR/EIS, p. 3-93.) The fact that despite all of the presumed careful planning, mitigation measures and precautions undertaken by San Francisco, the 16 foot diameter boring approximately 100 feet below mean sea level in Newark, California nevertheless caused a substantial partial levee failure, significantly bolsters the need for the DEIR/EIS to recognize the potential significance of such a failure from the considerably larger borings that are "pushing the state of the art" and crossing under numerous levees, the failure of which, would have widespread significant adverse environmental and human consequences. The fact that the DEIR/EIS does not even consider such failures to be "potentially significant impacts" warranting a formal CEQA and NEPA mitigation measure discussion and analysis is in-and-of-itself alarming and unsupportable. As with numerous other impacts, the DEIR/EIS attempts to avoid a formal discussion of mitigation measures for such impacts by declaring them to not be potentially significant, and hence not worthy of such a discussion, on account of the so-called "environmental commitments" that will allegedly be implemented by the BDCP Proponents and, hence, allegedly reduce the significant of the impacts. Regardless of the terminology the DEIR/EIS uses, i.e., "mitigation measures" or "environmental commitments," the DEIR/EIS has committed a threshold failure to provide the requisite "facts and analysis, [and] not just the agency's bare conclusions or opinions," and the requisite "detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully" the TBMs' potential impacts on levee integrity and whether the proposed "environmental commitments" are sufficient to lessen those risks to a level of insignificance. (Laurel Heights Improvement Assn. v. Regents of Univ. of California (1988) 47 Cal. 3d 376, 404-05.) Thus far, the DEIR/EIS is required to, but has not come close to, "demonstrat[ing] to an apprehensive citizenry that the [lead] agenc[ies have], in fact, analyzed and considered the [TBMs' impacts on levee integrity, much less duly mitigated them]." (CEQA Guidelines, [Section] 15003.)	
1786	19	The DEIR/EIS Improperly Defers the Formulation and Adoption of Mitigation Measures to Address the Tunnel Boring Machines' Potential Impacts on Levee Integrity. With regard to mitigating the TBMs' impacts on levee integrity to a level of insignificance, as with numerous other impacts from the BDCP, the DEIR/EIS simply kicks that can down the road and essentially tells the public to trust them and to have faith that the BDCP Proponents will duly investigate and mitigate those impacts at some point down the road.	For more information on the enforceability of mitigation measures and environmental commitments, please see Master Response 22. The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Repo

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		While CEQA authorizes the deferral of the formulation of mitigation measures in special circumstances, none of those circumstances are applicable. As CEQA Guidelines section 15126.4 explains: (a)(1) An EIR shall describe feasible measures which could minimize significant adverse impacts . . . . (B) . . . Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way. As the court explains in POET, LLC v. California Air Res. Bd. (2013) 218 Cal.App.4th 681, at page 735, "There is not a single, all-encompassing statement of the judge-made exception to the general rule prohibiting the deferral of the formulation of mitigation measures." Nevertheless the courts have identified the various criteria that need to be satisfied before such deferral can lawfully take place. 1. A Complete Analysis of the Significance of the Environmental Impacts Has Not Yet Been Undertaken. The first criteria is that the lead agency "undertook a complete analysis of the significance of the environmental impact . . . ." (POET, p. 737.) The lead agency has come nowhere near rendering the threshold "complete analysis" of the significance of the TBMs' potential impacts on levee integrity. There is essentially no analysis. 2. Mitigation Is Not Known to Be Feasible. The second criteria is that "mitigation is known to be feasible" for the particular impact. (POET, p. 736.) Unfortunately, settlement is known to be quite common for TBMs and despite reasonable and prudent efforts to avoid it, it still happens. Moreover, the instant issue is not merely whether the ground will settle. Instead, the issue is whether the ground will settle, shake or otherwise be altered in a manner that causes a partial or complete levee failure (or any other significant impairment of the levee's integrity). Thus, while a particular level of ground settlement may not adversely affect a seismic-retrofitted concrete building, such settlement made be enough to partially or entirely undermine a non-seismic-retrofitted dirt levee, built upon loosely consolidated soils that are highly saturated and under extreme stress from a high water, high rain and/or high wind event, not to mention one that may also be suffering from rodent holes or other cavities that impair the structural integrity of the levee. In such circumstances, ground settlement or vibrations that would not be expected to topple a "normal building" may very well be sufficient to topple or significantly impair a typical Delta levee in normal or high stress	rt-Modified_Pipeline_Tunnel_Option.sflb.ashx. The conceptual-level or preliminary engineering analysis conducted for the project to date has been appropriate for determining the types of seismic and geotechnical conditions and constraints that exist in the Plan Area, and for serving as basis for determining the types of design approaches and construction techniques that are available to reduce geologic and seismic hazards to acceptable levels. Such a level of analysis and design is acceptable for the preparation of a CEQA/NEPA document. DWR's Delta Habitat Conservation and Conveyance Program released a description of an expanded geotechnical investigation effort in October 2014, the Draft Geotechnical Exploration Plan—Phase 2, Revision 5. That document presents a general geotechnical exploration plan with the rationale, investigation methods, and criteria for obtaining subsurface soil information and laboratory test data to support preliminary engineering and final design of the MPTO with north Delta pumping plants as well as the MPTO with Clifton Court pumping plant. The plan involves approximately 600 boring and cone penetration test locations. In proposed tunnel alignments and at pump shafts and safe heaven areas, the explorations will include advancing boreholes to a depth of approximately 300 feet. The exploration plan provides a series of 1 inch = 2,000 foot scale aerial photo-based maps showing the numbers and locations of where borings, cone penetration tests, extraction wells, piezometers, and test pits will be advanced or conducted. It also describes the equipment that would be used and the physical and strength properties that would be assessed in the laboratory testing program. The Final EIR/EIS has been revised to reflect the contents of the Phase 2 exploration plan. The exploration plan itself is available for public inspection at DWR's office. The potential impacts of executing the Geotechnical Exploration Plan (Phase 2) are described in Chapter 31 (see Section 31.5.1.1). For more information on project v. program level of detail/analysis in the EIR/EIS, including the level of detail necessary for analyzing impacts of conservation measures, please see Master Response 2.

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		conditions. If there is evidence confirming that it is well-established that there are indeed feasible mitigation measures that can be adopted to ensure that there will be no significant impairment to any of numerous levees the TBMs will be crossing under regardless of whether those levees are undergoing high stress conditions or have pre-existing structural deficiencies, etc., then the DEIR/EIS has done a woefully inadequate job of providing facts and analysis to confirm the existence of such feasible mitigation measures. The available evidence along with the recent Newark, California partial levee failure confirm that the risk of significant impairment of levees from TBM machines is something, that at the end of the day, cannot be feasibly or otherwise mitigated to a level of insignificance. 3. Practical Considerations Do Not Prohibit the Formulation and Adoption of Mitigation Measures within the Context of the DEIR/EIS. The third criteria that must be satisfied in order to lawfully defer the formulation of mitigation measures is that "practical considerations prohibit devising such measures early in the planning process (e.g., at the general plan amendment or rezone stage) . . . ." (POET, p. 736.) Assuming there are feasible mitigation measures to reduce the Tunnel Boring Machines' impacts on levee integrity to less than significant (which, again, it appears there are not), the DEIR/EIS fails to explain why such measures cannot be formulated prior to the approval of the construction of the conveyance facilities. If, for example, the lead agency believes it needs additional geotechnical studies in order to gather data necessary to meaningfully formulate those measures, then, instead of simply approving the construction of the conveyance facilities in advance of those studies, the lead agencies must perform those studies prior to approving that construction. There are least two methods that the lead agency can address the fact that it allegedly needs additional geotechnical studies in order to meaningfully formulate mitigation measures to address levee impacts. The first is to simply conduct those studies prior to approving the construction of the project. To the extent the lead agency needs to exercise eminent domain to acquire access to conduct those studies, then the lead agency should pursue such eminent domain. One of the lead agencies, i.e., DWR, did in fact pursue eminent domain, however, it dismissed its eminent domain actions and, instead, chose the more convenient route of simply approving the construction without those studies. The second method is to refrain from trying to approve the new conveyance facilities at a "project level" and, instead, treat the conveyance facilities like all of the other 21 "conservation measures" and address them at this stage at a "programmatic level." The fact that the lead agency allegedly needs to conduct extensive geotechnical studies that will reveal not only the specific design of the conveyance facilities (which, as of the date of the	

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		release of the DEIR/EIS were at an approximately ten percent [10%] level of design), [footnote 3: See page 2 of Enclosure No. 3 which is a slide extracted from Westlands Water District's November 20, 2013 power point presentation entitled, "District Workshop, Bay Delta Conservation Plan & Delta Habitat Conservation & Conveyance Program."] but more importantly, will reveal the potentially significant impacts from that design and facilitate the formulation of mitigation measures necessary to address those impacts, means that the conveyance facilities are not ready for a "project level" environmental review and, hence, not ready for approval. There is simply no practical reason why the lead agencies cannot refrain from approving the construction of the new conveyance facilities until they first develop sufficient information to design and identify, and especially mitigate, the potentially significant impacts from that design and properly describe, discuss and analyze that design and those impacts and mitigation measures within the context of the CEQA and NEPA process. Hence, the "practical considerations" criteria to justify deferring mitigation measures until after approval of conveyance facilities cannot be satisfied. 4. A List of Potential Mitigation Measures Has Not Been Set Forth in the DEIR/EIS. The fourth criteria that must be satisfied in order to lawfully defer the formulation of mitigation measures is that the agency must set forth "a list of the mitigation measures to be considered, analyzed and possibly incorporated in the mitigation plan." (POET, p. 737.) Again, as discussed above, this assumes that feasible mitigation measures to reduce the TBMs' impacts on levee integrity to less than significant are "known" to exist, which is an unwarranted assumption. In any event, the DEIR/EIS fails to set forth such a list and instead leaves it a mystery as to what those mitigation measures might entail. The only semblance of such a list is seemingly set forth on page 3B-7 which states: [S]hould geotechnical reports indicate that settlement is likely in certain areas, pre-excavation grouting will be performed ahead of the TBM to fill voids and stabilize ground prior to mining. Utilization of an Earth Pressure Balanced TBM with advanced features and a comprehensive grouting program, as required, will control and avoid ground settlement due to tunnel construction. Further protection methods and associated monitoring programs would be evaluated during design and implemented during construction if required. A settlement monitoring program will be implemented on sensitive features—including levees, structures, facilities, pipelines, and utilities—as required, to ensure that tunneling-induced settlement is controlled within acceptable limits. This so-called list is fraught with inadequacies. While the DEIR/EIS does indeed list "pre-excavation grouting" and the use of an "Earth Pressure Balanced TBM," with regard to the latter it is anyone's guess what those "advanced features" are and what precisely that "comprehensive grouting program" entails. But worse is the acknowledgment that additional mitigation measures might still be required yet there is no description of those	

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		measures. Instead, the DEIR/EIS only vaguely makes reference to "[f]urther protection methods and associated monitoring programs" without providing any specification of what those methods and programs entail. Moreover, while the DEIR/EIS also mentions a "settlement monitoring program," there is, once again, no description of what that would entail. And getting back to second criteria set forth above, that "mitigation [must be] known to be feasible," because there is there no discussion (much less facts and analysis to support a determination) of how much settlement or vibration or other interference under any particular levee that the TBMs will cross would be deemed to be "within acceptable limits," there is no discussion, nor facts and analysis, to support that the settlement monitoring program, nor any of the other referenced mitigation measures, will be capable of feasibly rendering the TBMs impacts on levee integrity to less than significant. Hence the DEIR/EIR not only fails to properly describe mitigation measures that, if adopted, would render the TBMs' impacts on levee integrity less than significant, but the DEIR/EIS also omits the essential threshold discussion and demonstration that such measure are indeed capable of feasibly and sufficiently rendering those impacts less than significant. This latter omission is the result of DEIR/EIS failing to articulate what amount of settlement, vibration or other interference is "within acceptable limits." Any formulation of mitigation measures, either deferred formulation or otherwise, will be ineffective without such articulation. 5. The Lead Agencies Have Not Made a Commitment to Formulate and Adopt Mitigation Measures in the Future. The fifth criteria necessary to defer the formulation of alternatives is that "the agency committed itself to formulating the mitigation measures in the future." (POET, p. 736.) Even this seemingly simple criteria is not satisfied. As noted above, the "[u]tilization of an Earth Pressure Balanced TBM with advanced features and a comprehensive grouting program," will only be used "as required." Utilizing it "as required," means it might or might not be required. The same is true with the "[f]urther protection methods and associated monitoring programs," and "a settlement monitoring program." Those will likewise be implemented "as required." The critical questions are under what circumstances will these mitigation measures be required and under what circumstances will they not? As discussed immediately above, the answers of course depends on what amount of settlement, vibration or other interference is caused by the TBMs crossing under a levee is "within acceptable limits" (taking into consideration any and all of the non-TBM stresses that any particular levee may be facing at the time of such crossing, e.g., high water, high wind waves, high saturation from rainfall, heavy loads from flood control vehicles or levee repair, squirrel holes or beaver holes, etc.).	

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		Hence, the commitment to adopt mitigation measures "as required" when there is no specification of under what circumstances they will be required is simply no commitment at all. 6. The Lead Agencies Have Not Set Forth and Adopted Specific Performance Criteria for Evaluating the Efficacy of the Mitigation Measures. The sixth criteria necessary to defer the formulation of alternatives is that "the agency [must] commit itself to specific performance criteria for evaluating the efficacy of the measures implemented." (POET, p. 738.) "Specific performance criteria" are "objective performance criteria for measuring whether the stated [mitigation] goal will be achieved." (POET, p. 740.) In this case, the lead agencies have rendered it impossible for them to set forth objective performance criteria for measuring whether "the stated [mitigation] goal will be achieved" because the lead agencies have not properly stated such a goal. Instead, as just discussed, the only semblance of a goal stated in the DEIR/EIS is the goal to avoid settlement that exceeds "acceptable limits." Because there is no specification whatsoever regarding what constitutes "acceptable limits" in terms of the degree of settlement, vibration or any other TBM related interference that the lead agencies believe would be sufficient to render such interference less than significant to the integrity of any particular levee undergoing any particular non-TBM related stress, there is no way to meaningfully set forth objective performance criteria to measure whether any of the DEIR/EIS's proposed mitigation measures, e.g., pre-excavation grouting, will achieve that unspecified "within acceptable limits" goal. Accordingly, for these reasons, the lead agencies' failure to meet this criteria as well as all other criteria necessary to authorize the deferral of the formulation and adoption of mitigation measures to address the TBMs' impacts on levee integrity renders such deferral wholly unwarranted and contrary to law.	
1786	20	The DEIR/EIS Fails to Properly Address the Impacts to Levee Integrity from the Extensive Dewatering Operations. In addition to Tunnel Boring Machines' potential impacts on levee integrity, one of the other potentially significant impacts on levee integrity from the construction of the conveyance facilities that has likewise not been adequately investigated, discussed or analyzed, much less mitigated, is the impacts on levee integrity from the extensive dewatering of groundwater that is required to enable the construction of the various conveyance facilities. As the DEIR/EIS explains: Construction of the conveyance facilities would require dewatering operations. The dewatering wells would be generally 75 to 300 feet deep, placed every 50 to 75 feet apart	For additional information on the relationship between the proposed project and Flood protections in the Delta, please see EIR/EIS Appendix 6A BDCP/California WaterFix Coordination with Flood Management Requirements. See Appendix 6A, Section 6A.6.3.2, FEIR/EIS, for information on potential dewatering impacts as a result of construction of the proposed project. Also, see Section 6A.6.2.1.3 for discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for a discussion on project consistency with USACE, CVFPB, and DWR flood standards and regulations. For more information regarding groundwater impacts and their associated mitigation of the proposed project please see Section 4.3.3 Groundwater of Section 4 in the RDEIR/SDIES. Updated information on groundwater effects of water conveyance alternatives can be found in Appendix A Chapter 7 of the RDEIR/SDIES.

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		along the construction 20 perimeter as needed, and each would pump 30-100 gpm. Dewatering for the tunnel shaft constitutes the deeper dewatering (300 feet deep) while the shallow (75 feet deep) dewatering is reserved for open trench construction; no dewatering is required along the tunnel alignment; and the 50-75 feet dewatering wells frequency distance applies to the pipelines, intakes, widened levees, the perimeter of the forebay embankments, the perimeter of excavation for the pumping plants, and the perimeter of tunnel shafts. Dewatering would occur 24 hours per day and 7 days per week and would be initiated 1 to 4 weeks prior to excavation. Dewatering would continue until excavation is completed and the construction site is protected from higher groundwater levels. Dewatering requirements of features along this alignment are assumed to range from approximately 240 to 10,500 gpm (California Department of Water Resources 2010b). (DEIR/EIS, p. 7-46.) Upon review of the DEIR/EIS there does not appear to be any discussion or analysis of the potential impacts that such extensive, and unprecedented, dewatering operations may have on the integrity of the surrounding levees. At a minimum, such dewatering would be expected to substantially alter, i.e., increase, the hydraulic gradient between the surface waters in the rivers and other nearby watercourses and the hydraulically connected groundwaters that are being substantially dewatered, i.e., lowered. It is common knowledge that one of the major threats to levee integrity is the flow, or "seepage," of surface waters through and under the levee as a result of those surface waters being higher in elevation than the lands and groundwater tables on the landside of those levees. As explained on page 14 of "Analytical Study on Flood Induced Seepage Under River Levees" (a copy of which is enclosed herewith as Enclosure No. 5): Whenever a levee is subjected to a differential hydrostatic head of water as a result of river stages higher than the surrounding land, seepage enters the pervious substratum through the bed of the river and riverside borrow pits or the riverside top stratum or both, and creates an artesian head and hydraulic gradient in the sand stratum under the levee. This gradient causes a flow of seepage beneath the levee and the development of excess pressures landward thereof. If the hydrostatic pressure in the pervious substratum landward of the levee becomes greater than the submerged weight of the top stratum, the excess pressure will cause heaving of the top blanket, or will cause it to rupture at one or more weak spots with a resulting concentration of seepage flow in the form of sand boils. In nature, seepage usually concentrates along the landside toe of the levee, at thin or weak spots in the top stratum, and adjacent to clay-filled swales or channels. Where seepage is concentrated to the extent that turbulent flow is created, the flow will cause erosion in the top stratum and development of a channel down into the underlying silts and fine sands, which frequently exist immediately beneath the top stratum. As the channel increases in size or length, or both, a progressively greater concentration of seepage flows into it with a	

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		consequent greater tendency for erosion to progress beneath the levee. The amount of seepage and uplift hydrostatic pressure that may develop landward of a levee is related to the river stage, location of seepage entrance, thickness and perviousness of the substratum and of the landside top stratum, underground storage, and geological features. Other factors contributing to the activity of the sand boils caused by seepage and hydrostatic pressure are the degree of seepage concentration and the velocity of flow emerging from the boils." (Emphasis added.) See also, the Corps' publication entitled, "Performance of Levee Underseepage Controls; A Critical Review," enclosed herewith as Enclosure No. 6, which discusses the problems with "preferential" pathways through the soil which are often referred to as "defects" or "discontinuities" in the soil profile. (See e.g., ["There is considerable evidence that boil occurrence is often related to concentration of seepage at discontinuities and defects in the top [soil] blanket" [id., p. 14]; and "[soil] permeability [is] controlled by defects in the top [soil] blanket (cracks, root holes, fenceposts, etc.) rather than properties of intact soil" [id., p. 5].) With regard to the groundwater table elevation's effect on seepage, as DWR itself has previously observed in the context of an examination of RD 501: The RD 501 drainage system artificially lowers groundwater levels (typically 2-3 feet below ground surface). The artificial lowering of groundwater levels further increases the seepage pressure from Miner Slough toward Ryer Island. The artificial lowering of groundwater levels increases the hydraulic gradient from Miner Slough toward Ryer Island. (See "Site Characterization and Groundwater Monitoring Data Analysis Summary Prospect Island Tidal Habitat Restoration Project Solano County, California," pp. iii & 7, respectively, emphasis added, located at http://www.water.ca.gov/environmentalservices/docs/frpa/Prospect_Island_Ryer_Island_Data_Analysis_Summary_Memo_Report_Final_ReaderView_6_19_14.pdf ; an excerpt of which is enclosed herewith as Enclosure No. 7). Moreover, as other researchers have further observed: [C]hanges in the groundwater table level could lead to alterations in the structure of a levee, which in extreme cases - alongside other modifications due to such external events as atmospheric precipitation, changing water levels in rivers and water reservoirs protected by flood embankments, might cause levee failure or damage.	

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		(See "Modelling Events Occurring in the Core of a Flood Bank and Initiated by Changes in the Groundwater Level, Including the Effect of Seepage," p. 1 [i.e., p. 144], located at http://www.uwm.edu.pl/wnt/technicalsc/tech_14_2/B02.PDF an excerpt of which is enclosed herewith as Enclosure No. 8) Most of the new conveyance facilities that will require extensive dewatering are either immediately adjacent to levees or very close to them. Such dewatering has the clear potential to significantly increase the hydraulic gradient from the surface waters to those groundwaters, and as a result, increase the seepage pressure through and under those levees to the potential detriment of those levees. As noted above, CEQA Guidelines section 15064 provides: (d) In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project. (1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. As Guidelines section 15126.2, subdivision (a), further provides: Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. As Guidelines section 15151 provides: An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. . . The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure. The dewatering operations' potential impacts on levee integrity from increases in the hydraulic gradient and, hence, increases in seepage pressure on, through or under the various levees in the vicinity of those operations constitute "direct physical change[s] in the environment" that the lead agencies have a duty to duly consider. (Guidelines, [Section] 15064.) In light of the obvious devastation that would ensue if a levee were to fail, the lead agencies must thoroughly investigate this issue and provide the requisite facts and analysis necessary to "demonstrate to an apprehensive citizenry that [they have], in fact, analyzed and	

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		considered the [dewatering operations' impacts on levee integrity, as well as duly mitigated any such impacts]." (CEQA Guidelines, [Section] 15003.) Thus far, there appears to be no semblance of any such investigation or demonstration. [footnote 4: Note that while the foregoing comments focus on the TBMs' and the dewatering operations' potential impacts to levee integrity, the DEIR/EIS likewise lacks a meaningful consideration of the potential impacts to levee integrity from all of the other aspects of the construction and implementation of CM1 through CM22.]	
1786	21	The DEIR/EIS improperly defers the formulation and adoption of Mitigation Measures to address agricultural impacts. One of the criteria that must be satisfied in order to lawfully defer the formulation of mitigation measures is that "practical considerations prohibit devising such measures early in the planning process (e.g., at the general plan amendment or rezone stage) . . ." (POET, LLC v. California Air Res. Board (2013) Cal. App 4th, p. 736.) The DEIR/EIS makes no demonstration whatsoever why the development of an Agricultural Lands Stewardship Plan (ALSP) (i.e., mitigation measure "AG-1"), which the lead agencies find is necessary to mitigate the impacts on agricultural resources, cannot be prepared for CM1 prior to the approval of CM1. In fact, the DEIR/EIS requires that "[f]or each Conservation Measure or site-specific project activity other than Conservation Measure 1 that would cause such effects, a draft ALSP shall be included with any publicly circulated environmental document for the proposed Conservation Measure or project activity in order to obtain public input." (DEIR/EIS, p. 14-112.) The fact that a ALSP not only can be feasibly prepared in advance of the adoption of all of the other Conservation Measures, but in fact is required to be so prepared, confirms that there is indeed no valid reason why a draft ALSP cannot also be developed prior to the approval of CM1 and included as part of the instant DEIR/EIS. With regard to the criteria that "the agency committed itself to formulating the mitigation measures in the future" POET, LLC v. California Air Res. Board (2013) Cal. App 4th (POET, p. 736), mitigation measures AG-1a and AG-1c, for example, which are components of the overall mitigation measure AG-1, only need to be formulated, and ultimately adopted, "if [the BDCP proponents determine that] the measures are applicable and feasible" and "necessary and feasible," respectively. (DEIR/EIS, pp. 14-112 & 14-117, emphasis added.) Thus, the commitment is merely a commitment to consider such formulation and adoption, not to ultimately undertake such formulation and adoption. With regard to the criteria that "the agency [must] commit itself to specific performance criteria for evaluating the efficacy of the measures implemented," (POET, p. 738), there is no semblance of any such performance criteria for mitigation measure AG-1. This mitigation measure is as open ended as it gets and not only lacks an identified mitigation goal, which is a prerequisite to the establishment of meaningful performance criteria, but, as result, entirely lacks any such criteria. The specification of the degree of mitigation the lead	Please see Master Response 18 regarding the adequacy of mitigation measures proposed for agricultural impacts identified in the EIR/EIS. See also Chapter 13, Land Use, and Chapter 14, Agricultural Resources, of the Final EIR/EIS.

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		agencies believe is feasible and must be obtained for impacts to agricultural resources, and the specification of the objective performance criteria necessary to measure whether that degree of mitigation will be achieved by the proposed mitigation measures, are specifications that CEQA (and NEPA) require the lead agency to make before they can lawfully defer the ultimate formulation and adoption of mitigation measures until sometime after they approve the project. Having failed to make either of those specifications, as well as meet the other criteria for deferral, this deferral constitutes yet another highly unwarranted and unlawful deferral.	
1786	22	The DEIR/EIS fundamentally mishandles the impacts to water quality and improperly defers the formulation and adoption of Mitigation Measures to address those impacts. With regard to the projects' impacts on water quality, not only is there a manifest unlawful deferral of the formulation and adoption of mitigation measures to address those impacts, but even worse, there is a manifestly unwarranted assumption that under the preferred alternative, for example, there may not be any feasible way to avoid violations of various water quality standards. For example, with regard to the State Water Resources Control Board's Bay-Delta Water Quality Control Plan (WQCP) chloride standards, the DEIR/EIS states: It is currently unknown whether the effects of increased chloride levels . . . associated with CM1 operations (and hydrodynamic effects of tidal restoration under CM4), can be mitigated through modifications to initial operations. [¶] Following commencement of initial operations of CM1, the BDCP proponents will conduct additional evaluations described herein, and develop additional modeling (as necessary), to define the extent to which modified operations could reduce or eliminate the additional exceedances of the 250 mg/L Bay-Delta WQCP objective for chloride currently modeled to occur under Alternative 4. (DEIR/EIS, pp. 8-429 & 8-430.) The DEIR/EIS makes similar findings with respect to the Bay-Delta Water Quality Control Plan electroconductivity standards (see pp. 8-441 & 8-442.) As the DEIR/EIS's preparers well know, the State Water Resources Control Board's Decision 1641 currently imposes the burden on the SWP and CVP, as conditions to their water right permits that allow them to divert and store water from the Delta Watershed, to at all times meet and maintain the Bay-Delta WQCP chloride and EC standards. Hence, compliance with those standards is not optional under any BDCP alternative, including the preferred alternative.	Alternative 4A, the preferred project has been developed in response to public and agency input. It has considerably lower impacts to chloride and electrical conductivity, relative to those identified for Alternatives 1 through 9 in the Draft EIR/EIS. Significant impacts to EC are still identified, however; those impacts would be reduced to a less than significant level with mitigation and compliance with Delta objectives is expected. Operations for the proposed project would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2) and any updates to those requirements. Please also refer to Master Response 14, Water Quality, Chapter 8 of the Final EIR/EIS and the Impacts Summary Table, as well as Master Response 22 for more information about the adequacy of mitigation measures and environmental commitments.
1786	23	In the DEIR/EIS, the DEIR/EIS appears to fully recognize the SWP and CVP's mandatory obligation to meet the Bay-Delta Water Quality Control Plan standards under all BDCP alternatives and provides assurance that full compliance with those standards is indeed built into the modeling. For example, as the DEIR/EIS explains with respect to the modeled	As indicated in the comment, the analysis in the Draft EIR/EIS describes the difficulty of using a monthly-based model (CALSIM II) to simulate real-time operations. As described in Section 8.4 of Chapter 8, Water Quality, the increase in future salinity as compared to the Existing Conditions under Alternatives 1 through 9 and the No Action Alternative would be affected by many variables including climate change and

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		electroconductivity standard violations under the various BDCP alternatives: Water quality modeling using CALSIM II and DSM2 for BDCP alternatives adjusts SWP and CVP operations to fully comply with D-1641 standards. . . . [However] DSM2 results may show an exceedance of D-1641 standards when, in these cases, this is a modeling anomaly and not reflective of an actual violation. It should be noted that many of the modeling results showing exceedance of D-1641 standards reported in Appendix 8H are the result of this mismatch in modeling time-step, known shortcomings in the ANN model to mirror DSM2 modeled flow-salinity interaction, and/or CALSIM II model's limited ability to simulate real-time operational adjustments to avoid exceedance of the standards in shorter time-steps. (DEIR/EIS, p. 8H-1, emphasis added.) The DEIR/EIS goes on to state: DWR and U.S. Bureau of Reclamation have every intention of operating SWP and CVP facilities by fine tuning reservoir storage and exports in real time to meet D-1641 standards, and any changes to D-1641 as adopted by the State Water Resources Control Board. Actual operations are continuously adjusted to respond to reservoir storages, river flows, exports, in-Delta demands, tides, and other factors to insure compliance to regulatory requirements to the extent possible. (DEIR/EIS, p. 8H-1.) Accordingly, it is highly inappropriate for the DEIR/EIS to conclude that "[i]t is currently unknown whether the effects of increased chloride levels [and EC]" from any of the BDCP alternatives "can be mitigated through modifications to initial operations." Not only has the modeling assumed full compliance with the chloride and EC standards, but, regardless of the modeling, in the real world, the SWP and CVP will have to modify their operations to meet those standards, otherwise they will be in breach of their water right permit conditions and will have to cease all diversions of water to and from storage within the Delta Watershed until those standards are duly met. Thus, notwithstanding the fact that the alternatives are modeled to fully comply with the chloride and EC standards, to the extent that modeling reveals exceedances of those standards that are not modeling "anomalies" or other glitches, but, instead, for whatever odd reason that modeling reveals anticipated real-world exceedances, then the DEIR/EIS must thoroughly investigate and analyze what SWP and CVP operations (i.e., storage operations, exports operations, water purchase/transfer operations, etc.) can be adjusted to avoid those exceedances to ensure the SWP and CVP are in compliance with their permit conditions. What the DEIR/EIS cannot lawfully do, is what it does in fact do, i.e., merely kick this can	sea level rise and changes in tidal conditions due to implementation of restoration areas. The ability for the SWP and CVP to meet the water quality criteria under all conditions is dependent upon the availability of water under their water rights and their need to meet upstream water rights and other regulatory criteria, as described in Appendix 5A, Section B, CALSIM II and DSM2 Models Simulation and Assumptions.

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		down the road and, after the particular alternative has already been approved, merely let the SWP and CVP look into which exceedances are modeling oddities and which ones are real, and let the SWP and CVP decide what modifications to their operations if any they think can "feasibly" avoid those exceedances.	
1786	24	The DEIR/EIS Improperly Defers the Formulation and Adoption of Mitigation Measures to Address Water Quality Impacts. This matter is a particularly egregious mishandling of the lead agencies' CEQA and NEPA responsibilities that goes well beyond the unlawful deferral of the formulation and adoption of mitigation measures. In an event, it can be readily seen that such mishandling fails to meet all of the criteria necessary to tolerate such deferral. With regard to the first criteria that the lead agency must have "undert[aken] a complete analysis of the significance of the environmental impact . . . ." POET, LLC v. California Air Res. Bd (2013) Cal. App 4th (POET, p. 737), the lead agencies have thus far made no attempt to identify which of the exceedances were due to modeling anomalies and which were not, and made no attempt to identify or analyze the cause of the non-modeling exceedances which is a threshold determination necessary to the meaningfully formulation of mitigation measures, even if the ultimate formulation and adoption is deferred. With regard to the second criteria that "mitigation is known to be feasible" (POET, p. 736), while compliance with mandatory water quality standards should certainly be feasible, the lead agencies nevertheless inappropriately conclude that "[i]t is currently unknown" whether compliance with the standards is feasible. (See DEIR/EIS, pp. 8-429 & 8-430, and 8-441 & 8-442.) Hence, according to the lead agencies, this criteria for deferral is not satisfied. With regard to the third criteria that "practical considerations prohibit devising such measures early in the planning process . . . " (POET, p. 736), there is simply no practical or other reason why the various "additional evaluations . . . and . . . additional modeling" that the lead agencies direct the BDCP Proponents to perform "to define the extent to which modified operations could reduce or eliminate the additional exceedances of the [chloride and EC standards]" (see e.g., DEIR/EIS, pp. 8-429 & 8-430) cannot be performed by the lead agencies themselves within the context of the instant DEIR/EIS, rather than at some point in the future entirely outside of the CEQA and NEPA processes. Performing those type of evaluations and modeling within the context of CEQA and NEPA public and agency review processes is one of the fundamental, if not the fundamental, purposes of those processes. [footnote 5: "The Legislature finds and declares that it is the policy of the state 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, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of	Please see the response to Comment 22, above. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A. Alternative 4A would have substantially less effect on Delta water quality such that significant impacts were only identified for electrical conductivity (EC) at Emmaton and Prisoners Point, and mercury associated with the limited tidal habitat restoration that would be implemented. The significant impacts to EC are to be mitigated through real-time operations that could not be completely represented in the modeling on which the EC assessment is based. Please see Master Response 14 for more information about water quality impacts and relevant mitigation measures, and Master Response 30 for more information about water quality modeling.

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		proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." (Pub. Resources Code, [Section] 21002.)] With regard to the forth criteria that the lead agencies must set forth "a list of the mitigation measures to be considered, analyzed and possibly incorporated in the mitigation plan" (POET, p. 737), while the lead agencies do list some actions that could be taken, the lead agencies ultimately leave it up to the BDCP Proponents to "identify" and "develop" the mitigation measures and the BDCP Proponents are allowed to entirely ignore all of the lead agencies' suggested measures, as well as any they identify and develop on their own, to the extent they determine they are not "feasible." (See e.g., DEIR/EIS, pp. 8-429 & 8-430, and 8-441 & 8-442.) Hence, in the end, the mandatory list of feasible mitigation measures from which the BDCP Proponents can ultimately select which ones to implement is non-existent. With regard to the fifth criteria that "the agency committed itself to formulating the mitigation measures in the future" (POET, p. 736), once again, because the BDCP Proponents have the power to do nothing if they conclude there are no feasible mitigation measures, the lead agencies cannot be said to have made any commitment to formulate, or adopt, any mitigation measures in the future. Instead, it is clearly anticipated that there will be no such formulation or adoption. Finally, with regard to the sixth criteria that "the agency [must] commit itself to specific performance criteria for evaluating the efficacy of the measures implemented" (POET, p. 738), because the BDCP Proponents do not have to adopt any mitigation measures if they determine that none of the mitigation measures the lead agencies have suggested or any others than they can think of are feasible, the lead agencies' duty to commit themselves to specific performance criteria to evaluate the effectiveness of those measures has been completely undermined. In any event, assuming for the sake of argument that the BDCP Proponents were indeed required to adopt one or more mitigation measures (and could not avoid such adoption on the grounds that those measures are not feasible), the lead agencies fail to establish a meaningful goal in terms of chloride and EC impacts which would render ineffective any performance criteria (even if the lead agencies adopted such criteria which they do not) that would be established to ensure that goal is duly met. For example, with regard to chloride, the so-called "goals" are non-specific and far too general to meaningfully evaluate compliance with those goals. The various chloride mitigation goals, for each of the three sub-parts to Mitigation Measure WQ-7, appear to be the following: (1) to "reduce or eliminate the additional exceedances of the 250 mg/L Bay-Delta WQCP objective for chloride currently modeled to occur under Alternative 4"; (2) to "either avoid, minimize, or offset for reduced seasonal availability of water that meets applicable water quality objectives and that results in levels of degradation that do not substantially increase the risk of adversely affecting the municipal and industrial beneficial use"; and (3) to "avoid or minimize the chloride level increases in the marsh, with the goal of	

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		maintaining chloride at levels that would not further impair fish and wildlife beneficial uses in Suisun Marsh." (DEIR/EIS, p. 8- 430 & 8-431.) [footnote 6: The goals with regard to EC impacts are substantially similar and equally non-specific: "The goal of specific actions would be to reduce/avoid additional exceedances of Delta EC objectives and reduce long-term average concentration increases to levels that would not adversely affect beneficial uses within the Delta and Suisun 30 Marsh." (DEIR/EIS, p. 8-441.)] General terms like "reduce" and "minimize" fail to set forth a meaningful goal. The key question is how much reduction or minimization must be achieved? Without such a specification, the range of allowable reduction or minimization can run the gamut from extremely insignificant to extremely significant, and anything in between. In any event, regardless of the defective goals, the lead agencies fail to adopt "objective performance criteria for measuring whether [those goals] will be achieved." (POET, p. 740.) Once again, no mitigation measures need to be adopted if the BDCP Proponents determine none of the mitigation measures are feasible, but even if one or more measures were required to be adopted, the lead agencies have failed to set forth any objective performance criteria to enable the lead agencies, as well as the public, to measure the actual, real world success of those measures in achieving, even the highly nebulous goals. Put simply, by what mechanism or protocol will anyone know if those goals are being met? Because the lead agencies cannot satisfy any of the criteria necessary to defer the formulation and adoption of mitigation measures to address chloride and EC impacts, and because all of those criteria must be satisfied to tolerate such deferral, as with the other attempted deferral of mitigation measures for this project, this deferral is highly egregious and contrary to law. [footnote 7: Note that while the foregoing comments focus on chloride and EC impacts, the same wrongful deferral of the formulation and adoption of mitigation measures likewise applies to the DEIR/EIS's mishandling of bromide impacts (as well as other impacts).]	
1786	25	The DEIR/EIS Improperly Omits Site-Specific Details and Analysis of the Extensive Geotechnical (and Environmental) Studies that Will be Required to Construct the Project. According to the DEIR/EIS: Detailed subsurface investigations will be performed at the locations of the water conveyance alignment and facility locations and at material borrow areas. . . . The work to be performed will include a subsurface investigation program to provide the information required to support the design and construction of the BDCP water conveyance facilities. . . . The geotechnical investigation will also include a small scale environmental screening to assess the presence or absence of dissolved gases that will help guide the tunnel ventilation design and disposal considerations for excavated materials and tunnel cuttings. . .	Please see the response to Comment 19 concerning updates to the engineering analysis of the MPTO. The plan involves approximately 600 boring and cone penetration test locations. The Final EIR/EIS has been revised to reflect the contents of the Phase 2 exploration plan. The exploration plan itself is available for public inspection at DWR's office. The potential impacts of executing the Geotechnical Exploration Plan (Phase 2) are described in Chapter 31 (see Section 31.5.1.1). For more information on project v. program level of detail/analysis in the EIR/EIS, including the level of detail necessary for analyzing construction impacts, please see Master Response 2 .

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		(DEIR/EIS, p. 3B-6.) Site-specific geotechnical studies are expected to include the following, as appropriate [:] . . . . Drilling and sampling of soil borings, cone penetration, and other in-situ tests, slug tests, aquifer/pumping tests, and test pits to evaluate the subsurface conditions. Installing wells and monitoring groundwater elevations for use in liquefaction evaluation and dewatering requirements. (DEIR/EIS, p. 3B-7.) The DEIR/EIS acknowledges the following at page 31-17: Activities implemented as part of geotechnical studies would have the potential to result in significant environmental impacts due to the inadvertent release of hazardous materials, impacts to groundwater quality, ground disturbance, and noise. Notwithstanding the acknowledgment of the potential to result in significant environmental impacts, the DEIR/EIS improperly fails to specify and disclose the locations where these studies will take place. According to the DEIR/EIS: The locations of borings and other test locations will be based on a review of available geologic data to identify data gaps in the conveyance alignment and on the locations of critical facilities such as hydraulic structures and tunnels. The spacing of the borings and test locations likely will average about 1,000 feet along proposed canal and tunnel alignments and approximately 100 to 200 feet at intakes, pumping plants, forebays, siphons, and other hydraulic structures. At this stage of the game, i.e., after years and millions of dollars have been invested in the pursuit of this project, and at the so-called "project level" review of the BDCP, it is neither acceptable, nor reasonable, for the anticipated and foreseeable locations, as well as quantity, of such borings and other test locations to remain a mystery and be kept hidden from the public, as well as the decision makers. Surely a "review of available geologic data to identify data gaps" has already been done, and to the extent it has not, it should have been done prior to release of the DEIR/EIS. [footnote 8: Note that elsewhere in the DEIR/EIS, it is acknowledged that such review has indeed already taken place. See for example, DEIR/EIS page 9-45: "The available data within the Plan Area, as presented in the CERs and the Geotechnical Data Reports . . . were compiled and reviewed. Available soil boring logs, subsurface cross sections, soil stratigraphy, and groundwater data from the CER were used. Geology and soil maps (from the U.S. Geological Survey and Natural Resources Conservation Service) for the Plan Area were also used, with particular focus on areas where soft, loose, and compressible soils are present." (Emphasis added.)]	

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		As CEQA Guidelines section 15146 explains: The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR. (a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy. According to the lead agencies, the DEIR/EIS is "[a]n EIR on a construction project," and, hence, matters such as the locations and quantity of geotechnical (and any other) tests necessary to design and construct the project are critical matters that must be included in the DEIR/EIS. (See e.g., Guidelines, [Section] 15161 ["The EIR shall examine all phases of the project including planning, construction, and operation"].) [footnote 9: See also, Orinda Assn v. Board of Supervisors (1986) 182 Cal.App.3d 1145, at page 1171: "A public agency is not permitted to subdivide a single project into smaller individual sub-projects in order to avoid the responsibility of considering the environmental impact of the project as a whole."] As the California Supreme Court explains in Laurel Heights Improvement Assn. v. Regents of Univ. of California (1988) 47 Cal. 3d 376, at pages 404-05: "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." [Citations.] An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project. An identification of the locations and quantity, not to mention a detailed description, of the various drillings, cone penetration tests, other in-situ tests, slug tests, aquifer/pumping tests, test pits and groundwater monitoring wells is imperative "to enable those who did not participate in [the DEIR/EIS's] preparation to understand and to consider meaningfully the issues raised by" those activities. (Ibid.) The nature, extent and significance of the potential environmental impacts from those activities will directly depend on the site-specific circumstances occurring at any particular location. Those circumstances include the presence of above or below ground public or private utilities; fish and wildlife habitat; archaeological or cultural resources; levees or other reclamation works; irrigation or drainage canals; domestic or commercial wells; residences; farming and other operations taking place on the lands; etc. In essence, those site- specific circumstances include all the matters that make up the "natural and man-made conditions" existing at the particular site, i.e., the matters that make up the "environment" at those sites: "Environment" means the physical conditions which exist within the area which will be	

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		affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions. (CEQA Guidelines, [Section] 15360.) The location where proposed activities take place, as well as the nature and extent of such activities, is obviously essential to a meaningful CEQA and NEPA analysis. For a so-called "project level" EIR/EIS which is intended to be sufficient to authorize the construction of the Preferred Alternative, the lack of specification of the location, nature and extent of the extensive geotechnical studies necessary to construct this massive project, not to mention the lack of investigation and analysis of the site-specific impacts from such studies, constitutes a prejudicial abuse of the lead agencies' discretion. The lack of such specification, investigation and analysis "'subverts the purposes of CEQA [because] it omits material necessary to informed decisionmaking and informed public participation.' [Citation.]" (Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal.App.4th 1170, 1202.) Not only is a meaningful determination of the nature and extent of the potential site-specific impacts from such studies substantially thwarted, but so is the lead agencies' duty to set forth and evaluate, and the public's opportunity to review and comment on, the feasible mitigation measures and alternatives to avoid or lessen any such impacts. At a minimum, the DEIR/EIS must be redrafted and recirculated to correct this fundamental omission. [footnote 10: As an example of some of the potentially significant impacts from the geotechnical studies, please see the enclosed "Statement of Christopher H. Neudeck, R.C.E." enclosed herewith as Enclosure No. 9.] [footnote 11: The BDCP Proponents also presumably intend on conducting extensive "environmental studies" in furtherance of the planning, construction and implementation of the BDCP. For the same reasons discussed above with respect to the geotechnical studies, those environmental studies must likewise be thoroughly and specifically described and addressed within the context of the instant DEIR/EIS. As an example of what those environmental studies entail, please see the enclosed pleadings in DWR's "Petition for Order Permitting Entry and Investigation of Real Property" in DWR v. RD 548 enclosed herewith as Enclosure No. 10.]	
1786	26	Other Significant Deficiencies in the DEIR/EIS. The BDCP's "Build it First, Then Figure out How to Operate it" Approach is Highly Inappropriate. The BDCP's "let's just go ahead and build the tunnels, then at some point after they are built, we'll sort out how we will operate them and so inform the public and the regulators" approach is as inappropriate as it is offensive. Such an approach is the antithesis of CEQA	This Final EIR/EIS presents the proposed operational criteria for 18 action alternatives. For BDCP alternatives that were evaluated in the Draft EIR/EIS, alternative 4 was described as a range of operations from H1-H4 that would be subject to a decision tree process, adaptive management and real time operations. Alternatives 4A, 2D and 5A include starting operations at H3-H4 that would be subject to adaptive management and real time operations. Please refer to Chapter 3, Description of Alternatives, for an overview of the operational scenarios. The impact analyses contained in this Final EIR/EIS that are based on hydrologic/hydrodynamic modeling have been developed using the operations criteria described in Chapter

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		and NEPA. It should be clear to anyone that reviews the DEIR/EIS that the BDCP is nowhere near ready to be approved, either at a "project" or "programmatic" level. Needless to say, pursuant to principles of common sense and good faith and fair dealing, not to mention CEQA and NEPA, as well as HCP and NCCP and numerous other principles, the BDCP Proponents must obviously first figure how they plan to operate the new facilities, as well as all other components of the BDCP, before they authorize the construction and implementation of those facilities and components. Within the context of CEQA and NEPA, to do otherwise turns the CEQA and NEPA processes on their heads. As the California Supreme Court explains: A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If post-approval environmental review were allowed, EIR's would likely become nothing more than post hoc rationalizations to support action already taken. We have expressly condemned this use of EIR's. [Citation]." (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 394).	3 and adaptive management and monitoring is employed to address uncertainties and adjust operations as needed to meet Delta requirements and improve listed species conditions. If this adaptive management process necessitates changes to the operations criteria in this Final EIR/EIS, the lead agencies would determine whether any additional environmental review would be required because of the change. As of the writing of this Final EIR/EIS, no decision about approval of any action alternative has been made. Please see Master Response 4 concerning identification of a preferred alternative.
1786	27	The DEIR/EIS's Proposed Analysis of CM1 at a "Project Level" and the rest of the Conservation Measures at a "Programmatic Level" is highly inappropriate. In light of the fact that it is clear that the DEIR/EIS lacks sufficient detail to properly analyze even the construction of the new conveyance facilities at a "project level," much less the operation of those facilities, [footnote 12: For example, as noted above, at the time of the release of the DEIR/EIS the conveyance facilities were at an approximately ten percent (10%) level of design). (See page 2 of Enclosure No. 3.)] it is somewhat comforting that the DEIR/EIS at least acknowledges that the other 21 Conservation Measures are nowhere close to being developed at the "project level." The fundamental problem, however, is that the construction and operation of the BDCP is inextricably tied to the implementation of other 21 Conservation Measures. [footnote 13: See for example, the DEIR/EIS at page ES-18: "The 22 BDCP conservation measures [not just one of those 22] comprise the specific actions to be taken to meet the biological the goals and objectives. Most of the Conservation Measures address several goals and objectives, and most objectives will be met through a combination of Conservation Measures. Actions implemented as part of the Conservation Measures will meet the requirements of the ESA and the NCCPA."] Accordingly, it is highly inappropriate to separate the conveyance facilities from all of those other measures and approve the construction and operation of those facilities prior to the	Alternative 4A has been developed in response to public and agency input. Please see Master Response 5 for more information about analysis of the BDCP. Please see Master Response 2 for information concerning the appropriateness of program level versus project level NEPA and CEQA analysis.

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		approval and authorization of those other measures because, among other reasons, (1) those other measures cannot be lawfully approved without undergoing a project level CEQA and NEPA analysis; and (2) until that project level review takes place, no one, including, the BDCP proponents knows with any degree of certainty the ultimate natural and extent of any of those approvals. The entire purpose of the CEQA and NEPA processes is to force the consideration of the environmental impacts from whatever activity is being approved so that measures can be taken, including approving alternatives to the proposed project including the "no project" alternative, in order to avoid or reduce those impacts. Hence, when you have a project such as the BDCP where the implementation of one of the so-called Conservation Measures (CM1) is inextricably tied to the implementation of several other Conservation Measures it is simply inappropriate and unlawful to approve one without the other, and approving one without the other is precisely what is being proposed in the DEIR/EIS.	
1786	28	The DEIR/EIS's alternative analysis is grossly deficient. Lack of a range of potentially feasible alternatives. Guidelines section 15126.6, subdivision (a), provides that "[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project." Because all of the alternatives in the DEIR/EIS that contain an isolated facility and/or one or more conservation measures that are contrary to one or more laws, those alternatives are not feasible. Hence, the DEIR/EIS's mandatory range of potentially feasible alternatives is fatally deficient.	The alternatives included in the Draft EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. Fifteen alternatives and 3 new sub alternatives were analyzed in the EIR/S and the RDEIR/RSEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4.
1786	29	Lack of meaningful comparisons between the alternatives. While the more comprehensive the alternative analysis the better, the DEIR/EIS must ultimately ensure that the alternative analysis is meaningful. Unfortunately, as will be readily apparent to anyone who examines that analysis, it is nearly impossible to meaningfully compare the alternatives with each other becomes when it comes to making those comparisons there are so many variables that change that is nearly impossible to get a meaningful understanding of the core differences among the alternatives. For example, some alternative have the head of old river barrier in place and some do not; sometimes the Sacramento River inflow was assumed to be upstream of the proposed north Delta intakes for modeling purposes and sometimes it was not. It is in actuality an utter mess that fails to satisfy the fundamental purposes behind CEQA and NEPA's mandatory requirement to perform a thorough alternative analysis.	Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4. A comparison table across all alternatives is included in the Executive Summary of the FEIR/EIS.
1786	30	Lack of a Range of Reasonable Alternatives.	See Master Response 4 for discussion of the scope of the proposed project and alternatives (such as water storage) that were not carried forward for analysis in this document due to the fact that required actions

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		Apart from the lack of an adequate number of "potential feasible" alternatives discussed above, the DEIR/EIS's range of alternatives also suffers from a gross lack of a "reasonable" range. Despite Water Code section 85320, subdivision (a)(2)(B)'s requirement that the DEIR/EIS's reasonable range of alternatives include "through-Delta" alternatives as well as "isolated conveyance alternatives," out of the twelve alternatives in the DEIR/EIS only one of them is a "through-Delta" alternative. That selection of alternatives not only confirms that the decision makers have already made up their mind that the adopted alternative will indeed have an isolated facility, but that grossly unbalanced selection is contrary to section 85320 as well as to general reasonableness. In its comments on the Notices of Preparation for this project, the Central Delta Water Agency requested that the following alternatives concepts be consider either as stand alone alternatives or components of various alternatives. The CDWA hereby renews that request. Without a substantial expansion and modification to the DEIR/EIS's existing range of alternatives, that range is fatally deficient. Alternatives which comply with the statutory "common pool" mandate and, thus, do not have any form of an isolated facility, dual or otherwise. An alternative of "regional self-sufficiency" where Peter (human and environmental water users within the Delta watershed) are not robbed to pay Paul (i.e., export contractors). Instead, every feasible effort is made to the maximum extent possible to develop new non-Delta watershed water and/or make better use of existing non-Delta watershed water to meet the needs of export contractors. The intended result being, that such export contractors can ultimately wean themselves off Delta watershed water, substantially or entirely, such that the Delta watershed water can be used to meet the needs within that watershed. Ultimately there should be several alternatives which contemplate a reduction in exports from the Delta over historical levels.	beyond the scope of the proposed project. The alternatives included in the FEIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS, including the NRDC Portfolio-Based Proposal, Congressman Garamendi's Water Plan, and other similar concepts that would require actions that are beyond the scope of the proposed project. The proposed project aims to stabilize water supplies, and exports could only increase under certain circumstances. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be similar to the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while reducing impacts on an ecosystem in steep decline. It is important to note that the proposed project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage.
1786	31	With regard to the feared apocalyptic collapse of numerous Delta levees from an earthquake, numerous alternatives should be considered to address such a collapse. To the extent the desire is to avoid the disruption of export deliveries the DEIR/EIS should first thoroughly explain as precisely as possible what the water quality will likely be under existing conditions should the Projects desire to continue exporting water during such a apocalyptic failure. Then the DEIR/EIS should clearly explain how long that water quality will likely remain in that state assuming the recently adopted emergency preparedness plans are in place, etc. to close those levee breaches. The DEIR/EIS should then thoroughly explain whether the Projects can still divert and utilize water of that level of quality for agricultural beneficial uses, urban, etc. in either blended form with water stored in San Luis or blended with other water supplies. Assuming the water cannot be used in its current "degraded" state, the DEIR/EIS should explain what facilities could be constructed to desalinize that	For additional information on the relationship between the proposed project and Flood protections in the Delta, please see EIR/EIS Appendix 6A BDCP/California WaterFix Coordination with Flood Management Requirements. Please see FEIR/EIS Appendix 6A, Sections 6A.2 and 6A.3 for a discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the proposed project. See FEIR/EIS Appendix 6A, Section 6A.4 regarding emergency response. See also FEIR/EIS Chapter 2, Project Purpose and Need. Please refer to the response to Comment 16 regarding CEQA and NEPA analysis of emergency situations.

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		water, or better allow for the blending of that water will other higher quality supplies, etc., and the costs of the construction and operation of such facilities. In the event, the Projects simply cannot feasibly use the water in the Delta after an apocalyptic levee failure and/or cannot get by with other supplies while the levees breaks are being repaired, then the fortification of various master levee scenarios should be considered to minimize the intrusion of bay waters in the event of such failures much like what is already being implemented at the present time. So called "polders" should also be considered whereby areas are protected by master levees such that not all levees need to be substantially upgraded. Rather, only "master" levees need to be so upgraded which would serve to protect the polders or various sections of land within the Delta. Tidal gate structures should also be evaluated to help repel bay salinity in the event of such a massive failure.	
1786	32	The measures to protect against an apocalyptic levee failure could also serve the additional benefit of protecting the Delta from reasonably anticipated sea level rise. In addition, with regard to the apocalyptic earthquake, the DEIR/EIS's analysis should thoroughly examine the likelihood of such a magnitude earthquake near all of the Project's major export facilities, not the least of which is the export pumping facilities themselves as well as the California Aqueduct and Delta-Mendota canals which essentially track major fault lines. Alternatives to protect against damage and disruption of export supplies resulting from such earthquakes should be thoroughly evaluated.	Please see the response to Comment 31, above. Also, see Chapter 5 regarding seismic risks to the Delta, and Appendix 5B, FEIR/EIS, for potential responses to abrupt disruptions to south Delta CVP and SWP exports.
1786	33	With regard to protecting fishery resources within the Delta, actual, state of the art, fish screens on all Project export facilities should be evaluated to enable water that is truly surplus from the needs of the Delta, assuming there is any such water, to be exported with minimal impacts to fish. If an actual, state of the art fish screen is included for an isolated facility in any alternative which includes such an isolated facility, then such a screen must naturally also be included in all the alternatives that do not involve an isolated facility and should be installed on all exiting Project export facilities. An alternative should be considered that includes substantially increased Delta outflows. Such an alternative could draw sensitive fishery species away from the existing export facilities, thereby increasing the "reliability" of such exports, and also enable the restoration of the Suisun Marsh which could provide tremendous benefits to numerous fishery species.	DWR and Reclamation are required to improve fish collection efficiency at the existing south Delta salvage facilities, as part of facility improvements required by the National Marine Fisheries Service 2009 biological opinion on the SWP/CVP. For example, in 2014 Reclamation replaced the secondary louver system with a traveling screen system. These screens provide protection by guiding fish into the holding tanks while catching debris on pegs and transporting debris to a collection system at the work surface. The technology required at the proposed north Delta intakes and the existing south Delta export facilities differ fundamentally. The north Delta intakes would be located on the side of the river channel and so would be designed to comply with CDFW, NMFS, and USFWS fish screening criteria (Appendix 5B Section 3.B.3.3). The south Delta export facilities are located on dead-end channels and requires active collection and salvage of fishes. Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the 2013 Public Draft EIR/EIS, Appendix 3A. This alternative was eliminated from further evaluation because initial results of recent studies, including information included in the recent NMFS biological opinions, supported a phased approach that would emphasize improvements to operations of fish handling facilities and reduced predator potential within Clifton Court Forebay prior to further analysis of installation of fish screens. Nevertheless, DWR and Reclamation will continue

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			investigating strategies to increase fish salvage efficiency, reduce pre-screen losses, and improve screening efficiencies, consistent with the 2009 biological opinion of the SWP/CVP. The positive-barrier fish screens for the proposed north Delta intakes would be designed to established protection standards for salmonids and delta smelt, and would comply with CDFW, NMFS, and USFWS fish screening criteria. Appendix 3F of the PD EIR/S provides details on the development of intakes and fish screening technology, as well as the Conceptual Engineering Reports (CERs). It is proposed that monitoring and research would be conducted to inform the fish screen design, construction, and operation in order to maximize their effectiveness. Dual operations provides for flexibility that will better protect the fish based on real time data. As described in Appendix 3A, Section 3A.9.3, of the 2013 Public Draft EIR/EIS the State Water Resources Control Board prepared a Delta Flow Criteria Report in accordance with the requirements of the Sacramento-San Joaquin Delta Reform Act of 2009. Information from that report included "determinations of flow criteria for the Delta ecosystem to protect public trust resources. The report makes clear, however, that the flow criteria do not consider the balancing of public trust resource protection with public interest needs for water. The flow criteria also did not consider other public trust resource needs such as the need to manage cold-water resources in reservoirs tributary to the Delta. Nonetheless, the flow determinations contained in the Delta Flow Criteria Report, together with recent scientific conclusions of other State and federal agencies, including the Department of Fish and Wildlife, National Marine Fisheries Service, and the Interagency Ecological Program provide a useful guide to establish one side of a reasonable range of alternatives" (State Water Resources Board letter dated April 19, 2011). The information in the flow criteria report was used to inform the development of the proposed project. Please also see Master Response 4 regarding Alternatives Development.
1786	34	The DEIR/EIS should include an extensive discussion of desalinization options in order to promote regional self-sufficiency. Such a discussion would be in furtherance of Water Code Section 12946 which provides: It is hereby declared that the people of the state have a primary interest in the development of economical saline water conversion processes which could eliminate the necessity for additional facilities to transport water over long distances, or supplement the services to be provided by such facilities, and provide a direct and easily managed water supply to assist in meeting the future water requirements of the state. Opportunities for environmentally friendly desalinization of ocean waters as well as brackish ground waters (as well as the saltier Delta waters which presumably will result from a massive levee failure) should be thoroughly examined.	Please see Master Response 7, which describes why an alternative focused on desalination is not included in the EIR/EIS. Desalination is one strategy used in California to develop new supplies, yet it is not the primary solution for the State's water shortage due to many factors, including limited capacity and technology, high costs and energy demands, and regulatory uncertainty.
1786	35	To the extent the objectives of the BDCP are ultimately to "provid[e] for the conservation of covered species and their habitats, address[] the requirements of the federal and State endangered species laws, and improv[e] water supply reliability" (Notice of Preparation, 4),	The proposed project is one component, among many, of the California Water Plan. The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental

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		it is easy to see that weaning the export contractors off the Delta watershed such that exports from the Delta could be ultimately substantially reduced would seemingly satisfy those objectives better than any other alternative. Accordingly, multiple alternative scenarios which seek to accomplish such weaning should be thoroughly considered.	and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/. By establishing a point of water diversion in the north Delta, the proposed project is designed to improve native fish migratory patterns while securing reliable water deliveries. Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California's water resources.
1786	36	The DEIR/EIS's scope of its Impact Analysis is unlawfully truncated. As CEQA Guidelines Section 15064 explains: (d) In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project. (1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. . . . (2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. As Guidelines section 15126.2, subdivision (a), further provides: Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The DEIR/EIS fundamentally fails to comply with these guidelines by unlawfully limiting the scope of its analysis. Critical examples of such limitation is the exclusion of an analysis of the direct and indirect impacts of the project on areas to the west of Suisun Marsh, including the San Francisco Bay and the Ocean, and in all of the upstream areas whose water resources, via water transfers, exchanges or otherwise, are among the sources of water that will be utilized in the implementation of the BDCP. This is yet another egregious violation of CEQA and NEPA that must be duly corrected. In a similar vein, because the DEIR/EIS anticipates substantial increases in exports of water from the Delta pursuant to various alternatives, the DEIR/EIS must, but thus far has not, identify the likely sources of that exported water and thoroughly examine the full range of potentially significant direct and indirect impacts from the export of such water, including impacts in the source areas and in the areas where the water is ultimately used and	The analysis of direct and indirect environmental effects required under CEQA is limited to those that are reasonably foreseeable. Analysis of speculative or uncertain effects is not required, so the documents' scope of impact analysis was created to encapsulate the areas in which effects could be reasonably foreseen without speculation. It should be noted that the analysis in the EIR/EIS chapters does not always provide impacts specific to a particular geography, time period, project feature, or type of resources; instead, DWR has focused on analyzing the "whole of the action," as required by CEQA (see CEQA Guidelines, Section 15378(a)). In response to public comment requesting more analysis of effects in downstream bays, including San Francisco and San Pablo Bays, the lead agencies added additional information to Chapter 11, Fish and Aquatic Resources. Additionally, Chapter 8, Water Quality, was updated with additional discussion of constituent effects downstream. RDEIR/SDEIS Appendix A Chapter 6 (Surface Water) describes waters of the Sacramento River and the San Joaquin River basins, including the Delta and Suisun Marsh, that could be directly or indirectly affected by SWP and CVP operations and environmental commitments identified in the project Alternatives. Appendix A Chapter 8, Water Quality, describes effects on surface water quality in the Sacramento and San Joaquin River basins. The proposed project would not affect upstream water rights. It aims to allow the federal and state water projects to deliver more reliable water supplies, in a way that is less harmful to fish. The project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. The CALSIM II modeling performed for conveyance facility operations takes into account projected future demand for water supply in areas upstream of the Delta (as part of the future No Action baseline) prior to calculating Proposed Project diversion estimates to ensure that no area-of-origin protections or upstream water rights are affected by project conveyance facilities. Please see Appendix 5A of the FEIR/FEIS for additional modeling details. Please see Master Response 26 regarding water resources in northern California. For information on potential growth effects due to project implementation, please see Chapter 30 Growth Inducement and Other Indirect Effects of the Final EIR/EIS and RDEIR/SDEIS Appendix A. More specifically, Chapter 30, Section 30.1.3, Urban Land Use and Water Use by Hydrologic Region, describes long-term water

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		everywhere in between, including, as well, matters such as the potential adverse return flow impacts from the use of such water to the San Joaquin River or other waterways.	demand in the hydrologic regions based on projections in the California Water Plan. The chapter goes on to compare the modeled changes in deliveries associated with alternatives to the projected changes in future demand in order to evaluate the potential for the proposed project implementation to remove obstacles to growth. The proposed project does not propose any change to storage or conveyance capacity of facilities outside of the Plan Area. Thus, water diverted from new north Delta facilities would be directed into existing facilities.
1786	37	The DEIR/EIS Suffers from a Widespread Unlawful Deferral of Mitigation Measures and a Failure to Establish the Funding and Enforceability of those Measures. The DEIR/EIS relies on the expansive deferral of mitigation measure nearly across the board. Those deferrals all suffer from one or more violations of the criteria that must be met to properly effectuate such a deferral. Moreover, Guidelines section 15126.4, subdivision (a)(2), provides that "[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments." Because adequate funding for the project, much less any of the mitigation measures, has not by any means been secured, the DEIR/EIR also suffers from a widespread failure to discuss the "enforceability" of any of those mitigation measures which, includes as a primarily component of that enforceability, the ability of the project proponents to fully fund those measures. As it stands the DEIR/EIR has proposed or deferred countless mitigation measure with essentially zero guarantee that they will be fully funded or otherwise enforceable. On the matter of funding, the construction of an isolated facility, of course, relies on no less than twenty-one other "conservation" measures for its authorization. Those other "conservation measures" likewise suffer from a manifest lack of assurance of adequate funding ensure that they to are "fully enforceable" and will actually take place. This is a particularly egregious deficiency that is fatal to not only CEQA and NEPA but also to the other state and federal governmental approvals that must be obtained for this project.	All of the environmental commitments, mitigation measures, avoidance and minimization measures and Alternative 4A-specific Environmental Commitments presented in the EIR/EIS for Alternative 4A, the preferred CEQA/NEPA alternative are presented in the California WaterFix Mitigation Monitoring and Reporting Program (MMRP) circulated with this Final EIR/EIS. The MMRP provides details about who and how measures will be implemented, monitored and reported. Further, CEQA requires agencies to mitigate environmental impacts wherever feasible (Public Resource Code Section 21002 and CEQA Guidelines Section 15002, 15021). Please refer also to Master Response 22 regarding mitigation measure adequacy and Master Response 29 regarding the ESA.
1786	38	The DEIR/EIS Fails to Properly Address and Mitigate the Growth Inducing Effects of the BDCP. As the DEIR/EIS explains: With respect to the indirect growth inducement associated with water delivery, implementation of Alternatives 1A, 1B, 1C, 2A, 2B, 2C, 3, 5 and (for select hydrologic regions) Alternative 9 would increase M&I deliveries to SWP contractors. While an adequate water supply is not an impetus to growth, it is a primary public service needed to support growth. [¶] Growth is projected to occur in the hydrologic regions, and the above	See Final EIR/EIS Chapter 30, Growth Inducement and Other Indirect Effects. CVP and SWP deliveries are generally a small or moderate portion of the water supply for each hydrologic region in California, and the project would increase water supply deliveries only in some years (water supply reliability). The analysis shows that because the CVP and SWP deliveries will be made with existing facilities, without increasing the CVP or SWP contract amounts, it is likely that growth-inducing effects of other increased water supply alternatives (e.g., groundwater pumping, desalination) would be greater than the effects from the project alternatives.

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		alternatives would remove a potential constraint to that growth: lack of adequate, reliable, water supplies. The analysis estimates potential increases in population based on increases in average annual M&I deliveries. This analysis makes several conservative assumptions, including the assumption that any increases in M&I deliveries would support population increases (rather than be used for other purposes). (DEIR/EIS, p. 30-125.) As noted above, as part of the Delta Reform Act of 2009, the legislation has declared that "[t]he policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency." (Wat. Code, [Section] 85021, emphasis added.) Accordingly, it would be directly contrary to that policy for the BDCP to induce growth on account of any additional water supplies the BDCP would provide. Hence, to avoid such inducement (and any increased reliance on the Delta as a result of the BDCP for that matter), the DEIR/EIS must describe potential measures that could be taken to prevent such inducement and reliance and the BDCP Proponents must ultimately adopt such measures to ensure no such inducement or reliance occurs. Potential measures could include express restrictions on the use of the water set forth in the BDCP Plan itself and/or in the Projects' water supply contracts, or otherwise. It is entirely beside the point that, as the DEIR/EIS contends, "[n]either DWR or Reclamation nor the contractors are land use planning agencies and, consequently, do not have the authority to approve or deny urban development within the study area or to impose mitigation for the environmental 3 consequences of such development." (DEIR/EIS, p. 30-114.) Even if that overstatement was 100% true, which it is not, both DWR and Reclamation, as well as their respective contractors, can fully control the ultimate use and distribution of the water they obtain from the BDCP and, hence, can most certainly take action to successful prevent growth inducement resulting from the use of that water as well as the full range of potentially significant impacts resulting therefrom.	
1786	39	The DEIR/EIS Fails to Adequately Address the Tunnels' and Other Facilities' Performance in Earthquakes. While one of the motivations of the project is seemingly on account of the belief that the new conveyance facilities are more earthquake resistant than the existing through delta conveyance facilities, the DEIR/EIS does an inadequate job of providing facts and analysis to support an assessment of how the tunnels and shafts and other new conveyance facilities will actually fare in such events. Instead, the DEIR/EIS essentially says, trust us, we will design them properly and comply with all various building codes and standards, etc., however, without specifying and assisting the reader (and decision maker) with identifying	Please refer to Section 9.2.2.6 Regulatory Design Codes and Standards for Project Structures of the FEIR/EIS, which describes the state and federal design codes and standards that regulate construction of the many structures that are part of the project. Master Response 16 also discusses seismic risk in the Delta and the effects to the project of an earthquake. Rather than projecting the behavior of individual conveyance facility components under seismic loading and other hazards, the Conceptual Engineering Reports identify the expected loadings during the operation of facilities and therefore describe the standards to which the conveyance facilities would be designed and constructed, plus a factor of safety. The CERs are available for public inspection at DWR's offices.

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		the particular codes and standards that will be directly applicable to the construction of 40-foot-inside-diameter "soft ground tunnels [that] are pushing the state of the art for tunneling projects in North America." (See Enclosure No. 2)	
1786	40	The DEIR/EIS Fails to Properly Address the State and Federal Anti- degradation Laws. The Federal Environmental Protection Agency ("EPA") requires all states to adopt an "antidegradation policy" similar to the State Water Resources Control Board's ("SWRCB") Resolution 68-16. (40 C.F.R. 131.12.) Resolution 68-16 is further intended to, and does, implement Water Code section 13000 which requires the SWRCB to regulate all "activities and factors which may affect the quality of the waters of the state" such that they "attain the highest water quality which is reasonable." The State Water Resources Control Board's ("SWRCB") "Resolution 68-16 [commonly referred to as the SWRCB's "Anti-Degradation Policy"] provides in pertinent part: "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." The DEIR/EIS fails to adequately discuss, address and implement these Anti-Degradation Policies in general, and in the context of its discussion and formulation of mitigation measures and alternatives.	The descriptions of the federal antidegradation policy (Section 8.2.1.3 of Chapter 8, Water Quality, of the EIR/EIS) and the state policy (Section 8.2.2.6 of Chapter 8, Water Quality, of the EIR/EIS) are sufficient for the purposes of the EIR/EIS analysis. See also Master Response 14 regarding water quality and the relevance of federal and state antidegradation policy considerations.
1786	41	The DEIR/EIS fails to properly include the installation of state-of-the-art fish screens on the project's current export facilities, as a proposed mitigation measure and/or component of the alternatives. It is nothing short of mind-boggling that the BDCP, which will purportedly rely so heavily on the existing south Delta export facilities (on the order of 50% of the time), is not proposing, or even offering as a potential mitigation measure, the installation of state-of-the-art fish screens at those existing facilities: i.e., the fish screens that the CalFed Record of Decision required to be installed and operational by 2006. Such screens should unquestionably be a part of all alternatives that intend on using such facilities to pump any amount of water "through the Delta." What is equally mind numbing is how the BDCP proponents can, with a straight face, and presumably without any shame, propose and seek the installation of fish screens on other diversions within the Delta which pale in size to the project's south Delta facilities, pursuant to the BDCP's Conservation Measure [CM] 21. Needless to say, some truly misdirected	The Proposed Project would enable DWR to construct and operate new conveyance facilities that improve conditions for endangered and threatened aquatic species in the Delta while at the same time improving water supply reliability, consistent with California law (see, e.g., Cal.Wat. Code, § 85001[c]). Implementing the conveyance facilities would help resolve many of the concerns with the current south Delta conveyance system, and would help reduce threats to endangered and threatened species in the Delta, including entrainment at south Delta export facilities. For instance, implementing a dual conveyance system would align water operations, and their location, to better reflect natural seasonal flow patterns by creating new water diversions in the north Delta equipped with State-of-the-art fish screens, thus reducing reliance on south Delta exports during times of the year when listed aquatic species are present and most vulnerable. For more information on mitigation measures to minimize contraction and operational-related impacts to fish species, including Delta and longfin smelt, please see Chapter 11, EIR/EIS. DWR and Reclamation are required to improve fish collection efficiency at the existing south Delta salvage facilities, as part of facility improvements required by the National Marine Fisheries Service 2009 biological opinion on the SWP/CVP. For example, in 2014 Reclamation replaced the secondary louver system with a traveling screen system. These screens provide protection by guiding fish into the holding tanks while

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		planning is at play.	catching debris on pegs and transporting debris to a collection system at the work surface. The technology required at the proposed north Delta intakes and the existing south Delta export facilities differ fundamentally. The north Delta intakes would be located on the side of the river channel and so would be designed to comply with CDFW, NMFS, and USFWS fish screening criteria (Appendix 5B Section 3.B.3.3). The south Delta export facilities are located on dead-end channels and requires active collection and salvage of fishes. Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the 2013 Public Draft EIR/EIS, Appendix 3A. This alternative was eliminated from further evaluation because initial results of recent studies, including information included in the recent NMFS biological opinions, supported a phased approach that would emphasize improvements to operations of fish handling facilities and reduced predator potential within Clifton Court Forebay prior to further analysis of installation of fish screens. Nevertheless, DWR and Reclamation will continue investigating strategies to increase fish salvage efficiency, reduce pre-screen losses, and improve screening efficiencies, consistent with the 2009 biological opinion of the SWP/CVP.
1786	42	It Remains to be Seen Whether CEQA's Mandated Notice Procedures Have Been Properly Complied With. Public Resources Code section 21092.3 provides: "The notices required pursuant to Sections 21080.4 [notice of preparation of an EIR] and 21092 [notice of draft EIR] for an environmental impact report shall be posted in the office of the county clerk of each county in which the project will be located and shall remain posted for a period of 30 days." Because environmental impacts from the project will occur throughout a substantial portion of the state (if not the entire state), such notices must be posted in nearly every county of the state. Without having access to information attesting to the postings of such notices, Central Delta Water Agency hereby alleges that the lead agencies have failed to properly and timely file those notices in all of the respective counties as required by section 21092.3. With regard to the notice of the DEIR/EIS, that notice must also be posted via one of the three methods in Public Resources Code section 21092, subdivision (b): (1) "Publication . . . in a newspaper of general circulation in the area affected by the proposed project"; (2) "Posting of notice . . . on- and off-site in the area where the project is to be located"; or (3) via "Direct mailing to the owners and occupants of contiguous property . . . ." CDWA once again lacks access to information to verify the lead agencies' compliance with one of these methods and, accordingly, hereby alleges the lead agencies' have failed to properly and timely provide notice of their DEIR/EIS pursuant to section 21092. Because "substantial rather than complete compliance with CEQA-mandated notice	Since 2006, DWR has sought to include as many voices into the planning process as possible and has demonstrated that commitment with an unprecedented level of public involvement. More information on how DWR has developed the project in an open and transparent manner is provided in Master Response 41. More information about the public outreach and noticing conducted during the comment review periods for the DEIR/EIS and RDEIR/SDEIS is provided in Master Response 40. See also Final EIR/EIS Chapter 32, Public Involvement, Consultation, and Coordination.

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		procedures [is] an abuse of discretion requiring vacating of the administrative decision," the failure to properly comply with the foregoing and any other CEQA-mandated notice procedures would be a fatal error that must be corrected. (Gilroy Citizens for Responsible Planning v. City of Gilroy (2006) 140 Cal.App.4th 911, 922-923.)	
1786	43	The DEIR/EIS Must be Recirculated after its Considerable Deficiencies are Corrected. Guidelines section 15088.5, subdivision (a), explains: A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. To properly correct the DEIR/EIS's deficiencies alleged herein, and in other comments by the Central Delta Water Agency and others, a large amount of "significant new information" within the meaning of section 15088.5, subdivision (a), must necessarily be added to the DEIR. Accordingly, the DEIR/EIS will have to be recirculated to afford all interested persons and agencies the opportunity to meaningfully review and comment on that new information.	Please see Master Response 46 for a discussion of the document's sufficiency without recirculation. In July 2015, the lead agencies made a RDEIR/SDEIS available for public review and comment. The RDEIR/SDEIS was prepared to provide the public and interested agencies an opportunity to review engineering refinements made to the water conveyance facilities; to introduce new sub-alternatives (Alternatives 4A (California WaterFix), 2D and 5A); to explore multiple regulatory approaches; and to include updated environmental analyses that, in part, were conducted in response to issues raised in the more than 12,000 comments received on the 2013 Draft EIR/EIS. The RDEIR/SDEIS was available for public review and comment from July 10, 2015 through October 30, 2015. More information about the public outreach conducted during the comment review periods for the DEIR/EIS and RDEIR/SDEIS is provided in Master Response 40. More information on how DWR has developed the project in an open and transparent manner is provided in Master Response 41. See also Final EIR/EIS Chapter 32, Public Involvement, Consultation, and Coordination.
1786	44	ATT1: Article - 1st page only - entitled "Controlling the risk of sinkholes over EPB driven tunnels--a client perspective" in the book Geotechnical Aspects of Underground Construction in Soft Ground	Please see the response to Comment 18, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	45	ATT2: First page of article entitled "Delta Habitat Conservation and Conveyance Program: the Pipeline/Tunnel Option" by Rich Sanchez, State of California, DWR, Teresa Engstrom, State of California, DWR, Mike Cherry, DHCCP Program, Carlos Jaramillo, URS Corporation, and Galen Samuelson Klein, URS Corporation	Please see the response to Comment 18, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	46	ATT3: Front page, powerpoint District Workshop, Bay Delta Conservation Plan and Delta Habitat Conservation and Conveyance Program 2013 November 20	Please see the response to Comments 18 and 19, above. The comment does not raise any additional environmental issues related to the environmental analysis.

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1786	47	ATT4: Page one of report by San Francisco Public Utilities Commission, Bay Division Pipeline Reliability Upgrade Project, Alamed and San Mateo Counties, California Final Environmental Impact Report Prepared for the San Francisco Planning Department Major Environmental Analysis Division July 2009	Please see the response to Comment 18, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	48	ATT5: Title Page, dissertation, entitled "Analytical Study on Flood Induced Seepage under River Levels" by Senda Ozkan May 2003	Please see the response to Comment 20, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	49	ATT6: Performance of Levee Underseepage Controls: A Critical Review by Thomas F. Wolff U.S. Army Corps of Engineers Engineer Research and Development Center	Please see the response to Comment 20, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	50	ATT7: Memorandum Report by State of California Natural Resources Agency, Department of Water Resources, Division of Integrated Regional Water Management January 2014 "Site Characterization and Groundwater Monitoring Data Analysis Summary, Prospect Island Tidal Habitat Restoration Project, Solano County, California	Please see the response to Comment 20, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	51	ATT8: 2011 article, page 1, entitled "Modelling Events Occurring in the Core of a Flood Bank and Initiated by Changes in the Groundwater Level, including the Effect of Seepage"	Please see the response to Comment 20, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	52	ATT9: Statement of Christopher H. Neudeck, R.C.E. in regards to the Draft Supplemental Mitigated Negative Declaration and Draft Initial Study Engineering Geotechnical Studies for the Bay Delta Conservation Plan and/or Preliminary Engineering Studies for the Delta Habitat Conservation and Conveyance Program	Please see the response to Comment 25, above. The comment does not raise any additional environmental issues related to the environmental analysis.
1786	53	ATT10: Exhibit A Resume of Christopher H. Neudeck, Principal Engineer	This is an attachment to the comment letter. Any environmental issues raised in the attachment were addressed in the response to the corresponding comment.
1786	54	ATT11: Exhibit B Sacramento San Joaquin Delta Atlas	This is an attachment to the comment letter. Any environmental issues raised in the attachment were addressed in the response to the corresponding comment.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		By California Department of Water Resources 1993	
1786	55	ATT12: Civil Case Cover Sheet Case name: State, Department of Water Resources v. Reclamation District No. 548, et. al.	This is an attachment to the comment letter. Any environmental issues raised in the attachment were addressed in the response to the corresponding comment.
1787	1	These comments are submitted on behalf of the Local Agencies of the North Delta ("LAND"). LAND is a coalition of reclamation and water districts in the northern geographic area of the Delta. [footnote 1: LAND member agencies cover approximately 118,000 acres of the Delta. Current LAND members include Reclamation Districts 3, 150, 307, 317, 349, 407, 501, 551, 554, 556, 563, 744, 755, 813, 999, 1002, 2111, 2067 and the Brannan-Andrus Levee Maintenance District. Some of these agencies provide both water delivery and drainage services, while others provide only drainage services. These districts also assist in the maintenance of the levees that provide flood protection to homes and farms.] As local agencies in the areas most impacted by the significant and unavoidable environmental and other impacts of the BDCP, including the diversion of our primary water supply and conversion of our farmland to other uses, our member agencies have been active stakeholders in the BDCP planning process for over six years. Four LAND member agencies are also cooperating agencies under the National Environmental Policy Act (42 U.S.C., [Section] 4221 ("NEPA")), and have provided early consultation with the federal lead agencies regarding local impacts and mitigation.	This comment provides background information regarding the Local Agencies of the North Delta ("LAND"). No response is required. Please note that the BDCP (Alternative 4) is no longer the proposed project. Though, Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) is being considered. Alternative 4 remains a potentially feasible alternative and was carried forward in the RDEIR/SDEIS and Final EIR/EIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed and presented for public and agency review and comment in the RDEIR/SDEIS. For detailed responses on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5.
1787	2	Due to the numerous deficiencies in all of the documents, a broad coalition of stakeholders, including Local Agencies of the North Delta, agree that the documents must be substantially revised and recirculated for public review before BDCP could ever lawfully receive the numerous approvals necessary to carry out the project.	The lead agencies disagree with the commenter's assertion that the documents are deficient. The EIR/EIS fully complies with CEQA and NEPA. Please note that the 2015 RDEIR/SDEIS was circulated for public review and comment. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	3	The BDCP is a 1920's-style massive engineering project masquerading as a regional Habitat Conservation Plan ("HCP") and Natural Community Conservation Plan ("NCCP"). The BDCP's intent is to grab 15,000 cubic feet per second, and up to 7 million acre-feet ("MAF") of high quality Sacramento River water, while still running the environmentally disastrous existing South Delta pumps approximately half the time. The BDCP is also a water grab on the monumental scale of the 1920s. Ultimately, it is a grand scheme to divert attention from the environmental impacts of the current pumping, turn water law upside down by junior contract water rights superseding senior water rights, reducing water quality standards, and at major expense to the taxpayers.	The commenter's general objections are noted. The lead agencies disagree with the commenter's characterization of the project. Please see Master Responses 26 and 32 for additional information regarding water rights. Please see Chapter 8 of the EIR/EIS and Master Response 14 for additional information regarding water quality impacts. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	4	Rather than helping restore the Delta, the BDCP is a massive water removal project with potential to cause more ecological harm to the Delta than anything else that has occurred	Please see response to comment 1787-3. The conservation measures provided in the BDCP were prepared

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		since the last large infrastructure was built by the state and federal water projects (State Water Project ("SWP")/Central Valley Project ("CVP")). The tunnels masquerade as a Conservation Measure ("CM") 1, along with 20 other Conservation Measures (CMs 2-21).	according to regulations governing preparation of an HCP/NCCP.
1787	5	Despite the rafts of paperwork provided in the BDCP and EIR/EIS, in virtually every case where a critical environmental or social issue is identified, the underlying analysis is insufficient to support the conclusions and inadequate to fully identify or weigh the impacts. The only Conservation Measure that purports to have sufficient environmental analysis to begin construction after approval by the lead agencies is CM 1. The remaining other 20 CMs are project level for the purposes of take authority under the Endangered Species Act (16 U.S.C., [Section] 1531 [ESA]), but programmatic with respect to NEPA and CEQA review. CM 1, however, also lacks adequate detail necessary for a good faith environmental analysis; CM 1 is clearly programmatic in description and analysis.	The lead agencies disagree with the characterization that the EIR/EIS analyses are insufficient for the purposes of CEQA and NEPA and to support decisions on the HCP/NCCP. Please see response to comment 1787-3. Please see Master Response 2 regarding program-level and project-level analysis.
1787	6	The fundamental ecological premise of the BDCP is fatally flawed. The BDCP presupposes that removing nearly half of high quality freshwater from the Sacramento River system will be a net benefit for listed aquatic species while losing up to 5 percent of the remaining Sacramento River salmonids as they attempt to run approximately 4,400 feet of almost consecutive intake screens in just three river miles (BDCP, p. 9-58). The BDCP also removes eight to nine percent of the sediment that the delta smelt require (BDCP, p. 9-60), and maximizes pumping in the driest years during the most ecologically sensitive fall conditions (BDCP, p. 3.4-26). All the while, BDCP refuses to build effective fish barriers on the South Delta pumps, which will still operate much of the time (BDCP, p. 3.4-28).	The lead agencies disagree with the commenter's assertion that the fundamental ecological premise of the BDCP is flawed. Commenter is generally correct in identifying adverse project effects on Sacramento River flows, salmonid mortality in the affected reaches of the river, and reduced sediment supply. However, commenter fails to note any of the beneficial outcomes of the project, which are integral to the "fundamental ecological premise of the BDCP." These include reduced reverse flows in the south Delta, widespread restoration of habitats critical to maintenance of native fish populations, and sundry other habitat improvements (see BDCP Section 3.4, Conservation Measures, for details). Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) is being considered. For additional detail on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5.
1787	7	The major ecological premise--that creating aquatic habitat in the Delta will compensate for impacts of CM 1, mitigate ongoing state and federal water project impacts, and contribute an additional increment towards recovery--is speculative. The restoration targets in the Restoration Opportunity Areas ("ROAs") are vaguely defined at locations to be determined and analyzed later. The BDCP offers no scientifically-based explanation supporting the relative mix of how restoration habitat types was selected, how their total acreage was calculated, or how the attempted creation of these habitat types will lead to achievement of the Plan's goals and objectives. At the same time, the BDCP repeatedly conflates existing obligations to carry out habitat projects, such as those required under the existing Biological Opinions, with early implementation of the BDCP. These restoration obligations were already triggered by existing destruction of the Delta ecosystem by the state and federal water projects and should not be "credited" to BDCP, a project that causes even more disruption by literally rerouting the Sacramento River.	See BDCP Appendix 3A for detail on the process of developing the BDCP conservation measures, and see BDCP Section 3.2 for a detailed exposition of how the BDCP conservation strategy was developed. These sections provide the requested "scientifically-based explanation." See BDCP Table 3.2-1 for a detailed presentation of the relationship between BDCP and the requirements of recent biological opinions governing water operations under the CVP and SWP. Please note, however, that the BDCP is no longer the preferred alternative; Alternative 4A, the preferred alternative, does not include a habitat conservation plan and secures ESA compliance through a federal agency consultation. Please refer also to Master Response 5 which addresses Issues raised regarding the BDCP.

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1787	8	The BDCP fails to reduce reliance on the Delta, and will instead create fictional water supplies to justify taking more water than the CVP and SWP have historically exported. This will crush the unique cultural, recreational, natural resource, and agricultural values of the Delta, in direct contradiction to the Sacramento-San Joaquin Delta Reform Act of 2009. (Wat. Code, [Section] 85054.)	Please refer to Chapter 5, Water Supply which provides modeled estimates of the exported water for each alternative. Alternatives considered in this Final EIR/EIS include slight increases and decreases in exported water compared to existing conditions. For all alternatives proposing north Delta intakes, bypass flow and other Delta outflow rules including Decision 1641 and current BiOp requirements would be met to protect beneficial uses. The lead agencies have identified no information to support the opinion that unique cultural, recreational or agricultural values would be eliminated although this Final EIR/EIS does disclose the potential land use, recreational, cultural resource and biological effects of constructing and operating proposed conveyance facilities. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	9	The BDCP's $26 billion dollar cost (without interest) is outrageous, given that the entire cost of the SWP up to 2009 was only $5.2 billion. (See http://www.water.ca.gov/swp/swptoday.cfm.) There is still no specified plan for the beneficiaries to fund the project, and the general public is expected to foot much of the bill irrespective of the benefits it receives.	The BDCP and the California WaterFix would be constructed and operated with funds provided by beneficiaries of the SWP and CVP export facilities. The overall cost for facility construction will be considered as part of the project decision-making process.
1787	10	The problem is simple: portions of Southern California, the San Joaquin Valley and some Bay area communities have captured all of their local stream flow, used up their groundwater resources, and captured all of the other sources of water such as the massive Tulare Lake, Mono Lake, the Owens River, and the Colorado River. Since they have not managed their urban growth, and at the same time have converted from annual crops (that could be periodically fallowed) to permanent tree crops for international export, they demand even more water from outside their basins.	As described in Chapter 1, Introduction, Chapter 5, Water Supply, and Appendix 3A, Identification of Water Conveyance Alternatives Conservation Measure 1, of the EIR/EIS, the ability of the SWP and CVP to deliver water contract amounts has been modified over the past 60 years due to increased use of senior water rights upstream of SWP and CVP water service area and regulatory criteria. Because of heightened regulatory requirements and Delta species decline, SWP and CVP water users recognized the need to change their delivery strategy and initiated efforts in 2006 with DWR, Reclamation, and other State and federal agencies to develop a new approach to the Delta operations.
1787	11	The CVP and SWP massive Delta intakes have (and continue to) slaughtered fish and literally reverse the flows of rivers. This unabated loss of listed fish has finally forced the federal agencies into requiring permits for the intakes. To avoid the current pumping restrictions associated with the permits, BDCP is proposing to re-engineer how water flows in the Delta, "separating the fish from the water" and thus facilitating the export of more water out of the basin. Of course, removing up to half of the Sacramento River flow is bad for other species, water quality, senior water rights holders, and the local sustainable agricultural community.	Please refer to Chapter 11, Fish and Aquatic Resources for specific impacts of the No Action Alternatives and action alternatives on fish species. These analyses and the analyses in other resource chapters including Chapter 14, Agricultural Resources and Chapter 8, Water Quality fully disclose the potential benefits and impacts for these resource areas. Please refer to Chapter 5, Water Supply and Chapter 6, Surface Water for changes in exports, deliveries, reservoir storage, surface water flows and elevations for all of the action alternatives which indicate that the effect of action alternative changes would be relatively minor in most water years. Please also see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	12	Rather than a sustainable solution involving reduced demand, the BDCP simply takes water from sustainable farms with senior water rights and gives it to out of basin contractors with no legal water rights. It takes land away from sustainable farming to give to massive agribusiness on toxic soils, and ultimately it takes taxes and bond money away from reasonable projects and programs that could have beneficial effects on the Delta.	The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its

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			alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water right holders. Please see Master Response 5 for more information on project costs and funding. With regard to delta exports, the proposed project is intended to provide a more reliable water supply, with diversions that are more protective for fish, in accordance with the Delta Reform Act co-equal goals of improving water supply reliability and Delta ecosystem health. The proposed water conveyance facilities provide for new water supply intakes on the Sacramento River that would be operation conjunction with the existing SWP and CVP south Delta export operations to improve conditions for Delta fish and aquatic resources and provide for a more predictable and reliable export water supply. While a petition for a change in point of diversion has been filed with the State Water Resources Control Board for use of these new intakes, no application for any new water right is being sought as part of the proposed project.
1787	13	This grab is fully expected: The existing pumping infrastructure is old and needs repair, the waste drain water from the San Joaquin exporters is so contaminated it harms crops and wildlife, and the pumping restrictions have led to reductions in exports. Nevertheless, just because the grab is expected it does not make their solutions rational. The existing Delta export system works, albeit inefficiently since it kills so many fish and recirculates the toxic drainage water from San Joaquin Valley. Several "through Delta" (and western Delta) proposals exist that capitalize on the existing system, while attempting to separate the fish from the pumps. These alternatives could work, and were in fact the recommended outcome of CalFED - but the contractors did not want to install fish screens on their South Delta intakes, particularly when they could get higher quality water from the Sacramento River vis-à-vis the BDCP. The Sacramento River basin already uses this water and some argue that it is currently vastly oversubscribed. Water use within the basin can take advantage of recycling the water several times as it flows through the system, but once it is exported out of the basin, it is lost forever. This result is the loss of outflow, upon which the ecology of the Delta and the San Francisco Bay depend on. The BDCP worsens the existing outflow problem and short circuits the Sacramento River, causing untold ecological, agricultural, economic, and social damage.	A range of Delta outflow scenarios has been presented in alternatives presented in this Final EIR/EIS. Alternative 9, the through Delta alternative is fully considered and analyzed in this Final EIR/EIS. Alternative 4A proposes similar outflow requirements as currently required and operations are not expected to result in substantial effects on listed fish species, the Delta ecosystem, agriculture or the Delta economy. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	14	Improving the Delta's ecology cannot possibly happen by removing even more water from the system. Yet the BDCP proposes to take as much water as possible and hopes that a future "habitat" fix will keep it all working. However, the scientific basis for the habitat is thin at best and is far likelier to improve conditions for the very invasive species that currently harm the Delta. In order to retain their 50-year permit in the face of likely ecological failures, the BDCP simply states that meeting biological goals and objectives is not a requirement of the project. To mitigate for its own, new biological impacts, the BDCP says it will build some habitat, somewhere, to be analyzed at some future point in some future	This comment states an opinion that the BDCP habitat restoration conservation measures would not have the intended ecological effect on the Delta. Although uncertainty exists regarding the effect of BDCP restoration actions, the result of action under this alternative would be monitored according to biological goals and objectives and adaptively managed to contribute to species recovery, as described in BDCP Section 3.6. Please also see Master Response 5 regarding the BDCP, and Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.

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		document. That new habitat comes at a cost to the exiting, already imperiled, habitat of the Delta, mainly by trading off one set of listed terrestrial species for aquatic species.	
1787	15	All the while local landowners are forced to sell or have it condemned. Multi- generational farming families will be challenged to continue farming in what is now an ideal agricultural region containing 738,000 acres of prime farmland. Even if a few landowners manage to remain in the Delta, they will be adjacent to major land and water use changes that will completely alter existing conditions for the worse.	The potential land use and agricultural resources effects of conveyance facility and restoration construction and operation of the action alternatives are disclosed in Chapters 13 and 14 of this Final EIR/EIS. While some landowners and agricultural properties could be directly or indirectly affected during construction wide-spread loss of property or agricultural operations are net expected for Alternatives 4 and 4A because conveyance facilities for these alternatives have been revised to avoid taking private property as much as possible and would implement tunnels which largely avoids effects on Delta landowners compared to alternatives that would utilize surface canals.
1787	16	Chapter 3 - Conservation Strategy The BDCP Conservation Strategy is Weak The BDCP still has not shown that it will result in an appreciable benefit to the species for which it seeks 50-year take coverage with no surprises assurances. Should the fish and wildlife agencies agree to the terms of the BDCP, a great travesty will befall the Delta. There is clear statutory guidance on the terms of a conservation plan under state and federal law that the BDCP has not and likely cannot meet in anything near its present form. Many comments have been submitted regarding the weaknesses of the BDCP as a conservation plan, with which Local Agencies of the North Delta agrees.	This comment states an opinion about the success of the BDCP conservation strategy and a general opinion about the effect the BDCP would have on the Delta. Please refer to response to comment 1787-14 regarding the BDCP implementation process. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project, and see Master Response 5 for further information about the BDCP.
1787	17	The benefits to covered species are uncertain at best--too much take occurs under the Plan The Draft EIR/EIS concludes that there are no certain benefits to several proposed covered species. The NEPA finding is "No Determination" for nine key species. The Fish and Wildlife Service ("FWS") and National Oceanic and Atmospheric Administration's National Marine Fisheries Service ("NOAA Fisheries") have continued to express concerns regarding the many unresolved issues that stand between the BDCP and an approvable HCP. (See, e.g., Exhibit B, FWS BDCP and EIS Assessment, January 14, 2014.) These ongoing concerns go to the heart of the adequacy of the BDCP as a conservation plan, including the ability of the proposed CMs to minimize and mitigate the incidental take of listed, proposed, and candidate species at the local, range-wide, or ecosystem level.	The No Determination conclusions in the Draft EIR/EIS have been revised based on consultation with USFWS and NMFS. All of the impacts in this Final EIR/EIS provide NEPA and CEQA conclusions. The ability of this alternative to meet ESA and NCCP requirements for incidental take permits would be determined by USFWS and NMFS if this alternative is chosen to be implemented. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	18	BDCP Secretly Relies on Undisclosed Water Transfers to Operate the North Delta Diversions The internal planning process for BDCP has been discussing the need to purchase additional water supplies flowing into the Delta since about 2012, according to the documents we have received from federal and state agencies through the Freedom of Information Act (5 U.S.C. [Section] 552 ("FOIA")) and California Public Records Act (Gov. Code, [Section] 6250 et seq. ("PRA")) responses, respectively. This water is called "enhanced environmental flows" among other things. (See generally Exhibit C, FOIA and PRA Documents Relating to Water	During the BDCP development process and in consultation with USFWS, NMFS and DFW additional Delta outflow was considered as part of adaptive management for this alternative to improve the potential for the BDCP to contribute to recovery of covered species. This concept may need to be considered if Alternative 4 is chosen during the decision-making process. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Purchases for Operation of the BDCP ("Water Transfer Documents").) In earlier iterations of the BDCP, it was believed that creation of habitat would result in improvements to fish species that would allow for the desired level of water supply/diversions from the new North Delta BDCP intakes. Over the years, however, the Independent Science Board and others have consistently called into question the assumptions made by the BDCP analysis with respect to the claimed relationship between the provision of additional habitat and the relative health of endangered fish. The enhanced environmental flows ("EEF") thus appears in the BDCP as part of the approach to adaptive management for the very reason that the habitat proposed may well not function as planned. (BDCP, p. 3.4-355 to 3.4-357.) The BDCP's increasing reliance on EEF to operate the new diversions in the first place also points to the critical importance of adequate freshwater flows into the Delta ecosystem. The feasibility of creating the extent and types of habitats proposed by the BDCP in the Delta has also been demonstrated to be uncertain at best.	
1787	19	Documents we have located within thousands of the Freedom of Information Act/Public Records Act documents--NOT contained in the BDCP or EIR/EIS--indicate that there are specific plans for purchase of approximately 1.3 million acre feet per year as a means to make up for flows that would be removed from the Sacramento River by the BDCP tunnels. (Exhibit C, Water Transfer Documents, Summary of Assurances Email, dated February 25, 2013 from Lety Belin, Department of Interior.) Under the plan, the water contractors would put forth $1.5 billion of a total expected cost of $3.5 billion for such water purchases. The public would be expected to provide the remaining $2 billion according to the proposal. This amount of water is expected to allow the BDCP proponents to operate under the "Low Outflow Alternative," which provides an additional 900,000 acre feet of exports. (BDCP, Appendix 9A, Table 9A-2.)	Please refer to response to comment 1787-18. Please also see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	20	There is only one place that this water can come from: the Sacramento Valley. The Department of Water Resources ("DWR") has already identified certain sub-basins as "solution area[s] for Delta outflow issues" and proposes "increases in [conjunctive use] and [groundwater pumping]." (See Exhibit D, Groundwater References, CASGEM Basin Prioritization Process, June 2014 (discussing Colusa Sub-basin); see also DWR's California Water Commission presentation on Drought Management Structure, March 19, 2014 (DWR will "provide[] data collection and analysis to facilitate and support Sacramento Valley groundwater substitution transfers and conjunctive mgmt…").) When water transfers are made from the Sacramento Valley, groundwater substitution will occur so that agriculture may continue. Land fallowing will also have impacts on wildlife habitat, some of which is needed for special status species such as the Giant garter snake.	Please refer to response to comment 1787-18. The potential use of water transfers that commenter refers to was not included in the BDCP because it was not a “plan” but a speculative statement about potential ways in which BDCP’s adaptive management program could respond to fish and wildlife agency concerns about water operations. Commenter’s “plan” was not proposed under BDCP. BDCP does discuss the potential use of water transfers, and notes that water transfers would be implementable under BDCP, subject to separate environmental review. Thus commenter’s “plan” could not be implemented unless and until required environmental review occurred. The BDCP adaptive management program has not been revised since the publication of the draft BDCP and remains incompletely specified. In particular, the potential water transfers identified by commenter are still not a part of BDCP.
1787	21	The purchase of Enhanced Environmental Flows and the resulting increase in groundwater pumping in the Sacramento Valley will directly conflict with the Governor's and others'	Please refer to response to comment 1787-18. Potential effects of water transfers related to conveyance facilities, including possible groundwater effects are addressed in Chapter 5, Water Supply and Chapter 31 of

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		efforts to more thoughtfully manage groundwater. (See California Water Action Plan (2014), p. 14 (Improve Sustainable Groundwater Management), available at: http://resources.ca.gov/california_water_action_plan/docs/Final_California_Water_Action_Plan.pdf.) More responsible management of groundwater cannot occur if BDCP relies on transfers that will foreseeably result in groundwater overdraft. These problems are not solved by "groundwater storage," which is the current term for "conjunctive use" of ground and surface water. Groundwater storage/conjunctive use is a process for increasing water availability. It envisions increased extraction of groundwater when surface water is in short supply, later replenishing groundwater aquifers with out-of-growing-season surface water if it is available--a scheme that would be especially problematic during an extended drought.	this Final EIR/EIS. For additional information regarding water transfers, please see Master Response 43.
1787	22	The BDCP proponents plan to fund the majority of the EEF purchases with public funds. Documents dating back to at least 2012 indicate that the BDCP proponents intended to monitor the water bond to ensure that EEF for the BDCP could be funded. (See Exhibit C, Summary Reports for Financing Items - Use of Habitat Funds for Outflow, estimated date 2012, prepared for BDCP Finance Work Group.) As noted in the document, the bond now slated for the 2014 ballot (written in 2009) would explicitly pay for water purchases for BDCP. (SB7X2, Proposed Water Code, [Section] 79731, subd. (b)(2).)	Please refer to response to comment 1787-18.
1787	23	The BDCP Conservation Strategy is reliant on purchase of upstream water, yet the BDCP and EIR/EIS fail to disclose the water purchases necessary to meet Delta outflow requirements of the project. The BDCP discusses only the potential use of CM1 for "cross-delta transfers" that would occur in addition to the contractual deliveries under BDCP. (See EIR/EIS, p. 5-108.) The brief mention in passing of the use of transfers for flows (BDCP, p. 3.4-3, 3.4-19, Table 3.2.1-1) does not provide the public information on what is actually planned or what the environmental and other effects of those transfers will be.	Please see BDCP Section 3.4 for a complete statement of the BDCP conservation strategy. Purchase of upstream water is not proposed under the BDCP conservation strategy, in other words, the strategy is not reliant on such purchase. The effects analysis (BDCP chapter 5) discloses the effects on covered species associated with implementing flow criteria that meet Delta outflow requirements. See response to comment 1787-20 regarding commenter's "plan" for water transfers under BDCP. Potential effects of water transfers related to conveyance facilities are addressed in Chapter 5, Water Supply and Chapter 31 of this Final EIR/EIS.
1787	24	In addition to failing to disclose plans to purchase major volumes of water from the upstream areas, the BDCP also fails to include Enhanced Environmental Flows water purchases as covered actions under the BDCP. (BDCP, p. 4-25 (discussing only wheeling through the tunnels as a covered action).) Yet the water flows necessary to operate CM 1 do not presently exist in the Sacramento River. The purchase and transfer of this water, and all of the resulting direct and indirect effects must be disclosed to the public. This deficiency requires all of the documents to be revised and recirculated to the public. Moreover, project alternatives must be considered that would maintain upstream water supplies (including groundwater), conserve agricultural resources, and avoid jeopardy to endangered species and other protected wildlife.	Please refer to response to comment 1787-18. With regards to agricultural impacts, please see Master Response 18. With regards to the Endangered Species Act, please see Master Response 29.
1787	25	Benefits of Habitat Creation are Overstated The BDCP makes unreasonable assumptions regarding the benefits of implementing the restoration activities described in the Plan. The following key points summarize the state of	This comment states an opinion about Delta conditions and the potential benefits of the BDCP. No comments on the EIR/EIS are presented and no additional response is necessary.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Sacramento-San Joaquin Delta habitat restoration: Several hundred million dollars in public funds have already been invested in planning, land acquisition and restoration in the Delta. The results of this major investment have been poorly documented, poorly monitored, and are ecologically uncertain.	
1787	26	Benefits of Habitat Creation are Overstated The BDCP makes unreasonable assumptions regarding the benefits of implementing the restoration activities described in the Plan. The following key points summarize the state of Sacramento-San Joaquin Delta habitat restoration: Despite over 40,000 acres of publically held or managed intertidal and open water habitat in the Delta primary zone and 116,000 acres in Suisun, native fish species declines do not appear to be stabilizing.	This comment states an opinion about Delta conditions and the potential benefits of the BDCP. No comments on the EIR/EIS are presented and no additional response is necessary.
1787	27	Benefits of Habitat Creation are Overstated The BDCP makes unreasonable assumptions regarding the benefits of implementing the restoration activities described in the Plan. The following key points summarize the state of Sacramento-San Joaquin Delta habitat restoration: The vast majority of publically held land in the Delta receives little or no invasive weed management, ecological monitoring, or any ecological site management.	This comment states an opinion about Delta conditions and the potential benefits of the BDCP. No comments on the EIR/EIS are presented and no additional response is necessary.
1787	28	Benefits of Habitat Creation are Overstated The BDCP makes unreasonable assumptions regarding the benefits of implementing the restoration activities described in the Plan. The following key points summarize the state of Sacramento-San Joaquin Delta habitat restoration: Simply acquiring new land without attempting to manage and understand the functionality of the existing acquisitions is a waste of public funds and a recipe for continued failure. The time has come for a rethinking of land management and restoration prioritization in the Delta.	Please see BDCP Conservation Measure 3 about the importance of existing reserve lands to the BDCP conservation proposal. Also see Master Response 5 regarding BDCP and its removal from the Preferred Alternative.
1787	29	The BDCP is simply recapitulating the failed strategy of tying up more land in habitat without substantial consideration of the impacts of those activities (assuming complete "success" of restoration efforts in the EIR/EIS and Plan) or even demonstrating what specific biological benefits, in which locations would have the intended biological effect. The Delta Stewardship Council's Independent Science Board has the charge to better understand how habitat elements are linked in the Delta, but is unclear at this time if they are continuing the CalFed academic exercises or will provide a substantive push to resolving the structural	Commenter states an opinion about Delta conditions and the potential benefits of the BDCP. Success of the BDCP would be judged based on stated biological goals and objectives which would be used to adaptively manage implementation of conservation measures. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		issues that keep Delta restoration from becoming a success.	
1787	30	BDCP claims anticipated benefits to habitat and species under the Plan, specifying activities involving over 148,000 acres within four ROAs. [footnote 3: EIR/EIS, Chapter 13, Land Use, Section 13.1.1.1, p. 13-2, lines 2-4 and page 13-3, lines 18-40. See also Figure 13-1.] The BDCP, however, does not provide a substantive biological basis for the habitat, nor proposed locations for the mitigation areas or habitat restoration activities. The EIR/EIS treats the Suisun Marsh incorrectly as being separate from the statutory Delta, while including it in the Plan Area. BDCP's proposed activities must be considered within the context of how much land in the Delta and Suisun Marsh is already dedicated to habitat and to restoration projects that will go forward even if BDCP is not permitted as a part of the baseline; it is inappropriate to claim those projects as part of the Plan, helping to mask the ecological impacts of CM 1.	Please refer to Master Response 1 regarding appropriate baselines in this Final EIR/EIS. The EIR/EIS analyses fully disclose the effects of the BDCP and other action alternatives. All of the effects of the conveyance facilities are fully addressed separately from restoration actions for Alternative 4. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project, and refer to Master Response 5 regarding the BDCP conservation approach.
1787	31	The Restoration Opportunity Areas have been described in the broadest geographic sense, but they essentially cover the majority of the plan area, instead of the most biologically suitable or technically likely areas for restoration. BDCP is aware of the likely specific locations, which were used in the hydrodynamic modeling, but were not disclosed in this document. (See Exhibit E, BECT Surface Water PowerPoint Handout, pp. 17-20.) [footnote 4: Though Exhibit E states that it is not for distribution, it was later released as a public document under the California Public Records Act, and therefore is no longer a confidential draft. These are the same restoration assumptions made for purposes of the BDCP effects analysis.] As such, it is difficult to identify the full nature and extent of potential significant impacts from, or biological effects associated with, the mitigation or restoration activities. It appears, however, that the intent of the BDCP is to defer at least the restoration analysis to future environmental documents since they are only described programmatically. However, it is critical that the reasonably foreseeable direct and cumulative impacts of the restoration projects are identified and analyzed in the BDCP and the EIR/EIS. This was not done.	The analysis for CMs 2-21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis. Please see Master Response 2 regarding program-level review. Additionally, the RDEIR/SDEIS released in 2015 introduced a new preferred alternative, 4A, which does not include a HCP or conservation measures. The alternative implementation strategy allows for other state and federal programs to address the long term conservation efforts for species recovery in programs separate from the proposed project. Please refer to Chapter 3, Alternatives, for additional detail about the habitat restoration proposed under Alternative 4A.
1787	32	The original justification for the BDCP restoration acreage targets is attributed to CalFed and surprisingly Governor Schwarzenegger's Delta Vision process, a purely political process. (BDCP, Chapter 3, p. 3.A-33.) Following these "analyses," the BDCP attributes its own further analysis for Tidal Marsh restoration in an unsatisfactory attempt to provide an-after-the-fact justification to support its target acreages and locations. There is no substantive difference between the habitat acreages between the BDCP alternatives (except for Alternative 5, where the smaller 3,000 cubic feet per second conveyance capacity apparently requires less habitat "mitigation"); the conclusion of 65,000 acres of tidal habitat is based on politics and not science. There is no relevant biological basis for the acreages and therefore no means by which to differentiate alternatives and the ecological effects. No greater illustration of this hand-waving can be found than in BDCP Table 3.A-5 by which various "weighing factors" for habitat evaluation criteria have been	Please also refer to Final EIR/EIS Appendix 3G which describes the background and process for developing the BDCP conservation measures, as well as Master Response 5 describing the BDCP conservation strategy.

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		assigned exactly the same weight of "1" for high, moderate, and low values for Criteria 3, 4, 5, 11, 14 and 15. Assigning the same weight does not discriminate for high, moderate, and low values and is a sham analysis. Furthermore, some values are inexplicably given a weight of 5. The only explanation for structuring the weight in this manner is to pretend to have 1/3 of the criteria have an effect on the outcomes when they do not and ensure that 1/3 of the criteria with values of 5 determine the outcome. Finally, a third review process is described--a "collaborative process" with fish and wildlife agencies--involving "(s)ubstantial further analysis and negotiation" to ascertain the biological effects. (BDCP, Appendix 3.A-36.) Unfortunately, this analysis is not provided, nor is it described how this collaboration supported the prior conclusions described in Table 3.A-5 and 3.A-6. The conclusions are only provided if they support the prior determination, and the analysis is not provided at all. We will never know what negotiation was required to identify the basis for these acres. This entire section of the Appendix reads as a cursory and annotated history instead of a credible scientific analysis in support of an EIR/EIS for a multi-billion dollar HCP that results in extensive take of listed species and adverse modification of critical habitat of the very species that the Plan supposedly conserves. This effort is a parody of the best available science standard.	
1787	33	BDCP places its reliance on the untested and unproven assumption that habitat restoration can substitute for water flow. The Science Panel criticized the effects analysis, which is the foundation for the EIR/EIS impact determinations as to fish species, for not sufficiently acknowledging or articulating the "reality" that there are critical uncertainties associated with presumed beneficial effects of tidal wetland restoration." (Delta Science Program Independent Review Panel Report: BDCP Effects Analysis Review, Phase 3, at p. 5.) Thus, the Science Panel found, "Much of the conservation measures center around restoration activities and management actions to improve current conditions. Our impression, therefore, is that the foundation of the BDCP is weak in many respects . . . ." (Ibid.)	This comment is an opinion that the BDCP analyses are weak based on the Delta Science Program Independent review. This Final EIR/EIS has been updated to further disclose uncertainties, particularly related to Chapter 11, Fish and Aquatic Resources. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Please also refer to Master Response 5 which addresses many of the comments on the BDCP.
1787	34	The sections for Channel Margin and Riparian Habitat are even more abbreviated (one paragraph each), fail to provide any analysis whatsoever, and use a new standard of analysis deemed to be sufficiently effective. (BDCP, Chapter 3, p. 3.A-37) There is no scientific foundation for the acreages, locations or types of restoration identified in these sections. The entire section of Appendix 3.A.7.3.1.5 is described as providing the rationale for these target acres, yet none is provided other than unsubstantiated assertions by an unidentified party. Moreover, these target acres are also described as providing mitigation for CM 1, but the amount and ratio are undisclosed. This fails to meet even a programmatic analysis standard, let alone a project-level analysis. This entirely lacking analysis was critical to both the project impacts and project mitigation, as well as to the justification for the entire HCP.	This comment is an opinion that there is no foundation for the restoration acreages contained in the Draft BDCP document with no specific reference to the description/analyses deficiencies. For the EIR/EIS analyses of the BDCP and other alternatives please refer to Master Response 2 , addressing project level and program level analyses. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	35	BDCP Includes Adverse Modification to Critical Habitat on a Massive Scale	Potential effect on critical habitat would be considered by USFWS and NMFS during the ESA consultation process. The current preferred alternative, Alternative 4A for which ESA Section 7 consultation and CESA

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		The Endangered Species Act was enacted to assist in the recovery of animal or plant species at risk for extinction. By designating a habitat, which is vital to the health of the species, called "critical habitat," an important first step in the conservation of a species is taken. Once an animal has been listed and its critical habitat has been designated, the area is considered a protected place, vital to the animal's rehabilitation and prosperity. Any further encroachments or developments on the protected habitat are governed by the ESA and its implementing regulations, which are administered by National Oceanic and Atmospheric Administration and Fish and Wildlife Service. The BDCP would adversely modify designated critical habitat for several listed fish species in the Delta; yet, the BDCP fails to disclose the full extent of this modification.	Section 2081(b) compliance is proceeding would substantially reduce the effect on critical habitat compared to the BDCP. Please also see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	36	Critical habitat was defined as irreplaceable in Gifford-Pinchot, supra, 378 F.3d at p. 1076. New, replacement habitats cannot be an equal substitute for designated critical habitats that have been federally designated because of their specific features and value to the species. Critical habitat is so defined because it has been exhaustively studied and determined to be the best habitat available to the species that is critical for survival and recovery. It is an aggregate of both physical and biological features, known as primary constituent elements ("PCEs"), defined in 50 C.F.R. [Section] 424.12(b), that determine the critical habitat. It is not simply an arbitrary determination of a suitable area for the species to survive. Despite the mitigation and conservation provisions in the BDCP, the new habitats that are being planned for the fish species are not federally designated "critical habitats." They are optimistically projected to be, at best, suitable for basic survival, but will not meet the standard described in Gifford Pinchot, supra, 378 F.3d at 1070, specifically, that the new habitat be suitable for both survival and recovery. No credible scientific basis is provided for the conclusion that the new habitats will ever be suitable for that purpose. The BDCP cannot assume that the new restoration areas will become critical habitat because the new habitat may not have the same conservation value to the species, despite being a suitable place for survival. The BDCP also fails to provide any certainty regarding the timing of attempts to replace habitat, further jeopardizing listed species by leaving them with less habitat at times in the 50- year Plan period.	Please refer to response to comment 1787-35 above regarding critical habitat. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	37	The failure to thoroughly analyze the threatened adverse modification of critical habitats renders the BDCP inadequate. Butte Environmental Council v. United States Army Corps of Engineers (2010) 620 F.3d 936 (Butte) discussed the applicable standard for measuring what constitutes "adverse modification." In Butte, the agency had calculated the total area of critical habitat for four endangered species that was slated for destruction in a development project. This amount was held against the nationwide total for critical habitat for the listed species, and given a numerical percentage value of the whole. When looked at on a nationwide scale, the relatively small percentages of critical habitat destroyed were considered acceptable, and held not to be adverse modification. (Id. at p. 948.) In this way, the court created a quantitative standard of review, and the total amount of critical habitat	The analysis for CMs 2-21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis, and meets NEPA and CEQA requirements. See Master Response 2 for additional information. Please also note that the RDEIR/SDEIS, released in 2015, introduced a new preferred alternative, 4A, which does not include a HCP or conservation measures. The alternative implementation strategy allows for other state and federal programs to address the long term conservation efforts for species recovery in programs separate from the proposed project. Under Alternative 4A, substantially less habitat restoration would occur than under Alternative 4. The RDEIR/SDEIS also updated the list of Interim Implementation Projects and related cumulative analyses. Please refer to Section 5 of the RDEIR/SDEIS for more information on cumulative impacts from related projects and the proposed project.

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		that will be destroyed should be a calculable amount for the court's consideration. Such a precise examination has not occurred with the BDCP EIR/EIS. The water quality effects are not measured in a realistic way and presume facts that are not likely to occur. The analyses fail to adequately consider the combined effects that the long-term construction and implementation will have on water quality in designated critical habitat, including temperature, salinity, depth, and flow. By leaving out this pertinent and critical information, the BDCP fails to disclose material, indeed necessary information pursuant to the permit requirements. In addition, the known data regarding the devastation of the listed salmon populations that would occur puts the BDCP squarely under purview of 50 C.F.R. [Section]13.21(b)(4), as it will certainly threaten the continued existence of several wildlife and plant populations.	For additional information regarding cumulative impacts please see Master Response 9.
1787	38	Several federally listed fish species have critical habitats in the Delta. Implementation of the BDCP would lead to the destruction and adverse modification of their critical habitats in numerous ways at several different stages of life. Chapter 5, Appendix 5.I of the BDCP's Revised Administrative Draft (March 2013) contains the Critical Habitat information for the listed fish species. It acknowledges that the critical habitats of the fish affected by the plan will be altered and adversely modified. Some effects have been anticipated, but many more remain an unknown consequence. The BDCP also lists the known Primary Constituent Elements for the salmon species, and acknowledges the effects that the project will have on those elements. In addition, increased water temperatures result in decreased dissolved oxygen (DO) and an increase in the rate of production of algae and aquatic weeds. (DWR, Contaminant Accumulation in Fish, Sediments, and the Aquatic Food Chain, Study Plan W2, Phase 2 Report: Oroville Facilities Relicensing, FERC Project No. 2100 (February 2006).) [footnote 5: Available at: http://www.water.ca.gov/orovillerelicensing/docs/wg_study_reports_and_docs/EWG/W2%20Phase%202%2001-31-06%20final.pdf.] Increases in water temperature and reductions in DO degrade fisheries' habitat quality and suitability in areas of the Delta that are designated as critical habitat for endangered species. Unfortunately, the current public review draft of the BDCP does not contain any clearly presented data on the amount of critical habitat loss that would occur. Degradation of this habitat will be an adverse modification of critical habitat for several endangered species (delta smelt, steelhead, sturgeon, spring-run Chinook salmon, etc). Degradation of this habitat also violates the beneficial uses of water as designated by the Central Valley Basin Plan, including: cold water fisheries, warm water fisheries, contact recreation, non-contact recreation, agriculture irrigation, drinking water and others.	Please refer to response to comment 1787-35 above regarding critical habitat. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	39	Habitat quality and the project's adverse effects to the salmonids' critical habitats and Primary Constituent Elements are discussed at length in Appendix 5.I of the BDCP Administrative Draft (March 2013), including sections outlining changes in water quality,	Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A would no longer pursue a 50-year permit. Alternative 4A contemplates ESA compliance through Section 7 of the ESA and Section 2081 of CESA, rather than through

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		quantity, coverage and connectivity, and forage quality, which in total discuss all known alterations to PCEs. It also discusses the high occurrence of unknown effects to these PCEs that are not adequately addressed. In addition to these known effects, according to the report being submitted by the Sacramento County Regional Sanitation District with its comments on the BDCP, temperature modeling for the Sacramento River was incorrect. The EIR/EIS acknowledges that construction and operation of the tunnels will affect the water quality in all aspects such as flow, temperature, salinity, turbidity, volume, presence of contaminants such as construction waste and spills, increased levels of heavy metals and agricultural run-off. Yet the current public review draft of the BDCP does not disclose how these impacts will adversely modify existing critical habitat. Such an analysis is required and would show that the BDCP as proposed is impermissible under the ESA because it adversely modifies critical habitat.	ESA Section 10 and NCCPA Section 2835. Restoration would still occur under 4A in the form of environmental commitments, but on a more limited scope than the conservation measures. The Biological Assessment of the preferred alternative (Alternative 4A, California WaterFix) submitted for ESA consultation in August 2016 describes effects on critical habitat, together with conservation measures employed to avoid, minimize, and compensate for effects.
1787	40	Measures to Reduce Take of Fish at the South Delta Pumps Must be Part of Any Conservation Strategy The South Delta Pumps have massive impacts on the hydraulics, water quality and water availability in the Delta. The hydrodynamic impacts of the pumps include flow reversals on the San Joaquin and the Sacramento Rivers, as well as several sloughs. These flow reversals add to the energy costs of fish living and migrating through the area, and is particularly concerning when the food chain has already been disrupted by invasive phyto and zooplankton, and the nutrients have also been exported by the pumps. The flow reversals are also associated with reduced circulation and create areas of low dissolved oxygen and promote toxic algae, both of which are potentially harmful or fatal to fish. Ultimately, fish are drawn to the pumps themselves, which brings them in contact with predatory fish, mainly introduced bass and other centrachids, or finally into the pump salvage facilities. These facilities lack positive barrier fish screens and instead rely on baffles to attempt to redirect fish. Reducing take at these locations currently requires an avoidance strategy (i.e., do not pump when fish are near), but that has reduced pumping rates and volumes. However, simply reducing pumping does not change the huge impacts on circulation that the overall operations of these facilities have and that the overall habitat in the area near the pumps is of relatively low ecological quality. Through Delta as proposed in the EIR/EIS (Alternative 9) attempts to resolve some of these issues using the same essential system as the current baseline, but also provides fish screens on Georgiana Slough and the Delta Cross Channel before moving the water through these separate corridors to the existing southern pumps. The use of operable gates then controls the circulation in a more effective manner for fish, and the degraded habitat is improved.	Commenter should note that all of the action alternatives substantially reduce take of fish at the south Delta pumps. South Delta pumping is reduced due to north Delta diversions, with an accompanying reduction in take. The effects analysis (BDCP Chapter 5) provides detail on this topic. The same analysis also details the Delta circulation changes referred to by commenter. The effect of reducing reverse flows in the south Delta is fully evaluated in the Draft BDCP and EIR/EIS as well as the RDEIR/SDEIS and this Final EIR/EIS. As noted other alternatives included Alternative 9 are fully analyzed and considered in this Final EIR/EIS. This alternative and all of the other 17 action alternatives will be considered during the project decision-making process and potential fish entrainment effects will be compared for each alternative as one issue for project approval. Additional alternatives, including Clifton Court Forebay screens were considered (as described in Appendix 3A) but eliminated from consideration in the EIR/EIS because of fish predation and other issues. The preferred CEQA and NEPA alternative, Alternative 4A would reduce reverse flows in Old and Middle Rivers at times when Delta smelt and salmonids are known to occur in the south Delta during many water years. Use of the north Delta intakes under proposed new operating rules are expected to reduce fish entrainment in the Delta.
1787	41	Alternative 9 is much better than current conditions in that it more effectively manages the fish and the water. However, it has two very negative elements. First, it removes the full	Please refer to response to comment 1787-40. Please note that the preferred alternative is now Alternative 4A. Nevertheless, the EIR/EIS analyzes all of the identified alternative, including Alternative 9. All of the

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		15,000 cubic feet per second without any analysis as to what the optimum environmental flow is. The second problem is the localized flow reversals on Sutter and Steamboat Sloughs. The water quality effects of those reversals appear problematic, although the modeling provided is not useful to discern the implications of those new intake locations. A potentially negative impact could be the increased number of structure and gates, which could promote predation in those locations. The BDCP should consider using some variation of Alternative 9, even if the preferred alternative is selected, simply because the existing flow routes will still be used from 100% to approximately 50% of the time, after a 10 year (or more) construction period. To this end, improvements at the existing pumps to reduce entrainment should be included in all of the alternatives, which is supported by the analysis by DWR in the Delta Risk Management Strategy ("DRMS"), Phase 2 (2011), p. 15-17, [footnote 6: Available at: http://www.water.ca.gov/floodmgmt/dsmo/sab/drmsp/docs/DRMS_Phase2_Report_Section15.pdf.] finding that "the existing fish protection screens at the [SWP Tracy Pumping Plant] are inadequate and can be improved."; ." (See also, Exhibit G, Some Ideas for Improving SWP Yield.) Although a low-flow fish screen concept has been under consideration for some time, none of the alternatives presented specifically incorporate this measure. According to Former Manager of the Contra Costa Water District's testimony to the Legislature: A demonstration fish screen of about 2,000 cfs could provide immediate fisheries benefits, especially during the critical spring period when exports are reduced to about that level. (See Exhibit H, Gregory Gartrell Testimony, March 8, 2011, p. 3.) CCWD, Metropolitan Water District of Southern California and other SWP contractors have conducted a draft feasibility study, which has not yet been released, indicating that at a cost of approximately $200 million dollars, such an improvement could prevent take of a significant number of fish and larvae in the South Delta. This cost is in line with that estimated in 2011 by DWR in the Delta Risk Management Strategy 2 study. (DRMS 2, p. 5-15.) Through Delta should be fully analyzed and optimized to have the lowest possible project impacts, and then viewed in the light of the status quo, given that the historic flow path and associated take of fish will not change even under the alternatives that include new north Delta intakes.	alternatives remain potentially feasible and the lead agencies may ultimately approve any of the alternatives. Please see EIR/EIS Chapter 3, and Appendix 3A for additional information on the alternatives and how they were developed. Please also see Master Response 4.
1787	42	CM 1--North Delta Diversions The North Delta Diversion and its tunnels are not a Conservation Measure, and will neither improve water quality in the Delta nor protect species. It should instead have been a covered action under Section 7. CM1 is uncertain to contribute to recovery because the decision tree is too vague and essentially allows for any combination of activities to optimize water withdrawal for the Sacramento River. CM1 will take a significant number of salmonids attempting to run the gauntlet of nearly one mile of fish screens and entrainment of smelt from CM1, which may also be greater than disclosed if smelt relocate to Sacramento River	The Draft BDCP identified the north Delta diversion facilities as conservation measures because its operation in conjunction with south Delta facilities is expected to reduce south Delta reverse flows and entrainment of Delta smelt and salmonids. As noted in this comment Delta smelt habitat is not located in the vicinity of the proposed new intake facilities which would further help reduce the current effects on this species.

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		as a result of project operations in combination with climate change.	
1787	43	CM2--Yolo Bypass The BDCP EIR/EIS impermissibly conflates existing legal requirements for mitigating take from its existing facilities and their operation with the proposed project. The Yolo Bypass habitat modification(s) is/are already required by existing Biological Opinions, and should not be used to provide credit for a new impact to the BDCP Sacramento River intakes. The BDCP does not propose to cease operations at the existing southern Delta intakes, but just reoperate them. Therefore, those impacts remain and must be mitigated through the existing requirements. This portion of the project was already required under the 2009 Biological and Conference Opinion for the Central Valley Project and State Water Project, Action I.6.1 and was analyzed in the 2012 Yolo Bypass Salmonid Habitat Restoration and Fish Passage Implementation Plan. Therefore, it is part of the mitigation for the existing south Delta pumping impacts and not a new benefit as described in the Effects Analysis. The baseline is defective, and the project is pre-decisional. The EIR/EIS analysis is defective in terms of its impacts details, impacts analysis and conclusions. The water supply for both the new diversions and for the Yolo Bypass Conservation Measure is not adequately described. The new ecological implications for the upper watershed for the new operations of the reservoirs, which are also not disclosed or analyzed, are ignored for both CM1 and CM2. It is not simply a change in the point of diversion from the south to the north; there is a wholly new point of diversion with new water resource and ecological implications in addition to the existing points of diversion. The project proposes to divert water down the Yolo Bypass and convert existing habitat values to other habitat values as a means to mitigate for the increased take on the Sacramento River proposed for this project, as well as the existing take in the south Delta. There is insufficient analysis to address the following issues: the identification of the impacts of the proposed project, which action(s) is/are mitigation for the existing project, or the proposed project, what the mitigation ratios and their biological basis are, and how the conversion of terrestrial to aquatic resources will be fully mitigated and where. These are not solely programmatic issues as CM2 must be described at a project level of detail in the BDCP in order for take under the Plan to be authorized. The water bypasses away from the Sacramento River and down the Yolo Bypass proposed for CM2 are not for flood purposes since they are controlled by new operable gates and lower elevation weir structures and must be counted against SWP/CVP diversion volumes. This is water that would otherwise go down the Sacramento River and be available for wildlife and senior water rights holders. Increased diversions through Yolo Bypass reduce water availability for fish and other beneficial uses in the mainstem of the Sacramento River. The BDCP proponents must apply to the State Water Resources Control Board ("SWRCB")	Please see Master Response 5 regarding the role of CM2 in BDCP. Note that Alternative 4A does not propose any actions in the Yolo Bypass and thus none of the provisions of CM2 would be implemented if Alternative 4A is implemented. The originally proposed habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21) would not be included as part of the Proposed Action, except to the extent required to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b). However, restoration actions that are independent of the Proposed Action will continue to be pursued as part of existing projects and programs. Examples of these include the 2008 and 2009 USFWS and NMFS BiOps (e.g., Yolo Bypass improvements and habitat enhancements, 8,000 acres of tidal habitat restoration), (2)California EcoRestore, and (3) the 2014 California Water Action Plan. The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors. For more information regarding the proposed project being pre-decisional please see Master Response 4. For more information regarding impacts to each resource area and its specific mitigation measure please see each resource area chapter of the FEIR/EIS. For more information regarding Environmental Commitments please see Appendix 3B of the FEIR/EIS. For more information regarding project versus program level please see Master Response 2.

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		for a license to divert water through the Yolo Bypass. Moreover, the water supply required to meet the habitat and other goals of CM2 must be subtracted from the contract allocations of the project proponents. Without CM2, this water would continue to flow down the Sacramento River and would be available to downstream water users.	
1787	44	CM 21--Non-project Diversions Local agencies of the north Delta have expended significant time and resources to attempt to improve the BDCP's approach to non-project diversions in the Delta. (See Exhibit I, LAND Letter to Christopher Earl, April 19, 2012.) Despite some progress, CM 21 still fails to provide a substantive technical analysis and ignores the agencies' own conclusions that small agricultural intakes in the Delta typically do not have a significant ecological impact. Moreover, CM 21 fails to address the potential widespread need for aquatic take coverage to be provided to existing intakes in the Plan area should BDCP cause changes in the existing conditions. The description of CM 21 fails to identify and support the supposed purpose of the measure. It also fails to identify that by its own metrics, the BDCP diversions (both existing in the south Delta and proposed in the north Delta), are vastly greater stressors than the individual or aggregate impacts of the non-Project diversions according to its own citations. CVP/SWP Project diversions remove an annual average of approximately 5.6 million acre feet of water along with the associated "diversion of plankton and other nutritional resources" entirely from the watershed. In contrast, the non-Project diversions divert a much smaller volume of water that is kept within the watershed and recycle nutrients from agricultural non-Project return flows. Insufficient take coverage is available to landowners within the Delta should it be needed for species in the Plan area due to successful reintroduction and/or expansion of covered species' range in the Delta. At a minimum, a HCP and NCCP should cover all small in-Delta diversions, and then provide assistance with screening of any diversions that are likely to result in significant take in the Plan period. A baseline of zero take can reasonably be assumed. This would be generally consistent with research conducted on the level of take associated with existing in-Delta agricultural diversions. That research has concluded that intakes of 250 cubic feet per second or less are not a major concern with respect to take of open water fish. [footnote 7: See Ecosystem Restoration Program, Ecosystem Strategy for Stage 2 Implementation Sacramento San Joaquin Delta Ecological Management Zone July 21, 2010 report ("ERP Report"). The ERP Report states that "small agricultural Delta agricultural diversions are likely to have a minor effect on pelagic (open water) fish, such as the [D]elta smelt." (ERP Report, p. 50, citing Nobriga, M., Z. Matica, and Z. Hymanson. 2004. Evaluating Entrainment Vulnerability to Agricultural Irrigation Diversions: A Comparison Among Open-Water Fishes. American Fisheries Society Symposium 39:281-295, available at: http://www.fws.gov/stockton/afrp/SWRCB/12.%20Nobriga%20et%20al.%202004.pdf.)]	This comment states an opinion that the Draft BDCP CM 21 description and analysis is inadequate and that the aggregate Delta diversions have less effect than the SWP and CVP intake facilities. This conservation measure was proposed as part of 21 conservation measures presented in the BDCP conservation strategy to improve habitat for and reduce existing stressors on covered fish species. It is considered a valid component of the BDCP conservation strategy to contribute to recovery of the covered fish species. Note, however, that BDCP only proposed to allocate funding to the existing conservation program being implemented pursuant to the Central Valley Project Improvement Act. That work is expected to continue regardless of whether BDCP is implemented. This is important, now that BDCP (Alternative 4) is no longer the proposed project, as detailed in Master Response 5.

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1787	45	Suggested Options for Take Coverage of Fish for Neighboring Landowners: 1. Incidental take coverage for all existing and active irrigation diversions in the Plan area through a tool such as a Certificate of Inclusion. Coverage would only apply to existing and ongoing activities, not new diversion or modified diversion points. Status of irrigation diversions could be confirmed through Statements of Diversion and Use on file at the State Water Resources Control Board. 2. Incidental take for certain lands in Plan area. Highest priority given to lands within a certain proximity of restoration areas likely to result in increased populations in wider areas. The availability of take authority designed to cover the increased incidence of species in the Plan area due to Plan activities is appropriate and necessary for Plan success. CM 21 could serve as the platform for this extension of take coverage. Local Agencies of the North Delta will continue to attempt coordination with the relevant state and federal agencies to adequately address the issue of the potential for increased take at existing agricultural diversions under the Plan. Without providing at least the opportunity for such take coverage if it becomes necessary, the BDCP threatens to further burden existing farming operations in the Delta that are not themselves proposing any changes in agricultural activities or practices, will bear the brunt of Project impacts, and are receiving no benefits under the BDCP.	This comment recommends alternative take authorization options for CM 21 that may be considered if the BDCP is chosen during project decision-making. No additional response is provided because no comments on the content of the EIR/EIS are provided. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	46	Conservation Measure 22--Avoidance and Minimization Measures The project identifies that the actual intake operations will be based on "real time monitoring of fish movement." This is at best speculative, since the EIR/EIS analysis does not provide data supporting the type of monitoring, its accuracy for specific species, the implications to take from the statistical error inherent in this kind of monitoring, or anything of technical substance. This is simply an illusory commitment.	Real-time operations management has now been in use on the SWP and CVP for many years and has proven to be a useful tool in minimizing adverse impacts on fish species. The benefits of real-time operations are not speculative based on its historical use in operating the SWP and CVP.
1787	47	Chapter 4 - Covered Activities and Associated Federal Actions This chapter fails to disclose all of the activities that must be covered under the BDCP. For instance, the provision of power for construction is not included as a covered activity. (BDCP, Table 4-3.) The provision of power to the project creates environmental impacts including take of listed species outside of the plan area, and therefore outside of take coverage, that are simply not analyzed in the EIR/EIS.	All of the impacts of conveyance facility components including transmission lines are included in the EIR/EIS analyses. Please refer to the mapbooks provided in Chapter 3, Description of Alternatives for locations of electrical transmission lines proposed to serve construction and operation of the alternatives.
1787	48	Chapter 5 - Effects Analysis The BDCP fails to describe the water transfers that will be required to operate the new diversions and the bypass. (BDCP, Section 5.1.2.7.) In addition to causing environmental impacts under CEQA and NEPA, these water transfers will impact critical and other habitat	Alternative 4 (the BDCP) does not require that “water transfers that will be required to operate the new diversions and the bypass”. Water transfers are described in BDCP Section 4.2.7. The effects analysis does not analyze the effects of water transfers for reasons described in that section. Please see Master Response 43 regarding water transfers.

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		in the Sacramento Valley. The Effects Analysis should have analyzed the impact on migratory bird and other special status species in the Sacramento Valley that would be adversely affected by the transfer scheme currently being discussed by BDCP proponents behind closed doors.	
1787	49	Flow Reversal Appendix 5.C discloses that reverse flows are expected on the Sacramento River as a result of operation of the new intakes. This information, however, is not carried forward into the EIR/EIS, which focusses vaguely on the slough south of the intakes. Reverse flows present many detrimental impacts for fish and for water users in the Delta. The degree and extent of these reverse flows need to be more clearly articulated and the potential environmental impacts of these flows need to be detailed, as does the estimated degree and extent of reduction of reverse flows at the South Delta Pumps.	The impacts of changes in reverse flow conditions under the action alternatives as compared to the Existing Conditions and the No Action Alternative are presented in Chapter 8, Water Quality, and Chapter 11, Fish and Aquatic Resources in the EIR/EIS. For additional information on water quality, please see Master Response 14.
1787	50	Sediment Turbidity is a measure of the amount of suspended solids. Suspended solids may be sediment, algae, suspended sediment, or other solids. Natural turbidity is greatest in the winter due to runoff from storms, but can be at high levels in areas with high algal growth. Turbidity can be an important variable in determining delta smelt habitat use. Sediment plays a complex role in aquatic ecosystems. Too much sediment in high elevation streams can cause significant water quality problems and lead to fish declines. In lower elevation Delta systems, sediment provides visual cover for some fish, such as delta smelt, which protects them from predators. Sediment is also the building block for streambanks through over bank deposits. Sediment is critical for the maintenance of floodplains and the associated riparian habitat by creating the new locations for plants to grow and for creating and maintaining topographic complexity. Reductions in stream sediment loads on the massive scale caused by dams and water projects can lead to improved visual clarity, which is considered positive, but not for delta smelt survival. It can also lead to scouring, where previously accumulated sediment is stripped and mobilized from existing floodplains. Invasive aquatic (and some terrestrial) weeds can also lead to the additional removal of sediment, exacerbating this problem.	Please refer to Chapter 11, Fish and Aquatic Resources and the Draft BDCP for discussion of the effects of turbidity changes on Delta smelt. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	51	The BDCP has identified the massive reduction of sediment by CM 1 in exactly the worst place biologically for the delta smelt, and the same reduction in sediment is likely to constrain the natural maintenance of floodplains, and fail to meet the restoration sediment needs. The BDCP also fails to accurately and adequately identify that BDCP- associated restoration activities can lead to even greater sediment losses. (http://snugharbor.net/images-2013/deltastuff/DISB_Burau_ISB_brief_2013_02_14.pdf). For example, CM2 Yolo Bypass actions can also lead to reductions in sediment from re-	Commenter is correct that BDCP would result in some diversion of sediment from the Sacramento River. Commenter's statements about the consequences of this diversion greatly oversimplify the issue. Commenter's statement that BDCP restoration would further increase sediment losses is inaccurate and unsupported. See BDCP Chapter 5 for a full discussion of this issue (commenter is correct that the appendix on climate change effects does not fully discuss this issue, since it is incidental to the matter of climate change). Also see Master Response 5 regarding removal of BDCP as the preferred alternative and its

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		grading the floodplain. Yet, Table 5.A.2.0-1 (Summary of Hypothesized Climate Change Adaptation Benefits of the BDCP,), inexplicably claims that "Enhanced Ecosystem Services" provided by the project will restore "sediment processes that enhance the functioning of aquatic habitats." (BDCP, Appendix 5.A.2, Climate Change Approach and Implications for Aquatic Species, p. 5.A.2.0-3.) The analysis fails to clearly identify how these processes are restored, in which locations, and at what scale. The analysis also fails to assess the difference between process and actual sediment deposition in terms of the baseline or under future conditions without the project. The claimed benefit of a restored sediment process is speculative and unsupported. In fact, the BDCP removes beneficial sediment and worsens conditions from the current baseline. Technically, the BDCP seems to infer that some fluvial process is being modified that enhances sediment process in some manner that could enhance aquatic habitat function. If such an effect exists at all, the analysis should describe the specific mechanisms and then identify the locations and quantify the amount of this benefit.	substitution by California WaterFix.
1787	52	Appendix 5E - Habitat Restoration The Habitat Restoration analysis fails to meet any standard, much less the best available science standard. It uses selected elements of established science and then ignores the preponderance of data and analyses that rebut the foundations of the proposed project, its analysis, and conclusions. Restoring habitat is technically challenging, uncertain, and in the manner that the BDCP proposes it, speculative at best. Yet contrary to this, the BDCP assumes the certainty of its outcomes. Even more problematic, all of this unfounded certainty is in the context of the grossly inadequate description of monitoring and adaptive management necessary for effective restoration. And the absence of a project level analysis demonstrates that the habitat restoration is simply a marketing effort for CM 1.	Commenter is correct that BDCP in general assumes that habitat restoration measures will be effective. Habitat restoration measures will all be subject to performance measures and to the provisions of restoration unit management plans, which (to put it very briefly) prescribe that the habitat restoration is not complete until and unless it meets performance measures, i.e. it is successful. It is therefore reasonable to assume that restoration will be successful. Commenter will find the discussion of adaptive management, monitoring, and research in BDCP Section 3.6, not in Appendix 5.E. Commenter's remarks about using Appendix 5.E as a marketing effort for CM1 are noted.
1787	53	Setback Levee Challenges are Not Addressed Much of the Delta has developed inverse topography naturally from overbank deposits created and maintained over thousands of years of flooding, with the back basins developing peat expanses where flood water was trapped and the vegetation accumulated and could not decompose. These naturally elevated levee features were eventually supplemented with created levees in most of the Delta, with the exceptions of the "cuts," which were excavated and artificially leveed. The concept of setback levees is supposed to allow the free flow of a river over a wider floodplain, thus allowing a river to migrate or meander more naturally than if it were confined. This concept only functions if the surrounding topography is level or elevated, creating a floodplain with elevations (called terraces) that flood less frequently further from the main stem of the river. Obviously, in the historic and modern Delta there is a large basin behind the natural levee at a lower elevation from the high ground and with no terraces. In	Please see Appendix 6A of the FEIR/EIS, for information on setback levees under the proposed project. Channel margin habitat would be implemented to mitigate for the loss of salmonid habitat associated with construction and operations of the north Delta intake facilities. While the exact location and design of channel margin habitat has not been determined, DWR will work with the appropriate agencies to design and construct setback levees to conform to applicable flood protection standards and to maximize benefits to aquatic species, using the best available science. Experts in relevant fields, including geomorphology, hydrology, and biology would inform the final design of channel margin restoration projects. The setback levees described in the BDCP under Conservation Measure 6 were analyzed for Alternative 4 at a programmatic level because of the level of detail available regarding this CM. Should Alternative 4 be selected for implementation, additional environmental review may be needed to fully disclose its impacts. Please refer to Master Response 2, regarding project versus program level analyses in this Final EIR/EIS.

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		the tidal reaches of the Delta, an artificially created setback is also in daily contact with changing water elevation. Thus, the stated purpose of a setback levee is negated in the Delta. To create a setback levee, an unnatural feature in the historic Delta, under these conditions thus requires a much more massive levee than the existing levee, becoming much larger the further it is set back for the same top of levee elevation (no improvement in overtopping flood resistance). The common idea of setback levees for channel migration comes from riverine (fluvial) systems that allow the expression of the river's energy by moving laterally. This is the case only in moderately steep to low gradient systems. In tidal systems, such as the Delta from the City of Sacramento downstream, these are a twice daily tidal incursions and excursions that provide the dominant energy for the system, and functions very differently from fluvial systems. Thus, in the Delta, the meanders that are common along the Sacramento and San Joaquin river mainstems and the many natural sloughs were created and maintained by only very massive and very rare historic events, and not routine channel migration forming events that dominate the upper reaches of these rivers. The consequences of creating setback levees in the Delta are manyfold and not analyzed in the BDCP or the EIR/EIS. Since there are no readily available, geotechnically suitable soils found in much of the Delta, and the soil cannot come from the Prime farmland already under cultivation and used to sustain season migrations of waterfowl and other birds, the material has to be imported from significant distances. The areas that these soils are taken from suffer both the indirect and direct environmental consequences of their mining or borrow area construction. The transportation using heavy diesel trucks, or vastly worse from an air quality perspective, marine barges, also has direct and indirect impacts not described in the EIR/EIS.	
1787	54	Using a simple illustration of an existing levee on the Sacramento River with a 3:1 water side slope and a 2:1 protected side slope, compared to a setback levee of exactly the same standards (not the proposed more massive cross-sections), and setting it back to a very conservative new 5' lower elevation, instead of the more typical -10' or greater base elevation), and keeping the top elevation the same to meet the same overtopping conditions, it would require a minimum of 56% more material for a given length. In reality, the proposal for setback levees have been for even more massive structures. These massive costs could instead be used to provide species benefits with no impacts to other species by modifying or removing dams, removing fish passage barriers, invasives control, maintaining minimum biologically based instream flows and protecting needed outflow. For the establishment of setback levees to be a reasonable practice, it must have clearly demonstrable benefits. Yet these have not been offered because it has not been studied in the Delta. Setback levees with purported benefits for fish directly harms local riparian	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Please refer to response to comment 1787-53 regarding setback levees. Please see Appendix 6A of the FEIR/EIS, for a discussion on impacts from restoration-related environmental commitments and conservation measures, including the removal of Conservation Measure 2 (Yolo Bypass Enhancements) and substantial reductions in the amount of planned habitat restoration under the new proposed project, Alternative 4A. Instead, the proposed project includes habitat restoration necessary to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b). Section 7.4.1, specifically, includes information on setback levees. For impacts to terrestrial species due to implementation of various environmental commitments and conservation measures, please see Chapter 12, Terrestrial Resources.

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		species during project construction, agriculturally reliant migratory birds from loss of land base and terrestrial and vernal species from the borrow areas, and have opportunity costs from not completing projects that are demonstrably beneficial. An additional issue is how the impacts of restoration will be mitigated under applicable requirements. BDCP includes the conversion of large acreages of lands that currently provide habitat values to other uses such as aquatic habitat. Yet mitigation is not even mentioned for the impacts of creating the habitat described in Appendix 5E, with the exception of how setback levees may need some additional mitigation. (BDCP, Appendix 5.E-5.) The BDCP must describe how land conversions to different habitat types will be mitigated and take those costs into account in Chapter 8.	
1787	55	Chapter 6--Plan Implementation Chapter 6 does not provide an adequate roadmap for successful implementation of the BDCP. For instance: While the distant potential for multi-island failures is used to justify the need for CM 1, inadequate funding to address potential island failures is provided, should they occur. (BDCP, Chapter 6, pp. 6-32 to 6-36.)	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Regarding funding for multiple island failure, while this is an important issue, it is not part of the proposed BDCP because it is focused on improving Delta ecological conditions and contributing to recovery of covered species. Please refer to Master Response 5, for information on BDCP funding.
1787	56	Chapter 6--Plan Implementation Chapter 6 does not provide an adequate roadmap for successful implementation of the BDCP. For instance: The disparate treatment of "BDCP" and "non-BDCP" levee failures is arbitrary and fails to account for the very real effects that the changes proposed by BDCP will have on Delta levees. While BDCP actions will have negative effects on levees in the Delta, Chapter 6 provides no commitments to replace or repair levee damage or fund increased maintenance needs brought about by BDCP. (BDCP, pp. 6-34 to 6-35.)	All of the BDCP actions that could potentially affect Delta levees would occur according to current requirements for levee modifications and flood protection. Please refer to Appendix 6A, BDCP/California WaterFix Coordination with Flood Management Requirements. Please also refer to Master Response 5 which addresses comments on the BDCP. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	57	Chapter 6--Plan Implementation Chapter 6 does not provide an adequate roadmap for successful implementation of the BDCP. For instance: There is no commitment to obtain habitat lands through willing seller transactions, or even a preference for willing sellers, in contravention to typical HCP practices developed to promote successful HCPs (BDCP, p. 6-7.)	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Should the BDCP be selected during the project decision-making process, it would be implemented with the goal to acquire required property from willing sellers.
1787	58	Chapter 6--Plan Implementation Chapter 6 does not provide an adequate roadmap for successful implementation of the	The approach for rough proportionality is fully explained in Draft BDCP Chapter 6. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.

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		BDCP. For instance: There is no enforceable mechanism for ensuring rough proportionality and proper sequencing of habitat destruction and habitat replacement should public funding not be available to carry out CMs 2-21 (BDCP, pp. 6-10 to 6-11, 6-51.).	
1787	59	Chapter 6--Plan Implementation Chapter 6 does not provide an adequate roadmap for successful implementation of the BDCP. For instance: While strong regulatory assurances are provided to the permittees, the surrounding communities and the environment receive little assurance that the Plan will result in the promised benefits (BDCP, pp. 6-28 to 6-30), particularly since the Implementing Agreement does not require the permittees to actually meet the Biological Goals and Objectives to maintain take authority (Implementing Agreement, section 10.1).	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1787	60	Chapter 6--Plan Implementation Chapter 6 does not provide an adequate roadmap for successful implementation of the BDCP. For instance: Additional burdens beyond existing law are placed on the federal fish and wildlife agencies in order to suspend the permit. Along with a lengthy dispute resolution process during which time the damage to species will be allowed to continue, a permit suspension must be signed by the Secretary of the Interior or the Secretary of Commerce. (BDCP, p. 6-51.) As a result of these and other deficiencies, significant restructuring of the BDCP implementation approach will be necessary for the Plan to meet minimum Endangered Species Act standards.	This comment is related to ESA permit procedures as it relates to BDCP implementation of conservation measures. The lead agencies believe this approach is adequately addressed in Draft BDCP Chapter 6. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	61	Chapter 7--Implementation Structure Local Agencies of the North Delta (LAND) participated in the Governance Workgroup created by the incoming Brown Administration to the extent possible. LAND reviewed various drafts of Chapter 7 and provided written comments thereon, which are part of the public record. The time investment in attempting to provide local input on how the Plan governance should be structured was wholly unsatisfactory, as the concerns raised were never addressed in writing or otherwise. As with much of the so-called public process around the BDCP, the Governance Workgroup provided little more than a black hole in which to put ideas and concerns that were never addressed.	Please see Master Response 5 regarding the adequacy of the governance structure proposed for the 2013 public draft BDCP.
1787	62	Overarching continuing concerns with the proposed draft Governance structure include:	The Stakeholder Council is proposed as an advisory body to the Authorized Entity Group. Please also see Master Response 5 regarding the adequacy of the governance structure proposed for the 2013 public draft

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		Too narrow a scope for the Stakeholder Council given the significant and ongoing impacts in the Plan area on local communities and the environment;	BDCP.
1787	63	Overarching continuing concerns with the proposed draft Governance structure include: Excessive reliance on adaptive management as a form of permanently deferred mitigation;	See Master Response 33 regarding the adaptive management and monitoring program.
1787	64	Overarching continuing concerns with the proposed draft Governance structure include: Nearly complete control of the water export contractors over operation of the new facilities and the adaptive management process to the detriment of local communities and fish and wildlife;	The implementation structure described in the 2013 public draft BDCP maintains the authorities of DWR, Reclamation, and the state and federal wildlife agencies. DWR owns and operates the State Water Project and will continue to do so under BDCP. Please also see Master Response 5 regarding the implementation structure proposed in BDCP. Please note that the new preferred alternative (Alternative 4A) no longer includes BDCP or an HCP/NCCP.
1787	65	Overarching continuing concerns with the proposed draft Governance structure include: An inadequate and cursory approach to damage and compensation process for completely foreseeable impacts on landowners and districts in the Plan area.	Details of the damage and compensation process would be developed during implementation. Such details are not required to be included in an HCP/NCCP or EIR/EIS.
1787	66	The recently released Implementing Agreement does nothing to alleviate Local Agencies of the North Delta's concerns with the BDCP Governance approach, and simply reinforces the water export contractors' stranglehold on decisions that will profoundly affect the Delta over the next five decades. Moreover, the recently formed implementation offices at DWR, which will largely be staffed by the water exporters and their contractors, cement our conclusion that local communities will not receive adequate protections or a fair process if the Plan is implemented as proposed.	Please see Master Response 5 regarding the adequacy of the governance structure proposed for the 2013 public draft BDCP. However, note that the preferred alternative no longer includes an HCP/NCCP (Alternative 4A). An Implementation Agreement is no longer required under this new regulatory approach.
1787	67	Conceptual Proposal for Alternative Dispute Resolution for BDCP Impacts The BDCP fails to provide a pathway toward effective dispute resolution that will be necessary for the Plan to be successfully implemented. (BDCP, pp. 7-19 to 7-22.) A project, such as the BDCP, with massive direct and indirect effects on the distribution of million acre feet of water, 165,000 acres over 5 counties, needs a simple, fair and robust mechanism for resolving disputes. The costs, time, and uncertainty of bringing litigation through the Tort Claims Act (Gov. Code, [Section] 815 et seq.) over the majority of the potential project impacts to local landowners, special districts, towns and counties is simply not warranted for any party. Typical small claims of road and fence damage, damage to irrigation and drainage facilities, localized groundwater impacts from dewatering or restoration, weed management issues, and loss of access to property can be handled in an expeditious and fair manner by a simple form of dispute resolution, a claims board. There are several kinds of alternative dispute resolution ("ADR"), but most require some form of in-place memorandum of understating ("MOU"). Given the vast number of potential parties, and the scale of this project, a more simplified form of ADR would allow any party to	Please see Master Response 5 for a discussion of the adequacy of the proposed governance process for the public draft BDCP. Please also see Master Response 5 for a discussion of the Implementing Agreement.

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		bring forward a claim for review. This is the process that is used for large environmental impairments such as chemical spills. In those cases, a special master or single legal team is used to review claims. The BDCP however will take place over an extended 10-year construction period and a 50-year permit, vastly exceeding the time scale of those processes and requiring institutional capacity and funding to meet expected and unforeseen impacts. The composition of the claims board would be designed to provide sufficient technical and legal capability to determine the direct or indirect links to the impacts. To ensure that the best foundation of technical expertise is available, the claims board could be created with a licensed engineering expert from the DWR and licensed engineering expert from Delta (Sacramento, Stockton area, selected by N/S/C Delta Water Agencies), and overseen by a retired judge, selected by the California Supreme Court. The determination would be made by simple majority vote. The basis of a claim would be the provision of written documentation to the claims board, followed by a brief hearing if requested or, if the initial claim is rejected, supporting information from any source would be acceptable. The following process is an illustration of some technical sideboards that would allow a fair and robust process, without it becoming a massive legal exercise. A basic claims form would be created by the claims board with a submission page limit of 150. Incomplete applications would be identified and replied to no later than 30 days of receipt and the board would have a 60-day response limit which, if not responded to would result in the claimant being automatically approved for the full amount of the request. Rejection of a claim, provided by registered mail, does not prejudice the claimant from seeking other recourse. Remedies for the claim could be supported by full reimbursement for the replacement cost, or a lesser sum, determined again by simple vote. Acceptance of the claim would hold the claimant to release the project from further claims for the same impact(s). The claimant could reject the reimbursement and pursue other means of settlement. The funding would have to include adequate compensation for the expected types and extents of impacts with a contingency. For instance, a fund of $10M set aside before initiation of the project in a trust fund managed by the claims board. After the 50-year period, any remaining funds would be distributed pro-rata to the project applicants on the basis of their initial funding percentages.	
1787	68	Chapter 8--Implementation Costs and Funding Sources The BDCP does not include adequate funding assurances as required by the state and federal endangered species acts. (See 16 U.S.C. [Section] 1539(a)(2)(B); see also HCP Handbook, p. 16.) Similarly, the NCCP Act requires that the plan must "ensure adequate funding to carry out the conservation actions identified in the plan." (Fish & G. Code,	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Should BDCP be selected for implementation is anticipated that additional work regarding funding assurance may be need.

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		[Section] 2820, subds. (a)(10), (b)(8).)	
1787	69	Here, the BDCP does not meet minimum Endangered Species Act or California Endangered Species Act funding assurances to ensure that the necessary conservation actions are carried out. Chapter 8 makes clear that it is relying on the public, through a combination of state and federal funds and two successive state water bonds to pay $7.824 billion (before interest in today's dollars) toward the cost of implementing the BDCP. Chapter 8 describes how state bond measures would provide $3.759 billion in funds to carry out the project. Taxpayers, through other state and federal funding allocations, would also pay the remaining $4 billion needed for the estimated $25 billion dollar project, including portions of the mitigation for the tunnels and environmental impacts of the pumping. With the water exporters proposing only to pay for the cost of the water export Tunnels and less than one-eighth of the other costs ($903 million), the public is expected to pay the rest. (BDCP, Table 8-37.) The BDCP, however, cannot provide any assurances that the voters of California will vote for significant bond funding of the BDCP or that the state and federal governments will provide public funds needed to carry it out. Indeed, there is significant opposition to water bond funding for BDCP. (See Exhibit J, LAND Letter re Water Bond BDCP Neutrality, July 11, 2014.) LAND recommends development of a less costly BDCP alternative that apportions project costs to project beneficiaries and provides the necessary assurances that adequate funding will be available to carry out the Plan.	Please see Response to Comment 1787-68, regarding funding assurance and 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Please also refer to Master Response 5, related to BDCP funding.
1787	70	The EIR/EIS is confusing and hard to follow. The relationship of the BDCP to the EIR/EIS is difficult to follow, and in most areas is unexplained or inferential. The Plan itself is incomplete, leaving critical management and financing elements to some future process, by which it makes it impossible to review the environmental document without that information. The document is far too long for ease of review, yet shockingly weak on substantive analysis. The document is not accessible to ordinary citizens in terms of its opaque and excessively long format, yet it is also missing key analytical elements for experts. For example, the air/groundwater/surface water/and water quality modeling information that ostensibly supported the conclusions of the EIR/EIS were only available after repeated requests, and then only in redacted or fixed PDF format that made it impossible to identify and verify the assumptions or replicate the analysis.	The lead agencies acknowledge the comment that the Draft EIR/EIS is a lengthy document. Please see Master Response 38. It explains that the Draft EIR/EIS is the result of many years of collaboration and analysis necessary to review a project that would impact the Delta and water supplies for millions for Californians. The size and complexity of the document reflect an unprecedented effort to analyze a proposed project and 15 alternatives under both state and federal laws for habitat conservation planning. Please also see Master Response 5 regarding proposed BDCP governance structure and implementation and how BDCP implementation would be funded. Please also see Master Response 41, which explains the lead agencies' extraordinary efforts to make the process transparent to the public.
1787	71	The BDCP proponents have spent millions of dollars on analysis without identifying that they still need "through Delta" for the decade when the project is built, and for 50% of the time when it is running. Yet, this alternative, which protects much of the Delta by reinforcing levees, is incredibly identified as having more negative impacts than the tunnels that remove half of the Sacramento freshwater from the Delta.	The commenter is referred to analysis and impact conclusions provided for Alternative 9 in each resource chapter for methods, analysis and conclusions regarding the Through Delta Alternative. Alternative 9 is not proposed during BDCP construction because existing Delta requirements under Decision 1641 and current BiOps are required until BDCP or other alternatives are operational. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	72	In addition to not disclosing the ultimate power provider (which we understand is not	Western Area Power Administration is listed as a potential NEPA cooperating agency in Chapter 1,

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		known at this time) the subsequent approvals necessary for the eventual construction of the new power transmission lines are not listed in the Executive Summary of the EIR. (See EIR/EIS, p. ES-6, Table ES-1 (listing Lead, Cooperating, Responsible and Trustee agencies).)	Introduction, Table 1-1. Three electric utilities could potentially provide transmission interconnection and service to support the supply of power to the proposed action alternative: Pacific Gas and Electric Company (PG&E), under the CAISO Balancing Authority, and the Sacramento Municipal Utility District (SMUD), and WAPA, both under the BANC. While interconnection with multiple utilities is possible, only SMUD or PG&E would be utilized in the North based on feasibility reviews indicating significant technical issues with a WAPA interconnection, and only WAPA or PG&E may be utilized in the South due to the geographic limitations of SMUD. Please see Chapter 21, Energy, for a more detailed discussion of the various options for transmission interconnection and service.
1787	73	We also note the "no determination (ND)" findings under NEPA as to whether the BDCP, even after "mitigation," would have adverse impacts on spawning, incubation habitat, and migration conditions for winter-run Chinook salmon (EIR/EIS, p. ES-73)), spring-run Chinook salmon (p. ES-75);), and migration conditions for fall-run Chinook salmon (p. ES-77), steelhead (p. ES-79), green Sturgeon (p. ES-81), and white Sturgeon (p. ES-83). The inability to make a "beneficial" effect determination under NEPA indicates that the BDCP does not meet minimum standards for a conservation plan. To our knowledge, this issue has not yet been resolved.	The preferred alternative is now Alternative 4A and no longer includes an HCP. As a result, the BDCP has not been revised and the permitting agencies have not made any determination whether BDCP met the minimum standards for a conservation plan. The RDEIR/SDEIS and this Final EIR/EIS provides updated impact conclusions in Chapter 11, Fish and Aquatic Resources and Chapter 12, Terrestrial Biological Resources. Please see Master Response 5 for additional detail on the BDCP.
1787	74	The Plan Area is Incorrect and Must be Expanded The Plan area should include the San Francisco Bay since it will impact both downstream flow and water quality. The recently-fabricated excuse that the BDCP will not significantly change outflow into the Bay is misplaced. The Sacramento River is the main source of freshwater for the system, and removing that freshwater will have profound effects on the ecology of the Bay. The EIR/EIS appears to have conflated the maximum historic operations of the South Delta as the baseline, but those operations have equally massive ecological effects leading to the current Biological Opinions, that also appear to have been conflated into the BDCP. Those operations have been curtailed through a legal process, with the result that the remaining non-exported water provides additional outflow to the Bay under current conditions. Changing those outflow conditions must be analyzed. The Plan area should also include the area where the new 230kV transmission line will be built to serve power to the project. (EIR/EIS, p. 1-11.)	The Plan Area proposed under BDCP was demarcated in accordance with regulations governing the required components of a habitat conservation plan prepared pursuant to Section 10 of the Endangered Species Act, which require that the Plan Area include all areas where covered activities are to be performed. The covered activities proposed under BDCP include water operations and habitat protection/restoration (see BDCP Chapter 4 for a detailed explanation of the proposed covered activities). All covered activities are proposed to be performed within the Plan Area; in particular, none are proposed to be performed within San Francisco Bay, and so it would be inappropriate to include it within the Plan Area. The RDEIR/SDEIS, did evaluate the potential downstream effects related to potential water quality and fish and aquatic resources effects. However, commenter is correct that “The Plan area should also include the area where the new 230kV transmission line will be built to serve power to the project.” This area was excluded from the draft BDCP, and was proposed to be included in the final BDCP. However, there was no final BDCP, because the BDCP is no longer the preferred alternative. This additional transmission line area which extends outside the defined plan area is included in the EIR/EIS analyses. Please refer to “areas of additional analysis” shown on mapbooks in Chapter 3, Description of Alternatives.
1787	75	The United Sates Army Corps of Engineers Should be the Federal Lead Agency. The Bureau of Reclamation (BOR) is identified as the federal lead agency. However, as the BDCP planning process has proceeded, BOR has become less involved. For instance, BOR will not be a signatory to the BDCP Implementing Agreement because it cannot receive take authority under Section 10 of the Endangered Species Act, and it will not operate CM1.	The EIR/EIS Executive Summary, ES.1, identifies the lead, cooperating, responsible, and trustee agencies that will use the EIR/EIS as part of their decision-making process. In addition to DWR and six SWP and CVP water contractors – the EIR/EIS is being prepared with the participation of Reclamation, USFWS, NMFS, USACE, the California Natural Resources Agency, CDFW, the State Water Board, and various stakeholders. The regulatory agencies – USFWS, NMFS, CDFW, USACE, and the State Water Board – are participating to

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		Nearly half of the Conservation Measures propose substantial modification of the State Plan of Flood Control and the U.S. Army Corps of Engineers (USACE) Project Levee system. The USACE built these facilities and turned them over to the state for maintenance in 1953, but still maintain jurisdiction and permitting. In addition, BDCP proposes significant impacts to navigation in the Plan Area, over which USACE also has jurisdiction. Finally, USACE has primary authority of not just the encroachment on the project levees (Section 10/14, 408 permission processes), but also on the impacts to waters and wetlands (Clean Water Act 404 permit). The USACE is in fact the primary project permit authority with lead agency status for the Fish and Wildlife Services and National Oceanic Atmospheric Administration Fisheries Biological Opinions, and the 401 certification process; whereas the BOR simply manages some of the project water management control structures. Therefore, the Local Agencies of the North Delta formally request that the USACE be the lead agency instead of Bureau of Reclamation, or at a minimum be a co-lead agency with BOR. (See 40 C.F.R., [Section] 1501.5, subd. (d) "Any state or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated".)	provide technical input and guidance in support of planning efforts to complete the EIR/EIS. DWR operates and maintains the SWP and would continue to do so as part of the implementation of project related to the SWP. DWR's actions in the process will be to certify the EIR, adopt findings of fact, decide whether to approve the project and its implementation, and carry out obligations under the project. Reclamation operates the CVP in coordination with the SWP through the Coordinated Operation Agreement. Operation of new conveyance facilities and/or flow patterns proposed under the project would result in changes to existing CVP operations specific to the Delta that provide for diversion, storage, and conveyance of CVP water consistent with applicable law and contractual obligations. Reclamation's action in relation to the project would be to adjust CVP operations specific to the Delta to accommodate new conveyance facility operations and/or flow requirements under the project, in coordination with SWP operation. CDFW will consider whether to approve the project as an NCCP for certain alternatives and Section 2081(b) for the California WaterFix preferred alternative. The identified lead agencies have not been changed for any of the alternatives presented in the EIR/EIS.
1787	76	Chapter 2--Project Objectives and Purpose and Need The EIR/EIS' suggestion that environmental conflicts will be resolved by the project is erroneous. (EIR/EIS, p. 2-5.) Conflicts will not be resolved by the project, which forces massive land and water use changes within the Delta with no local benefits and 48 significant and unavoidable impacts. The notion that conveyance improvements are needed to respond to a "crisis" is also not an objective statement. This is a subjective belief of the project proponents, and should be characterized as such. The active role that the water exports took in creating and maintaining that claimed "crisis" must be fully disclosed for the EIR/EIS to have any credibility as a document, which defines the environmental conditions and the impacts to those conditions from the proposed project. Despite the uncertainty of any improvement to Delta ecosystems that would result from BDCP, a recurring topic in discussions has been the level of water supply assurances that will be provided to contractors, and the level of assurances, if any, that biological goals and objectives of the draft BDCP will be achieved. While the Implementation Agreement clarifies that meeting biological goals and objectives is not enforceable on the project proponents, the EIR/EIS' statement of project objectives and project purpose rely upon the legally erroneous direction to "restore and protect" the SWP and CVP's nonexistent ability to deliver "up to full contract amounts." (EIR/EIS, p. 2-4.) The attached document prepared by Kern County Water Agency in January 2014, seeks "a level of water supply reliability of approximately 75% for both the SWP and CVP water service contractors and the SWP post-construction." (See Exhibit K, Critical Issues document, edited by J. Maher, January 27, 2014.) The objective of obtaining such reliability (EIR/EIS, p. 2-6) is patently unreasonable	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5. The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts, as such it is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. The Proposed Project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which hydrological conditions result in availability of sufficient water and ecological objectives are fully satisfied. It is projected that water deliveries from the federal and state water projects under the Proposed Project would be roughly 10 percent more or equal to the average annual amount of water that would be diverted under the No Action Alternative (i.e. 2025 conditions without the Proposed Project). It is projected that Delta exports from the federal and state water projects would either remain similar or increase in wetter years and decrease in drier years under Alternative 4A as compared to exports under No Action Alternative (ELT) depending on the capability to divert water at the north Delta intakes during winter and spring months. The estimated changes in deliveries for 4A are provided in the RDEIR/SDEIS 4.3.1 and Appendix A Chapter 5 Water Supply. Although exports under the Proposed Project would be similar to the amount water exported in recent history, it would make the deliveries more predictable and reliable, while reducing other stressors on the ecological functions of the Delta.

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		given the variable precipitation patterns in California.	For more information regarding purpose and need of the proposed project please see Master Response 3. For more information regarding significant and unavoidable impacts please see Master Response 10. For more information regarding Environmental Commitments please see Appendix 3B of the FEIR/EIS.
1787	77	This review focuses on Alternative 4, as that is DWR's CEQA-preferred project alternative. From a NEPA perspective, however, the no action alternative is preferred simply because all of the narrowly proscribed alternatives fail on face value to meet Least Environmentally Damaging Practicable Alternative. Initial Screening Process Flawed The initial alternatives screening process was flawed and resulted in the selection of a project alternative that is no longer under consideration. (BDCP, Appendix 3A, pp. 3.A-5 to 3.A-7 (describing the Conservation Strategy Short List process).) Specifically, the four-dot process supposedly selected an isolated conveyance alternative based on four considerations. Yet the currently proposed BDCP Alternative 4 also continues to rely on though Delta conveyance. Thus, the four-dot analysis described in Appendix 3A is not directly relevant to the selection of Alternative 4 as the DWR proposed project under CEQA.	Commenter seems to have interpreted BDCP Appendix 3.A as having detailed the process for selection of EIR/EIS alternatives. This interpretation is not correct. The title of BDCP Appendix 3.A is "Background on the Process of Developing the BDCP Conservation Measures." The appendix describes various reviews and evaluations that occurred during the 7-year process leading to draft BDCP publication, but the process described on pages 3.A-5 to 3.A-7 has nothing to do with identification of alternatives for examination under CEQA or NEPA for the proposed project. The alternatives included in the Final EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1.
1787	78	No Attempt to Remediate Fish Kills in the South Delta Discussion of South Delta Improvements Projects, which focused on improving ecological conditions in the South Delta, and specifically for listed fish, should have been carried over to other alternatives. The National Oceanic Atmospheric Administration Biological Opinion requires the Reclamation Tracy Fish Collection Facility to achieve "whole facility overall survival [of] 75%" for Chinook, steelhead and green sturgeon no later than December 31, 2012. The project design is supposed to avoid, minimize and then mitigate take of listed species. These are several readily implementable alternatives with features that avoid and minimize take, yet the proposed project seemingly avoids take for one species part of the time with the North Delta Intakes, yet trades off that avoidance with new direct take of other species.	DWR and Reclamation are required to improve fish collection efficiency at the existing south Delta salvage facilities, as part of facility improvements required by the National Marine Fisheries Service 2009 biological opinion on the SWP/CVP. For example, in 2014 Reclamation replaced the secondary louver system with a traveling screen system. These screens provide protection by guiding fish into the holding tanks while catching debris on pegs and transporting debris to a collection system at the work surface. The technology required at the proposed north Delta intakes and the existing south Delta export facilities differ fundamentally. The north Delta intakes would be located on the side of the river channel and so would be designed to comply with CDFW, NMFS, and USFWS fish screening criteria (Appendix 5B Section 3.B.3.3). The south Delta export facilities are located on dead-end channels and requires active collection and salvage of fishes. Screening the intakes at Clifton Court Forebay was analyzed during the water conveyance alternative development process and is described in the 2013 Public Draft EIR/EIS, Appendix 3A. This alternative was eliminated from further evaluation because initial results of recent studies, including information included in the recent NMFS biological opinions, supported a phased approach that would emphasize improvements to operations of fish handling facilities and reduced predator potential within Clifton Court Forebay prior to further analysis of installation of fish screens. Nevertheless, DWR and Reclamation will continue investigating strategies to increase fish salvage efficiency, reduce pre-screen losses, and improve screening efficiencies, consistent with the 2009 biological opinion of the SWP/CVP. By establishing an alternative diversion point for exports, a great deal of water management flexibility is

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			added. This added flexibility would provide more options for adaptively managing the Delta so that conditions can be optimized to provide the greatest benefits across all Delta water uses and habitat conditions.
1787	79	Inadequate range of alternatives. Most of the habitat restoration components included in the alternatives were identical. The BDCP did not include any variations in restoration design (e.g., sediment contributing or capturing), size, location, and implementation sequence. This is impermissibly limiting to the analysis of alternatives and is therefore pre-decisional on the part of the project and the lead agencies. The missing ecological justifications for the need for particular factors that may or may not help listed species was never developed and was apparently part of the reason why there is so little variation between the approaches described in the EIR/EIS alternatives.	The BDCP is a habitat conservation plan prepared pursuant to the federal Endangered Species Act, and a natural community conservation plan prepared pursuant to the state Natural Communities Conservation Planning Act. As such, it proposes a single action; it does not propose alternatives. Please note that the BDCP is no longer included in the preferred alternative. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. The originally proposed habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21) would not be included as part of the Proposed Action, except to the extent required to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b). Please see Master Response 4 regarding the adequacy of the range of alternatives in the EIR/EIS. For more information regarding project and program level analysis please see Master Response 2. For more information regarding pre-decision please see Master Response 4.
1787	80	The range of alternatives is incomplete and insufficient to adequately analyze the project. For illustration, Alternative 9 (Through Delta) is a potentially significant improvement on current conditions, but that is not what the analysis shows. Regardless of the selected alternative, the Delta would be the still primary route for water for a minimum of 10 years during construction of the (CEQA and the pre-decisional NEPA) preferred alternative. It would also remain the primary flow route for up to half the time under the preferred alternative. Yet the benefits of implementing this alternative or portions of this alternative are not discussed. Since it would still be a primary flow route, it should be optimized for better hydrodynamics and reduction of fish loss. The implications of this failure to analyze the obvious future impacts of the project, and how to mitigate for them both during construction and during operations, by using elements of the provided EIR/EIS alternatives, demonstrates how the analysis and its conclusions fail to meet the Least Environmentally Damaging Practicable Alternative ("LEDPA").	Please see Master Response 4. The alternatives included in the Draft EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS, including the NRDC Portfolio-Based Proposal, Congressman Garamendi's Water Plan, and other similar concepts that would require actions that are beyond the scope of the proposed project. The proposed project is just one element of the state's long-range strategy to meet anticipated future water needs of Californians in the face of expanding population and the expected effects of climate change. The BDCP is not a comprehensive, statewide water plan, but is instead aimed at addressing many complex and long-standing issues related to the operations of the SWP and CVP in the Delta, including reliability of exported supplies, and the recovery and conservation of threatened and endangered species that depend on the Delta. Although components such as desalination plants and demand management measures have merit from a statewide water policy standpoint, and are being implemented or considered independently through the state, they are beyond the scope of the proposed project. It is important to note that the proposed project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in

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			conservation, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage. Please see Master Response 4. The alternatives included in the Draft EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS, including the NRDC Portfolio-Based Proposal, Congressman Garamendi's Water Plan, and other similar concepts that would require actions that are beyond the scope of the proposed project. For more information regarding pre-decision please see Master Response 4. The Least Environmentally Damaging Practical Alternative (LEDPA), will be determined by the U.S. Army Corps of Engineers during the CWA Section 404 permitting process, not by DWR.
1787	81	The BDCP should consider individually all alternatives without CM 1. For example, there is no analysis of which combination of CM 2, 13 and 16 would result in the lowest environmental impacts and greatest environmental and water supply benefits. There is also no analysis of what the environmental result of timing for CM 1 after successful completion of CM 2, 13 and 16 would be. This stepwise process was effectively the outcome of CalFED, but was not considered under the BDCP.	See Master Response 4 for discussion of the scope of the proposed project and alternatives (such as water storage) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. The alternatives included in the Draft EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. For more information regarding project and program level analysis please see Master Response 2. See Master Response 4 for discussion of the scope of the proposed project and alternatives (such as water storage) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. The alternatives included in the Draft EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Also see Master Response 5 regarding the BDCP and its conservation measures. The Draft BDCP identified the north Delta diversion facilities as conservation measures because its operation in conjunction with south Delta facilities is expected to reduce south Delta reverse flows and entrainment of Delta smelt and salmonids. Thus CM1 is an essential part of BDCP. For more information regarding project and program level analysis please see Master Response 2. For more information regarding Environmental Commitments, which include ECs that were formerly CMs in the 2013 Public Draft, please see Appendix 3B of the FEIR/EIS.

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1787	82	An example of the need to redo the environmental analysis without CM 1 is found in Chapter 8 (Water Quality analysis), which states, "There is no way to disentangle the hydrodynamic effects of CM4 and other restoration measures from CM1, since the Delta as a whole is modeled with both CM1 and the other conservation measures implemented." There is no way to determine what the Least Environmentally Damaging Practicable Alternative analysis of a properly developed project would look like given the failure to model the water quality impacts independently. (EIR/EIS, p. 8-4)	The Least Environmentally Damaging Practical Alternative (LEDPA), will be determined by the U.S. Army Corps of Engineers during the CWA Section 404 permitting process, not by DWR. The EIR/EIS analyses provide analyses considering the project as a whole versus component by component. Please refer to Master Response 8. CM1 is evaluated with tidal restoration to estimate the potential hydrodynamic effects of BDCP actions. Please note that Alternative 4A, the preferred CEQA and NEPA alternative includes substantially less tidal wetland restoration.
1787	83	Selection of Alterative 4 Is Pre-decisional DWR is already moving forward to implement Alternative 4. In May 2014, DWR announced plans to establish two new offices within the Department to finish planning for and to implement the BDCP. One office is the DWR BDCP Office, which will implement other aspects of the BDCP, including the other actions, which arguably could have conservation benefits. The chief Deputy Director, Laura King Moon, formerly an employee of the State Water Contractors, will at least initially head this office. According to the memo, this organization will become the BDCP Implementation Office described in Chapter 7 of the BDCP, which also refers repeatedly to the missing and incomplete Implementation Agreement. The other office is for the construction of the tunnels called for in Alternative 4, called the Delta Conveyance Facility Design and Construction Enterprise. According to DWR: The organizational structure and staffing of the DCE is envisioned to be somewhat unique in comparison to a typical DWR organization. It will be managed by a Program Manager under contract to DWR, and will be staffed by highly qualified individuals from within DWR, participating regional and local public water agencies, and private consulting firms. As part of DWR, it will have the capacity to issue contracts for consulting services as well as construction, using DWR's authority . . . In other words, the BDCP water agencies are essentially moving in with DWR to advance the construction of the tunnels.	Please see Master Response 4 which addressed the argument that the Lead Agencies are operating in a manner that is pre-decisional.
1787	84	DWR was supposed to consider all alternatives prior to selection of a project. From a federal perspective, equal consideration of all alternatives is required under NEPA. DWR and the BDCP water agencies are beginning to implement a project prior to even considering public comment and prior to selection and final design of alternatives. This action exacerbates the harm resulting from the previous decision to narrow consideration of alternatives by which better water reliability and ecosystem restoration could be achieved. The single-minded focus on massive new North Delta Diversions to the exclusion of other options has been a constant since the first planning agreement.	The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on Proposed Project operations. For more information regarding alternatives to the proposed project please see Master Response 4.

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			For more information regarding pre-decision please see Master Response 4.
1787	85	The new office arrangement prioritizes the completion of tunnels over the other aspects of the BDCP sought to be funded by the greater public, some of which might provide environmental benefits. In a turnabout from CalFED the state and the BDCP water agencies plan to build the tunnel first, and delay efforts to address ecosystem challenges to a later date. If those ecosystem benefits do not occur, the BDCP proponents will simply buy replacement water, largely at taxpayer expense. Additionally, the BDCP Design and Construction Enterprise would not be organized pursuant to the Governance Structure partially described in Chapter 7 of the BDCP. With no standards, this office can run roughshod over local communities with even less representation for the affected public than described in Chapter 7. It is egregious for DWR to implement a project that has not yet even been approved, has virtually no local support, at best uneven support among a few scattered environmental groups, and a barrage of unanswered questions from the permitting agencies. The scientific community has also repeatedly questioned the core assumptions of BDCP, and the BDCP is by no means the only (or even just best) way to improve water conditions in the Delta.	The conservation measures under a natural community conservation plan (NCCP) must be implemented in a manner roughly proportional in time and extent to the impact of covered activities on habitat and covered species authorized under the plan (California Fish and Game Code 2805(g)(3)(C) and 2820(b)(3)(B)). Master Response 5 describes the schedule for implementation of conservation measures. Master Response 5 also describes early implementation projects. With regard to the argument that the Lead Agencies are operating in a manner that is pre-decisional, please see Master Response 4.
1787	86	The state of California is so closely aligned with this pre-decision that they have a contingency plan based solely on the intakes and tunnels as described in the Plan: "Emergency Tunnel Plan" Delta Habitat Conservation and Conveyance Program Conveyance Options Normal vs. Emergency Design-Construction Process Costs for Jerry Meral (sic) (authors and date undisclosed, but apparently written by McKinsey), which has two scenarios "as defined by Jerry Meral": "Nothing has been built, and we have to build the 2 tunnels immediately (under emergency conditions)" and 2. The 3,000 cubic feet per second facility has been built earlier, and we have to add 6,000 cfs of capacity (6,000 cfs under emergency conditions). That contingency plan was developed by the team, the Delta Habitat Conservation and Conveyance Plan ("DHCCP"), which has developed detailed project specific plans and conceptual engineering reports ("CERs") for only one alternative, the proposed project. (See Exhibit L, DHCCP Conveyance Options: Normal vs. Emergency Design-Construction Process Costs for Jerry Meral, PowerPoint Presentation, estimated date January 30, 2013 [see attached cover email].)	With regard to the argument that the Lead Agencies are operating in a manner that is pre-decisional, please see Master Response 4.
1787	87	The Bureau of Reclamation's (BOR's) alternative selection and the analysis process has also been pre-decisional in several regards. BOR representatives at the majority of the cooperating agency meetings expressed support for 9,000-15,000 cubic feet per second diversions from the north Delta as a fait accompli with the remainder of the planning process and the subsequent EIR/EIS as simply to gin up enough material to support the conclusions. BOR representatives routinely take an adversarial perspective on other	With regard to the argument that the Lead Agencies are operating in a manner that is pre-decisional, please see Master Response 4.

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		outcomes and alternatives that meet the stated project purpose. A few illustrations of this include the pre-conditioning of participation on the BDCP Steering Committee on agreeing specifically for the need for new conveyance, the routine description of the project as Alternative 4, and the fact that virtually all BOR work completely focused on operations of Alternative 4. In one memorable Steering Committee meeting, described in the BDCP documents September 9, 2013, Steering Committee Evaluation of Alternative Fish Pathways, the analysis identified "No specific recommendations" evaluation based on hydrodynamics and general effects on fish, and further clearly defined that the best layout for the pre-determined north delta intake alternative was Intake configuration #2 and #4. The Least Environmentally Damaging Practicable Alternative (LEDPA) was an intake above the American River to avoid harming that population of salmonids, coupled with intakes south of Walnut Grove. This approach minimized flow reversals and allowed native fish to largely bypass the intakes by using Sutter and Steamboat Sloughs. Yet, the LEDPA alternative was dismissed by BOR and no further conversation was allowed in the public meeting. Following that meeting, the technical team subgroup meetings were by invitation only.	
1787	88	Appendix 3A Appendix 3A exaggerates the importance and functionality of the working groups that were open to the public once the Steering Committee process was halted. "Following release of a preliminary administrative draft BDCP document in November 2010, a number of Working Groups were designated to continue the technical work that had been going on under the Steering Committee. These included working groups addressing Governance, the Yolo Bypass, Delta Water Quality, Cache Slough, South Delta Habitat, Conveyance, Financing, Compatibility with Delta Agriculture, Biological Goals and Objectives (for fish), and the Adaptive Range of Water Operations Criteria. The products of these working groups helped to refine the conservation strategy." (BDCP, Appendix 3.A, p. 3.A-1.) In fact, these groups met rarely if ever, and had little substantive input into the actual development of the BDCP. According to the BDCP website only three workgroups are still active: Governance, Yolo Bypass Fishery Enhancement and Finance. Yet, the Governance work group appears to have met only three times, the last of which was in January 2012. (http://baydeltaconservationplan.com/PlanningProcess/BDCP/WorkingGroups/WorkingGroup-GovernanceStructure.aspx.) The Yolo Bypass workgroup is the only group still meeting, and actually pre-dated BDCP and was not a product of BDCP efforts. (http://baydeltaconservationplan.com/PlanningProcess/BDCP/WorkingGroups/WorkingGroup-YoloBypass.aspx.) The Finance work group appears to have met a total of five times. (http://baydeltaconservationplan.com/PlanningProcess/BDCP/WorkingGroups/WorkingGroup-Financing.aspx.) There is no indication that the comments of stakeholders were incorporated into the BDCP. In short, the promise of the work groups made by appointees	The lead agencies respectfully disagree with the commenter's statement that Appendix 3A of the EIR/EIS overstates the role of the working groups in developing the BDCP. In fact, the Steering Committee feedback, working group discussions and public comments received at the numerous public meetings held prior to the release of the Draft EIR/EIS resulted in significant modifications to what was ultimately included as the 2013 preferred project, Alternative 4. A few specific examples of changes include: - Development of the Covered Species List - Development of ranges for operational criteria - Reducing the number of intakes from 5 to 3 - Reducing intake capacity from 15,000 cfs to 9,000 cfs - Development of a Decision Tree approach to develop operational criteria for certain fish species - Optimized alignment of conveyance facilities to reduce environmental impacts. However, in 2015 State and Federal agencies announced a new sub alternative--Alternative 4A--which replaced Alternative 4 (the proposed BDCP) as the proposed project. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A. Please see Master Response 5 for additional detail on the BDCP and the alternatives involving an HCP

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		of the Brown administration were never carried out.	component.
1787	89	Appendix 3B--Environmental Commitments Environmental Commitments Should be Mitigation Measures The commitments in this section constitute impermissibly deferred mitigation. The EIR/EIS offers "Environmental Commitments" as a means by which to avoid clearly identifying project impacts as well as defer implementation of mitigation to some other process. These environmental commitments should be changed to be mitigation measures with the requisite monitoring and enforcement. (See Lotus v. Department of Transportation (2014) 223 Cal.App.4th 645, 658 (failure to cast commitments as mitigation measures "precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences").)	See Master Response 22, Mitigation, Environmental Commitments, Avoidance and Minimization Measures and Alternative-Specific Environmental Commitments.
1787	90	Environmental Commitments or Mitigation Measures Should Include Flood Response A flood emergency management support program and evacuation plan should be developed for the BDCP since the project exacerbates flood risk on several levels. The construction phase of the project interferes with critical project levees and the reclamation districts' ability to monitor and flood fight on those levees. The levee roads used for flood fighting will be occupied by the massive fleet of BDCP trucks and other vehicles during the construction phase which will also directly interfere with flood fighting efforts. The contracting deadlines will create a negative incentive for the project to support or at least not interfere with these flood fighting efforts. The project should require that all construction operations cease and that the schedule dates be extended by the amount of days that the river reaches flood stage.	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Please see Appendix 6A for a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the lead agencies. Before and/or during construction of the CWF water conveyance facilities, the lead agencies will explore opportunities with local reclamation districts and the Central Valley Flood Protection Board (CVFPB) to address potential conflicts regarding levee maintenance, inspection, and flood fighting activities on project and non-project levees. DWR will look to enter into agreements with local reclamation districts with jurisdiction in the Delta to ensure levee management activities by both government and local agencies are not interrupted during construction of the water conveyance facilities. In addition, DWR will comply with all applicable flood protection requirements and regulations to ensure flood neutrality during construction and operations of the CWF.
1787	91	Chapter 4--Approach to Environmental Analysis Many commenters have explained in detail that the EIR/EIS' approach to environmental analysis is improper and confusing, and that analysis is not repeated here. The EIR/EIS is insufficient in that it relies for the most part on the CEQA Appendix G checklist for thresholds of significance. The thresholds of significance are not tailored to impacts of this project (scale/breadth of potential impacts). For a project of this magnitude, it was important to tailor the thresholds to the impacts that are likely to result.	The Lead Agencies used the CEQA Appendix G checklist as a starting point, and tailored impacts when necessary to more accurately describe potential impacts from the project. As described in Chapter 4, Approach to the Environmental Analysis, Chapters 5–30 each include a description of the methods for analysis describing the resource-specific approach methodology used to identify and assess the potential environmental impacts that may result from implementation of the action alternatives.
1787	92	The EIR/EIS impermissibly uses a future condition as the baseline with respect to climate change. The EIR/EIS fails to disclose the existing conditions plus project.	Please refer to Master Response 1 regarding the environmental baseline.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1787	93	The EIR/EIS fails to provide project level review of CM 1. The programmatic review of implementing CMs 2-22 is also inadequate.	For more information regarding project and program level analysis please see Master Response 2. For more information regarding CMs please see Master Response 22.
1787	94	Water Supply Effects on Local Communities are Ignored The EIR/EIS inexplicably fails to discuss the effect on local water supplies in the entire chapter dedicated to discussing the impacts to water supplies in the export areas. The approach in the EIR/EIS appears to be an attempt to hide the significant and unavoidable impacts on local water supplies while at the same time presenting a myopic and self-serving view of providing water supplies from the Delta. The following impacts should have been analyzed in relation to impacts on local water supplies: Groundwater: GW-1, GW-2, GW-3, GW-4, GW-5, GW-6, GW-7, GW-8, GW-9 Agricultural Resources: AG-2, AG-4 Water Quality: WQ-5, WQ-7, WQ-11, WQ-14, WQ-18, WQ-22 Surface Water: SW-2, SW-4, SW-5, SW-6	The proposed project would not significantly impact local water supplies because no Delta water rights would be affected under any of the EIR/EIS action alternatives and changes in Delta surface water elevations would be relatively minor. Please refer to Master Response 32, regarding water rights and Chapter 7, Surface Water and Appendix 5A for results of the surface water modeling results. While groundwater levels could be temporarily lowered in localized areas during the dewatering phases of construction, groundwater would return to pre-pumping levels over the course of several months following the dewatering phase. Mitigation has been proposed to maintain water supplies in areas affected by construction dewatering. Additionally, the lead agencies would relocate and/or replace wells, pipelines, power lines, drainage systems, and other infrastructure that are needed for ongoing agricultural uses and would be adversely affected by project construction or operation. The impact analysis presented in Chapter 7, Groundwater, of the BDCP EIR/EIS includes an analysis of potential changes in groundwater conditions to local water users in the Delta and in the SWP and CVP water service areas located south of the Delta under Alternatives 1 through 9 as compared to the Existing Conditions and the No Action Alternative. As described in Chapter 7, the impacts associated with GW-1, GW-2, GW-5, GW-6, GW-7, GW-8, and GW-9 would result in Significant and Unavoidable impacts and Adverse Impacts, as shown in Chapter 7 and Table ES-8 in the Executive Summary. Construction of the proposed project's facilities will occur in a manner specifically designed to avoid adverse effects on groundwater. As described in Appendix 3C, Table 3C-7, of the 2013 Public Draft EIR/EIS, ponds to store reusable tunnel materials and spoils material would designed with the invert at least 5 feet above seasonally high groundwater and impervious liners along the invert and interior slopes of the ponds to avoid contamination. The tunneling operation would use biodegradable polymers that would be combined with the excavated soil to allow conveyance of the soil slurry, or reusable tunnel material. The polymers would decompose over time. In some locations within the State, groundwater is regulated through judicial review related to adjudication proceedings in the court system. Many counties and regional agencies, or groups of agencies, have adopted groundwater management plans and/or ordinances. Governor Brown recently signed into law three bills that address groundwater management in California under the Sustainable Groundwater Management Act. SGMA directs local agencies to develop groundwater management plans and allows the state to monitor and intervene if local agencies fail to do so.
1787	95	Water Supply Impacts from Transfers are Not Analyzed The EIR/EIS acknowledges that demands for water transfers would increase. (EIR/EIS, p. 5-66.) But the impacts of water transfers on water transferor areas are also not described. (EIR/EIS, p. 5-28.) Transfers are a part of the project and are made more likely by the project. The likely water supply impacts in transferor areas must be identified.	Please see Master Response 43 regarding water transfers.

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1787	96	Chapter 6--Surface Water The surface water chapter relies extensively on modeling using a series of assumptions of reservoir operations that are not realistic, yielding effects such as running the reservoirs to a dead pool. The likely operational rules required to make that system function are not identified even though the modeling analysis demonstrates the problems with those assumptions. The models themselves have been demonstrated by DWR in 2014 to not respond in the expected linear manner at low outflows and high salinity, as described in the DWR barriers meetings. Other parties, including Thomas Cannon, have examined the outflow and compared them to actual monitoring data and determined that the models also underestimate salinity intrusion. The analysis in the EIR/EIS focuses on Late Long-term effects while ignoring effects associated with Early Long-term, when the pumps were full operation, but the projected sea level rise has not occurred. These results should have been provided in the analysis since they were identified in the Plan, but not in the EIR/EIS despite their more severe environmental impacts. This requires public disclosure of these data, effects and mitigation. Those models show an approximately 2.5 foot decline in water levels (peak stage elevation) below the pumps as a result of the project in the Early Long Term ("ELT"), and worsening of water quality in the upper Delta. (See Exhibit E and also Exhibit F, BECT Water Quality PowerPoint Handout.) Such surface water level changes will interfere with local water supply infrastructure, which requires a more detailed analysis than provided in this EIR/EIS.	The model assumptions are presented in Appendix 5A, Modeling Technical Appendix, including the basic assumptions used in the CALSIM II and DSM2 models. Please also refer to Master Response 30, regarding the adequacy of the modeling approach. A separate analysis including the Early Long-term conditions for several of the alternatives is presented in the Final EIR/EIS. Please refer to Appendix 5A for an overview of the surface water elevation changes at selected Delta locations for an overview of the expected elevations changes during maximum and minimum flows (Section C). Please refer to Chapter 8, Water Quality regarding water quality impacts which are fully disclosed and mitigation measures are included when adverse/significant impacts are identified. Please also refer Master Response 14, which addresses comment on the water quality analyses.
1787	97	Effects on riparian vegetation from surface water level changes are also not disclosed. Riparian trees such as cottonwoods can have their seedlings stranded and killed if the channel stage declines too quickly. Further, large stage swings can create dead zones where plants cannot establish, or selection for invasive weeds occurs as a result of the operational practices.	Substantial changes in Delta surface water channel flow and elevations are on expected to occur under Alternative 4A, the preferred CEQA and NEPA alternative, or other EIR/EIS alternatives that would be expected to have effects on riparian areas. Please refer to Chapter 6, Surface Water and Appendix 5A, Section 6. In addition, the BDCP proposes substantial riparian habitat restoration for the benefit of covered species.
1787	98	It is unclear by how much elevations would increase with the additional water sent to the northern pumps with reoperations and transfers. This increase in stage could cause even greater seepage and agricultural impairment, a specific impact that was analyzed previously by DWR but ignored in the EIR/EIS. (See DWR Bulletin No. 125 Sacramento Valley Seepage Investigation, August 1967.) [footnote 8: Available at: http://www.water.ca.gov/waterdatalibrary/docs/historic/Bulletins/Bulletin_125/Bulletin_125_1967.pdf] Given the desire of the project proponents to maintain lower outflows, the modeling effort need to be reanalyzed in light of recent data to meet the best available scientific standard and all document impacts should be discussed and mitigation measures developed for those impacts.	Seepage into the groundwater from higher Sacramento River water elevations is analyzed using the CVHM-D model, as presented in Chapter 7, Groundwater, in the Draft BDCP EIR/EIS.
1787	99	Construction: The changes in stage would also occur locally due to the creation of coffer dams, gabions and riprap for intake construction and any new docking facilities throughout	As described in Sections 6.1.5 and 6.2.2 of Chapter 6, Surface Water, the Central Valley Flood Protection Board exercises jurisdiction over the State Plan of Flood Control, including Sacramento River Flood Control

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		the plan area. These features narrow the cross-section of the river or slough and raise the flood elevation for a given flood event, in some cases potentially exceeding the levee design requirements. These features can also cause the flow to act unstably depending on how they are designed, creating local scour and shear effects that can damage pumps, boat dock and bridges. These localized flood/scour and other hydraulic modification impacts are not described in sufficient detail to understand their potential impact in terms of levees, levee roads, docks, bridges and agricultural intakes. The permanent design features at the intakes, in particular the effects of bulbouts created at the end of the screens and any permanent cofferdam effects from CM 1 not described.	Project and flood control projects in the Sacramento River and San Joaquin River watersheds. Facilities constructed under the action alternatives will be located within the facilities addressed in the State Plan of Flood Control. As described in Section 3.6.1.1 of Chapter 3, Description of Alternatives, facilities to be constructed along the levees would be designed to provide flood neutrality during construction and operations. Facilities located along the levees, including coffer dams at the intake locations, would be designed to provide continued flood management at the same level of flood protection as the existing levees; or if applicable, to a higher standard for flood management engineering and permitting requirements if the standards are greater than the existing levee design. New facilities would be designed to withstand the applicable flood management standards through construction of flood protection embankments or construction on engineered fill to raise the facilities to an elevation above the design flood elevation for that specific location. The levee design criteria would consider the most recent criteria, including recent guidelines established by the U.S. Army Corps of Engineers for urban and rural levees.
1787	100	Operation: Surface water effects associated with increased seepage, scour and wind fetch impacts on levees are undisclosed for CMs 2-21. The project also includes maintenance dredging for CM 1. Dredging can cause localized seepage and local-scale hydraulic effects, neither of which are identified.	Seepage effects due to implementation of wetlands restoration, including impacts associated with wind fetch are evaluated in Chapter 7, Groundwater, in the BDCP EIR/EIS.
1787	101	Cumulative Impacts: Use of North Delta Diversion for additional water transfers is reasonably foreseeable and would lead to other surface water impacts. As described earlier, increased stage from increased exports, as well as water transfers, will have impacts that are not analyzed in the EIR/EIS. No quantified maximum of water that could be delivered through the new North Delta Diversions, framed as separate projects with own review, is provided in the BDCP. (BDCP, p. 4-90.)	The EIR/EIS acknowledges that water transfers would continue in a similar manner as historic transfers and in accordance with State and Federal laws and regulations. The EIR/EIS also acknowledges that the use of water transfers between agencies could increase in the future as SWP, CVP, and other surface water supplies are reduced due to climate change, sea level rise, and increased water demand in the Delta watershed, as described in Appendix 1E, Water Transfers in California: Types, Recent History, and General Regulatory Setting, and Appendix 5D, Water Transfer Analysis Methodology and Results, of the Draft BDCP EIR/EIS. Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project level analysis of impacts upstream of the Delta is highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. Rather, it provides an analysis of how transfers relate to the proposed water conveyance facilities. Any future water transfers will require separate approvals. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed. All transfers would need to occur within the operational criteria presented in Chapter 3, Description of Alternatives, under the No Action Alternative and the action alternatives.
1787	102	The analysis of groundwater impacts from construction of CM is inadequate. In addition to reviewing the EIR/EIS, we also requested and received the modeling information from CH2M Hill upon which the analysis in the EIR/EIS was based. This modeling was needed to identify to what extent the sole source aquifer for local residents near Clarksburg would be impaired. Local Agencies of the North Delta was given the Assumptions and Limitations explanation dated July 8, 2014. (See Exhibit M, BDCP Groundwater Modeling--Assumptions and Limitations.)	The changes in the SWP and CVP reservoir operations and water quality objectives are described in Chapter 3, Description of Alternatives, and Appendix 5A, Modeling Technical Appendix, for the action alternatives as compared to the Existing Conditions and the No Action Alternative. Within Chapter 7, Groundwater, the impacts associated with implementation of the action alternatives are presented in Sections 7.3.3.2 through 7.3.3.16. The Cumulative Impact Analysis are analyzed in a qualitative manner and the results are presented in Section 7.3.4.

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		The Groundwater Chapter assumes 5-year construction analysis for dewatering. The analysis identifies that reservoir operations are modified, but not to the extent, and whether these modifications are consistent with the water quality analyses or are new and undisclosed projected water rules (or operations) necessary to support the BDCP. The description does not identify if these are project-level impacts or cumulative-plus-project impacts with expected regional water table changes. The effects associated with water transfers, identified elsewhere in the BDCP and publicly available documents (see Exhibit C), do not appear to have been considered.	The EIR/EIS also acknowledges that the use of water transfers between agencies could increase in the future as SWP, CVP, and other surface water supplies are reduced due to climate change, sea level rise, and increased water demand in the Delta watershed, as described in Appendix 1E, Water Transfers in California: Types, Recent History, and General Regulatory Setting, and Appendix 5D, Water Transfer Analysis Methodology and Results, of the Draft BDCP EIR/EIS. Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project level analysis of impacts upstream of the Delta is highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. Rather, it provides an analysis of how transfers relate to the proposed water conveyance facilities. Any future water transfers will require separate approvals. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed.
1787	103	The groundwater model that was used for the analysis is a variant of the regional USGS model (CVHM is a regional groundwater modeling application based on the MODFLOW-2000 computer 2 code). This model uses very broad parameters and assumptions regarding weather, geology, groundwater and agriculture to complete regional estimations. This model was apparently calibrated; however, the statistical analyses supporting that calibration and its adequacy or statistical power were not provided. A new sub-model was created to look at a finer level of detail within the Delta, without describing what functioned effectively or ineffectively using the regional model and why this new model would be more effective for the purposes of analysis. (EIR/EIS, Appendix 7A-6). The source material cited for the analysis is USGS 34 Professional Paper 1766 (USGS, 2009). (EIR/EIS, p. 7A-5.) The analysis identifies that the Delta does not require this model for groundwater outflow since it is such a small factor (USGS Report, p. 67), and has the lowest potentiometric surface elevation (USGS Report, p. 86- 91). This sub-model used unreferenced agricultural data from an undisclosed source to complete the analyses. If that data source was the Appendix 14 A ("This database contains crop information from DWR land use surveys covering counties in the study area"), or is it from the analysis of crop types used in the BDCP Statewide Economic Impact Report by the Brattle Group's The Farmland Mapping and Monitoring Program (FMMP) 2008 agricultural crop and land classification source, or the CVHM 2000 land use distribution, it is impossible to tell. However, each of these was out of date at the time of analysis and now grossly out of date. It also does not describe how the model was changed to meet the changes in crops for the modeled scenarios, if at all. The description of the analysis is muddled and confusing. It is not clear why the BDCP went through this analysis in this manner, because it aggregated all 5 intakes into one diversion--with all of them operating in the same manner and the same time. (EIR/EIS, Appendix 7A-19 to 20.) This could have been modeled with the regional approach. It has a gross error by assuming that the construction dewatering would only need to occur from February to April, and then only for the intakes/forebay. Water levels are high locally. They	The calibration of the CVHM model was prepared by the U.S. Geological Survey as presented in the U.S. Geologic Survey 2009 Groundwater Availability of the Central Valley Aquifer, California paper (U.S. Geological 12 Survey Professional Paper 1766) which is incorporated by reference into the BDCP EIR/EIS. The CVHM-D model did not modify the hydrogeological data within the CVHM model because it was desired to use the calibrated model to provide the basis for comparison of alternatives. The CVHM-D model only provided a more localized effect for the EIR/EIS analysis. It should be noted that the EIR/EIS analysis was used in a comparative manner to disclose conditions under the action alternatives as compared to the Existing Conditions and the No Action Alternative, and not to identify absolute groundwater conditions. Therefore, if updated information related to crop data was used in in the CVHM and CVHM-D models, the changes would be in the Existing Conditions, No Action Alternative, and the action alternatives. It is anticipated that the incremental changes would be similar to those presented in the EIR/EIS. The CVHM-D model results were presented for individual intake dewatering activities in Chapter 7, Groundwater, of the EIR/EIS. As described in Section 7.3.3.2, dewatering would be initiated at the applicable construction sites 1 to 4 weeks prior to construction and would continue 24 hours per day and 7 days a week until excavation is completed and the construction progresses to protect the construction site from high groundwater. This period would occur at different times for each location. Dewatering activities would occur at the intakes, forebays, and tunnel shaft locations, as described in Chapter 7 of the EIR/EIS. In addition, the EIR/EIS included requirements for further specific groundwater analyses during design of the project to develop site-specific mitigation measures for each construction location, as described in Mitigation Measure GW-1 in Chapter 7 of the EIR/EIS. However, the EIR/EIS stated that even with mitigation measures, the groundwater impacts could remain significant and unavoidable and adverse.

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		are also influenced by the non-homogeneous sandy and clay zones in the shallow aquifer that have profound localized seepage impacts identified in DWR Bulletin 125. Water levels are influenced by river stage and maintained by local reclamation district operations, as well as adjacent habitat management and farming practices. The project will likely have to dewater year-round during the construction of the intakes, and for each of the tunnel launch/maintenance and air shafts. (EIR/EIS, p. 7-46.) If indeed this was a project level analysis, those data should have been used to undertake a project-specific analysis, which would have been meaningful, instead of relying on cobbled together models using a set of generic assumptions that are readily disprovable.	
1787	104	Deletion of GW-11 was Erroneous As shown in the public documents obtained under the Public Records Act and Freedom of Information Act, the BDCP relies on water transfers to meet flow requirements in addition to facilitating additional water transfers through the new facilities. (See Exhibit C.) Specific groundwater impacts resulting from water transfers from upstream areas not disclosed and are instead relegated to Chapter 30 - Growth Inducement. The EIR/EIS irrationally excludes analysis of groundwater impacts on the Sacramento Valley, citing an unsupported assumption that "a 2% increase in groundwater use in the Sacramento Valley to make up for any shortfalls in surface water supply is not anticipated to substantially impact the groundwater resources as long as the additional pumping is not concentrated in a particular area of the valley." (EIR/EIS, p. 7-32.) This approach is patently inadequate and fails to reasonably disclose the potential magnitude of environmental impacts that would result from planned and reasonably foreseeable water transfers.	Please see Master Response 43 regarding water transfers.
1787	105	The water quality modeling fails to examine near future Early Long Term (ELT) water quality with project conditions, without climate change assumptions and with the D1641 existing compliance point. Modeling does not show ELT conditions, only Late Long Term ("LLT"), despite being identified in the Plan. There is no project detail regarding the expected water quality from the massive dewatering projects, except from some assertions that it will be dealt with later. For a project this size, with potentially millions of gallons of dewatering releases per day, more detail is required to understand the environmental impacts and implications of this activity. The project failed to complete an analysis of project water quality impacts without CM 1. (EIR/EIS, p. 8-4) Therefore it is impossible to understand what the water quality impacts of the project are in relationship to the various conservation measures, to the various alternatives, and what water quality mitigation measures might actually be feasible or infeasible. This is a fatal flaw in the analysis and requires reanalysis.	The Final EIR/EIS presents a comprehensive analysis of the potential water quality effects of constructing and operating action alternatives. Please see Final EIR/EIS Chapter 8. Please refer to Master Response 14 regarding water quality issues and Master Response 1, regarding Environmental Baselines.
1787	106	Chapter 11 - Fish and Aquatic Resources Setting aside all of the impacts on the north Delta in particular, the analysis to date simply	The new preferred alternative, 4A, is not an HCP or NCCP, and therefore there is no 'No Surprises Rule.' Additionally, the effects of entrainment, especially on delta and longfin smelt, are substantially reduced with

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		does not support a conclusion that the BDCP will lead to any benefits to listed fish species. In particular, significant take will continue to occur at the south Delta diversions and benefits to fish from north Delta diversions and habitat CMs are overstated. In particular, it is unreasonable for the BDCP and the EIR/EIS to assume that the screens on the north Delta diversions would be 100 percent effective. The long term implication of the BDCP's failure to benefit fish will be continued decline of fish populations and increasing regulatory pressure on other water users in the system that are unable to obtain take authority and "no surprises" assurances under the BDCP.	the change in point of diversion. The analysis does not assume that the screens would be 100% effective, but based on the review of occurrence of delta and longfin smelt they are highly unlikely to be present in the region of the north Delta diversions. Please see Chapter 11 of the Final EIR/EIS for more information on project impacts to sensitive fish species, Master Response 17 for information on impacts on delta smelt, and Master Response 5 for information on the ecological benefits of the conveyance facilities.
1787	107	Chapter 12 - Terrestrial Biological Resources As a result of the planned large-scale conversion of lands to aquatic habitat, the BDCP has created the need to recreate significant amounts of terrestrial habitat elsewhere in the Plan area. This in turn increases the number of acres of productive farmland that is required to be converted by BDCP in order to meet target restoration goals. Conservation approaches that minimize conversion of existing terrestrial habitat should be considered as a means to avoid impacts to terrestrial habitat in the first place. Moreover, public lands should be prioritized for placement of new habitat rather than targeting agriculturally productive land in private ownership.	The EIR/EIS presents Alternatives 5 and 7 which considers less habitat restoration compared to Alternative 4. In addition, Alternatives 4A, 2D and 5A analyzed in the RDEIR/SDEIS considers substantially less habitat restoration to offset the effects on proposed conveyance facilities. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	108	The discussion of the BDCP's impacts on agricultural resources in the EIR/EIS is inadequate. The character and magnitude of the impact of the project on agricultural resources is not disclosed. Additionally, adequate mitigation is not provided. These flaws must be corrected in a recirculated EIR/EIS. The Delta is the largest contiguous area of prime farmland in the state (738,000 acres total, over 400,000 in crops). Farming in the delta is compatible with protection of species, and has not significantly changed in the last 100 years. Delta fisheries collapsed after export facilities were constructed, not after reclamation of the Delta islands. The Delta is one of the only areas of the state where farmland is not threatened by urban development. Each year we lose an average of 30,000 acres of farmland in California. In the Delta, the BDCP is the largest threat to agricultural land.]	Both the construction of new physical facilities in the Delta and the restoration of habitat will lead to the conversion of some amounts of agricultural land in the Delta, and these effects will be subject to aggressive mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. Effects on farmland in the Delta, along with associated mitigation measures, are described in Chapter 14, Agricultural Resources, of the EIR/EIS. See Master Response 18 for more information regarding agricultural impact mitigation.
1787	109	EIR/EIS Does Not Disclose Scale of Project Impacts CM 1 permanently converts almost 5,000 acres of prime agricultural lands to build the tunnels. (EIR/EIS, p. 14-109.) According to the EIR/EIS, habitat creation CMs (CMs 4, 5, 7, 8, 9 and 10) would "restore" approximately 83,800 acres, and setback levees for channel margin habitat could also require conversion of farmland. (EIS/EIR, 14-126.) Because "locations have not been selected for these activities, the extent of this effect is unknown and a definitive conclusion cannot be reached." (EIS/EIR, p. 14- 126.)	Commenter is correct that BDCP would entail conversion or encumberment of substantial acreages of agricultural land, compensating landowners at market value. However, commenter appears to have misread Table 8-1, since the table describes maintaining 48,125 acres of agricultural land as such, thus BDCP proposed to convert 96,901 acres of farmland. Please see Master Response 5 for additional detail on the BDCP and the alternatives involving an HCP component. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A (California WaterFix) involves fewer acres of restoration activities, resulting in a much smaller impact to prime farmland. The impact analysis in Chapter 14, Agricultural Resources, has been revised accordingly. Please see Chapter 3, Description of Alternatives for a description

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		Further confusing the situation, the BDCP contains conflicting information regarding the acreages to be converted. For instance, Chapter 12, states that 58,325 acres of cultivated land will be converted by the project. (BDCP, Table 12-ES-1.) The EIR/EIS erroneously fails to disclose how many acres of pastureland would be converted by the project. Additionally, the EIR/EIS unreasonably assumes that taking agricultural land into the "reserve system" under CM 3 and CM 11 is beneficial to agriculture, will not create an impact on agricultural resources, and can serve as mitigation for the conversion of other agricultural land. However, these lands would be encumbered with restrictions that would prevent conversion to permanent crops and other crops that, according to the BDCP, do not provide habitat for the species the plan is seeking to cover. Replacing unrestricted agriculture with crop limited land under easement does not mitigate for the effects of project on agricultural resources. In order to adequately disclose impacts to agricultural resources, the EIR/EIS must provide the quantity of farmland that will be converted - including all CMs. This number is found in BDCP Chapter 8. For purposes of cost estimation BDCP assumes purchase of 145,026 acres of land to carry out the plan. (BDCP, Table 8-1.) Since it is known that most of the land in the Delta is in agricultural use, it is reasonable to assume that the project would convert about 145,000 acres of farmland. The EIR/EIS is deficient in not disclosing this fact.	of this alternative, including acreage totals for restoration of different habitat types.
1787	110	The EIR/EIS fails to disclose impacts on agriculture from the BDCP. Impact AG-2 discusses other impacts to agriculture, including changes in groundwater, increases in salinity levels, and disruption of agricultural infrastructure. As discussed in relation to EIR/EIS Chapter 7 (Groundwater) there is inadequate disclosure of impacts to groundwater supplies from the entire project, including CM 1, which is allegedly analyzed at the project level of detail. Seepage from the Intermediate Forebay is mentioned, but no description of the likely effects on surrounding agriculture is provided. (EIR/EIS, p. 14-121.)	The forebays would be constructed to comply with the requirements of the DSD which includes design provisions to minimize seepage. These design provisions would minimize seepage under the embankments and onto adjacent properties. Once constructed and placed in operation, the operation of the forebays would be monitored to ensure seepage does not exceed performance requirements. In the event seepage were to exceed these performance requirements, DWR would modify the embankments or construct seepage collection systems that would ensure any seepage from the forebays would be collected and conveyed back to the forebay or other suitable disposal site. As noted in Chapter 7, Groundwater, any potential vertical seepage under the smaller Intermediate Forebay would be captured by a toe drain, therefore no significant impacts on agriculture are expected due to groundwater seepage from the Intermediate Forebay.
1787	111	The EIR/EIS is deficient in failing to identify what the threshold of significance is for a significant impact on agriculture due to changes in salinity, instead relying on a qualitative analysis. (EIR/EIS, p. 14-28.) The discussion of changes in salinity fails to disclose the changes in salinity that are likely to occur in the north Delta, and discuses only two points of reference. (EIR/EIS, pp. 14-122 to 14-124.) The changes in salinity discussed in Chapter 14 are also only with respect to the late long term condition. The early long term salinity projections should also have been disclosed in the EIR/EIS. (See Exhibit F, BECT Water Quality PowerPoint Handout, pp. 2-9.) [footnote 9: Though Exhibit F states that it is not for distribution, it was later released as a public document under the California Public Records Act, and therefore is no longer a confidential draft.] Moreover, crop tolerance data	As described in Chapter 14, Section 14.3.1.1 (Project- and Program-Level Components) potential changes in water quality, which could alter irrigation practices or economically viable crop choices (i.e., crop types or acreages), have been identified based on information from Chapter 8, Water Quality and proposed operational guidelines with respect to existing salinity standards in the study area. Modeling results were analyzed to identify and quantify, to the extent feasible, specific areas that could be affected by these changes. Salinity, as measured by electrical conductivity, is a primary indicator of water quality that could affect agricultural production in the study area. The magnitude, duration, and frequency of a salinity change in irrigation water were evaluated by analyzing the change in the number of days when electrical conductivity objectives for agricultural beneficial uses would be exceeded or out of compliance. Where it was determined in the water quality analysis that the EC objectives/criteria would be exceeded to

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		presented in this chapter does not take into account salt loading over time. (EIR/EIS, Table 4-6.) Salinity levels in the north Delta tend to be much lower than other parts of the Delta; changes to these salinity levels will have long term impacts on the ability to sustain a wide variety of crops, including those that are intolerant of salinity.	such a degree that there would be a substantially increased risk for adverse effects to agricultural beneficial uses, this was noted in Chapter 14. For Alternative 4a, now the preferred alternative, relative to the No Action Alternative Early Long Term (ELT), the percent of days exceeding EC objectives or percent of days out of compliance would increase at the Sacramento River at Emmaton.
1787	112	The construction of the BDCP, particularly CM 1, will also interfere with agricultural operations by disrupting water delivery and water removal operations on the Delta islands. Neither the project description nor the analysis of CM 1 is sufficiently detailed to provide an understanding of how the project will interfere with ongoing agricultural operations. The existing ditches, pumps and other interior drainage facilities are vital to the maintenance of low-lying Delta lands, yet are not detailed in the EIR/EIS as existing conditions. CM 1 construction will interfere with operation of these facilities by, for instance, interfering with surface water supply delivery systems, excessive discharges from CM1 dewatering activities, and disconnecting or otherwise interfering with existing drainage systems. The EIR/EIS fails to discuss impacts on agriculture caused by water level changes in the north Delta as a result of operation of CM 1. Once the new diversions are operating, they are so large that they will reduce water surface levels in the north delta by about a foot, making it difficult or impossible to irrigate crops with existing water diversion systems, many of which are siphons. (See comments on Chapter 6--Surface Water and Exhibit E, BECT Surface Water PowerPoint Handout, pp. 3-10.) Though this impact is mentioned in Chapter 6 of the EIR/EIS, the document fails to disclose expected surface water changes in the ELT, instead only presenting predictions for the LLT, after the document assumes changes in sea level that could potentially bring water levels up toward pre-project levels.	Please see Master Response 5 regarding the BDCP. Please also see Master Response 3, Purpose and Need, and Master Response 18, Agricultural Impact Mitigation. It is not anticipated that water levels in the Delta will be significantly impacted by the new facilities. Mitigation and environmental commitments have been included to ensure any project-related impacts do not impact agricultural operations permanently.
1787	113	Habitat Projects will Impact Ongoing Agricultural Operations Implementation of CMs 2-11 also will interfere with agricultural operations. Flooding of an island can result in a variety of impacts on neighboring islands, including seepage waters that exceed existing local capacity, increased wind fetch, levee maintenance issues, and other changes in flow/hydrology. The BDCP also includes restrictions on aerial spraying within the Plan area. This impact on agriculture is not mentioned or analyzed in the EIR/EIS. Without proper mitigation, these impacts displace costs on neighboring local agencies and landowners, and interfere with ongoing farming operations.	Effects on agriculture as a result of disruptions to agricultural infrastructure are discussed in Chapter 14 under Impact AG-2. Implementation of Mitigation Measure AG-1 (Develop an Agricultural Lands Stewardship Plan [ALSP] to Maintain Agricultural Productivity and Mitigate for Loss of Important Farmland and Land Subject to Williamson Act Contracts or in Farmland Security Zones) would reduce, among other effects, effects on agriculture related to relocating or replacing agricultural infrastructure in support of continued agricultural activities. The prevalence and distribution of agricultural infrastructure directly and indirectly affects labor requirements, economics, and environmental justice. These issues are discussed in Chapter 16, Socioeconomics, and Chapter 28, Environmental Justice. Please also note that the preferred alternative is now Alternative 4A, under which substantially fewer acres of habitat would be restored/enhanced relative to Alternative 4. Alternative 4A has been developed in response to public and agency input. For additional information regarding agriculture impact mitigation, please see Master Response 18. For additional information regarding environmental justice, please see Master Response 27.

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1787	114	Suisun Marsh projects have a clear potential to change tidal dynamics and salinity throughout the Delta, Cache Slough area projects (including Prospect Island) also have the same potential effects. (BDCP, Appendix 5.A.2, Climate Change Approach and Implications for Aquatic Species, p. 5.A.2-11.) The interaction of the various habitat projects can lead to increased salinity intrusion and resulting invasive clam (Corbula and Corbicula) increases and redistribution. DWR's various barrier projects throughout the Delta have similar confounding effects. Since the BDCP EIR/EIS failed to identify the locations of the proposed tidal restoration projects and the degree of impact associated with maximum build out of each Restoration Opportunity Area, it is impossible to tell what and where the project impacts will be on salinity and tidal increases/decreases.	Salinity impacts to Suisun Marsh for assumed tidal habitat restoration of the action alternatives are addressed in Impact WQ-11, electrical conductivity, in Chapter 8, Water Quality. While the assessment of Suisun Marsh effects was qualitative, based on quantified long-term average changes in EC, the assessments for Alternatives 1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9 identified significant impacts to Suisun Marsh EC and includes Mitigation Measure WQ-11d, Site and Design Restoration Sites and consult with CDFW/USFWS, and Suisun Marsh Stakeholders to Identify Potential Actions to Avoid or Reduce EC Level Increases in the Marsh. Alternatives 4A, 2D, and 5A do not have the extensive restoration areas included with the HCP alternatives, thus salinity impacts in Suisun Marsh would be less than significant.
1787	115	Delta conservation activities for restoration, such as easements, are associated with a variety of potential impact to nearby landowners owners or lessees. Those problems range from simple trespass and fencing issues to promotion of listed species onto neighboring properties and legal restrictions on agricultural use. Currently, these types of problems are relatively easy to resolve with local HCPs or local land trusts because they are accessible and share some degree of responsibility and common ground with local landowners. More importantly, coverage under local HCPs is generally available to anyone who wants to participate and who follows the permit approach. Neither of these is true with the BDCP.	This comment is on the merits of the BDCP approach and the ability to resolve property issues under the BDCP versus local HCPs. Should the BDCP be implemented these kinds of issues would be addressed similar to other HCPs. The EIR/EIS also provides Mitigation Measure AG-1 to reduce impacts on agricultural resources through traditional approaches and a land stewardship approach.
1787	116	Fundamental problems in the Delta from habitat restoration projects that lead to detrimental impacts on agricultural operations include: Terrestrial weeds such as white top (perennial pepperweed) and arundo, which interfere with crops and levee maintenance;	The proposed project (Alternative 4A) no longer includes an HCP component. While restoration is proposed as part of Alternative 4A as mitigation for the construction of the water conveyance facilities, the acreages will be less than under the BDCP. Additionally, CM11/EC11 Natural Communities Enhancement and Management would result in the protection of several habitats, including aquatic natural communities, wetland natural communities and common wildlife and plants. Amongst other actions, this includes removal of nonnative vegetation. For more information regarding EC11 please see Appendix 3B of the FEIR/EIS. No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.
1787	117	Fundamental problems in the Delta from habitat restoration projects that lead to detrimental impacts on agricultural operations include: Aquatic weeds, such as Hydrilla, Hyacinth and Egeria densa which clog pumps;	DWR has committed to several environmental commitments to address the issue of aquatic weeds which may be an impact of the proposed project. To address the following potential impacts on aquatic habitat and species from barge and tugboat operations associated with the new water conveyance facilities construction, DWR will ensure that a barge operations plan is developed and implemented for each project that requires the use of a barge. Additionally DWR has committed to contribute funds to further the DBW's aquatic weed control programs in the Delta. This commitment would supplement CM13 (Invasive Aquatic Vegetation Control) which also provides for the control of egeria, water hyacinth, and other IAV throughout the Plan Area. Please see Appendix 3B, Environmental Commitments, AMMs and CMs, for more detail. Please note that CM13 is not part of the new preferred alternative. Funding DBW's Programs for Aquatic Weed Control is still considered an Environmental Commitment, which would supplement CM13.
1787	118	Fundamental problems in the Delta from habitat restoration projects that lead to detrimental impacts on agricultural operations include:	The proposed project (Alternative 4A) no longer includes an HCP component. While restoration is proposed as part of Alternative 4A as mitigation for the construction of the water conveyance facilities, the acreages

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		Insect pests (no spray zones);	will be less than under the BDCP.CM3 and CM11 will include the management and enhancement of cultivated lands including insect prey enhancement. For more information regarding EC3 and EC11 (formerly CM3 and CM11) in the new preferred alternative, please see Appendix 3B of the FEIR/EIS.
1787	119	Fundamental problems in the Delta from habitat restoration projects that lead to detrimental impacts on agricultural operations include: Interference with levees and access roads (culverts and drainages), either directly by not maintaining them or indirectly by refusing to pay PILT or Assessments, or voting against Assessments;	Mitigation Measure TRANS-2c in Chapter 19, Transportation, states that any roadways impacted by construction will be returned to preconstruction condition or better following construction. Implementation of this measure will ensure that construction activities will not worsen pavement or levee conditions, relative to Existing Conditions.
1787	120	Fundamental problems in the Delta from habitat restoration projects that lead to detrimental impacts on agricultural operations include: Indirectly, increasing seepage or dramatically reducing groundwater.	Please see Chapter 14, Agricultural Resources, Impact AG-4, for a discussion of these potential effects/impacts. For additional information regarding agriculture impact mitigation, please see Master Response 18.
1787	121	Fundamental problems in the Delta from habitat restoration projects that lead to detrimental impacts on agricultural operations include: Wind fetch on levees across flooded islands; Indirectly increasing the difficulty obtaining permits for new/modified intakes and for levee maintenance and repairs	This is a comment on the potential effects of Delta restoration projects. The EIR/EIS addresses effects of restoration on agricultural resources in Impacts AG 3 and 4 and provides Mitigatoin Measure AG-1 to reduce these effects. Wind fetch issues are addressed in Chapter 6, Surface Water.
1787	122	Fundamental problems in the Delta from habitat restoration projects that lead to detrimental impacts on agricultural operations include: Increased potential for take liability of neighboring farming operations that are simply continuing existing practices.	This potential issue related to implementation of HCPs and restoration projects would be addressed as part of the implementation agreement and in participation with landowners on a case-by-case basis. Should the BDCP be chosen during the project decision-making process, this issue may need to be revisited.
1787	123	The mitigation provided in the EIR/EIS for impacts on agriculture is vague and lacks the necessary information to properly defer development of detail through use of a performance standard. (See CEQA Guidelines, [Section] 15124.4, subd. (a)(1)(B).) The BDCP does not propose, and there is no way to actually mitigate, the massive impacts on Delta agriculture. Instead, the BDCP suggests economic assistance ideas that do not mitigate for the devastation of Delta agriculture. Mitigation Measure AG-1 calls for the development of Agricultural Land Stewardship Plans to: (1) promote agricultural productivity, (2) minimize impacts on Williamson Act lands, and (3) undertake additional mitigation if (1) and (2) do not result in impacts being reduced to less than significant levels. While we have worked in good faith with DWR staff to attempt to help develop the Optional Agricultural Land Stewardship alternative mitigation program, the program presented in the EIR/EIS is not consistent with applicable requirements for	Although both the construction of new physical facilities in the Delta and the restoration of habitat will lead to the conversion of some agricultural land in the Delta, effects of the BDCP will be subject to aggressive mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. Effects on farmland in the Delta, along with associated mitigation measures, are described in Chapter 14, Agricultural Resources, EIR/EIS. See Master Response 18 for more information regarding agricultural impact mitigation. In Friends of the Kings River v. County of Fresno, (2014) 232 Cal.App.4th 105, the court addressed plaintiff's complaint that the county failed to require adequate mitigation for the conversion of important farmland, in violation of CEQA. The court rejected that argument, pointing out that the EIR recommended three mitigation measures, which the court upheld as adequate: • The project would maintain the current agricultural use of the site until the land is prepared for

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		mitigation of impacts to agricultural resources. In particular, the strategies are "nonexclusive, untested, and of unknown efficacy." (See Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 93 (CBE).) Mitigation Measure AG-1--Conventional Mitigation Approach, calls for the purchase of agricultural conservation property interests as mitigation for the BDCP's significant impacts to agricultural lands if it is determined that the Optional Agricultural Land Stewardship ("ALS") alternative mitigation program is not feasible. (EIR/EIS, pp. 14-117 to 121.) Conventional mitigation at a ratio of at least 1:1 is consistent with Masonite Corporation v. County of Mendocino (2013) 218 Cal.App.4th 230. Masonite confirmed previous court of appeals decisions out of the Third, Fourth and Fifth Appellate Districts on the feasibility of conservation easements in mitigating the loss of prime agricultural land. (See Citizens for Open Government v. City of Lodi (2012) 205 Cal.App.4th 296; Cherry Valley Pass Acres and Neighbors v. City of Beaumont (2010) 190 Cal.App.4th 316; and Building Industry Association of Central California v. County of Stanislaus, et al. (2010) 190 Cal.App.4th 582.) The EIR/EIS is very unclear, however, about how it would be determined that conventional mitigation should be pursued instead of the Agricultural and Land Stewardship (ALS) approach. Moreover, the approach in the EIR/EIS defers out making determinations on the feasibility of mitigation to a later date without sufficient guidance to constitute an enforceable performance standard. If the various affected entities were agreeable to the ALS approach, one suggested metric for funding purposes could be provision of funding for the strategies equal or greater to the amount that would be necessary to comply with the conventional mitigation approach of easement acquisition. In any case, far more development of the ALS approach would be necessary for it to constitute adequate mitigation. Without any specific mitigation standard to be reached or any firm funding commitments, the ALS approach discussed in Mitigation Measure AG-1 is simply an idea, not a mitigation measure. With the scale of impact posed by BDCP, such a non-substantive attempt at mitigation is patently inadequate.	mining; • It would keep 602 acres within the site but outside the surface disturbance boundary as an agricultural buffer zone for the life of the use permit; and • that mine cells be reclaimed as farmland as adequate materials are generated to fill the empty mine cells. The court also rejected plaintiff's contention that the county was required to establish agricultural conservation easements (ACEs) to mitigate the permanent loss of 600 acres of farmland. The court held that while a county must consider using agricultural conservation easements as a mitigation measure for direct loss of farmland, it is not required to adopt an agricultural conservation easement as a mitigation measure, even where such an easement is financially feasible. The court distinguished Masonite Corp. v. County of Mendocino because there the county had categorically excluded ACEs as a potential mitigation measure. The court did not read Masonite to require the adoption of ACEs as mitigation, but rather that ACEs not be categorically excluded from consideration—which the County here did not do. While Masonite indicates that agricultural conservation easements ordinarily should be considered as a mitigation measure, a lead agency has discretion to adopt other mitigation measures. The decisions regarding the use of ACEs, will be made once the project is approved, and landowners are contacted to inquire about their willingness to sell interests in land for the purpose of establishing easements. Whether or not that effort is successful, the use of the ALS options will be offered in area affected by the project, keeping in mind that the alternative measures that may be useful in one area, of one county, may be different in others.
1787	124	It is inappropriate for the EIR/EIS to consider adequate mitigation for agricultural land conservation to include, for example, placing restrictions on existing farmland that prevent planting of permanent crops. This mistaken approach to mitigation unlawfully excuses the BDCP from actually mitigating for conversion of approximately 48,000 acres. (BDCP, p. 8-5 (cultivated lands needed for reserve system to provide habitat for covered terrestrial species).) Restrictions on permanent crops in water export areas would be the best way to avoid BDCP's impacts to wildlife habitat and ensure that the SWP/CVP can vary water deliveries according to available supply. Such a program would reduce effects on agriculture in the San Joaquin Valley from future variability in water supply and avoid impacts on sustainable farming in the Delta, which has its own area of origin water supplies. Farmers who have	Although both the construction of new physical facilities in the Delta and the restoration of habitat will lead to the conversion of some agricultural land in the Delta, effects of the BDCP will be subject to aggressive mitigation efforts. Land that is not directly affected by construction or habitat restoration should remain productive. Effects on farmland in the Delta, along with associated mitigation measures, are described in Chapter 14, Agricultural Resources, EIR/EIS. See Master Response 18 for more information regarding agricultural impact mitigation. In Friends of the Kings River v. County of Fresno, (2014) 232 Cal.App.4th 105, the court addressed plaintiff's complaint that the county failed to require adequate mitigation for the conversion of important farmland, in violation of CEQA. The court rejected that argument, pointing out that the EIR recommended three

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		decimated their own local water supplies and continue to plant permanent crops should not be allowed to export water from the Delta. Mitigation aimed at addressing effects other than direct land conversion are also inadequate. For instance, Mitigation Measure GW-5 simply refers to the development of mitigation measures in the future to address seepage. (EIR/EIS, p. 7-51.) Without additional detail on the impacts and the means to address the impacts, this constitutes impermissible deferral of mitigation. Under CEQA, mitigation may be deferred when "mitigation is known to be feasible, but . . . practical considerations prohibit devising such measures early in the planning process, the agency can commit itself to eventually devising measures that will satisfy specific performance criteria clearly articulated at the time of project approval." (Sacramento Old City Assn. v. City Council of Sacramento (1991) 229 Cal.App.3d 1011, 1028 (SOCA) (performance measure of 90 percent parking utilization found adequate).) The SOCA rule was applied in CBE, supra, 184 Cal.App.4th 70. In CBE, the court found a GHG mitigation plan inadequate because it had no more than a "generalized goal" of not increasing emissions and the "only criteria for 'success' of the ultimate mitigation plan adopted is the subjective judgment of the City Council, which presumably will make its decision outside of any public process a year after the Project has been approved." (184 Cal.App.4th at p. 93.) Similar to the CBE case, the formulation of appropriate mitigation for agricultural impacts in the form of conventional mitigation or the Agricultural and Land Stewardship would be deferred to the future without any process. Worse than CBE, Mitigation Measure AG-1 does not even contain a performance standard that must be met.	mitigation measures, which the court upheld as adequate: • The project would maintain the current agricultural use of the site until the land is prepared for mining; • It would keep 602 acres within the site but outside the surface disturbance boundary as an agricultural buffer zone for the life of the use permit; and • that mine cells be reclaimed as farmland as adequate materials are generated to fill the empty mine cells. The court also rejected plaintiff's contention that the county was required to establish agricultural conservation easements (ACEs) to mitigate the permanent loss of 600 acres of farmland. The court held that while a county must consider using agricultural conservation easements as a mitigation measure for direct loss of farmland, it is not required to adopt an agricultural conservation easement as a mitigation measure, even where such an easement is financially feasible. The court distinguished Masonite Corp. v. County of Mendocino because there the county had categorically excluded ACEs as a potential mitigation measure. The court did not read Masonite to require the adoption of ACEs as mitigation, but rather that ACEs not be categorically excluded from consideration—which the County here did not do. While Masonite indicates that agricultural conservation easements ordinarily should be considered as a mitigation measure, a lead agency has discretion to adopt other mitigation measures. The decisions regarding the use of ACEs, will be made once the project is approved, and landowners are contacted to inquire about their willingness to sell interests in land for the purpose of establishing easements. Whether or not that effort is successful, the use of the ALS options will be offered in area affected by the project, keeping in mind that the alternative measures that may be useful in one area, of one county, may be different in others. Please refer to Master Response 22, – Mitigation and Master Response 18, Agricultural Impact Mitigation.
1787	125	The analysis understates economic effects in the Delta resulting from loss of agricultural lands; fails to identify the degree of impact on high fieldworker jobs, such as orchard crops, versus more mechanized jobs; and ignores differences of impacts on rural versus urban, and traditional environmental justice communities. This failure to adequately identify project impacts cross-cuts to other environmental justice issues such as pesticide injuries to low income workers from CM 13, substitution and warnings to contaminated, fish, plant, and frog stocks for subsistence and cultural fishers and gatherers in CM 12.	Impacts listed in Chapter 28 were identified by first identifying all adverse effects in other resource chapters, and then reviewing them to determine if any of those environmental consequences may disproportionately affect an environmental justice population, per guidance from the EPA Toolkit for Assessing Potential Allegations of Environmental Injustice. Therefore, many of the impacts the commenter lists are described in Chapter 28, Environmental Justice. The reduction in land available for cultivation and constraints on crop types may reduce agricultural employment opportunities. The agricultural work force has a high proportion of minority and low-income workers; therefore, effects on employment opportunities may be adverse for purposes of environmental justice. Since the effects addressed in Chapter 14, Agricultural Resources, Sections 14.3.3.2 through 14.3.3.16 (e.g., conversion of important farmland and constraints on crop selection) would not directly affect

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			minority and low-income populations, but may result in indirect effects on the agricultural economy, effects on agricultural land and crop types are not carried forward for environmental justice analysis. However, Chapter 16, Socioeconomics, Sections 16.3.3.2 through 16.3.3.16, Impact ECON-1, estimates changes in employment including agricultural jobs, and those changes in employment are addressed in this chapter. The assessment of potential effects on minority and low-income populations as a result of changes in employment is addressed in Chapter 28. Additional details on increases in methylmercury, bioaccumulation in fish, and subsistence fishing have been added to Chapter 28 in the RDEIR/SDEIS under each applicable alternative. As described in Section 28.5.1.4 of Chapter 28, an associated increase in human consumption of mercury caused by these alternatives would depend upon the selection of the fishing location (and associated local fish body burdens), and the relative proportion of different Delta fish consumed. Different fish species would suffer bioaccumulation at different rates associated with the specific species, therefore the specific spectrum of fish consumed by a population would determine the effect of increased mercury body burdens in individual fish species. These confounding factors make demonstration of precise impacts on human populations infeasible. However, because minority populations are known to practice subsistence fishing and consume fish exceeding US EPA reference doses, any increase in the fish body burden of mercury may contribute to an existing adverse effect. Because subsistence fishing is specifically associated with minority populations in the Delta compared to the population at large this effect would be disproportionate on those populations for Alternative 4A, the new preferred alternative. This effect would be adverse.
1787	126	The EIS/EIR identifies various western alignment routes that bisect Northern Delta reclamation districts including RD 999 and 150, such as Alternatives 1C, 2C and 6C. These alternatives would have significant impacts on the agriculture of those districts, and the ability of those and other districts to be able to provide their irrigation water (RD 999) or flood management (RD 150 and 999), as well as the underlying farms which may or may not provide their own irrigation water. Those impacts to agricultural economics were assessed by independent research with expertise in modeling and experience in this particular form of analysis for rural communities. This analysis is found in Exhibit N, Social and Economic Implications of the Bay Delta Conservation Plan for Clarksburg, California, May 2009. [footnote 10: Please provide responses to Exhibit N.]	Please see Master Response 18, Agricultural Impact Mitigation and Chapter 14, Agricultural Resources for discussion of Delta agricultural impacts and response to comment 1787-234.
1787	127	According to Madera Oversight Coalition, Inc. v. County of Madera (2011) (2011) 199 Cal.App.4th 48, a determination whether an archaeological site is an historical resource: (1) is mandatory; (2) must be made sometime before the final EIR is certified; and (3) cannot be done after certification of the EIR. In that case, the court found the mitigation constituted improper deferral because it required a "verification" of whether the site was a historical resource before preservation and recovery actions would be required. (Id. at 81, citing CEQA Guidelines, [Section] 15064.5, subd. (c)(1) ("When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource . . .").) With the lack of access to assess baseline cultural resource conditions for CM 1 (see EIR/EIS, Appendix 4.A - Summary of Survey Collection Efforts), as well as the lack of definition of	The methodology for cultural resources effects in areas that were not accessible at the time of the Draft EIR/EIS is fully described in Chapter 18, Cultural Resources. Analyses are presented for Plan Areas where areas were accessible and where they were not to issue that the Madera decision was addressed related to deferral of analyses. Please also see Master Response 20 regarding cultural resources and Master Response 21 regarding tribal issues.

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		where the restoration CMs 2-11 will take place, the EIR fails to provide an adequate analysis of potential impacts on cultural resources. Without such an analysis, formulation of adequate mitigation is not possible.	
1787	128	The transportation section is inadequate in numerous ways and comes to unsupported conclusions. Local communities will be severely impacted by construction of the project. In particular, agricultural commodities need to be shipped out of the area throughout the construction period. However, the number of expected transportation-related injuries and fatalities directly associated with the project from construction and operations is not disclosed. The sum of the total traffic miles by vehicle class is also not provided for the entire project.	Impact TRANS-3 evaluates potential increase safety hazards and found that construction traffic could result in an adverse effect to public safety on local roadways and emergency routes. Mitigation Measure TRANS-1c is available to address potential safety conflicts through improvements in local roadway conditions that would reduce congestion and enhance capacity. The measure would provide funding for the project's "fair share" of mitigation, and may include direct improvements to roadways or increased signage to improve visibility and safety. Ultimately, the EIR/EIS found that since the lead agencies are not solely responsible for implementation of Mitigation Measure Trans-1c, effects would be adverse. With respect to construction vehicle miles traveled (VMT), please refer to Appendix 22B, Table B-7, which identifies daily VMT for every construction vehicle.
1787	129	Project truck loading impacts and weight restrictions (and associated mitigation) on local bridges is not fully analyzed. Bridge improvements are inexplicably identified as not being needed, yet the EIR/EIS fails to document how this conclusion was supported by any information provided in the EIR/EIS. (EIR/EIS, p.19-182) The construction of several bridges appears in Appendix 3C in terms of scheduling, but bridges are not identified in the EIR/EIS Index. Bridges and their construction have significant traffic and environmental implications that do not appear to have been analyzed. The EIR/EIS must disclose whether Alternative 4 and/or other alternatives require bridge construction. Where analysis does exist in the EIR/EIS, it is cursory and inadequate. For example BDCP proponents will make a "good faith effort" to enter into various encroachment permits and mitigation measures. If obtained, the impact is significant and unavoidable; yet if not, the impact is considered less than significant. The obvious mitigation measures need to be fully described and analyzed, not impermissibly deferred for each of the conservation measures that comprise the project.	The lead agencies acknowledge the commenter's concerns about staying within bridge load limits and proper training of drivers. These issues will be included in traffic management plans as discussed in Mitigation Measure TRANS-1a: Implement Site-Specific Construction Traffic Management Plan. Mitigation Measure TRANS-2c: Improve Physical Condition of Affected Roadway Segments as Stipulated in Mitigation Agreements or Encroachment Permits also notes that major improvements such as bridge upgrades or repairs are not anticipated, but may be determined necessary as construction plans are developed. If such improvements are required, alternative transportation means may be used to eliminate the need for upgrades or repairs. The lead agencies also acknowledge the importance of Delta roads for the delivery of emergency services. BDCP EIR/EIS Chapter 19, Transportation, page 19-36 identifies interference with emergency services as an effect of construction. Impact TRANS-3 further discusses this problem and its effects. Mitigation Measure TRANS-1a includes provisions to ensure that construction vehicles allow continual access for emergency vehicles at the time of an emergency. Mitigation Measure TRANS-1c also seeks to work with affected jurisdictions to enhance capacity of congested roadway segments where construction traffic will substantially affect transportation facilities. However, some significant impacts may be unavoidable as discussed on page 19-70 of BDCP EIR/EIS Chapter 19, Transportation.
1787	130	The EIR/EIS does not adequately identify that increased truck travel due to construction would limit public safety routes and increase delay times. It fails to identify the extent of that delay, how much the mitigation would shorten the delay, and the implications of the delay to human health and safety. Bicycle impacts are found to be less than significant without any substantial rationale given the limited shoulder width and the lack of alternate routes. (Impact TRANS-1a) Existing levels of service (using the available traffic counts between 2008 and 2012) should have been used to perform an intersection-level analysis. The limited number of Delta intersections would be easy to assess and analyze to assess project-level impacts. The	A segment analysis has been performed assuming a reasonable worst-case scenario, with all trips applied to the roadway network for each analysis hour as described in Chapter 19, Transportation. FEIR/EIS. The construction management plans described in Mitigation Measure TRANS-1a will include consideration of impacts on intersections. Please see Appendix 6A, FEIR/EIS, for potential impacts to levee integrity as a result of increased construction traffic. Appendix 6A also includes a discussion on DWR consistency with the State Plan of Flood Control (SPFC) and information on project consistency with USACE, CVFPB, and DWR flood standards and regulations.

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		analysis focused on pavement quality, but did not look a structural integrity of the infrastructure to support the truck loads, in particular heavy trucks during high flow events on levee roads. The analysis states that "construction traffic patterns is not available for this level of analysis and it would be speculative and potentially misleading to assign construction related traffic by turning movement." (EIR/EIS, pp. 19-13 to 19-14.) The EIR/EIS fails to define the type and extent of its construction traffic impacts and instead assigns the question to speculation. While there is supposed to be project-level analysis for CM 1, the EIR/EIS fails to conduct the analysis or identify when and how it will occur. Mitigation Measures TRANS-2a through TRANS-2c could reduce severity of this impact, but not necessarily to less than significant levels, as the BDCP proponents cannot ensure that the agreements or encroachment permits will be obtained from the relevant transportation agencies. (See Mitigation Measure TRANS-1c.) This hardly qualifies as analysis or effective mitigation. The "maybe we can" or "maybe we can't" approach does not define what the specific environmental impacts result, and what may be feasible mitigation for these impacts, or how these impacts could simply have been avoided in the first place.	
1787	131	Essentially the EIR/EIS seems to find that Delta roads are in poor shape, so it does not really matter if they are made worse. Given the massive truck and vehicle traffic proposed by the BDCP for the key Delta roads, it is inconceivable why the project does not simply improve the roads to meet everyone's needs at a standard sufficient to meet the BDCP vehicle loads. To this end, Local Agencies of the North Delta has developed best management practices for Delta roads that could apply to the project. (Exhibit O, Best Management Practices and Design Considerations for Delta Construction Projects.) These specifications should be incorporated into the transportation mitigation measures to ensure that local roads are not damaged and remain functional throughout construction and operation of the project.	EIR/EIS Chapter 19, Transportation, includes Mitigation Measures TRANS-2a and b which seek to avoid or minimize use of roads that are already deficient. When not possible, Mitigation Measure TRANS-2c seeks to work with affected agencies to improve deficient roads prior to construction. This measure also includes the stipulation that all improvements be conducted in compliance with applicable standards of affected agencies. Through this cooperation, the principles espoused in Exhibit O of your letter can be incorporated.
1787	132	EIR/EIS Fails to Include Water Supply Assessment for Construction Water Demand The project will have a potable water demand of 165.7 million gallons over the nine-year construction period. (EIR/EIS, Table 20-3.) Yet the EIR/EIS fails to disclose how this water will be provided. Due to the scale and projected water use of the project, preparation of a Water Supply Assessment ("WSA") is required under Senate Bill 610. (Wat. Code, [Section] 10912.) Projects that demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project must prepare a WSA. [footnote 11: Water Code section 10912, subdivision (a)(5) also requires preparation of a WSA for a processing plant occupying more than 40 acres of land. The applicability of this requirement was broadly construed in Center for Biological Diversity v. County of San Bernardino (2010) 185 Cal.App.4th 866, 887-888.] (Wat. Code, [Section] 10912, subd. (a)(7).) Though it varies by area, each dwelling unit typically uses 0.3 to 0.5 acre-feet per year; thus, at 0.3 acre feet per year, a 500 dwelling unit project would demand about 150 acre-feet per year. (See	The requirement to prepare water supply assessments apply only to cities and counties (and not state agencies) that are considering defined “projects” under CEQA. (See CEQA Guidelines, section 15155.)

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		http://www.water.ca.gov/pubs/use/sb_610_sb_221_guidebook/guidebook.pdf, p. 3.) This project would demand 18.41 million acre feet per year, clearly exceeding the threshold. Thus, a WSA must be included in a recirculated EIR/EIS.	
1787	133	EIR/EIS Fails to Account for Water Use from Evaporation, Seepage and Vegetation Water Use The environmental impacts of project associated water storage and evaporative losses, leakage, and power generation water requirements are minimized in the alternatives development (for instance by selection of a tunnel over a canal conveyance structure for the preferred alternative) but where then ignored for the rest of the analysis. According to a prior draft of the BDCP, "There are aqueduct and reservoir storage losses (i.e., evaporation and seepage) that are simulated by CALSIM to be about 170 taf/yr." (Administrative Draft BDCP, April 2012, Appendix 5.C, Attachment C.A-59 (CALSIM and DSM2 Results for the 3 Preliminary Proposal Modeling Scenarios).) The environmental impacts of evaporative losses from the project and the operations directly and indirectly associated with the project need to be analyzed quantitatively. Water losses reduce water availability, and increase electrical generation needed to pump the additional water, which has its own environmental impacts. These impacts are also not disclosed in the EIR/EIS. For illustration, water losses under the project will be associated not just with the proposed new forebay and forebay expansions. Water loss will also occur from the increased seepage from raised stage levels in the Sacramento River and massive evaporation losses associated with CM 2, but also many of the habitat projects associated with both CM 1 mitigation and other project CMs. Water use from new project habitat will reduce outflows, impacts on water users and biological resources.	Evaporation and seepage loss assumptions in the SWP and CVP water supply facilities are presented in Appendix 5A, Section B, CALSIM II and DSM2 Modeling Simulations and Assumptions, in the Draft EIR/EIS. Changes in SWP and CVP electrical generation and power demands under the action alternatives as compared to the Existing Conditions and the No Action Alternative are presented in Chapter 21, Energy, of the Draft EIR/EIS. Habitat restoration actions are only considered in a programmatic manner in the Draft EIR/EIS. Specific analyses, including analysis of water losses to seepage and evaporation, would need to be considered in subsequent environmental documentation and permit processes, as described in Section 1.6 of Chapter 1, Introduction, of the Draft EIR/EIS.
1787	134	Aquatic vegetation, and in particular new open water associated with habitat, uses up to two times more water than the existing agricultural uses. DWR estimates that riparian vegetation and surface water use 67.5 acre-feet of water per year. [footnote 12: See DWR Bulletin 168, October 1978, Sacramento Valley Water Use Survey 1977, Table A-5.] These water losses can be massive and there is no detail in the EIR/EIS quantifying these losses from creation of aquatic and other habitat. The EIR/EIS also fails to identify where the new water comes from, or how downstream senior water rights holders and Delta outflow will affected. The CalFED EIR demonstrated that creating 28,000 acres of seasonal wetland could require 28,000 to 56,000 acre-feet of water per year of additional water. Restoring 58,000 to 74,000 acres of aquatic and riparian habitat would require an additional 175,000 to 222,000 acre-feet a year in the Delta. (CalFED Final EIS/EIR, p. 7.1-16.)	Although it is acknowledged that aquatic vegetation and evaporation related to open water result in water "use", the rates of use are highly variable depending on the surface water and groundwater conditions at the restoration sites. Because analyses in the EIR/EIS for restoration actions under the BDCP were performed at a programmatic level of analysis and because of uncertainty about precise locations of proposed restoration the potential use of water supply was considered speculative. Should the BDCP or other HCP alternative be selected implementation of each restoration site would require additional environmental review to address this and other site specific issues.
1787	135	Invasive weeds that are characteristic of Delta restoration sites also consume significant quantities of water. According to a 2004 study, for instance, about "one million acre-feet of	Commenter is correct that invasive plants are widespread in the Delta. The proposed project is not a weed control program, however. Nonetheless, the preferred alternative includes AMMs for reducing impacts,

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		water is consumed by star thistle each year in the Central Valley above and beyond what would be consumed by annual grasses." [footnote 13: Cal-IPC News, Newsletter of the California Invasive Plant Council (Summer 2014), p. 11, available at: http://origin.library.constantcontact.com/download/get/file/1101215423203-171/Cal-IPC_News_Summer2014.pdf.] Much of the existing public lands where habitat is planned in the Delta are covered with weeds, and those weeds have not been effectively managed.	including AMM11 Covered plant Species, which contains measures for minimizing the spread of invasive weeds within the project area.
1787	136	The BDCP would create a significant new demand for energy during both construction and operation. A 230 kV transmission line is programmed to be built from the new intakes and the Intermediate forebay extending east to Highway 99. In all, 20 miles of permanent new transmission lines and 38 miles of temporary lines are proposed to be constructed. (BDCP, Appendix 5.J.C, Table 1.) The EIR/EIS, however, fails to describe the location of the transmission lines. (See CEQA Guidelines, [Section] 15124, subds. (a)-(c).) While the area to the east of the Refuge is generally referenced as the location where the transmission lines will be placed, the exact location has not been determined. (See BDCP, Appendix 5.J.C, Figure 2; see also BDCP, Appendix 5.J, Table 5.J-6, 5.J.-7, 5.J.-8, note 20 (noting "final alignment is unknown").) Project-level detail clearly cannot be provided when the location and operator of this essential aspect of the project is not known. The energy required for construction and operation of CM 1 will need to come from new power sources and transmission lines through the Cosumnes River Corridor outside of the plan area, and also within the plan area, which is full of species sensitive to these uses. The EIR/EIS fails to analyze the impacts of these interrelated and interdependent actions.	The additional energy needed during construction and operations for each alternative were given in the Energy Chapter, Table 21-7 for construction and Table 21-9 for operation. There are already sufficient transmission lines to provide energy to the CVP and SWP pumps; the energy requirements for the intake pumps and intermediate Forebay pumps are relatively small compared to the energy used at the CVP and SWP pumps near Tracy. The terrestrial effects of new transmission lines on terrestrial species were considered.
1787	137	Dr. Pless conducted a technical review of the air quality impact analyses in the EIR/EIS; these comments are attached as Exhibit P. [footnote 14: Please provide written responses to Dr. Pless's comments.] Dr. Pless concluded: "The air quality and GHG analysis in the Draft EIR/EIS fails to meet minimum professional standards for disclosure of Project air quality impacts and fails to include all feasible mitigation measures to reduce identified significant impacts." Dr. Pless further noted: "It is not acceptable that one of the largest construction projects in California that will span almost a decade should receive less scrutiny than a run-of-the mill residential or commercial development." Dr. Pless recommended substantial revisions to the air quality and GHG section and mitigation measures to meet applicable NEPA and CEQA standards and recirculation of the Draft EIR/EIS for public review.	The effects of the alternatives on air quality and greenhouse gas (GHG) emissions from both construction and the operation of the proposed water conveyance facility (CM1) were assessed and quantified using standard and accepted software tools, techniques, and emission factors. Engineering data and underlying assumptions were provide by DWR and are based on a comprehensive and detailed cost estimate that includes all activities required to construct CM1. The environmental commitments and mitigation outline an aggressive emissions reduction plan that will dramatically reduce air quality impacts and associated health effects. Chapter 22, Air Quality and Greenhouse Gases, and the associated impact and mitigation analyses reflect careful thought, accumulation of the latest scientific information, and several years of collaboration with air district staff, industry experts, legal counsel, and construction contractors. The analysis methods, impacts, and conclusions are legally adequate and consistent with guidance published by local air districts, the California Air Resources Board, and the United States Environmental Protection Agency, as well as CEQA and NEPA requirements. Please see response to comments 1787-238 through 1787-273. Please also see Master Response 19.
1787	138	Dr. Pless made the following conclusions regarding the information provided by the EIR/EIS: -Analyses of air quality and greenhouse gases were not adequately supported;	Responses to Dr. Pless' comments are provided as individual remarks. Below is a summary of the responses, as well as references to where additional information can be found. 1. Analyses were not adequately supported: A full list of assumptions used to quantify emissions is

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		-Presents outdated, incomplete and superfluous information; -Analyses of impacts due to criteria pollutant and greenhouse gas emissions resulting from project construction and operation are flawed and fail to identify and adequately mitigate significant impacts; -Discussion of methodology and presentation of results is lengthy, confusing, repetitive and internally redundant; -Discussion of significant impacts from criteria pollutant emissions is inadequate; -Should have conducted dispersion modeling for criteria pollutant to determine compliance with ambient air quality standards rather than solely relying on quantitative thresholds of significance; -Fails to analyze carbon monoxide concentrations from vehicle exhaust; -Fails to quantify emissions for all construction phases and emission sources and, thus, underestimates construction emissions; -Incorrectly calculates fugitive dust emissions from grading; -Fails to account for fugitive dust emissions from site preparation, truck loading, entrained road dust, road paving, and architectural coatings; -Relies on incorrect assumptions for trip lengths and underestimates on-road vehicle emissions; -Overestimates the emission reduction effectiveness of environmental commitments; -Underestimates health risks; -Underestimates greenhouse gas emissions; -Improperly defers analysis of compliance with the applicable air quality plans; -Improperly defers analysis of the efficacy of mitigation measures; and -Cumulative impacts analysis is substantially flawed. Dr. Pless' analysis describes and documents that the EIR/EIS' analysis used its own, significantly lower, estimates for fugitive dust emissions and "tweaked" the models to get more favorable outcomes. In another case, the EIR/EIS simply did not model the generation of emissions from the 32 million cubic yards of tunnel muck and 8 million cubic yards of dredging material that will have to be disposed, and substantial amounts of borrow	found in BDCP EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the BDCP website. Please refer to responses to comments 1787-238, 1787-239, 1787-240, 1787-241, 1787-242, 1787-243, and 1787-244. 2. Outdated information: Chapter 22, Air Quality and Greenhouse Gases, was drafted over a period of several years. The environmental setting has been updated to reflect the most recent data, as of the time of this response. Please refer to responses to comments 1787-247, 1787-248, 1787-249, and 1787-250. 3. Chapter length: The EIR/EIS and air quality analysis reflects several years of collaboration, responses to requests for additional information, careful thought, accumulation of the latest scientific information, and thorough analyses needed to develop and conduct an environmental review of a project that impacts the Delta estuary and water supplies for million Californians. Please refer to responses to comments 1787-253, 1787-254, 1787-255, and Master Response 38 for additional information. 4. Discussion inadequate: Impacts AQ-1 through AQ-4 evaluate construction-generated reactive organic gases (ROG) and nitrogen oxides (NOx) against adopted air district thresholds. Text has been added to the impact analysis to further indicate and make explicit that violation of adopted air district thresholds could contribute to secondary ozone formation, which could impede regional attainment of the national ambient air quality standards (NAAQS) and California ambient air quality standards (CAAQS). Please refer to responses to comments 1787-256 and 1787-257. 5. Dispersion modeling: The thresholds of significance adopted by the four local air districts in the Plan Area are intended for application to land use development projects and plans that occur within the boundary of each air district. The ROG and NOx thresholds can be used in lieu of complex photochemical modeling to identify projects that could result in significant secondary ozone formation that could impede regional attainment of the state and federal ozone standards. Please refer to responses to comments 1787-258 and 1787-259. 6. Carbon monoxide (CO) from vehicles: All four Plan Area air districts have adopted screening criteria that provide a conservative indication of whether project-generated traffic will cause a potential CO hot-spot. Chapter 22 has been revised to include an analysis of potential CO hot-spots from construction-generated traffic, based on the adopted air district screening criteria. Please refer to response to comment 1787-260. 7. Fugitive dust from grading: The Public Draft EIR/EIS fugitive dust analysis was based on best available data at the time of the analysis. Since publication of the document, a revised cost estimate was prepared that provides total acreage, borrow, excavated, and dredged material for each construction phase. The fugitive dust analysis has been revised to utilize the updated maximum daily cubic yardage and acreage values. Please refer to response to comment 1787-261. 8. Fugitive dust from other sources: Emissions associated with loading borrow, excavated, and dredged material on trucks have been evaluated based on updated information from the revised cost

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		materials that would have to be brought to the tunnel construction sites. Dr. Pless describes how the project air mitigation measures are similarly defective, with findings that the analytical approach not only improperly defers analysis and deprives the public of review, but also does not develop alternatives that would avoid or minimize the identified significant air quality impacts, rendering the EIR/EIS' conclusions regarding adverse and significant air quality impacts unsupported and premature.	estimate. Entrained road dust from offsite and onsite vehicles were evaluated based on EPA's AP 42. Fugitive reactive organic gases (ROG) from paving were calculated based on the CalEEMod Users Guide. Please refer to response to comment 1787-262. 9. Trip lengths: The Public Draft EIR/EIS utilized trip length assumptions from CalEEMod, which is the approved and recommended model for evaluating air quality and greenhouse gas impacts in CEQA documents. Since publication of the Public Draft EIR/EIS, the trip length assumptions have been revised to reflect the most recent project-specific data, including a geospatial analysis of labor densities in the Plan area. Please refer to response to comment 1787-263. 10. Environmental commitments: Given the dynamic and complex nature associated with project-generated air pollutants, the BDCP lead agencies have developed a comprehensive and aggressive mitigation strategy to address air quality and associated human health effects. The environmental commitments have been slightly revised based extensive coordination with construction contractors, equipment manufacturers, industry experts, legal counsel, and air district staff. Please refer to response to comment 1787-264. 11. Health risks: The health risk assessment includes implementation of feasible control strategies and has been revised based on the revised EC analysis. Please refer to responses to comments 1787-267, 1787-272, 1787-273. 12. Greenhouse gases (GHG): The EIR/EIS properly relies on DWR's Climate Action Plan for the purposes of a CEQA cumulative GHG impacts analysis. The GHG analysis for concrete batching has been revised to evaluate GHG emissions based on the quantity of concrete required at the various compression strengths. Please see response to comments 1787-139, 1787-268, and 1787-269. 13. Deferred mitigation: The Lead Agencies undertook a year-long consultation process with the four Plan Area air districts to confirm sufficient emissions reduction credits were available to offset project-generated emissions to net zero. Copies of the air district coordination letters are provided in the general conformity determination (see Appendix 22E in the recirculated EIR/EIS). Please refer to responses to comments 1787-265, 1787-266, and 1787-271. 14. Cumulative impacts: Please refer to response to comment 1787-272.
1787	139	The EIR/EIS wrongly concludes that cumulative GHG emissions from operation of CM 1 are less than significant and require no mitigation. Construction of CM 1 would produce over 1.7 million metric tons of equivalent carbon dioxide ("CO2e") during an estimated 9-year construction period for the Dual Conveyance Tunnels. (EIR/EIS, Table 22-94.) An additional 161 metric tons of CO2ewould be emitted every year under operation of the proposed project. (EIR/EIS, Table 22-96.) The EIR/EIS misleads the public by stating that there will be reduced GHG emissions under project operations because DWR will reduce GHG emissions statewide by compliance with its Climate Action Plan ("CAP") and make adjustments to its Renewable Energy Purchasing Program. The EIR/EIS then finds that no mitigation is	CEQA Guidelines section 15183.5, subdivision (a), provides for tiering and streamlining the analysis of GHG emissions. Under this provision, lead agencies may analyze and mitigate the significant effects of GHG emissions at a programmatic level, and later project-specific environmental documents may tier from and / or incorporate by reference the existing programmatic review. As described in Chapter 22, Air Quality and Greenhouse Gases, Section 22.3.2.3, DWR adopted its Climate Action Plan – Phase I: Greenhouse Gas Emissions Reduction Plan (CAP) in May 2012 for all activities of the department. Chapter 12 of DWR's CAP outlines how individual projects can demonstrate consistency with the CAP so that they may rely on the analysis and commitments it provides for the purposes of a CEQA

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		necessary, even though operation of the tunnels would add approximately 1,405 GWh of additional net electricity demand each year. (EIR/EIS, pp. 22-43, 22-263.) While a lead agency has some discretion to use a baseline consisting of environmental conditions projected to exist solely in the future, the agency must justify its decision by showing a baseline analysis based on an existing conditions would be misleading or without informational value. (Neighbors for Smart Rail v. Exposition Metro Line Construction Authority (2013) 57 Cal.4th 439, 453.) This was not done. Also, it is not reasonable to assume that DWR will comply with the CAP or change its REPP. Therefore, the EIR/EIS should have also disclosed GHG emissions without these assumptions of GHG reductions in the future.	cumulative GHG impacts analysis. Since the BDCP Alternatives would result in additional SWP energy demands in excess of 15 gigawatt hours per year, required consultation with DWR's SWP Power and Risk Office has occurred, and modifications to the Renewable Power Procurement Plan to accommodate the BDCP alternatives have been identified to ensure that covered BDCP activities do not conflict with DWR's ability to achieve the GHG reductions outlined in the CAP. For these reasons, the operational emissions from both increased SWP pumping and project maintenance are found to be less than significant and no mitigation beyond compliance with the CAP is required. Through this demonstration of consistency and compliance with the CAP, DWR properly relies on the analysis it provides for the purposes of a CEQA cumulative GHG impacts analysis and impact reduction. Please see Master Response 19 for additional information. With respect to analysis baselines, project emissions were compared to two potential scenarios—the NEPA point of comparison compares total CO2e emissions after implementation of the project to the future No Action Alternative, whereas the CEQA baseline compares total CO2e emissions to Existing Conditions. The Existing Conditions analysis is utilized as the basis of for the CEQA impact determination, consistent with the CEQA Guidelines and current CEQA case law. See also Master Response 1, Environmental Baselines.
1787	140	Hazards Associated with Tunnel Muck Not Fully Analyzed The analysis of the tunnel muck and its chemical additives was not included as part of the EIR/EIS. A cursory sampling and analysis program was conducted in March 2014 under the Delta Habitat Conservation and Conveyance Plan (RTM-Final 20140307). That analysis provides essentially no scientific or engineering information since it was based on a trivial number of soil samples, which were then composited. The number of samples is grossly insufficient to meet any geotechnical analysis standard (21 samples for 27,000,000 cubic yards over 35 miles of tunnels). Compositing the samples also eliminated defining any possible site specific considerations or utility. This analysis fails to identify what constitutes "hazardous" or provide any estimate as to what percent of the muck has the potential to be defined as hazardous. This is relevant because the regional hazardous waste capacity is far lower than the muck volume, and both that capacity and the potential for material to be classified as hazardous is unanalyzed except in the most cursory manner. The analysis does not define how many cubic yards of muck would likely meet the concentration of which chemicals would make the material, how would this material be transported to the landfill, what the air/GHG/traffic and other environmental impacts of that transport would be, the estimated accident rate and spill potential, the distances of the storage and to schools and other sensitive receptors, or how much capacity would be used at the landfills. The local storage and handling of these materials is also not properly analyzed. For example, there is no information assessing what volatile compounds would be released from these piled muck materials during handling and drying. The water quality data provided in the post EIR/EIS report fail to identify the hazardous limits or any other CEQA/NEPA thresholds. A simple comparison of these data compared to US EPA's drinking water standards	While additives used to facilitate tunneling will be nontoxic and biodegradable, it is possible that some quantity of RTM will be deemed unsuitable for reuse. In such instances, the material will be disposed of at a site approved for disposal of such material. In the case of RTM, such requirements are anticipated to apply to less than 1% of the total volume of excavated material. Additional risk assessment studies would need to be done if RTM were to be considered for use where people would be in contact with the soil, either directly (e.g., through skin contact) or indirectly (e.g., as airborne particulate, or as leachate in surface or drinking water). RTM and associated decant liquid would be chemically characterized prior to reuse or discharge. Environmental commitments have been incorporated into project alternatives that describe the conditions for reuse of RTM to avoid and reduce potential environmental effects (see Appendix 3B, Environmental Commitments, Section 3B.2.18 Disposal and Reuse of Spoils, RTM and Dredge Material. Please see Master Response 12 related to RTM.

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		(http://water.epa.gov/drink/contaminants/#List) identifies that several of these Maximum Contaminant Limits or Maximum Contaminant Limit Goals are exceeded over the baseline through the addition of "conditioning" chemicals: for Antimony (in 3 of 4 conditioned samples); Arsenic (in 1 of 4 conditioned samples); Barium (in 1 of 4 conditioned samples). In addition, the muck solids in some cases had significantly elevated levels of copper, arsenic and diesel as a result of the conditioning. Landfills have their individual requirements for what constitutes "hazardous" and the EIR/EIS does not say which of these materials meet these criteria. Moreover, since the samples were homogenized, they do not represent either typical or worst case conditions. Additional sampling will be required to determine the proper handling of tunnel muck to protect public health and safety and the environment.	
1787	141	Chapter 26--Mineral Resources Failure to Disclose Applicable Requirements under the Surface Mining and Reclamation Act of 1977 The EIR/EIS fails to disclose that the material borrowing tunnel excavation and likely habitat restoration would typically constitute surface mining under SMARA. Though DWR's activities may be exempt from typical SMARA oversight, DWR is required to prepare and obtain approval from the Department of Conservation a Reclamation Plan. (Pub. Resources Code, [Section] 2714, subd. (i)(1).) DWR must prepare a "reclamation plan for lands affected by these activities" and reclaim the lands "in conformance with the standards specified in regulations of the board adopted pursuant to this chapter." DWR is also required to provide an annual report to the Department of Conservation. (Pub. Resources Code, [Section] 2714, subd. (i)(1).) Given the significant volume of muck to be generated by the construction of CM 1 (among other CMs), preparation of a Reclamation Plan is in the public interest to ensure that lands where muck is placed are in fact reclaimed.	As noted in Public Resources Code 2714 (b), SMARA does not apply to "Onsite excavation and onsite earthmoving activities that are an integral and necessary part undertaken to prepare a site for the construction of structures…or other improvements associated with structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or no surplus materials are exported from the site…."
1787	142	Chapter 28--Environmental Justice CEQA requires a process that provides an opportunity for meaningful participation of the public. According to Public Resources Code section 21061: "The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project can be minimized; and to indicate alternatives to such a project." Public Resources Code section 21003, subdivision (b) provides: "Documents prepared pursuant to [CEQA] should be organized and written in such a manner that will be meaningful and useful to decision makers and to the public." CEQA Guidelines section 15201 explains that "Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement . . . in order to receive and evaluate public reactions	With regard to tribal issues, please see Master Response 21. With regard to Environmental Justice, please see Master Response 27. With regard to Public Outreach, please see Master Response 40.

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		to environmental issues relating to the agency's activities." [footnote 15: Additionally, "[e]nvironmental review derives its vitality from public participation," and must be informed of significant impacts. (Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist. (2004) 116 Cal.App.4th 396, 400.) Public review is crucial to ensuring government accountability and informed self- government. Public review serves a dual purpose in that it both bolsters the public's confidence in the government process, and provides lead agencies the appropriate resources and expertise on certain subjects regarding environmental impacts. (Joy Road Area Forest and Watershed Ass'n v. California Dept. of Forestry and Fire Protection (2006) 142 Cal.App. 4th 656, 670.)] The BDCP, however, is a study in how not to provide effective public participation in general, and for the environmental justice ("EJ") community specifically. In order for functional public policy to be developed, the impacted community must be involved in a substantive way to reduce project impacts, and ideally to develop some project benefits. The BDCP has 48 unavoidable adverse environmental impacts, and has not constructively engaged the local community on how to properly avoid or mitigate these impacts. Instead the EIR/EIS typically states that an issue, such as groundwater loss and contamination will be dealt with by relocating individuals or providing some form of alternative water supply. Displacing rural communities is a massive impact, simply inferred by the analysis but never adequately addressed.	
1787	143	While HCPs have less robust public participation requirements, the NCCP Act has fairly clear and extensive recommendations. The BDCP allegedly follows what they describe as the five-point HCP policy, but did not follow the much broader NCCP guidance. For example, the NCCP "lessons learned" and rich literature on effective public participation with environmental justice communities identify the need for a credible negotiated, inclusive dialog, with an independent trusted facilitator, was simply ignored. (See Fish and G. Code, [Section] 2815.) [footnote 16: "The department shall establish, in cooperation with the parties to the planning agreement, a process for public participation throughout plan development and review to ensure that interested persons, including landowners, have an adequate opportunity to provide input to lead agencies, state and federal wildlife agencies, and others involved in preparing the plan. The public participation objectives of this section may be achieved through public working groups or advisory committees, established early in the process.. . . .(b) A requirement to make available in a reasonable and timely manner all draft plans, memoranda of understanding, maps, conservation guidelines, species coverage lists, and other planning documents associated with a natural community conservation plan that are subject to public review.. . . .(d) An outreach program to provide access to information for persons interested in the plan, including landowners, with an emphasis on obtaining input from a balanced variety of affected public and private interests, including state and local governments, county agricultural commissioners, agricultural organizations, landowners, conservation organizations, and the general public."] The BDCP lead agencies failed to effectively engage the large Spanish-speaking and the	Please see Response to Comment 1787-132, above.

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		locally impacted Laotian, Hmong, Russian and Ukrainian communities who either work in the areas that will be impacted by the project or rely on the resources of the Delta.	
1787	144	The BDCP principals began meeting in secret and always favored closed meetings from its beginning. When the BDCP process finally came to light in the Steering Committee period (2008-2011), secret closed meetings were held just after the public meeting. In order to formally participate in the Steering Committee, agencies and groups had to sign an agreement that they supported the export of water and a new conveyance system. [footnote 17: Delta representatives, for instance, were interested in joining the BDCP Steering Committee. The precondition of consent to the existing Planning Agreement (October 6, 2006) and "acceptance of all past decisions of the Steering Committee" (including the Points of Agreement for Continuing into the Planning Process (November 6, 2007)), however, was unacceptable.] Non-members of the Steering Committee had to wait until the end of the several hour meeting to make any comments or ask questions. Technical work group handouts were not provided to members of the public until about 2009. (See Exhibit Q, Request for Handouts, May 20, 2008.) With the transition from the Schwarzenegger to the Brown Administration in 2012, the BDCP went underground again, closing the public off from the technical meetings and all of the Principals' meetings. The Steering Committee stopped meeting altogether and a handful of public technical meetings were held to discuss a few issues, namely the Effects and the Economic analyses. Each of those meetings were arranged in order to maximize the consultant's time discussing essentially the same matters over and over again, and to minimize the questions from technical experts. A parallel "public participation" set of hearings was held around the release of the draft EIR/EIS, but these were strictly informational events and not the more substantive Steering Committee meetings. Environmental justice communities we sent pro-forma notices, but never effectively engaged and the results of this are clear--further marginalization. The BDCP's concept of public participation is a one-way pushing of conclusions on the community with no responses to Delta concerns. Simply stating that Delta environmental justice concerns were taken into account, but not reviewing them and responding to them, resulted in a waste of everyone's time. Throughout the process, the Resources directors kept claiming in the media that they were opening up the process and keeping the public involved. Nothing could be further from the truth. Hundreds of secret management, planning and financial meetings have been held with no public access. It is hard to understand what sort of public participation is believed to have occurred by the agencies, since the project still does not address the many multitude of concerns identified by Delta residents. Finally, the BDCP process required commenters to use the federal Freedom of Information Act and the Public Records Act to obtain technical information associated with the project	Please review Section 28.3 of Chapter 28, Environmental Justice, regarding the outreach that has been conducted directly to environmental justice communities, which more than satisfy the U.S. Bureau of Reclamation's NEPA Handbook requirements. The lead agencies conducted 22 public scoping meetings throughout California in 2008 and 2009. The lead agencies conducted an outreach effort in 2010 that involved soliciting and compiling information provided by respondent members of minority groups regarding cultural significant practices as well as subsistence activity. Notification and announcements of scoping meetings were posted in ethnic newspapers and on ethnic radio stations; translators were provided at scoping meetings; the project website is available in Spanish, and there is a multilingual hotline for project information. In 2012, six public meetings were held throughout the state, including in the Delta, to update stakeholders and the public on elements of the administrative draft BDCP and EIR/EIS. In summer of 2015, two public meetings were held in Walnut Grove and in Sacramento to discuss the RDEIR/SDEIS with the public. Public outreach documents are also available in six languages (in addition to English), on the website, located at: http://baydeltaconservationplan.com/2015PublicReview/2015PublicReviewInformationalMaterials/2015_Multi-Lingual.aspx. For more information regarding adequacy of public outreach activities please see Master Response 40.

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		that was not disseminated by the baydeltaconservationplan.com website or included in the Plan or the EIR/EIS. This arduous process resulted in increased costs of participation and significant delays to obtain the most basic documents, such as meeting minutes and the technical analyses used to develop the project description and mitigation measures, for instance. This alienated any remaining EJ communities who simply could not provide the financial support to meet these challenges to even understand the project.	
1787	145	Largely as a result of inadequate outreach to environmental justice communities, the EIR/EIS utterly fails to disclose significant impacts on EJ communities. For instance, the EIR/EIS does not disclose the public health impacts associated with water contamination in the Delta from increased mercury levels caused by aquatic habitat creation. Increased mercury levels from habitat restoration will interfere with subsistence fishing of EJ communities.	Chapter 28, Environmental Justice of this Final EIR/EIS fully discloses all of the potential on environmental justice communities that could be affect by impacts caused by the action alternatives. The approach in Chapter 28 is to identify minority or low-income populations that reside or work in the vicinity of proposed construction and operational effects. Additional details on increases in methylmercury, bioaccumulation in fish, and subsistence fishing have been added to Chapter 28 in the RDEIR/SDEIS under each applicable alternative. As described in Section 28.5.1.4 of Chapter 28, an associated increase in human consumption of mercury caused by these alternatives would depend upon the selection of the fishing location (and associated local fish body burdens), and the relative proportion of different Delta fish consumed. Different fish species would suffer bioaccumulation at different rates associated with the specific species, therefore the specific spectrum of fish consumed by a population would determine the effect of increased mercury body burdens in individual fish species. These confounding factors make demonstration of precise impacts on human populations infeasible. However, because minority populations are known to practice subsistence fishing and consume fish exceeding US EPA reference doses, any increase in the fish body burden of mercury may contribute to an existing adverse effect. For effects that were determined not adverse, such as Impact PH-3 ("Substantial Mobilization of or Increase in Constituents Known to Bioaccumulate as a Result of Construction, Operation or Maintenance of the Water Conveyance Facilities") and Impact PH-7 (Substantial Mobilization of or Increase in Constituents Known to Bioaccumulate as a Result of Implementing CM2, CM4, CM5 and CM 10 (or Environmental Commitments 4 and 10), no additional evaluation is needed because those effects would not result in disproportionate effects on minority and low-income populations. This method of screening effects is consistent with the CEQ guidance (Council on Environmental Quality 1997:25). Because subsistence fishing is specifically associated with minority populations in the Delta compared to the population at large this effect would be disproportionate on those populations for Alternative 4A, the new preferred alternative. This effect would be adverse.
1787	146	Chapter 29--Climate Change Climate change was improperly incorporated into the EIR/EIS baseline. See comments on Chapter 22 regarding use of improper use of future baseline.	Please refer to Master Response 19 which addresses how climate change has been properly, methodically and comprehensively described and analyzed in the EIR/EIS. Master Response 19 has a listing of the numerous chapters and appendices in the EIR/EIS that address and demonstrate the importance of climate change in the evaluation of the proposed project's alternatives and Master Response 1 discusses how environmental baselines were developed under CEQA and NEPA. For additional information on EIR/EIS baselines, please see Master Response 1.

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1787	147	Chapter 30--Growth Inducement Water Transfers Inappropriately Relegated to Growth Inducement Chapter All discussion of impacts of water transfers was moved to the Growth Inducement Chapter. (EIR/EIS, pp. pp. 30-117 to 30-126.) The Growth Inducement chapter, however, does not discuss all of the potentially significant impacts that may result from water transfers made: (1) to operate the new North Delta Diversions in the first place; or (2) in excess of the water exporter contract water supplies using the new capacity provided by the tunnels. Additionally, many of the impacts from water transfers have nothing to do with growth. The EIR/EIS admits that "If the new north Delta facilities are not restricted to the current July through September transfer export window, crop idling or crop shifting- based transfers may become a more viable source of transfer water for much of the Sacramento Valley." (EIR/EIS, p. 30-118.) The EIR/EIS then excuses in depth analysis by claiming "transfers and other upstream water transactions are subject to a number of regulatory requirements that make it unlikely that significant adverse impacts will occur." (EIR/EIS, p. 30-118.) In addition to not even attempting to undertake a good faith analysis of the effects of all of the water transfers that are part of or a result of the BDCP, the EIR/EIS fails to address potential impacts of pre-1914 water rights transfers that do not require review by the SWRCB. These transfers could cumulatively lead to disastrous results in the areas of origin. Use of the SWRCB eWRMS system could provide a factual basis for conducting an analysis of impacts likely to occur from the transfer of such pre- 1914 water rights. The discussion of potential impacts in the context of growth inducement is misplaced and lacks the quantitative, fact-based detail necessary to adequately disclose potential impacts, especially impacts to the Sacramento Valley. Moreover, the analysis completely fails to acknowledge the additional transfers that are needed to operate CM 1 in the first place. (See Exhibit C, Water Transfer Documents.) The analysis of water transfers is completely inadequate and must be re-written; moreover, impacts associated with these transfers must be discussed within all of the relevant resource analysis chapters of the EIR/EIS, not buried in the Growth Inducement Chapter.	Increased water transfers that might be facilitated by the project alternatives are included in Chapter 30 as a possible increased water supply that might be growth-inducing. The possibility for increased water transfers with the project alternatives are programmatically described and evaluated in the water supply Chapter 5, Appendix 5D, and the environmental effects of additional water transfers are described in Chapter 30. The SWP and CVP operations as modeled in the EIR/EIS do not include water transfers except for the long-term water transfer under the Lower Yuba River Accord. Water transfers are not necessary to operate the proposed project (Delta conveyance). Increased exports from the existing SWP and CVP water rights would be the primary source for diversions to the conveyance facilities and increased water supplies with the project. For additional information regarding water transfers, please see Master Response 43.
1787	148	Chapter 31--Other CEQA/NEPA Required Sections Appendix 31A--BDCP Later CM [Conservation Measure] Activity Environmental Checklist This section should, but does not, include the transmission line approval process that will be needed to supply power for construction and operation of CM 1.	The Final EIR/EIS fully analyses the potential effects from construction new electrical transmission lines to construct and operate conveyance facilities. For example, the footprint effects of transmission line corridors is included in GIS analyses reported in resource chapters of the EIR/EIS. However, it is acknowledged that the selected utility provider may elect to conduct additional environmental review of transmission line improvements to meet there separate regulatory requirements.
1787	149	Chapter 32--Public Involvement, Consultation, and Coordination The public process for BDCP has been a major disappointment. After six years, hundreds of	Please also see Master Response 27 regarding environmental justice and Master Response 40 regarding public outreach.

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		hours of meetings, thousands of hours of document reviewing and many letters, the BDCP as proposed still does not reflect a locally acceptable project A far more sophisticated and concerted effort would be necessary to constructively engage the community.	
1787	150	Local agencies in the Delta want, and have worked toward, a positive outcome from the BDCP--one that actually achieves the so-called co-equal goals, including protection of Delta communities. A positive outcome for everyone relies on a true collaborative approach and attention to protection of in-Delta values. The BDCP and associated EIR/EIS, after years of development, still does not present a project that would be acceptable to Delta communities. With significant revision to both the BDCP and the EIR/EIS, however, we believe it would be possible to reach broad consensus on actions to improve ecological conditions in the Delta while continuing to contribute to the water supply needs of other regions. Though we believe these documents are patently inadequate and must be revised and recirculated, we remain willing to work in good faith with the lead agencies and others toward an acceptable approach to management of Delta water and other resources.	The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts, as such the proposed project is intended to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. The commenter notes the years of development of the proposed project. More information on how DWR has developed the project in an open and transparent manner is provided in Master Response 41, and information on the adequacy of the public outreach activities can be found in Master Response 40.
1787	151	ATT1: Email letter to Ms. Michelle Banonis of the U.S. Dept. of Interior, Bureau of Reclamation, from Law Corporation Soluri Meserve dated July 29, 2014 representing Local Agencies of the North Delta (LAND) Regarding BDCP Cooperating Agency and BDCP Environmental Coordination Team (BECT)	This comment describes the title of an attachment to the comment letter.
1787	152	Local Agencies of the North Delta (LAND) believes that the original premises of the BDCP, in particular Conservation Measure (CM) 1 and its failure to reduce reliance on the Delta, are technically flawed in a fundamental way. Over several years, LAND has urged optimization of Bureau of Reclamation project infrastructure and the Habitat Conservation (HCP) planning elements to attempt to achieve their project purpose, minimize their effects on the environment, and meet the legal requirements of Senate Bill (SB) 7x to protect Delta communities. BDCP ultimately responded by forgoing a proposed ring levee around Clarksburg, a proposed western habitat bypass along the ship channel, and by reducing the size of the intermediate forebay. Notwithstanding these incremental improvements to the project, the BDCP still proposes to significantly impair the flood protection and water supply operations of the cooperating LAND districts. BDCP's analyses as presented in the Plan and the EIR/EIS, have significant deficiencies. Despite these issues, the analysis still clearly indicates that there has been a gross failure in the development of an effective HCP/Natural Community Conservation Planning (NCCP) and project alternative since the preferred project has over 48 significant and unavoidable impacts.	This comment addresses Alternative 4 (known also as the BDCP). Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) is being considered. For additional detail on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5. Appendix 6A addresses flood protection and levee impacts. Issues regarding water supplies are covered in Chapter 5, Water Supply of the FEIR/FEIS; native aquatic and terrestrial species are covered in Chapters 11 and 12; ESA compliance is currently being pursued under Section 7; and the project has committed to a number of measures outlined in Appendix 3B to deal with invasive species management.

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		The primary issues that concern all parties still remain, which include reliable water supplies, stable native species populations, take coverage for water operations and levee maintenance, and invasive species management. These issues, among others, will not be resolved with the current BDCP.	
1787	153	BDCP continues to inadequately address the following issues: Reconciling the Water Demand: Removing millions of acre feet of water a year from a stressed system, and not designing that withdrawal to match the hydrologic cycle, is patently irresponsible. The BDCP's proposed operations take even more water out of the system, and take much more of it in drier years at the driest season of the year. No attempt is made by the BDCP to manage the demand side. The sole focus is to capture the supply side. HCP/NCCP: This HCP/NCCP directly interferes with, and competes with, existing HCPs, conservation easements, habitat management plans, and refuge management plans. This HCP/NCCP is unique because it was developed without substantive input and support of those plans, or the participating local governments and landowners. Yet, the BDCP does not readily allow for future projects with similar goals and objectives to rely upon the BDCP HCP/NCCP, unlike other HCP/NCCPs.	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Although demand management is not identified as a component of the BDCP, the conservation strategy does not deter on-going state-wide efforts to improve demand management and water conservation. Please refer to EIR/EIS Appendix 1C, Demand Management Measures, Master Response 6, regarding desalination and demand management and the California Water Action Plan. Comparison of the effects of the BDCP on other local HCPS is included in Chapter 12, Terrestrial Biological Resources.
1787	154	The South Delta Pumping Operations: The BDCP fails to fundamentally address continued flow reversals and the massive fish killing in the South Delta. The engineered system needs to attempt to improve overall circulation, San Joaquin River connectivity, and some means of reducing take (and salvage losses). The BDCP claims this is the purpose of CM 1 (BDCP, p. 4-24), but then still proposes to operate the new facility only half of the time.	Dual operation of the south Delta export system with the new north Delta diversions will allow for operational flexibility during times when existing export facility operations would be limited because of the presence of listed fish species. The operational approach for the BDCP improves Old and Middle River reverse flow conditions and reduces fish entrainment. Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	155	The Existing Habitat Projects: Tens of thousands of acres of existing publicly funded and/or managed lands have already been acquired with essentially no scientific analysis of their success or failures or active management for optimization for listed species needs (or even reducing weeds). Instead, the BDCP trades off successful terrestrial and riparian resources for yet more generic aquatic habitat. This is a numbers game instead of a quality-based effort that will simply put more species into peril, such as the greater sandhill crane.	This comment is questioning the quality of, as yet, implemented habitat restoration and enhancement under the BDCP. Although uncertainty exists about the success of BDCP's proposed restoration, the ability to meet biological goals and objectives based on monitoring and adaptive management is important for the BDCP conservation strategy. Analyses of effects and benefits on Greater Sandhill Cranes is provided in Chapter 12,Terrestrial Biological Resources, Impact BIO-69, which indicates the impact of habitat conversion would be less than significant with mitigation to compensate for loss of high value crane habitat.
1787	156	Invasive Species Management: The BDCP proposes some sort of invasive species management, at an unspecified time in the future, and in some other unspecified analysis. This should be the highest priority under any future Delta scenario for any ecological outcome to be favorable in the Delta, and it has widespread support, yet it is the least developed of the conservation measures (CM 13 & 20). These may be difficult ecological issues, but the pelagic organism decline, as well as any attempt to counteract that decline, hinge in a large part on improving invasive species management.	This comment states and opinion that CM's 13 and 20 to manage Delta invasive species should be developed in greater detail for the BDCP. Should the BDCP be selected during this environmental review process, this suggestion could be considered further.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1787	157	Inter basin Transfers: The BDCP, as well as the grossly over appropriated San Joaquin system in general, is dependent on inter basin transfers of water. The transfers have significant and unanalyzed impacts in their areas of origin, and can result in further stream depletion with or without conjunctive use. This is a classic example of how the BDCP trades off the high ecological value tributaries to make up for systemic failure to manage the root causes of declining Delta fisheries.	With regards to water transfers, please see Master Response 43. Potential water transfers effects are addressed in Chapter 5, Water Supply and Chapter 31 of this Final EIR/EIS.
1787	158	Agricultural Impacts: The BDCP is also literally sacrificing an exceptionally high value, sustainable agricultural region for another region, which has devastated its local water supplies and has already created several ecological disasters. Massive Tulare Lake, the San Joaquin River, San Joaquin Valley groundwater, and the South Delta, as well as every large river in the lower water watershed has been captured, depleted and/or destroyed. The BDCP fails to even acknowledge this history and current practice, as well as the repercussions of continuing to subsidize these impacts and their resulting toxic agricultural drainage.	The BDCP seeks to balance the need to restore the Delta environment, maintain Delta land use and community values while restoring and protecting water supply if the SWP and CVP. Chapter 2, Project Objectives and Purpose and Need and Appendix 1A of this Final EIR/EIS presents an overview of the need for the BDCP or California WaterFix and provide background information about current issues facing the Delta environment. The project objectives and project purpose and need for the proposed project are described in the Final EIR/EIS Executive Summary, Sections ES.1.1.1.2 and ES.1.1.1.3. Section ES.1.1.1.2, Project Objectives, states that DWR's "DWR's fundamental purpose in proposing the proposed project is to make physical and operational improvements to the SWP/CVP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations." Section ES.1.1.1.2, Project Need, acknowledges the importance of the Delta's resources, including agricultural and recreational uses, and identifies the three key reasons improvements to the water supply conveyance system are needed: "to respond to increased demands upon and risks to the aquatic ecosystem, water supply reliability, and water quality." Chapter 14 of the Final EIR/EIS, Agricultural Resources, explains that under both California and federal law and policy, farmland is recognized as a unique resource and that conversion of farmland to other uses may have adverse economic and environmental impacts. Farmland is unique under CEQA and NEPA in that it represents both a natural resource and an economic resource. For the purposes of assessing both the severity of impacts and the need for mitigation, the Final EIR/EIS does not use a numerical approach. Rather it identifies different degrees of impacts and different mitigation measures, depending in part on the nature, duration, and permanence of the impacts. (Chapter 14, Section 14.3.2, Determination of Effects.) Implementation of Mitigation Measure AG-1 is a carefully developed strategy that recommends developing a series of "Agricultural Lands Stewardship Plans" to reduce (although not necessarily eliminate completely) these impacts in connection with the construction of Conservation Measure 1 and other CMs. The Agricultural Lands Stewardship Plans would set forth measures to promote agricultural productivity through early planning, site specific avoidance and mitigation, onsite mitigation, and landowner participation. The Plan would implement such activities as siting project footprints to encourage continued agricultural production; relocating or replacing agricultural infrastructure in support of continued agricultural activities; engaging counties, owners/operators, and other stakeholders in developing optional agricultural stewardship approaches; and preserving agricultural land through off-site easements or other agricultural land conservation interests. (Section 14.3.3.2) Mitigation Measure AG-1 includes affiliated mitigation

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			measures AG-1a, AG-1b and AG-1c. These are lengthy and detailed proposals calling for extensive consultation with farmers and land owners, local agencies, and other agencies; numerous steps to minimize permanent conversion of agricultural lands to nonagricultural uses; mitigation on site; and other stewardship efforts. (Chapter 14, Section 14.3.3.2) Similar analyses on agricultural resources are included in the FEIR/EIS for all alternatives.
1787	159	In addition to general problems and failures to develop an effective problem statement that deals with the fundamental issues of removing too much water from an already depleted watershed, there are a host of technical issues that are either inadequately addressed or simply not dealt with at all in the current BDCP analysis.	Commenter subsequently elaborates on this point, but this comment, by itself, is a statement of opinion and is acknowledged as such.
1787	160	Problems with Conceptual Development The CMs are a hodgepodge of an industrial water project and undeveloped window dressing "habitat" measures (CMs 2-13) that attempt to serve as mitigation for the impacts of CM1. To what degree the CMs mitigate for the project and what degree they stabilize and recover covered species is unclear in the analysis, but should be the most obvious part of the BDCP. It is nearly impossible to discern what the habitat-associated mitigation measures are for CM1 or for other CMs, and how these measures are different from the requirements to support species recovery. In just one illustration, miles of contiguous, mature riparian forest is lost for the intakes, project roads and other features, but replacement is deferred and piecemealed. The lapse in time before replacement of this critical ecological resource is 30-40 years, and the replacement is spatially re-distributed to areas other than where the original impact occurred.	The quantities of habitat restoration proposed under the BDCP are based on analysis of the potential effects from conveyance facility construction, habitat restoration and the goal to contribute to recovery of covered species. Proposed habitat acreages far exceed the potential effects in many cases. Since the time of the Draft EIR/EIS additional requirements for temporal loss of riparian trees has been included. Please refer Chapter 12, Terrestrial Biological Resources, Impacts BIO-8, 9 and 10.
1787	161	The BDCP should consider all alternatives individually without CM 1. For example, there is no analysis of which combination of CM 2, 13 and 16 would result in the lowest environmental impacts and greatest environmental and water supply benefits. There is also no analysis of the environmental result of timing CM 1 after successful completion of CM 2, 13 and 16. This stepwise process was effectively the outcome of CalFED, but was not considered under the BDCP.	The analysis in this Final EIR/EIS of the BDCP considers the effects of CM1 at a project level of analysis and the effects of CM's 2-21 at a program level of analysis as explained in Master Response 2. Overall effects of BDCP elements that could coincide is discussed before the cumulative impacts discussion for each resource chapter. Please also refer Master Response 8, regarding analysis of the project as a whole.
1787	162	Operational Uncertainties The issues of defective conceptual development create a weak foundation for operations and the analysis in the BDCP. For example, the screen losses for salmonids in the north Delta were based on a series of assumptions that were not conservative. If depletions of groundwater resulting from water transfers and conjunctive use further damage the spawning areas upstream, the ecological impacts of those losses could be much higher than analyzed. The limits of those transfer operations and their environmental impacts are explicitly left out of the BDCP documents, yet could be responsible for much of the overall project impact on the environment.	Please see Master Response 43 regarding water transfers. Briefly, any transfers would have to undergo environmental evaluation as separate actions, thus their impacts (if any) are not part of BDCP, and proposed transfers could be denied if they were to result in unacceptable impacts.

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1787	163	The relationship between how pumping will be controlled under real-time operations ("RTO"), and new dam operational rules are not described in this analysis. Yet, based on the provided water quality modeling, the dams would have to be operated under new rules - rules that are not yet developed or analyzed. The ecological considerations of matching north Delta pumping locations and rates in real world conditions, upstream dam operations, intake bypass flows, CM 2 bypass flows, Delta Cross Channel, Steamboat and Sutter Slough flow reversals, Head of Old River Barrier, and south Delta pumping operations are simply not analyzed in the EIR/EIS.	The CALSIM II model results in the EIR/EIS are developed from calculated monthly average reservoir volumes. Because the model only calculates and reports SWP and CVP water operations at an average monthly basis, the model cannot simulate changes that occur on a weekly basis by water users and SWP and CVP operations. In addition, the model cannot make decisions that occur in real-time, such as drought operations during the ongoing drought. Instead the model includes average operating criteria for all dry periods, and does not reflect specific changes. The simulated conditions using the monthly model occur in the Existing Conditions, No Action Alternative, and the action alternatives model simulations and are used in a comparative manner to determine relative effects, not absolute values or predictive outcomes. The EIR/EIS analysis considers changes between the frequency of changes in conditions under the action alternatives and the Existing Conditions and No Action Alternative to determine if the changes are adverse or beneficial. The results are presented in the tables with end-of-month storage for the SWP and CVP reservoirs in Appendix 5A, Section C, Modeling Results, in the Draft EIR/EIS. As described in Chapter 5, Water Supply, the EIR/EIS analyses assume continued implementation of reservoir operations criteria due to climate change or other reasons, in accordance with the requirements under the CEQA definition of Existing Conditions and under the NEPA definition of the No Action Alternative. It would be speculative to consider future changes to reservoir operations in the No Action Alternative and Cumulative Impact Analysis. Such changes are not included in the action alternatives because they would not support the Project Objectives or Purpose and Need statement. Changes in reservoir operations criteria would only occur following detailed analyses, including project-specific CEQA and NEPA analyses, if appropriate. Following adoption of changes to reservoir operations criteria, DWR and Reclamation would need to determine if changes in the SWP and CVP would be necessary.
1787	164	The implications for this failure of describing operational conditions and providing an associated analysis are profound to the cooperating agency districts. The likely stage elevation and water quality changes associated with the project are also not identified. The districts are likely to be subject to greater seepage from increased stages associated with the project and its unanalyzed water transfers. The water elevations and rapid changes in those elevations can lead to scour on levees, seepage can lead to crop damage, and water quality degradation can lead to crop losses. The amount of loss cannot be predicted because the real time impacts of the project are simply not described. The means by which these impacts will be quantified by the project is not identified, placing the burden of monitoring and remediation on the districts. The overall environmental impacts of the project itself, together with its mitigation, and the habitat implications to the cooperating agency districts, have not been analyzed. The districts protect riparian and wetland habitat, and at times have mitigation needs of their own. The HCP should be open to all with similar project needs so that the Delta's environmental needs are consistently managed through one program. Under the BDCP, however, the existing and proposed local HCPs will compete for mitigation land with each other and the districts. It appears that the districts would have to duplicate portions of the	Please see response to comment 1787-163, and see master response 43 regarding water transfers. The impacts described be commenter, if they occurred, would be associated with the water transfer, not with the proposed project, and would be subject to environmental evaluation required prior to the proposed transfers.

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		BDCP in their own Section 7 and 10 processes, if needed in the future. The cooperating agency districts remain concerned that the significant environmental impacts of the project on both terrestrial and aquatic species will result on the burden being shifted from the beneficiaries of the project to the local districts. As the resource agencies discover the need for more species protections and restrictions due to the inadequacies of the BDCP, the BDCP proponents will be protected as they will have received 50-year take authority with "no surprises" assurances. On the other hand, BDCP offers no process by which other landowners or agencies within the plan area may receive take authority if needed for ongoing activities. Though remotely possible, the districts believe that re-consultation on the BDCP is unlikely and that the agencies will instead place environmental restrictions on local districts and landowners. The districts support LEDPA alternatives described earlier because they are far likely to achieve real environmental benefits, which in turn reduces everyone's compliance burdens.	
1787	165	The critical project monitoring and associated metrics are poorly defined and are likely not to provide any ecologically useful statistical information. This can lead to the requirement to take more land out of agriculture and put it into habitat, placing additional local burdens due to poor science. Or, local restrictions may be put into place based on flawed analysis. A transparent, robust monitoring analysis program must be developed.	This is a general comment about deficiencies of the monitoring approach for the BDCP. Please note that that the adaptive management and monitoring approach for the California WaterFix has been modified. Please refer to Master Response 33, regarding adaptive management and monitoring.
1787	166	The project's monomaniacal emphasis on aquatic species over terrestrial species remains a concern across the board. Project impacts may occur to terrestrial species, such as greater sandhill cranes, but the proposed inadequate project monitoring will likely not disclose whether reductions in populations are due to the project's impacts. That puts the districts at risk of being subjected to new environmental restrictions. Strong environmental support for all listed and covered species needs to be put in place before CM 1 so that species do stabilize and recover, and an effective statistically-sound monitoring program must be implemented to identify project benefits and impacts.	The BDCP provides conservation measures and an overall conservation strategy to support recovery of all of the covered species and provides for early implementation projects to occur before operation of CM1 begins.
1787	167	The water quality impacts of the project raise unresolved concerns for the districts. It appears that sediment reductions will lead to delta smelt impacts, which are arbitrarily ignored. Selenium and methylmercury impacts from habitat restoration activities could also lead to Central Valley Regional Water Quality Control Board restrictions on districts to reduce loads created by the project.	The analysis of turbidity effects on Delta smelt and Delta selenium effects have been updated and revised in the RDEIR/SDEIS Chapter 11, Fish and Aquatic Resources and Chapter 8, Water Quality. Regarding water quality impact analyses please also refer to Master Response 14.
1787	168	The districts have repeatedly identified that levee road damage and access impacts as a result of the project have been inadequately or improperly analyzed. The EIR/EIS does not deal with the structural impacts of the project on the structural, access and maintenance of critical district infrastructure. The districts use these levees to protect their islands from flooding, support flood fighting, transport agricultural supplies, goods and services, and to provide rescue routes. There are simply no substitutes available to replace these structures	Please see Appendix 6A of the FEIR/EIS, for information on potential impacts to levee road integrity due to increases in construction traffic, and Chapter 19 (Transportation) for impacts to levee roads. Appendix 6A also includes a discussion on levees modified by construction of the California WaterFix (CWF), including responsibilities of the lead agencies. Before and/or during construction of the CWF water conveyance facilities, lead agencies will explore

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		and routes; yet, the BDCP's treatment of impacts on local infrastructure is cursory and trivial.	opportunities with local reclamation districts and the Central Valley Flood Protection Board (CVFPB) to address potential conflicts regarding levee maintenance, inspection, and flood fighting activities on project and non-project levees. DWR will look to enter into agreements with local reclamation districts with jurisdiction in the Delta to ensure levee management activities by both government and local agencies are not interrupted during construction of the water conveyance facilities. In addition, DWR will comply with all applicable flood protection requirements and regulations to ensure flood neutrality during construction and operations of the CWF.
1787	169	ATT2: January 13, 2014 email from Mike Hoover, Assistant Field Supervisor U.S. Fish and Wildlife Service, Bay-Delta Fish and Wildlife Ofice, regarding BDCP and EIS Assessment	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	170	ATT3: Summary Templat for BDCP Financing Committee Action Items Action Item: Use of Habitat Funds to Provide Outflow	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.Please see above responses to comments.
1787	171	ATT4: Front title page only, California Groundwater Elevation Monitoring Basin Prioritization Process June 2014	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	172	ATT5: BDCP Slide from Powerpoint from 3/13/14 BDCP Environmental Coordination Team (BECT) Meeting Operations and Water Quality/Level Impacts from CM1	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	173	ATT6: Slide from BDCP Powerpoint from 3/13/14 BDCP Environmental Coordination Team (BECT) Meeting, Chapter 8 ELT vs. LLT Salinity, Water Quality	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	174	ATT7: Slide showing Text "Delta Dilemma: how to recover lost treasure?" No citation visible	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	175	ATT8: March 8, 2011 statement of Contra Costa Water District: Senate Natural Resources and Water Committee	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above

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			responses to comments.
1787	176	ATT9: Local Agencies of the North Delta (LAND) email letter: "Comments on BDCP Conservation Measure 21/Nonproject Diversions and the Related Issue of the Potential Need Inclusion of Certain Non-project Diversions as Covered Actions Dated April 19, 2012 to Christopher Earl, Ph.D., Senior Ecologist of ICF International	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.Please see above responses to comments.
1787	177	Local agencies and other in-Delta water providers and users are reliant on pumps and associated intake structures to deliver water for agriculture. Various surveys have identified over 2,500 Delta water intakes, most of which do not have fish screens. Larger, refurbished or new intakes often include screens (usually welded stainless wire positive fish barriers) that are funded under a variety of cost-sharing programs. Several studies have identified the CVP and SWP Project diversions are the most significant sources of direct take of both listed and game fish in the Delta, and other state studies have identified that smaller unscreened diversions have limited take of fish, and that take is predominately comprised of gamefish. As explained in December 2012 comments by Local Agencies of the North Delta (LAND) relating to CM21, the BDCP Effects Analysis misstates the relative contribution to take of listed species by small agricultural intakes within the Delta. [footnote 1: LAND Comments on the BDCP Effects Analysis - Appendix A: Conceptual Foundation and Analytical Framework Appendix B: Entrainment [December 12, 2011] (See Attachment A.)] In particular the conclusion that small unscreened diversions are a significant source of take of special status fish is contrary to the findings of the Ecosystem Restoration Program, Ecosystem Strategy for Stage 2 Implementation Sacramento San Joaquin Delta Ecological Management Zone July 21, 2010 report (ERP Report). The ERP Report states that "small agricultural Delta agricultural diversions are likely to have a minor effect on pelagic (open water) fish, such as the delta smelt." (ERP Report p. 50, citing Nobriga et al. [footnote 2: Nobriga, M., Z. Matica, and Z. Hymanson. 2004. Evaluating Entrainment Vulnerability to Agricultural Irrigation Diversions: A Comparison Among Open-Water Fishes. American Fisheries Society Symposium 39:281-295, available at: http://www.fws.gov/stockton/afrp/SWRCB/12.%20Nobriga%20et%20al.%202004.pdf.]) As a result, larger diversions (such as those over 250 cubic feet per second), have been the focus for consideration of screening by state and federal agencies. Thus, the attribution of significant take numbers to these small intakes in the Effects Analysis was erroneous. (See Effects Analysis, Appendix B, sections B.3.10 and B.4.4.3.) The Effects Analysis and CM21 also incorrectly assume that land conversion to habitat and other wetland types will not require continuing use of existing intakes or installation of new intakes. Creation and maintenance of habitat in the Delta under the BDCP will require	Because the BDCP (Alternative 4) is no longer the preferred CEQA and NEPA alternative which is now Alternative 4A, California WaterFix, potential revisions to Alternative 4 related to this comment have not been made because the Draft BDCP document is not being revised. No additional revisions have been made to this Final EIR/EIS because no significant environmental effects for Alternative 4 were identified for CM21. Alternative 4A does not include a component to fund screening of Delta diversions.

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		significant water supplies. As we previously suggested in the BDCP Effects comments, prioritization of those screening projects with the most potential to benefit target species is essential. This is consistent with the conclusions of Peter B. Moyle and Joshua A. Israel with respect to screening as a measure to reduce entrainment of fish. [footnote 3: Moyle, Peter B. and Joshua A. Israel, May 2005. Untested Assumptions: Effectiveness of Screening Diversions for Conservation of Fish Populations. Fisheries, Vol. 30 no. 5, available at: http://genome-lab.ucdavis.edu/people/Israel/Fisheries2005.pdf.] They concluded that "it does not seem appropriate to use public funds to provide new screens for most diversions (especially small diversions on large rivers) unless the projects have a strong evaluation component to them, including intensive before and after studies. Under an adaptive management framework, the "before" study should be evaluated by independent experts to see if the diversion does harm to fish populations, either individually or cumulatively." (Moyle and Israel, p. 27.)	
1787	178	Specific Comments on Non-Project Diversions/CM 21 While the BDCP does not propose to screen existing SWP/CVP Project diversions in the South Delta despite their massive and continuing take of protected fish, [footnote 4: For these reasons, CalFED [CA Bay-Delta Authority] included the design and construction of fish screens at these facilities. Performance testing of the new screens was required to begin by 2006. (CalFED ROD, p. 49.)] the February 2012 draft of the BDCP now includes CM 21 Non-Project Diversions. (BDCP, pp. 3-171 to 3-176.) A similar measure was previously included in the BDCP as Other Stressor Conservation Measure 20 ("OSCM 20"), but was ultimately dropped from the November 2010 draft BDCP, apparently because of its uncertain conservation value. [footnote 5: Reclamation District 999's original 2009 comments on OSCM 20 are included as Attachment B.] Though the concept has been somewhat refined since 2009, we have several concerns with the current approach to non-Project diversions in CM 21. First, the underlying need for the measure is unsubstantiated. The stated purpose of CM21 is: [T]o reduce incidental take of all covered fish except lamprey (which are not known to be affected by this stressor) by entrainment or impingement, and also to improve Delta ecosystem health by reducing the diversion of plankton and other nutritional resources into non-project diversions, thereby benefiting all covered fishes. The discussion of CM21, however, fails to identify and support the supposed purpose of the measure. It also fails to identify that by its own metrics, the Project Diversions (both existing in the south Delta and proposed in the north Delta), are vastly greater stressors than the individual or aggregate impacts of the non-Project diversions according to its own citations.	Please refer to response to comment 1787-178, above.

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		CVP/SWP Project diversions remove approximately 5.6 million acre feet of water annually (MAF) along with the associated "diversion of plankton and other nutritional resources" entirely from the watershed. Contrastingly, the non-Project diversions divert a much smaller volume of water that is kept within the watershed and recycle nutrients from agricultural non-Project return flows.	
1787	179	The implications of implementing CM 21 are unsubstantiated. CM 21 asserts: Additionally, many of these unscreened diversions will be removed as a result of BDCP restoration activities, which will eliminate the need for many existing diversions by transforming cultivated lands into protected natural community types (CM3 Natural Communities Protection and Restoration). How "many" diversions will be removed and where? How many acres of cultivated land will be removed? Won't the newly created community types also require water? What will be the net gain or loss of "nutrient resources"? During which life stage and what time of year will there be a "benefits to all covered fishes"? The purported purpose asserts that non-Project diversions lead to loss of "covered fish prey organisms," "reduces the potential for fish to be diverted to unsuitable or lethal waters," as well as "reduce incidental take of covered fish species" and "avoid or minimize entrainment and impingement," without identifying how many fish, which species of fish, where the purported impacts are occurring, or comparing the magnitudes of these purported impacts to the still unscreened Project diversions.	Please refer to response to comment 1787-178, above.
1787	180	The water rights and other regulatory implications of removing, consolidating and relocating intakes are not addressed. For instance, relocation of an intake would generally require the filing of a petition for change in point of diversion. (See, e.g., Wat. Code, [Section] 1700-1706.) The relocation or significant modification to intakes also now require an expensive and time consuming permitting effort with the Central Valley Flood Control Board (formerly the Reclamation Board), as well as the US Army Corps of Engineers for project levees. As explained in comments dating back to December 2009 by LAND member agency RD 999, the BDCP must coordinate with the SWRCB and other regulatory entities to develop an effective program if changes to existing diversions are planned.	Please refer to response to comment 1787-178, above.
1787	181	CM 21 must protect species of listed fish by screening the intakes with the greatest impact first and prioritize further screening based on the effectiveness of installing screens. Instead, the BDCP fails to identify its direct role of listed species take at its existing unscreened operations in the South Delta and focuses on the impacts of diversions identified in its own citations as having the smallest effect. BDCP consulting staff identified in the March 28, 2012 public meeting that indicated the continued use of the map with the 2,589 non-Project diversions did not accurately reflect the actual number (approximately 10) of the diversions that its own citations identified as	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Please refer to response to comment 1787-178, above.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		having discernible ecological effect (250 cubic feet per second (cfs) or greater). The metric that is identified as the CM objective is removal of 100 cfs per year over the 45 year, post-initiation phase, apparently achieved by removal of existing agricultural intakes for habitat projects. The resulting 4,500 cfs number is apparently not based on any actual analysis of need or priority, since none was provided, but apparently strictly as a result of land conversion proposed as other conservation measures. Thus this metric will be achieved regardless of the CM. Meanwhile, a major scientifically identified risk factor for listed fish are losses associated with the existing South Delta Project intakes, which are still not proposed for screening. These diversions should be addressed first, then other unscreened diversions should be prioritized in order of size, and proximity to habitat for the poorer-swimming life stages of the listed species.	
1787	182	Need for Expansion of Covered Actions As currently drafted, BDCP's current proposal for CM 21 lacks scientific support and is unlikely to achieve detectible ecological benefits, if any. CM 21 also does not address the need for BDCP to potentially include certain existing diversion facilities (other than those in Cache Slough) as covered actions. With a Project intent of introducing habitat creation projects throughout the Delta to increase the occurrence of delta smelt and other fish, it is imperative to plan for this eventuality should it actually be successful. Otherwise, the BDCP would bring a regulatory problem to the local area without proper planning to ensure existing water users in the area are protected from negative regulatory consequences of this action.	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. Please refer to response to comment 1787-178, above.
1787	183	Proposed approach to non-project diversions and covered actions. Local Agencies of the North Delta (LAND) proposes an integrative approach to the issue of non-project diversions and covered actions. If there is a legitimate take consideration for these non-project intakes (which should be established prior to any action), then the BDCP should extend take coverage to these intakes and take credit for the conservation benefit for intakes that are screened using BDCP funding. This is what BDCP has proposed for Cache Slough intakes, but not for any other non-project intakes (BDCP Chapter 4, pp. 4-19 to 4-21). The November 2011 draft of the covered actions chapter of the BDCP -- Section 4.1.5 -- included Table 4-5, Summary of Program Criteria for Diversion Screening (Attachment C). This table reflected current scientific information consistent with the Nobriga study, indicating that diversions with a capacity of 250 cubic feet per second (cfs), or larger, would receive a higher priority. Inexplicably, this table is no longer included in the February 2012 draft of the BDCP Section 4.1.5, which addresses non-project diversions. This table provided an excellent foundation for decision making and should be returned.	Please refer to response to comment 1787-178, above.
1787	184	Local Agencies of the North Delta (LAND) propose that non-Project Diversions throughout the Delta should have the potential to be covered actions in BDCP Section 4.1.5. We support	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed

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		a priority scheme for screening intakes in current smelt habitat, and then extending the program following a concerted research program would provide the greatest ecological benefits at the lowest cost (consistent with table 4-5 referenced above). If the BDCP is successful in its habitat projects, it is intentionally bringing listed species into areas that do not have them currently. Extending take coverage for the impacts directly associated with its Plan is the logical action under a HCP/NCCP as such plans are usually developed by and for the benefit of landowners within a plan area, not by outside interests with little or no property interests. Such an approach would also be a no-harm strategy for existing Delta water users.	project. Please refer to response to comment 1787-178, above.
1787	185	ATT9: ATT1: Attachment A. Comments on the BDCP Effects Analysis, Appendix A: Conceptual Foundation and Analytical Framework and Appendix B: Entrainment (December 12, 2011) Prepared for: Local Agencies of the North Delta by Erik Ringelberg, BSK Ecological Services Group Manager, 12/20/2011	This comment describes the title of an attachment to the comment letter.
1787	186	Over the last three years, participants and observers of the California Department of Water Resources (DWR) and federal Bureau of Reclamation's (BOR) Bay Delta Conservation Plan (BDCP) have identified what appeared to be confusion regarding the plan's purpose and direction, inconsistencies in the analysis, and problems with the plan's technical feasibility. The confusion, inconsistencies, and problems lead to many discussions in the Schwarzenegger administration Steering Committee meetings, numerous questions and comments to the BDCP's environmental consultants, and later under the Brown administration, questions directed to the Natural Resources Agency or the management committee. In their simplest form, the confusion and questions largely rested on the BDCP's premise that exporting up to half of the water from the Sacramento River out of the watershed from the upper San Joaquin-Sacramento River Delta (Delta) would "help" or "save" the Delta. The proposed 15,000 cubic feet per second export flow and the creation of a massive new infrastructure in the Northern Delta would have massive immediate and long-term negative effects on the existing aquatic and terrestrial ecosystems, while the hoped-for ecological benefits to the South and Central Delta from the project are simply inferred and deferred to phases long after the project benefits for the exporters have occurred The BDCP describes this premise more artfully: "The Bay Delta Conservation Plan is designed to achieve the co-equal goals of providing for the conservation and management of aquatic and terrestrial species, including the restoration and enhancement of ecological functions in the Delta, and improving current	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. This comment is a general opinion about the merits of the BDCP and its effects on the Delta. The BDCP proposes three north Delta intakes for a combined capacity of 9,000 cfs, not 15,000 cfs. No additional response is necessary because no specific deficiencies related to BDCP or the EIR/EIS analyses has been presented.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		water supplies and the reliability of delivery of water supplies conveyed through the State Water Project (SWP) and the Central Valley Project (CVP). [footnote 1: http://baydeltaconservationplan.com/Home.aspx]"	
1787	187	Southern California and the San Joaquin Valley are reliant on water from the Delta to some degree because they have already fully exploited their local water supplies, and there has been a significant decline in fish species (pelagic organism decline [POD]) that had resulted in various court orders to protect those species, often through water export restrictions. However, when reviewed even in a cursory manner, the proposed plan and its associated planning process to achieve those co-equal goals go far beyond that reasonable premise into a proposed project with minimal scientific and legal foundation. The co-equal goals thereby become a marketing fiction, predicated on "improving current water supplies and the reliability," as if those goals were on equal legal footing to the Federal and State Endangered Species Act (ESA). There is no provision in the ESA that permits the particular interests of a project applicant to trump ESA requirements. Indeed, DWR and BOR, and their State and Federal Water Contractors had no interest in the co-equal goals until the courts required restrictions on export pumping under the ESA. Nevertheless, the need for secure water supplies, to the extent that is possible, and the need to protect species that are at risk of extinction, are both compelling social and legal issues that require some solutions.	This comment is a general opinion about the merits of the BDCP and its effects on the Delta.
1787	188	The Plan Part of the scientific logic problems with the BDCP are directly caused by the pre-determination that the project would include: 1. a series of 5 intakes, each 20 times greater than the next biggest intake in the upper watershed, 2. a massive canal crossing several major rivers on its way to the existing southern Delta project pumps, and 3. the ability to export a total of up to 15,000 cubic feet per second (equal to the South Delta pumping facilities) from intakes concentrated in one reach of the Sacramento River without regard to the resulting ecological and hydraulic effects. Later ecological justifications for building that infrastructure were created, and then finally a scheme for "improving" the Delta's aquatic habitats for a listed fish, the delta smelt, was presented. Almost a year after those project elements were outlined, a scheme for protecting terrestrial resources such as plants, animals and birds was developed. The BDCP Environmental Impact Report is intended to provide only programmatic (broad) coverage under the California Environmental Act (CEQA) for the "habitat" and project-level coverage for the water diversion and conveyance.	Commenter is mistaken. BDCP Conservation Measure 1 proposes three intakes, not five. BDCP also does not propose a “massive canal”, and proposes north Delta diversions with a capacity of 9,000 cfs, not 15,000 cfs. Commenter is also mistaken about the BDCP conservation strategy, which addresses the needs of 11 native fish species, not 1. Commenter is correct that the BDCP provides a programmatic approach to selection, development, and management of a conservation reserve protection and restoration network. Please note that the preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. Please see Master Response 3 for the purpose and need for the project, Master Response 4 for information on project alternatives, and Master Response 4 for an explanation of why the project is not pre-decisional.
1787	189	The scale of both the conveyance and habitat elements of the BDCP were defined prior to any threshold analysis to examine the relative benefits and impacts associated with these project elements. While it may in some limited cases be appropriate to set upper and lower	This comment is suggesting an alternative methodology for development of the BDCP conservation strategy. Alternative 4 is adequately defined and is a feasible alternative for the purpose of CEQA and NEPA analyses based on the methodology described in the Draft BDCP.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		bounds to help define the analysis, there needs to be a sensitivity analysis for each measure to see under what conditions it benefits or does not benefit a given species. This is how the effectiveness of the conservation measure is determined, and provides the foundation for determining if a proposed conservation measure should be kept, discarded or modified. For example, the BDCP instead predetermined the proposed North Delta diversion as a conservation measure, and then not did not reassess that and other measures to identify if there were particular thresholds that may be more effective or less effective for conservation.	
1787	190	A problem is that the purported ecological benefits from the BDCP to listed fish are unclear at best, particularly given that the food chain that the fish are dependent on has almost entirely changed due to invasive clams (reduced phytoplankton), and the direct loss of high value fish food species (zooplankton). The BDCP does not address these fundamental aquatic ecosystem drivers, instead offering the creation of additional aquatic habitat in hope of long term benefits. Even that habitat plan, however, is being reviewed on a strictly programmatic level, and will need significant further review and analysis before it can be implemented. Meanwhile the diversion, storage, and conveyance project is highly detailed and ready to implement once the permits are issued. This sequencing indicates that the water reliability is actually more "co-equal" than the habitat improvements. Indeed, the standard project mitigation for the loss of the existing riparian and terrestrial habitat for the construction of the 5 intakes, two roughly mile-square storage areas, and the canal [footnote 2: A tunnel or pair of tunnels that would replace the aboveground portions of the project, the canal, have been proposed and supported by some landowners and terrestrial habitat advocates, since it has less aboveground effects. Various cost projections differ as to the economic cost of either major alternative, largely it seems by no including mitigation and mitigation endowments for the canal.] appears to be conflated into some public "benefit-public pays" Habitat Conservation Plan (HCP [footnote 3: http://www.fws.gov/endangered/esa-library/pdf/HCP_Incidental_Take.pdf]) and Natural Communities Conservation Plan (NCCP [footnote 4: http://www.dfg.ca.gov/habcon/nccp/]).	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project. This comment is suggesting an alternative methodology for development of the BDCP conservation strategy. Alternative 4 is adequately defined and is a feasible alternative for the purpose of CEQA and NEPA analyses based on the methodology described in the Draft BDCP.
1787	191	HCPs are ordinarily developed by landowners and/or local governments planning to complete a specific project on their land, or to allow a class of similar activities over a large area, which is likely to result in take [footnote 5: Endangered Species Act defines take as: harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any threatened or endangered species.] of listed species. In this case, the unscreened south Delta intakes currently "take" listed species, and the proposed project construction and the new project operations are also expected to "take" listed species. The HCP-NCCP recovery standard and the need to use the best available science ensure that a project proponent cannot simply drive a species (or several species) into extirpation or extinction, while claiming consistency with the HCP-NCCPA. Any project that proposes to move forward on the project without fully developing and permitting each the elements	This comment offers an opinion about what would be a legally and scientifically defensible HCP-NCP. Please refer to Master Response 5 which addresses issues related to the BDCP.

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		that make it a HCP-NCCP is not scientifically or legally defensible.	
1787	192	In the case of the BDCP, in a novel re-interpretation by DWR and BOR, most of the land proposed for BDCP's activities is owned by private individuals who have had no decision making role in the development of the HCP or proposed role for its governance. These same lands are also within the planning area of the 5 existing or proposed HCPs managed by local agencies. According to the November 2010 Working Draft of the BDCP, only approximately 6% of the acreage identified for habitat creation is available on publicly owned lands. Similarly under the NCCP, the very first step in the process is a planning agreement: "Planning agreements are developed with interested jurisdictions, landowners and other interested parties. [footnote 6: http://www.nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=6432]" The interested affected jurisdictions, namely counties and water/reclamation districts were not part of the planning agreement, nor were any landowners. Further, the BDCP failed to follow the NCCP's 2003 summary of "lessons learned" including: -Involve All Affected Parties -Anticipate all interests that may be affected -Bring them in early, before any commitments are made -Create an atmosphere of trust -Foster "ownership" in the process by local interests -Local land use authorities (cities, counties) must be involved The BDCP and it processes have failed to follow the standard and most basic procedures used in HCPs and NCCPs. DWR and BOR must revisit and commit to the standard HCP-NCCP process and learn from the challenges that this project has run into already, and be informed by the lessons already well-understood from other planning processes, such as the Chesapeake and Everglade restoration processes. As stated earlier the needs for an effective set of solutions to address water reliability and extinction risk are needed. An effective process is also much likelier to achieve a financially, politically and socially sustainable outcome.	This comment is on the NCCP planning agreement process and suggests that the process is improper and should be revised. No additional response is provided because this comment is on the procedure of producing and HCP-NCCP not on the content of the Draft BDCP or Draft EIR/EIS.
1787	193	In addition to re-visiting the planning and process elements of how to complete a plan, the BDCP needs to examine the scientific foundation of the establishment of a HCP-NCCP. [footnote 6: http://www.nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=6432] A well-established and logical path for establishing a habitat or species improvement plan is to assess what the ecological needs for the species are, assess and weight the reasons for the apparent species or habitat decline, and then and only then identify which of those threats	This comment is a general opinion about the scientific approach to the BDCP. The Plan was developed with best available information with USFWS, NMFS and DFW helping to direct the HCP-NCCP approach according to the normal practices of these agencies.

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		can be managed for in a series of conservation measures. The following schematic describes this process in its crudest form: Identify problem(s) > Assess potential means for improvement(s) > Develop conservation measure(s) > Re-assess This may appear to be overly simplistic (and it is), but it is the logical foundation for recovery plans. Here, the BDCP devised a proposed project, and then attempted to create ecological justifications for the project, and further conflated its project mitigation into the plan as conservation measures. The "Options Evaluation" process by which new isolated conveyance was selected in 2008 does not by any stretch of the imagination follow this logical approach. (See http://baydeltaconservationplan.com/BDCPPlanningProcess/BackgroundDocuments/OptionsEvaluationReport.aspx; see also http://baydeltaconservationplan.com/Libraries/Background_Documents/Executive_Summary.sflb.ashx, pp. ES-12 to ES-13 (summarizing results of limited "four dot" analysis).)	
1787	194	The BDCP's overt assertion that- the proposed project is the solution to the Delta's problems, while underemphasizing impacts of current Project operations, and obscuring the need for mitigation for the impacts of the proposed project was evident from the very beginning of BDCP process. The last minute afterthought of the protection of terrestrial species is evident throughout the last year of analysis, and all of the current detailed measures (including the Effects Analysis) still focus on fish species that limit full use of the existing south Delta project intakes. To summarize, the only legitimate analysis from a scientific perspective is one that considers the individual species' needs, the population dynamics, the expected habitat trajectories; and then determines through careful analysis of the multiple variables, which Conservation Measures implemented in what fashion, over what period, and where on the landscape, can actually increase (by some conservative amount) the species viability. The purported "iterative nature" nature of this process, while accurate in a technical sense, is in fact currently being used by BDCP proponents to confuse the origins of the "Conservation Measure", arguing that the proposed project somehow did not come first.	The commenter is directed to BDCP conservation strategy in Chapter 3 and the Effects Analysis in Chapter 5 of the Draft BDCP for details of the approach to species recovery and potential effects on covered species. All of the potential effects of fish and aquatic species and terrestrial biological species are provided in the BDCP Effects Analysis and Chapter 12, Terrestrial Resources.
1787	195	The Effects Analysis is the first major work product of the BDCP under the current administration. The analysis was focused on aquatic listed fish species, again, and should be retitled to "Aquatic Effects Analysis." The Effects Analysis was also provided to a new panel of scientific advisors for review. The BDCP's independent scientific advisory panels have repeatedly provided a clear set of analyses and consistent framework to assess potential project data gaps and logic challenges. The BDCP has had a series of recommendations from its Independent Science Advisors (ISA) and the National Academy of Sciences- National Research Council, and even recommendations made by Dr. Dahm, scientific advisor to the Delta Stewardship Council (DSC), the vast majority of which have gone unacknowledged.	Please refer to response to comment 1787-194, above.

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		Various other technical experts have also provided technical comments directly to the BDCP, and no response to these comments has yet been provided. In addition to essentially ignoring outside scientific concerns, the BDCP has still not discernibly taken into account local public stakeholder comments. The public participation process has no credibility or value to the participants if comments have no disposition. The scientific process demands technical responses to scientific considerations, which is the purpose of the standard, to identify and use the best available science, not ignore countervailing scientific citations and rely on non-scientific justifications. To that end, numerous parties have repeatedly requested to be involved in and be able to provide peer-reviewed scientific evidence to the ISA and to the ad-hoc advisors. These requests have often gone unacknowledged, and have not been permitted under this administration. Failure to allow countervailing opinions, and provide the scientific advisors the full range of scientific information in an attempt to drive the outcome is a fatal flaw in this process and should be corrected immediately.	
1787	196	Specific Comments on the Effects Analysis--Appendix A The Effects Analysis was replete with project confusion, specifically the confusion about what is the project that will conserve listed fish, and what is mitigation for that project. The habitat creation described by the BDCP would mitigate for the habitat destroyed by the proposed project (including both conveyance facilities and habitat creation). The fact that the BDCP appears to cause significant "take" even despite the provision of mitigation is evidence that the proposed project (conveyance and habitat creation) are not in fact conservation measures as defined in the Endangered Species Act. A long-standing flaw at the core of the effects analysis is the use of Delta Vision as either an plan that lead to BDCP, or some sort of regulation or law; Delta Vision is neither (A-3/A-11). Delta Vision findings have no force of law. BDCP was not developed outside of the diversion, conveyance, and storage proponents, and this is clear because the proposed project as a conservation measure would never be considered otherwise, and the other conservation measures proposed have almost no supporting analysis. It is obvious to most scientists and local residents that BDCP's highest likelihood of improving conditions for listed fish lay with the measures given the lowest analysis: those addressing invasive plants and animals.	Please see Response to Comment 1787-1 regarding the BDCP (Alternative 4) no longer being the proposed project.
1787	197	The Effects Analysis also brings to the forefront the need to further refine and validate the various models that are used to complete the analyses (A7). Despite hundreds of millions of dollars invested in research in the Delta and model development, there is very little to show in terms of how to apply that understanding, namely how much does each variable influence the survival outcomes for targeted species? This is crucial to moving the BDCP process forward, and critical to the success of any project success. Transparent, effective	Comment is an editorial statement on the status of ecological modeling in the Delta as a whole, and is acknowledged as such.

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		models lead to common understandings and sometimes creative solutions.	
1787	198	In the broadest sense, the presentation of model runs gives the appearance of substance without providing logical rationale in terms of differentiation between the alternatives, little the degree of accuracy or precision of the analysis, or anything in regards to the sensitivity of the analysis. Where are the assumptions? What thresholds were discovered during the modeling? In addition, this dart-throwing process of looking at wet vs. dry years and showing some graphs of postulated outcomes is not a substitute for a directed scientific investigation that is specifically intended to provide key decision points for adaptive management. The models at best look back into time by using particular historic water years; adaptive management needs to make decisions looking forward into uncertainty (A8).	Commenter is dissatisfied with the level of detail presented on models. As noted in BDCP Table 5.2-5, literally dozens of models are used in the analysis, and commenter's questions do not indicate which models they are concerned about. Commenter is referred to the appendices to BDCP Chapter 5 for more detailed information about the modeling process. The full detail on modeling would require tens of thousands of pages and the lead agencies deemed this information unnecessary for the BDCP or the draft EIR/S, although this information is publicly available in the administrative record of the draft EIR/S.
1787	199	Adaptive management is not supposed to be a substitute for knowledge or understanding or the failure to collect critical information in advance of an action: "adaptive management of the BDCP will refine and test those expectations require monitoring, research and management experiments designed to test and refine the working hypothesis posed by the BDCP and allow the region to navigate through an uncertain future (Lee 1993)" [sic] The project cannot defer understanding of the potential and likely effects of the project and the conservation measures until the impacts occur at some point in the future.	Please see Master Response 33 regarding the BDCP adaptive management and monitoring program. Note that Alternative 4A alters the structure of the adaptive management and monitoring program, relative to the BDCP proposal. Considerable scientific uncertainty exists regarding the Delta ecosystem, including the effects of CVP and SWP operations and the related operational criteria. To address this uncertainty, DWR, Reclamation, DFW, USFWS, NMFS, and the public water agencies will establish a robust program of collaborative science, monitoring, and adaptive management. It is assumed the Collaborative Science and Adaptive Management Program (CSAMP) developed for Alternative 4A would not, by itself, create nor contribute to any new significant environmental effects; instead, the CSAMP would influence the operation and management of facilities and protected or restored habitat associated with Alternative 4A.
1787	200	The Relationship to Other Plans and Policies (A-11) fails to even identify the 5 other existing or proposed HCP-NCCPs, any County General Plans or policies, or any Federal species recovery plans. The same level of detail is missing from the Pelagic Organism Decline (POD), namely "cherry picking" citations [footnote 7: Again identified by the ISA, NAS, and again by the Science Panel, the BDCP needs to detail why it is not using citations that would be expected by other professionals and defend why it is relies on certain selected conclusions over others.] that do not identify the projects as a potential source of the POD, and even using citations that were roundly discredited in the National Academy of Sciences presentations (A-16). Given that the sharp species decline occurred over a century after levees were built in the Delta, and decades after the wastewater treatment plants were commissioned, recent habitat decline and wastewater treatment appear minor factors in the POD, yet the BDCP focuses on those issues and not assessing and mitigating the relative impacts from the projects that comprise the BDCP. Indeed, land use is cited as a factor (A-17, A-21) although land use in the primary Delta has remained static for decades. What has changed includes invasive species, including zooplankton and clams, and the volume of Delta exports to Southern California during the POD. The continued use of un-cited and technically	BDCP Chapter 1, Section 1.5 details the relationship between BDCP and other plans in the Delta, describing the Delta Plan and seven other HCPs, NCCPs, or similar conservation planning efforts completed, ongoing, or planned in the region. Commenter's reference to the POD is unclear; it is mentioned many different times in the BDCP (for example, in Chapters 2, 3, and 5), citing works by many different authors. Commenters reference to "National Academy of Sciences presentations (A-16)" is unclear; we read their reports on BDCP and did not find any discussion of "roundly discredited" citations. The National Academy did, however, find that the ecosystem scale declines in the Delta have many causes, originated long before the POD, and are ongoing, a view that is clearly at variance with commenter's statements of opinion regarding a wide variety of possibly related topics, none of which are supported by reference to any sources of information.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		unsubstantiated declarations is not acceptable in a technical document. For example, "In addition, diversions both in tributaries and in the Delta remove a significant proportion of total available water." (A-21). How much water, in what water year, is consumptively lost in the tributaries and how much is exported and is proposed for export by the BDCP? This unsubstantiated and apparently unanalyzed assertion is typical of the limited technical depth provided in this section. A substantive analysis would provide technical citations, the assumptions used in the model, the expected error range, and an actual analysis of the seepage- evaporation (carriage) losses from the current conveyance, and the modeled losses from the proposed project alternatives, and the proposed habitat acreage evaporation and transpiration (E/T).	
1787	201	Additionally, the conceptual figure (A-28) that apparently is the foundation for the entire analysis describes the only impact or driver on Adjusted Potential is Land Use. This is clearly incorrect and again uniformly unsupported by the science. It should state Water and Land Use for any credibility. Climate and geology drive the biogeographic potential, it is not independent. Marine influences are limited factors and then only for certain species, at certain life stages, not a driver for "Species and Biological Communities." Future potential is bi-directional, not uni-directional towards Adjusted, and no "enhancers" are described. Is the purpose of the diagram to illustrate that the BDCP would only have benefits that would improve conditions relative to current conditions? That is not supported by the data presented in the chapter. The same clear bias in favor of the project is shown by the arrows shown within that circle. For example, where are the National Academy of Sciences process drivers? Altered flow should include altered timing and volumes, and that radius should clearly include all of the "other stressors" that the BDCP has already identified.	It is not clear what commenter is referring to by “the conceptual figure (A-28).”
1787	202	Specific Comments on the Effects Analysis--Appendix B The Effects Analysis itself demonstrated the foundational scientific problem with the BDCP: "Entrainment of delta smelt at the south Delta export facilities may generally decrease under BDCP relative to existing biological conditions, although instances of increased entrainment are also possible." [footnote 8: http://www.deltacouncil.ca.gov/sites/default/files/documents/files/BDCP_Effects_Analysis_Review_Overview_of_Draft_Appendix_B_Entrainment.pdf] While the "study" was a black box analysis with no parameter or model initial conditions provided for independent review, the BDCP's own model result was that the BDCP may general decrease entrainment on delta smelt or in fact increase it. This is unacceptable.	This comment is a reference to a powerpoint presentation, not to any part of the BDCP. Please see BDCP Chapter 5 for discussion of entrainment effects at the south Delta export facilities.
1787	203	The Effects Analysis also misstates the relative contribution to take of listed species by small agricultural intakes within the Delta. Scientific studies have consistently concluded that "small agricultural Delta agricultural diversions are likely to have a minor effect on pelagic	It is not clear what commenter is referring to by “Section B.3.10.” There is no such section in BDCP. Nonetheless, BDCP does cite Nobriga et al. (2005) in determining that small agricultural diversions seem to be a minor, though not insignificant, source of take.

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		(open water) fish, such as the [D]elta smelt." [footnote 9: Ecosystem Restoration Program, Ecosystem Strategy for Stage 2 Implementation Sacramento San Joaquin Delta Ecological Management Zone (July 21, 2010), available at: http://www.deltacouncil.ca.gov/sites/default/files/documents/files/ERP_Excerpts_for_3rd_Staff_Draft_Delta_Plan.pdf, citing Nobriga et al. (2005) available at: http://www.fws.gov/stockton/afrp/SWRCB/12.%20Nobriga%20et%20al.%202004.pdf.] As a result, larger diversions (such as those over 250 cubic feet per second), have been the focus for consideration of screening by the agencies responsible for fish. Thus, prioritization of those screening projects with the most potential to benefit target species is essential. The Effects Analysis is simply wrong in Section B.3.10 (actually described in B.4.4.3) to attribute significant take numbers to these small intakes. Moreover, it is incorrect to assume that land conversion to other wetland types will not require continuing use of existing (or new intakes), as creation of habitat will require significant water supplies.	
1787	204	As with Appendix A, the details of the model assumptions and scientific evidence that significant take is associated with small intakes are not provided. The point of this "analysis" appears to be a conflation of project intake mortality on listed fish species with the well-studied and described insignificant impact from small Delta intakes. Equally concerning is the statement that a 16.6% reduction of intakes in the Restoration Opportunity Areas could be removed for the purposes of habitat conversion (B.4.4.3.1). It is ridiculous that the intakes of similar (unstated) size, with the "lowest magnitude" of impact and the "lowest certainty," with a suggested minimal population-level effect, should then be considered a significant cause of take by the BDCP. This pointless exercise typifies the scattershot approach taken in the Effects Analysis. There are also significant problems with the both the description and the underlying concepts of Section B.0.1 Table B-2. The use of a symbol instead of the actual estimated percentages is unnecessarily confusing; this table should be revised to include actual percentages or ranges of percentages that apply to each item. The timing, extent and degree of south Delta and north Delta interoperation should also be described.	It is not clear what commenter is referring to by “(B.4.4.3.1)” There is no such section in BDCP.
1787	205	The assertion that the north Delta intake screening would function perfectly for the life of the permit is also unsubstantiated. A fine slot metal screen placed in the flow of a major river will get eroded by sediment drawn into the intakes, direct sediment impingement on the screen and that associated erosion and mechanical damage, and woody debris and human associated debris impact damage. That damage individually, and in aggregate, leads to increased impingement and reduced screening effectiveness. The reduced efficiency is difficult to detect and measure, and in practice only grossly damaged screens get replaced. Each of these points assumes that the intake was designed, installed, and operated correctly. That is often not the case. The "stacking" of each of these reductions of idealized efficiency must be calculated and analyzed, however ultimately the analysis cannot rely on absurd assumptions.	Commenter appears to believe that the proposed fish screens would not be maintained for the life of the proposed project. This is erroneous. BDCP Section 3.4.1 describes the proposed fish screens. The document does not claim that the fish screens “would function perfectly for the life of the permit.” The stated screen design and maintenance requirements call for regular inspection and, if needed, screen repair or replacement. Monitoring studies described in BDCP Section 3.6 have been designed to detect the types of screen impairment described by commenter.

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1787	206	The fundamental premises of the BDCP analysis and the a-priori determination of the Conservation Measures must be re-examined. In particular, a detailed review of the ecological problems threatening fish, wildlife, and their associated habitats of the Delta and the relative effects of each of the potential Conservation Measures (individually and in aggregate) on each of those problems must be completed before Conservation Measures are selected. Appendices A and B fall far short of the level of analysis, transparency of basic model assumptions and conditions, and scientific foundation needed for a proposed project of this magnitude. As a result, the Effects Analysis chapters should be re-written to address these concerns.	The BDCP is an application for permits under ESA and CESA, both of which call for analysis based upon best available science. The BDCP document provides such an analysis.
1787	207	ATT9: ATT2: Attachment B, Bay Delta Conservation Plan Review Document Comment Form Document: Non-Project Diversions Entrainment Reduction Measure OSCM 21, Comments on Chapter 3 and Chapter 8 (additional) Name: Erik Ringelberg/Osha Meserve Affiliation: Reclamation District 999 (Clarksburg District) Date: 12/18/09	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	208	Page 3-167 Comment: OSCM 20 and other measures include as a goal of the BDCP increasing smelt populations as well as better protecting existing smelt populations in the Delta. Thus, it is imperative that screening on all diversions (Project and no-Project) be designed to screen out Delta smelt.	BDCP's biological goals are described in BDCP Section 3.3. BDCP proposals for design of fish screens are described in BDCP Section 3.4.1, with important additional considerations in the form of preconstruction design and monitoring studies described in BDCP Section 3.6. However, the proposed project does not address screening of non-project diversions except to the extent that CM21 (BDCP Section 3.4.21) describes screening of selected non-project diversions as a conservation measure. Effects of these measures on Delta Smelt are detailed in BDCP Appendix 5.B.
1787	209	Page 3-167 Comment: With respect to participation of owners of existing diversions, it is imperative that the conservation measure be designed to encourage participation by those diversion owners. For instance, those who participate will need assurances that participation will not lead to change their underlying water rights. This will especially be an issue with respect to the plan to consolidate diversion points. Consolidation of diversions that are subject to the jurisdiction of the State Water Resources Control Board will require the processing of a petition for a change in point of diversion under Water Code (e.g., [Section] 1735) will be necessary.	The BDCP permit applicants lack legal authority to assure program participants funded as described in BDCP CM21 that their participation in the program will not affect their water rights.
1787	210	Page 3-167 Comment: To determine the best approach to consolidations from a State Water Resources Control Board (SWRCB) and water rights perspective, developers of this conservation	As noted in the draft BDCP, the BDCP is not proposing an entirely new program to remove non-project diversions, but is proposing to provide funding support to the existing CVPIA program. No changes in the permitting approach used in the program are proposed. The existing program has demonstrably been highly

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		measure should confer with the SWRCB and in-Delta diversion representatives. For instance, it may be appropriate to shield voluntary participants in these programs who can preliminarily demonstrate legal water rights from SWRCB water rights enforcement investigations/proceedings that could otherwise occur in during processing of petitions to change points of diversion. Without such assurances, many diverters may be unwilling to help implement this measure, potentially rendering it completely ineffective.	effective, as is detailed in BDCP Section 3.4.21.
1787	211	Page 8-27, Section 8 Comment: The cost estimate for implementation of OSCM 21 should include the costs of any water rights proceedings made necessary by consolidation of diversions; participating diverters cannot be expected to bear these costs.	See response to Comment 1787-210. It is not apparent that water rights proceedings are necessarily required to implement CM 21, but if so, grant applicants would do well to consider and detail those costs in their proposals.
1787	212	Page 8-27, Section 8 Comment: Also important to the success of this measure will be the development of a concerted outreach program to diverters for potential participation. Project cost estimates should include these efforts.	See response to Comment 1787-210. No outreach measures, beyond those already in place, are proposed.
1787	213	ATT9: ATT3: Attachment C Source: BDCP Working Draft, Chapter 4 Table 4-5. Summary of Program Criteria for Diversion Screening	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	214	ATT10: Letter from the Local Agencies of the North Delta (LAND) dated July 11, 2014 to Governor Jerry Brown regarding a "BDCP Neutral" Water Bond	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	215	Dear Governor Brown: On behalf of the Local Agencies of the North Delta (LAND), we write to urge you to work toward development of a water bond that supports crucial water projects for communities across the state, but does not mire the debate by funding the Bay Delta Conservation Plan (BDCP) -- directly or indirectly -- and may therefore be considered "BDCP neutral." LAND is a coalition comprised of reclamation and water districts in the northern geographic area of the Delta. [footnote 1: LAND is a coalition comprised of reclamation and levee maintenance districts and water agencies in the northern geographic area of the Delta. LAND member agencies cover an approximately 118,000 acre area of the Delta; current LAND participants include Reclamation Districts 3, 150, 307, 317, 349, 407, 501, 551, 554, 556, 563, 744, 755, 813, 999, 1002, 2111, 2067 and the Brannan-Andrus Levee Maintenance District. Some of these agencies provide both water delivery and drainage services, while others only provide	This is not a comment, but a prologue to subsequent comments, and is acknowledged as such.

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		drainage services. These districts also assist in the maintenance of the levees that provide flood protection to homes and farms.] As local agencies in the areas most impacted by the 48 significant and unavoidable impacts of the BDCP on the Delta environment and communities, the LAND coalition strongly believes that only a BDCP neutral Water Bond will be successful.	
1787	216	The BDCP is a habitat conservation plan to authorize the taking of threatened and endangered species by the state and federal water projects. The BDCP authorizes the construction of the water export Tunnels as well as 21 other "Conservation Measures" aimed at restoration and other related actions in the Delta. BDCP Chapter 8 (Implementation Costs and Funding Sources) makes clear that it is relying on the public, through a combination of state and federal funds and two successive state water bonds, to pay $7.824 billion (before interest in today's dollars) toward the cost of BDCP. Chapter 8 describes how state bond measures would provide $3.759 billion in funds to carry out the project. Taxpayers, through other state and federal funding allocations, would also pay the remaining $4 billion needed for the estimated $25 billion dollar project, including portions of the mitigation for the tunnels and environmental impacts of the pumping. With the water exporters proposing only to pay for the cost of the water export Tunnels and less than one-eighth of the other costs ($903 million), the public is expected to pay the rest. While many versions of the water bond have stated that funds for the water export Tunnels would not be included, funding for other parts of the BDCP continues to be proposed. In particular, so-called "Delta restoration funds" continue to be proposed. A BDCP neutral water bond would not include any funds for implementation of any aspect of BDCP, meaning: -No direct or indirect funding for BDCP Conservation Measures 1-22 as described in the BDCP; -No funding for purchase of instream flows needed to operate the proposed BDCP new north Delta intakes or otherwise meet the compliance or mitigation needs of the state and federal water projects; and -No funding for compliance with other BDCP permit conditions or mitigation requirements that could be relied upon by or facilitate BDCP. In general, a BDCP neutral water bond could include funding for: -Delta habitat enhancements on Delta islands and in the Yolo Bypass already in public or non-governmental organization ownership that are not already required of the state and federal water projects; -Projects that create and more efficiently utilize local and regional water supplies that result	First paragraph of comment contains numerous inaccuracies; most notably, Chapter 8 does not describe how BDCP would be paid for, but inventories existing funding programs that could be accessed as funding sources, and shows that such programs have available funds that are adequate to meet forecast BDCP costs. Remainder of comment consists of editorial exposition on the concept of a water bond proposal that would avoid funding of conservation actions proposed under BDCP. No such bond is included in any of the proposed alternatives.

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		in reduced reliance on the Delta; and -Upgrading levees to the minimum PL84-99 standard to protect local communities and ongoing agriculture, current through-Delta conveyance corridors, and infrastructure of statewide and local importance. Local Delta interests insist on a BDCP neutral water bond and will carefully review all versions of the bond presented to ensure that they are indeed BDCP neutral. Specific issues associated with habitat restoration, purchase of instream flows and mitigation are discussed in more detail below.	
1787	217	Habitat Restoration Several hundred million dollars have already been spent on planning, land acquisition and restoration in the Delta. The results have not been positive. Despite over 40,000 acres of publicly held or managed intertidal and open water habitat in the Delta primary zone, native fish species are not stabilizing. The majority of publicly held land in the Delta receives little or no management. Simply acquiring new land without attempting to manage and understand the functionality of existing conservation lands is a recipe for continued failure and is unworthy of public funding.	Please see Response to Comment 1787-25.
1787	218	The draft BDCP and accompanying environmental document are still out for public review; due to the many inadequacies of these documents, significant revisions and recirculation of documents will be necessary before any entitlements are granted. Moreover, all of the independent science reviews of BDCP have questioned the ability of the proposed habitat restoration to actually result in benefits to listed fish, potentially leading to better water supply reliability. The lack of adequate freshwater flows--which the Tunnels would remove from the north Delta, thereby exacerbating the problem--continues to be the single most important factor for survival of our imperiled fish populations.	See Master Response 5 regarding the BDCP. Since the lead agencies are no longer proposing to implement the BDCP and have instead evaluated the proposed project under ESA Section 7, however, the BDCP's habitat restoration program is no longer being proposed and has had no further revision since the draft BDCP was released. The preferred alternative is now Alternative 4A and no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. Impacts on Delta outflows (fresh water flowing to the Bay) are not significant. Model simulation results for the preferred alternative (4A) indicate that long-term average and wet year peak outflows would increase in winter months with a corresponding decrease in spring months because of the shift in system inflows caused by climate change and increased Delta exports as compared to Existing Conditions. In other year types, Alternative 4A would result in higher or similar outflow because of the spring outflow requirements. In summer and fall months, Alternative 4A would result in similar or higher outflow because of changes in export patterns and OMR flow requirements and export reductions in fall months, and also because of the Fall X2 requirements in wet and above normal years. The incremental changes in Delta outflow between Alternative 4A and Existing Conditions would be a function of both the facility and operations assumptions (including north Delta intakes capacity of 9,000 cfs, less negative OMR flow requirements, enhanced spring outflow and/or Fall X2 requirements) and the reduction in water supply availability due to increased north of Delta urban demands, sea level rise and climate change. Results for the range of changes in Delta Outflow under Alternative 4A are presented in more detail in Appendix 5A, BDCP EIR/S Modeling Technical Appendix, of the Draft EIR/EIS. For a more detailed response regarding impacts beneficial uses of water, please see Master Response 34.

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1787	219	Outside the habitat already required under the 2009 Biological Opinions for state and federal water projects, which require 8,000 acres of intertidal/subtidal habitat as well as a significant increase in floodplain habitat in the Yolo Bypass, there is no general consensus that major restoration activities in the Delta will lead to improved conditions for imperiled fish, or provide improvements in the reliability of water supplies.	Commenter is correct that there is no general consensus regarding the likely effects of major restoration activities in the Delta. However, it is widely recognized that the contemporary Delta has a tiny fraction, compared to historical times, of habitats such as tidal marsh and seasonal floodplain. Monitoring data show that when such habitats are restored, they are heavily utilized by native fish species. Accordingly the fish and wildlife regulatory agencies are unanimous in their support for further efforts to restore such habitats.
1787	220	There are some habitat projects that do have local support and that would have independent utility outside of BDCP. Some funding for such projects could be provided in a water bond. Such habitat restoration in the Delta would need to: -Be placed on land that is already owned by a public or nonprofit entity for conservation purposes; -Have local community support and/or broad stakeholder support, such as the projects developed in the Coalition to Support Delta Projects process; -Include funds for in lieu tax payments to address impacts to local public agencies; -Be spent on willing seller land purchases only on lands that were not condemned; -Be directly linkable to improvements to ecosystems by the Independent Science Board or other credible source; -Not be required conditions or mitigation for other water projects, such as existing state and federal water project operations or the proposed BDCP; -Include good neighbor policies to reduce land use conflicts and provide neighboring landowner protections from any take liability caused by the creation of new habitat or enhancement of existing habitat.	Commenter's statement of opinion is acknowledged. However, none of the alternatives evaluated in the EIR/EIS would prevent other parties from pursuing habitat restoration efforts in the Delta, or would prevent the proposal or passage of a water bond having the provisions that commenter desires. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.
1787	221	Instream Flow Water Purchases/Transfers BDCP records obtained through the Freedom of Information Act and the California Public Records Act show that the BDCP plans to use water bond funds to help fund purchases over the next 50 years of up to 1.3 million acre feet of water annually from upstream areas, such as the Sacramento Valley. These purchases, referred to as "enhanced environmental flows" or "EEF" are needed to facilitate the level of pumping that the BDCP water exporters want for the new North Delta intakes. The EEF appear in the BDCP as part of the approach to adaptive management because: (1) the amount and types of habitat contemplated by the BDCP may not be feasible; and (2) the habitat that would be built under BDCP will likely not function as planned.	See response to comment 1787-20 regarding "EEF" and its relationship to BDCP.
1787	222	Public documents obtained by Local Agencies of the North Delta indicate that the purchased water is being planned as a means to make up for flows that would be removed from the	Please see response to comment 1787-20 regarding commenter's allegations.

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		Sacramento River by the BDCP Tunnels. The water contractors propose to put forth $1.5 billion out of a total expected cost of $3.5 billion for such water purchases. The public would be expected to provide the remaining $2 billion according to the proposal. This amount of water is expected to allow the BDCP proponents to operate under the "Low Outflow Alternative," which provides an additional 900,000 acre feet annually of export water. Recent analysis has identified that the amount of BDCP predicted outflow water has been miscalculated in favor of the BDCP. While the documents we have obtained indicate that some remaining transferred water could remain in the Sacramento River downstream of the new water intakes, it is not clear that 1.3 million acre feet of water over a 50-year period is even available for purchase. Moreover, the effects of transferring 1.3 million acre feet of water over a 50-year period to the BDCP tunnels on Sacramento Valley groundwater resources, wildlife habitat and local economies, remain unstudied and undisclosed.	
1787	223	BDCP proponents have made no secret of the fact that they plan to fund the majority of the EEF purchases with public funds. For instance, documents dating back to at least 2012 indicate that the BDCP proponents intended to monitor the water bond negotiations to ensure that EEF for BDCP could be funded. The documents acknowledge that the bond now slated for the 2014 ballot (written in 2009) would explicitly pay for water purchases for BDCP. (SB7X2, proposed Water Code, [Section] 79731, subd. (b)(2).) Moreover, the draft Watershed Chapter of the Water Bond that was released by your office at the end of June 2014 included significant funds--possibly up to $800,000 million--toward instream water purchases that are needed by BDCP. Current proposals for water purchases in the bond are reminiscent of the failed Environmental Water Account, where the public purchase of 'environmental' water with bond funds was shown to be a waste. From 2000-2007, an 'environmental water account' was set up and spent nearly $200 million in public funds as the species crashed and the State Water Project over pumped the Delta, creating, huge profits for private landowners such as billionaire Stewart Resnick, as reported in the Contra Costa Times in 2008.	Please see response to comment 1787-20 regarding “EEF” and its relationship to the BDCP.
1787	224	Local Agencies of the North Delta (LAND) believe that the actual need for instream purchases for legitimate environmental purposes is limited, and that significant funding in a water bond is not necessary. Therefore, any water purchases to be bond funded must: -Not be provided directly or indirectly to offset the effects of state and federal water project diversions under BDCP and related take permits; and -Be a permanent water transfer approved through the State Water Resources Control Board Water Code section 1707 transfer process and specifically require that the purpose of the transfer is not to meet regulatory or mitigation requirements. OR	Please see response to comment 1787-20 regarding commenter’s allegations.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		-Alternatively, all bond funded water purchases must be in waterways that are outside of the Delta Watershed.	
1787	225	Mitigation for BDCP Should Not be Bond Funded BDCP proponents claim that mitigation for the Tunnels will not be paid by the public. But their definition of mitigation is not clear. Habitat creation, for instance, is mitigation for the impacts of the Tunnels. Significantly, there is no "Tunnels only" BDCP alternative being proposed. Only with the habitat and other related Conservation Measures, could the BDCP potentially result in issuance of take authority under the state and federal endangered species acts. Chapter 8 of the BDCP indicates that the state and federal water contractors expect to pay only $903 million in other costs besides the Tunnels. The rest of the cost--some $7.24 billion dollars in today's dollars, a significant amount of which could only be characterized as mitigation--is expected to be paid by state and federal taxpayers. Thus, there should be no water bond funds for direct or indirect mitigation for the effects of the overall BDCP project, or for the effects of existing operation of the state and federal water projects.	Habitat preservation and enhancement proposed under BDCP is not mitigation. A habitat conservation plan proposes conservation measures and covered activities. There is no requirement that specific conservation measures be tied to specific covered activities, and in BDCP, there is no such linkage. Thus BDCP does not contain mitigation. Also, habitat conservation plans do not have alternatives; thus, all alternatives evaluated pursuant to CEQA and NEPA either do, or do not, implement BDCP.
1787	226	In order to put forward an economically and socially responsible and politically feasible water bond, there must be strict adherence to BDCP neutrality. Insistence upon inclusion of funding for actions necessary for the BDCP to proceed as a habitat conservation plan will imperil funding for crucial water projects that will help make California's water system more sustainable and drought resilient. Only submittal of a truly BDCP neutral water bond to the voters this fall will allow funding for these other water projects to proceed unimpeded by the controversy surrounding BDCP.	The phrase “BDCP neutrality” is unclear, but this comment appears to be a statement of opinion, and is acknowledged as such.
1787	227	ATT11: Critical Issues Document, edited by J. Maher, dated January 27, 2014	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	228	Threshold Issue Requiring Attention The current level of federal effort is jeopardizing the BDCP. The engagement of the federal agencies must dramatically improve to ensure that water supplies and species populations improve. The available solutions are limited to direct communication between the governor, Senator Feinstein and the White House. The purpose of that communication is to secure a commitment from the federal administration that it will direct its agencies to participate in the BDCP as a full partner with the state and as a project proponent.	It is not clear what the commenter means by “The current level of federal effort is jeopardizing the BDCP.” If commenter meant to recognize that the BDCP is longer the federal lead agencies’ preferred alternative, then commenter is correct. Commenter’s statement of opinion about “communication between the governor, Senator Feinstein and the White House” is acknowledged. The relationship between federal and state agencies engaged in the proposed project is described in Chapter 1 of the EIR/EIS.
1787	229	Threshold Issue Requiring Attention	It is not clear what commenter means by stating that “the BDCP should result in a level of water supply reliability of approximately 75%”. The financial analyses that have been performed on BDCP (as described,

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		The BDCP proposed project provides insufficient water supplies. As currently proposed, the BDCP will not result in sufficient water supply benefits to support a decision to continue funding the development of this program. In general terms, the BDCP should result in a level of water supply reliability of approximately 75% for both SWP and CVP water service contractors. The available solutions are to increase the yield of the BDCP through changes in default assumptions, to implement publicly funded programs that help meet environmental water demands, and, given the substantial commitment of water and other resources being made in BDCP, to establish a minimum water supply below which water will not be taken from SWP and CVP water service contractors for other purposes, including environmental purposes.	for example, in draft BDCP Chapter 9) indicate that the BDCP would constitute a reasonable public or private investment. For further information, see Master Response 5.
1787	230	Threshold Issue Requiring Attention The cost of the BDCP is high, and there is significant concern that it will increase. Recent experience shows that the cost of large public works projects tends to increase during construction. The cost of the BDCP is so high there is no room for any increase in cost. To reduce the likelihood of cost increases during construction, all costs need to be controlled by the entities that choose to fund construction of the BDCP. The available solutions are to allow DWR to retain design approval, while delegating all construction-related decisions to the local public agencies that volunteer to pay for the construction of the tunnels.	Please see Master Response 5 regarding costs and funding of BDCP.
1787	231	Threshold Issue Requiring Attention: The BDCP's regulatory assurances to permittees are weak. Strong regulatory assurances increase the willingness of local public agencies to fund the BDCP and construction of the new conveyance facilities. The assurances currently included in the BDCP are unclear and uncertain. The available solutions include clear delineation of permittee commitments of water, financial and other resources so that permittees can rely upon a minimum water supply from the project, and clear commitment that a lack of funding by the state and federal agencies does not invalidate the permits for operation of the new conveyance facilities.	Commenter's statement of opinion is noted. Existing regulations establish the assurances that a permittee may obtain through an incidental take permit issued under Section 10 of the Endangered Species Act. Those assurances are described in BDCP Chapter 6. Commenter's desire, "a minimum water supply from the project, and clear commitment that a lack of funding by the state and federal agencies does not invalidate the permits for operation of the new conveyance facilities", cannot be provided under existing regulation.
1787	232	ATT12: Fron page only, entitled "DHCCP Conveyance Options, Normal vs Emergency Design-Construction Process Costs", for Jerry Meral	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	233	ATT13: BDCP Groundwater Modeling--Assumptions and Limitations Date: 8 July 2014 Prepared by: CH2M HILL	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Prepared for: California Department of Water Resources	
1787	234	ATT14: Social and Economic Implications of the Bay Delta Conservation Plan for Clarksburg, California Submitted to Wallace-Kuhl and Associates, 916-372-1434 by Kristin Aldred Cheek, May 2009	The attachment provides an overview of the socioeconomic character of the Delta and the community of Clarksburg. The attachment was prepared prior to the completion of the DEIR/EIS, RDEIR/SEIS, and Final EIR/EIS. The socioeconomic issues raised in the attachment were addressed in EIR/EIS Chapter 14 Agricultural Resources, Chapter 16 Socioeconomics, Chapter 18 Cultural Resources, Chapter 25 Public Health, and Chapter 28 Environmental Justice. It should also be noted that Alternative 4A has been identified as the preferred alternative. Alternative 4A would lessen many of the socioeconomic issues and community character issues outlined in the attachment by substantially reducing the amount of area within the Delta that would either be restored or otherwise converted as a result of constructing the water conveyance facilities.
1787	235	ATT15: Best Management Practices and Design Considerations for Delta Construction Projects- A White Paper to aid in planning projects that impact or include roads in the Sacramento-San Joaquin Delta Dated 2012 by BSK Associates	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	236	ATT16: From Dr. Pless of Pless Environmental, Inc. Re: Comments on Draft Environmental Impact Report/Environmental Impact Statement for Bay Delta Conservation Plan Dated July 24, 2014	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	237	The Draft EIR/EIS's Analyses of Air Quality and Greenhouse Gases Are Not Adequately Supported The BDCP website, which posts the Draft EIR/EIS, appendices, and other supporting documents, fails to provide the following supporting documentation that forms the basis for estimates of air pollutant and greenhouse gas emissions presented in the Draft EIR/EIS, Chapter 22: Spreadsheets used to calculate electrical energy demand for the construction of the water conveyance facilities and the additional energy required for pumping at the alternative BDCP north Delta intakes and associated ,conveyance facilities, as described in the Draft EIR/EIS, Chapter 21, Section 21.3.1; Access to this documentation is integral to any meaningful review of the air quality, health risk and greenhouse gas analyses presented in Chapter 22 of the Draft EIR/ EIS; without this documentation, proper review and verification of the Project's impacts on air quality and associated health risks and global climate change, as quantified and presented by the Draft	The electrical energy needed for the intake pumps or conveyance pumps (e.g., intermediate forebay or CCF pumps) and CVP/SWP pumps to deliver Delta exports was described in Chapter 21; the energy use was summarized as the MWh needed for pumping TAF of water. These energy factors were applied for each alternative in Table 21-9.

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		EIR/EIS, are not possible.	
1787	238	The Draft EIR/EIS's Analyses of Air Quality and Greenhouse Gases Are Not Adequately Supported The BDCP website, which posts the Draft EIR/EIS, appendices, and other supporting documents, fails to provide the following supporting documentation that forms the basis for estimates of air pollutant and greenhouse gas emissions presented in the Draft EIR/EIS, Chapter 22: Spreadsheets used to calculate criteria pollutant and greenhouse gas emissions from heavy-duty off-road equipment, marine vessels, locomotives, on-road vehicles, helicopters, fugitive dust from land disturbance, electricity usage, concrete batching during construction per tile emission calculation methodology described in the Draft EIR/EIS, Appendix 22A, Section 22A.1.2; Access to this documentation is integral to any meaningful review of the air quality, health risk and greenhouse gas analyses presented in Chapter 22 of the Draft EIR/ EIS; without this documentation, proper review and verification of the Project's impacts on air quality and associated health risks and global climate change, as quantified and presented by the Draft EIR/EIS, are not possible.	A full list of assumptions used to quantify emissions is found in BDCP EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the BDCP website. Appendix 22A also provides the equations that were used to quantify emissions. Please refer to comment 1787-240 for additional detail.
1787	239	The Draft EIR/EIS's Analyses of Air Quality and Greenhouse Gases Are Not Adequately Supported The BDCP website, which posts the Draft EIR/EIS, appendices, and other supporting documents, fails to provide the following supporting documentation that forms the basis for estimates of air pollutant and greenhouse gas emissions presented in the Draft EIR/EIS, Chapter 22: Spreadsheets used to scale construction emissions for Alternatives lC, 2C, 3,4, 5, 6C, 7 and 8 per the methodology described in the Draft EIR/EIS, Appendix 22A, Section 22A.1.3; Access to this documentation is integral to any meaningful review of the air quality, health risk and greenhouse gas analyses presented in Chapter 22 of the Draft EIR/ EIS; without this documentation, proper review and verification of the Project's impacts on air quality and associated health risks and global climate change, as quantified and presented by the Draft EIR/EIS, are not possible.	A full list of assumptions used to quantify emissions is found in BDCP EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the BDCP website. Appendix 22A also provides the equations that were used to quantify emissions. Please refer to comment 1787-240 for additional detail.
1787	240	The Draft EIR/EIS's Analyses of Air Quality and Greenhouse Gases Are Not Adequately Supported The BDCP website, which posts the Draft EIR/EIS, appendices, and other supporting	The air quality and greenhouse gas (GHG) analysis for the EIR/EIS was prepared consistent with modeling procedures and assumptions recommended by the U.S. Environmental Protection Agency (EPA, California Air Resources Board (ARB), and the four local air districts in the BDCP Plan Area. The effects of the alternatives on air quality and GHG emissions from both construction and the operation of the proposed water

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		documents, fails to provide the following supporting documentation that forms the basis for estimates of air pollutant and greenhouse gas emissions presented in the Draft EIR/EIS, Chapter 22: Spreadsheets used to calculate operational criteria pollutant and greenhouse gas emissions from maintenance activities and electricity usage per the methodology described in the Draft EIR/EIS, Appendix 22A, Section 22A.2; Access to this documentation is integral to any meaningful review of the air quality, health risk and greenhouse gas analyses presented in Chapter 22 of the Draft EIR/ EIS; without this documentation, proper review and verification of the Project's impacts on air quality and associated health risks and global climate change, as quantified and presented by the Draft EIR/EIS, are not possible.	conveyance facility (CM1) were assessed and quantified using standard and accepted software tools, techniques, and emission factors. A full list of assumptions used to quantify emissions is found in EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the project website. Appendix 22A also provides the equations that were used to quantify emissions. Accordingly, all information needed to recreate and/or analyze air quality and greenhouse gas (GHG) emissions from construction and operation of the project are publically available. The physical analysis spreadsheets are part of the administrative record and have been provided upon specific request. Please also see Master Response 19 regarding climate change and GHG.
1787	241	The Draft EIR/EIS's Analyses of Air Quality and Greenhouse Gases Are Not Adequately Supported The BDCP website, which posts the Draft EIR/EIS, appendices, and other supporting documents, fails to provide the following supporting documentation that forms the basis for estimates of air pollutant and greenhouse gas emissions presented in the Draft EIR/EIS, Chapter 22: CalEEMod modeling files used to determine fugitive dust PMlO emissions, as described in Draft EIR/ EIS, Appendix 22A, section 22A.1.2.6; Access to this documentation is integral to any meaningful review of the air quality, health risk and greenhouse gas analyses presented in Chapter 22 of the Draft EIR/ EIS; without this documentation, proper review and verification of the Project's impacts on air quality and associated health risks and global climate change, as quantified and presented by the Draft EIR/EIS, are not possible.	A full list of assumptions used to quantify emissions is found in BDCP EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the BDCP website. Appendix 22A also provides the equations that were used to quantify emissions. All emissions were quantified using equations and emission factors from the CalEEMod User's Guide or other approved documents. Please refer to comment 1787-240 for additional detail.
1787	242	The Draft EIR/EIS's Analyses of Air Quality and Greenhouse Gases Are Not Adequately Supported The BDCP website, which posts the Draft EIR/EIS, appendices, and other supporting documents, fails to provide the following supporting documentation that forms the basis for estimates of air pollutant and greenhouse gas emissions presented in the Draft EIR/EIS, Chapter 22: Spreadsheets used to calculate health risks, as described in the Draft EIR/ EIS, Appendix 22C;	A full list of assumptions used to quantify emissions is found in BDCP EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the BDCP website. Appendix 22A also provides the equations that were used to quantify emissions. Similarly, Appendix 22C, Appendix B, includes the AERMOD input files and sensitive receptor modeling results. Please refer to comment 1787-240 for additional detail.

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		Access to this documentation is integral to any meaningful review of the air quality, health risk and greenhouse gas analyses presented in Chapter 22 of the Draft EIR/ EIS; without this documentation, proper review and verification of the Project's impacts on air quality and associated health risks and global climate change, as quantified and presented by the Draft EIR/EIS, are not possible.	
1787	243	The Draft EIR/EIS's Analyses of Air Quality and Greenhouse Gases Are Not Adequately Supported The BDCP website, which posts the Draft EIR/EIS, appendices, and other supporting documents, fails to provide the following supporting documentation that forms the basis for estimates of air pollutant and greenhouse gas emissions presented in the Draft EIR/EIS, Chapter 22: Files for dispersion modeling (AERSCREEN and AERMOD) of particulate matter concentrations and diesel particulate matter ("DPM"), as described in the Draft EIR/EIS, Appendix 22C. Access to this documentation is integral to any meaningful review of the air quality, health risk and greenhouse gas analyses presented in Chapter 22 of the Draft EIR/ EIS; without this documentation, proper review and verification of the Project's impacts on air quality and associated health risks and global climate change, as quantified and presented by the Draft EIR/EIS, are not possible.	A full list of assumptions used to quantify emissions is found in BDCP EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the BDCP website. Appendix 22A also provides the equations that were used to quantify emissions. Similarly, Appendix 22C, Appendix B, includes the AERMOD input files and sensitive receptor modeling results. Please refer to comment 1787-240 for additional detail.
1787	244	In my extensive experience with the public review process under NEPA and CEQA, this documentation is routinely provided in appendices and in the few cases it was unintentionally omitted was supplied without delay. It is unacceptable that an environmental review document of this magnitude (1.4 Gigabytes of information on tens of thousands of pages) that analyzes a long-term project with implications and impacts as far-reaching as the BDCP does not provide this essential information to the public and the reviewing agencies, including the affected air districts. I suggest that you contact the CEQA and NEPA lead agencies and request that all spreadsheets and modeling files supporting the air quality and greenhouse gas analysis be posted on the BDCP website and request that the lead agencies extend the comment period to allow for adequate review.	A full list of assumptions used to quantify emissions is found in EIR/EIS Appendices 22, Air Quality Analysis Assumptions, 22B, Air Quality Assumptions, and 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, all of which are available on the BDCP/CA WaterFix website. Appendix 22A also provides the equations that were used to quantify emissions. Please refer to comment 1787-240 for additional detail.
1787	245	In response to the Local Agencies of the North Delta office's April 29, 2014 request for this documentation most of the requested files were provided on May 16, 2014. However; the PDF files containing spreadsheets with the health risk calculations are illegible and the Excel spreadsheets containing criteria pollutant and greenhouse gas ("GHG") emission estimates are not functional, i.e., all equations and crosslinks were removed, thereby unnecessarily hampering review. Since all equations and crosslinks between spreadsheets can be re-established with enough patience and time, provided that all assumptions are laid out in detail, I find that ICF, the consulting firm's concerns regarding functionality and proprietary	No issues related to the adequacy of the EIR/EIS content or process is identified in this comment.

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		reasons [footnote 6: Personal communication Meserve/Laura Yoon, ICF International, July 15, 2014.] are not reasonable. I note that other consulting firms frequently provide fully functional spreadsheets upon request by interested reviewers (only sometimes requiring a confidentiality agreement). In any case, even though review of the provided files was hampered and unnecessarily time-consuming, I identified several issues of concern.	
1787	246	As consultant for the Local Agencies of the North Delta (LAND), I requested supporting modeling files and spreadsheets for the health risk assessment on July 15, 2014 [footnote 7: Ibid.]; as of July 24, one day before the end of the comment period, I have not received a response and am therefore unable to properly review the results of the health risk assessment.	No issues related to the adequacy of the EIR/EIS content or process is identified in this comment.
1787	247	The Draft EIR/EIS Presents Outdated, Incomplete and Superfluous Information In Chapter 22, Air Quality and Greenhouse Gases, the Draft EIR/EIS presents the following outdated data and standards: The Draft EIR/EIS states that data on existing air quality conditions, i.e., baseline air quality, were presented "for the last 3 years for which complete monitoring data are available (2008-2010)."[footnote 8: Draft EIR/EIS, p. 22-9.] However, at the time the Draft EIR/ EIS was published (November 2013), complete monitoring data for the years 2011and 2012 were available and should have been presented. This outdated, incomplete or superfluous information must be updated in the main body and the supporting appendices of the EIR/ EIS, Chapter 22, and any analyses must be updated accordingly.	Chapter 22, Air Quality and Greenhouse Gases, was drafted over a period of several years and work on the environmental setting began in 2011, at which time, data beyond 2010 was not available. Table 22-3 in the Recirculated EIR/EIS has been revised to provide the latest three years of air quality monitoring data, which, at the time of this response, is for 2011 through 2013. This revision does not affect the analysis methods, impact analysis, or document conclusions.
1787	248	The Draft EIR/EIS Presents Outdated, Incomplete and Superfluous Information In Chapter 22, Air Quality and Greenhouse Gases, the Draft EIR/EIS presents the following outdated data and standards: The Draft EIR/EIS presents national and California ambient air quality standards ("AAQS") in Table 22-5, apparently based on information obtained from the California Air Resource Board ("CARB") in2012. [footnote 9: Draft EIR/EIS, footnote to Table 22-5, p. 22-14.] This information is outdated. On December 14, 2012, almost a year before the Draft EIR/EIS was published for review, the U.S. Environmental Protection Agency ("EPA") lowered the national primary annual ambient air quality standard for particulate matter equal to or smaller than 2.5 micrometers ("PM2.5") from•15.0 micrograms per cubic meter ("µg/ m3") to 12.0 µg/m3. [footnote 10: CARB, Area Designations for the Federal PM2.5 Standards; http:/ /www.arb.ca.gov I desig/pm25desig/ pm25desig.htm.] The Draft EIR/EIS cites to the superseded standard of 15.0 µg/m3.	Please see response to comment 1787-247 regarding preparation of Chapter 22, Air Quality and Greenhouse Gases. Table 22-5 in the Recirculated EIR/EIS has been revised to include the latest PM2.5 annual standard, which, at the time of this response, is 12 micrograms per cubic meter. This revision does not affect the analysis methods, impact analysis, or document conclusions.

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		This outdated, incomplete or superfluous information must be updated in the main body and the supporting appendices of the EIR/ EIS, Chapter 22, and any analyses must be updated accordingly.	
1787	249	The Draft EIR/EIS Presents Outdated, Incomplete and Superfluous Information In Chapter 22, Air Quality and Greenhouse Gases, the Draft EIR/EIS presents the following outdated data and standards: The Draft EIR/ EIS presents 8-hour ambient air quality standards for carbon monoxide ("CO") for Lake Tahoe, [footnote 11: Draft EIR/EIS, Table 22-5, p. 22-14.] which are not relevant to the Project and should be omitted. This outdated, incomplete or superfluous information must be updated in the main body and the supporting appendices of the EIR/ EIS, Chapter 22, and any analyses must be updated accordingly.	Table 22-5 in the Recirculated EIR/EIS presents all adopted National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) for reference and context. A footnote has been added to Chapter 22, Air Quality and Greenhouse Gases, Section 22.2.1.1 to clarify this point and specify that while Table 22-5 includes all NAAQS and CAAQS, only the pollutants of air quality concern in the Plan Area (as defined in Section 22.1.2.1) are evaluated in the EIR/EIS.
1787	250	The Draft EIR/EIS Presents Outdated, Incomplete and Superfluous Information In Chapter 22, Air Quality and Greenhouse Gases, the Draft EIR/EIS presents the following outdated data and standards: The Draft EIR/EIS presents ambient air quality standards for a number of pollutants that it does not analyze including for hydrogen sulfide ("H2S"), vinyl chloride, sulfate particles, and lead particles. [footnote 12: Draft EIR/ EIS, Table 22-5, p. 22-14.] I recommend that that the Final EIR/ EIS either include an explanation why it deemed analysis of H2S, vinyl chloride, sulfate particles, and lead particles not necessary or omit reference to these standards. This outdated, incomplete or superfluous information must be updated in the main body and the supporting appendices of the EIR/ EIS, Chapter 22, and any analyses must be updated accordingly.	Table 22-5 in the Recirculated EIR/EIS presents all adopted National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) for reference and context Please see response to comment 1787-249 for additional information.
1787	251	The Draft EIR/EIS Presents Outdated, Incomplete and Superfluous Information In Chapter 22, Air Quality and Greenhouse Gases, the Draft EIR/EIS presents the following outdated data and standards: The Draft EIR/ EIS presents direct global warming potentials ("GWPs") for several GHGs based on reports published in 1996 and 2001by the International Governmental Panel on Climate Change ("IPCC"). [footnote 13: Draft EIR/EIS, Table 22-1, p. 22-8.] The GWP is a relative measure of how much heat a GHG traps in the atmosphere; it compares the amount of heat trapped by a gas in question to the amount of heat trapped by carbon dioxide ("C02") based on a certain time horizon. For methane ("CH4"), the Draft EIR/ EIS presents a GWP of 21 over a 100-year time horizon. This information is outdated: in 2007, the IPCC	Please refer to Master Response 31 (Compliance with Delta Reform Act) for additional information on how the Draft EIR/EIS climate change analyses utilize the best available science. Additionally, Master Response 19 addresses how the EIR/EIS deals properly and thoroughly with issues related to climate change.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		updated the GWP for methane to 25 over a 100-year time horizon [footnote 14: IPCC, Fourth Assessment Report: Climate Change 2007; http:/ /www.ipcc.ch/publications and data/ar4/wgl/en/ch2s2-l0-2.html.] and the EPA accordingly updated its GHG reporting rule in 2013. [footnote 15: EPA, 40 CFR Part 98, [EPA-HQ-OAR-2012-0934; FRL-9902-95-0AR], RIN 2060-AR52, 2013 Revisions to the Greenhouse Gas Reporting Rule and Final Confidentiality Determinations for New or Substantially Revised Data Elements, November 15, 2013, Table 2, page 21; http:/ /www.epa.gov/ ghgreporting/ documents/ pdf / 2013/ documents/2013-data-elements.pdf.] The most recent IPCC report, published in 2013, which includes climate-carbon feedbacks, updated the GWP for methane to 34 over a 100-year time horizon, 16 a 36 percent increase over the IPCC's 2007 recommendation [footnote 17: (34)/ (25) = 1.36.] and a 62 percent increase over the IPCC's 1996 recommendation [footnote 18: (34)/ (21) = 1.62.] which the Draft EIR/EIS relied upon. This outdated, incomplete or superfluous information must be updated in the main body and the supporting appendices of the EIR/ EIS, Chapter 22, and any analyses must be updated accordingly.	
1787	252	The Draft EIR/EIS's Analyses of Impacts due to Criteria Pollutant and Greenhouse Gas Emissions Resulting from Project Construction and Operation Are Flawed and Fail to Identify and Adequately Mitigate Significant Impacts The BDCP affects three air basins, the Sacramento Valley Air Basin ("SVAB"), the San Joaquin Valley Air Basin ("SJVAB"), and the San Francisco Bay Area Air Basin ("SFBAAB"). Depending on the alternative, the areas affected by construction and operation of the BDCP in these air basins are under the jurisdiction of three or four air districts, the Yolo-Solano Air Quality Management District ("YSAQMD"), the Sacramento Metropolitan Air Quality Management District ("SMAQMD"), the Bay Area Air Quality Management District ("BAAQMD"), and the San Joaquin Valley Air Pollution Control District ("SJVAPCD"). The Draft EIR presents emission estimates for criteria pollutants, specifically for reactive organic gases ("ROG") and nitrogen oxides ("NOx"), which are both ozone precursors, CO, particulate matter equal to or smaller than 10 micrometers ("PMlO"), PM2.5, and sulfur dioxide ("S02") separately for each of the 15 action alternatives and by affected air district and compares them to the quantitative significance thresholds developed by the respective air district for purposes determining adverse effects under NEPA and significant impacts under CEQA.[footnote 19: Draft EIR/EIS, Table 22-86, p. 22-226.] The Draft EIR/ EIS notes that its emission estimates include implementation of the Environmental Commitments described in Appendix 3B.[footnote 20: Draft EIR/EIS, p. 22-270.]	The comment summarizes the analysis only.
1787	253	The Draft EIR/EIS's Discussion of Methodology and Presentation of Results Is Lengthy, Confusing, Repetitive and Internally Redundant The Draft EIR's Chapter 22, Air Quality and Greenhouse Gases, is 408 pages long (without	The lead agencies acknowledge your comments regarding the organization of Chapter 22, Air Quality and Greenhouse Gases. The document and air quality analysis reflects several years of collaboration, responses to requests for additional information, careful thought, accumulation of the latest scientific information, and thorough analyses needed to develop and conduct an environmental review of a project that impacts the

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		appendices) in what looks like a 10 point font size for the body text. The sheer length of this chapter, its monotonous formatting and repetitive and internally redundant structure frustrate public review and defeat the requirements of CEQA and NEPA for full and readily accessible disclosure of information. After the discussion of the Affected Environment/Environmental Setting in Section 22.1(12 pages), the Regulatory Setting in Section 22.2 (17 pages), the Methods for Analysis in Section 22.3.1(8 pages), and Determination of Effects in Section 22.32 (7 pages), which sets out thresholds of significance and approach to comparing emissions to thresholds, the Draft EIR/EIS's presentation of Effects and Mitigation Approaches in Section 22.3 stretches over 359 pages, much of which is repetitive and redundant. Specifically, its analysis of criteria pollutant and greenhouse gas emissions and associated impacts, follows the same structure for each of the 15 action alternatives: a) Summary of methodology; b) Presentation of emission estimates in tables (criteria pollutants from electricity consumption, construction and operation). c) Discussion of NEPA Effects and CEQA Conclusions including applicable mitigation measures for each of the following impacts: Impact AQ-1: Generation of Criteria Pollutants in Excess of the YSAQMD Thresholds during Construction of the Proposed Water Conveyance Facility Impact AQ-2: Generation of Criteria Pollutants in Excess of the SMAQMD Thresholds during Construction of the Proposed Water Conveyance Facility Impact AQ-3: Generation of Criteria Pollutants in Excess of the BAAQMD Thresholds during Construction of the Proposed Water Conveyance Facility Impact AQ-4: Generation of Criteria Pollutants in Excess of the SJVAPCD Thresholds during Construction of the Proposed Water Conveyance Facility Impact AQ-5: Generation of Criteria Pollutants in Excess of the YSAQMD Thresholds from Operation and Maintenance of the Proposed Water Conveyance Facility Impact AQ-6: Generation of Criteria Pollutants in Excess of the SMAQMD Thresholds from Operation and Maintenance of the Proposed Water Conveyance Facility Impact AQ-7: Generation of Criteria Pollutants in Excess of the BAAQMD Thresholds from Operation and Maintenance of the Proposed Water Conveyance Facility Impact AQ-8: Generation of Criteria Pollutants in Excess of the SJVAPCD Thresholds from	Delta estuary and water supplies for million Californians. Although the science and analyses that support the draft EIR/EIS, including the air quality and GHG chapter, are complex, the lead agencies have made every attempt to present the information in plain language and in a clear format with emphasis on the information that is useful to the public, agencies, and decision makers. For more information, please see response to comment 1787-255 and Master Response 38 regarding the length and complexity of the document.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Operation and Maintenance of the Proposed Water Conveyance Facility Impact AQ-9: Generation of Criteria Pollutants in the Excess of Federal De Minimis Thresholds from Construction and Operation and Maintenance of the Proposed Water Conveyance Facility Impact AQ-10: Exposure of Sensitive Receptors to Health Threats in Excess of YSAQMD's Health-Risk Assessment Thresholds Impact AQ-11: Exposure of Sensitive Receptors to Health Threats in Excess of SMAQMD's Health-Risk Assessment Thresholds Impact AQ-12: Exposure of Sensitive Receptors to Health Threats in Excess of SJVAPCD's Health-Risk Assessment Thresholds Impact AQ-13: Exposure of Sensitive Receptors to Health Threats in Excess of BAAQMD's Health-Risk Assessment Thresholds Impact AQ-14: Creation of Potential Odors Affecting a Substantial Number of People during Construction of the Proposed Water Conveyance Facility Impact AQ-15: Generation of Cumulative Greenhouse Gas Emissions during Construction of the Proposed Water Conveyance Facility Impact AQ-16: Generation of Cumulative Greenhouse Gas Emissions from Operation and Maintenance of the Proposed Water Conveyance Facility and Increased Pumping. Impact AQ-17: Generation of Cumulative Greenhouse Gas Emissions from Increased CVP Pumping as a Result of Implementation of CM1 Impact AQ-18: Generation of Criteria Pollutants from Implementation of CM2-CM11 Impact AQ-19: Generation of Cumulative Greenhouse Gas Emissions from Implementation of CM2-CM11[footnote 21: The formatting of the impacts (bold, italic and underline) is not found in the Draft EIR/EIS and is provided here to show which analyses address similar impacts.] Because of this repetitive structure, which analyzes each of the 19 impacts separately for each of the 15 alternatives and follows more or less the same outline within each impact discussion, the Draft EIR/EIS, contains a multitude of recurring statements, and sometimes whole paragraphs (where "X" stands for any of the 15 action alternatives): Electricity consumption	

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		Construction and operation of Alternative [X] would require the use of electricity, which would be supplied by the California electrical grid. Power plants located throughout the state supply the grid with power, which will be distributed to the Study area to meet project demand. Power supplied by statewide power plants will generate criteria pollutants. Because these power plants are located throughout the•state, criteria pollutant emissions associated with ... [Alternative X] electricity demand cannot be ascribed to a specific air basin or air district within the study area and it cannot be determined whether the air pollutant emissions associated with electricity generation would degrade air quality in a specific air basin or air district within the Study area. ... Criteria pollutant emissions from electricity consumption, which are summarized in Table D for Alternative [X] ... are therefore provided for informational purposes only and are not included .in the impact conclusion. [Here, one wonders why the Draft EIR/ EIS bothers to waste half a page of discussion and another half- to three quarters of a page on a table providing emission estimates for each alternative that are then not analyzed. I suggest that this information be omitted.] Construction Mobile and stationary construction equipment exhaust, employee vehicle exhaust, and dust from clearing the land would generate emissions of ozone precursors (ROG and NOx), CO, PM10, PM2.5, and S02. ... Emissions estimates include implementation of environmental commitments (see Appendix 3B, Environmental Commitments). Although emissions are presented in different units (pounds and tons), the amounts of emissions are identical (i.e., 2,000 pounds is identical to 1 ton). As discussed in Section 22.3.1.1, daily emissions represent a conservative assessment of construction impacts due to calculation methodology. Moreover, as shown in Appendix 22B, Air Quality Assumptions, construction activities during several phases will likely occur concurrently. To ensure a conservative analysis, the maximum daily emissions during these periods of overlap were estimated assuming all equipment would operate at the same time--this gives the maximum total project-related air quality impact during construction. Violations of the air district thresholds are shown in underlined text. Operation Operation and maintenance activities under Alternative [X] would result in mobile-source emissions of ROG, NOx, CO, PM10, PM2.5, and S02. Emissions were quantified for both 2025 and 2060 conditions, although activities would take place annually until project decommissioning. Future emissions, in general, are anticipated to lessen because of continuing improvements in vehicle and equipment engine technology." Although emissions are presented in different units (pounds and tons), the amounts of emissions are identical (i.e., 2,000 pounds is identical to 1 ton). Summarizing emissions in	

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		both pounds per day and tons per year is necessary to evaluate project-level effects against the appropriate air district thresholds, which are given in both pounds and tons (see Table 22-9). Health Risk "Diesel-fueled engines, which generate DPM, would be used during construction of the proposed water conveyance facility. These coarse and fine particles may be composed of elemental carbon with adsorbed materials, such as organic compounds, sulfate, nitrate, metals, and other trace elements. The coarse and fine particles are respirable, which means that they can avoid many of the human respiratory system's defense mechanisms and enter deeply into the lungs. DPM poses inhalation- related chronic non-cancer and cancer health threats." "The BDCP will involve the operation of hundreds of pieces of mobile and stationary diesel-fueled construction equipment for multiple years in close proximity to sensitive receptors. Primary sources of DPM from construction include exhaust emissions from off-road vehicles (e.g., loaders, dozers, graders) and portable equipment (e.g., compressors, cranes, generators), as well as barges carrying construction materials." These statements, repeated for each alternative, by no means an exhaustive list, could have easily been incorporated into a summary text that applies to all alternatives.	
1787	254	Another example of the internally redundant organization of EIR/EIS Chapter 22: only three of the 15 alternatives, Alternatives 1C, 2C, and 6C, would require construction of permanent features in areas under jurisdiction of the Yolo-Solano Air Quality Management District (YSAQMD). Yet, the analysis of Impacts AQ-1and AQ-5 includes the following repetitive discussion for each of the other 12 alternatives, i.e., Alternatives 1A, 1B, 2A, 2B, 4, 5, 6A; 6B, 7, 8 and 9, (where "X" stands for any of these 12 alternatives): Impact AQ-1: Generation of Criteria Pollutants in Excess of the YSAQMD Thresholds during Construction of the Proposed Water Conveyance Facility • NEPA Effects: Construction of Alternative [X] would occur in the SMAQMD, SJVAPCD, and BAAQMD. No construction emissions would be generated in the YSAQMD. Consequently, construction of Alternative [X] would neither exceed the YSAQMD thresholds of significance nor result in an adverse effect to air quality.• CEQA Conclusion: Construction emissions generated by the alternative would not exceed YSAQMD' s thresholds of significance. This impact would be less than significant.• Impact AQ-5: Generation of Criteria Pollutants in Excess of the YSAQMD Thresholds from	The lead agencies acknowledge your comments regarding the organization of Chapter 22, Air Quality and Greenhouse Gases. The document and air quality analysis reflects several years of collaboration, responses to requests for additional information, careful thought, accumulation of the latest scientific information, and thorough analyses needed to develop and conduct an environmental review of a project that impacts the Delta estuary and water supplies for million Californians. Although the science and analyses that support the draft EIR/EIS, including the air quality and GHG chapter, are complex, the lead agencies have made every attempt to present the information in plain language and in a clear format with emphasis on the information that is useful to the public, agencies, and decision makers. For more information, please see response to comment 1787-255 and Master Response 38 regarding the length and complexity of the document.

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Operation and Maintenance of the Proposed Water Conveyance Facility NEPA Effects: Alternative [X] would not construct any permanent features in the YSAQMD that would require routine operations and maintenance. No operational emissions would be generated in the YSAQMD. Consequently, operation of Alternative [X] would neither exceed the YSAQMD thresholds of significance nor result in an adverse effect to air quality. CEQA Conclusion: Operational emissions generated by the alternative would not exceed YSAQMD' s thresholds of significance. This impact would be less than significant. No mitigation is required. This entire discussion, repeated word-for-word for each of the 12 alternatives without activities in the YSAQMD, could have simply been replaced by a summary table in a strategic location indicating that an analysis of impacts is not applicable for these alternatives.	
1787	255	The bulk of Draft EIR/EIS's language for construction Mitigation Measures AQ-2a and AQ-2b, laid out in the discussion for Alternative 4 for the Sacramento Metropolitan Air Quality Management District (SMAQMD)/Sacramento Federal Nonattainment Area ("SFNA"), which spans almost four pages [footnote 22: Draft EIR/EIS, pp. 22-230 through 22-233.], is identical to Mitigation Measures AQ-3a and AQ-3b for the Bay Area Air Quality Management District (BAAQMD)/San Francisco Bay Area Air Basin (SFBAAB) and Mitigation Measures AQ-4a and AQ-4b for the San Joaquin Valley Air Pollution Control District (SJVAPCD)/San Joaquin Valley Air Basin (SJVAB). In other words, the presentation of the methodology and impacts for each alternative is often redundant and could have been considerably shortened by consolidating repetitive information, e.g., in introductory paragraphs to Section 23.3, Environmental Consequences, and/ or in summary tables before the alternative-specific discussion in Section 22.3, Determination of Effects. In fact, providing summary tables instead of repetitive discussions would go a long way towards shortening the 408-page Air Quality and Greenhouse Gases section and towards helping to orient the reader and provide a more readily accessible discussion. I understand that Chapter 22, Air Quality and Greenhouse Gases, was intentionally structured to be consistent with other sections of the EIR/EIS [footnote 23: Personal communication Pless/Laura Yoon, ICF International, July 18, 2014.]; however, I suggest that the preparers of the document rethink the organization of this section (and other similarly problematic sections) and carefully assess whether a more streamlined internal organization wouldn't be more practical and make the document more readily accessible for public review in order to understand impacts associated with BDCP alternatives and proposed mitigation measures. In addition, distinctly different formatting of headings for impact analyses and mitigation measures would serve as a visual aid (currently the only difference in the heading formatting is indented text for mitigation measures, which is inconsistently	The lead agencies acknowledge commenter's thoughts regarding the organization of Chapter 22, Air Quality and Greenhouse Gases. As the commenter mentioned, the chapter outline and structure are consistent with other sections of the EIR/EIS. The EIR/EIS and air quality analysis reflects several years of collaboration, responses to requests for additional information, careful thought, accumulation of the latest scientific information, and thorough analyses needed to develop and conduct an environmental review of a project that impacts the Delta estuary and water supplies for million Californians. Neither CEQA nor NEPA impose mandatory upper page limit on the length for an EIR or EIS. The project area spans four air basins and three air districts, each with unique air quality conditions and regulatory requirements. As such, the size and complexity of Chapter 22, Air Quality and Greenhouse Gases, reflects an effort to analyze 15 Alternatives under various federal, state, and local laws for air quality and greenhouse gases (GHG). Additionally, three new alternatives were analyzed for the RDEIR/SDEIS, which was released in July 2015. These new sub alternatives lay out a different ESA/CESA compliance approach and no longer include HCP's. The Final EIR/EIS includes all 18 action alternatives. Although the science and analyses that support the draft EIR/EIS and air quality analysis are complex, the lead agencies have made every attempt to present the information in plain language and in a clear format with emphasis on the information that is useful to the public, agencies, and decision makers. For a more concise summary of the air quality impact conclusions made in the EIR/EIS, the EIR/EIS Executive Summary is available on the BDCP/CA WaterFix website. Additionally, lay-friendly highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents. The BDCP Highlights and the EIR/EIS Highlights are posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS are also provided online and by request. In addition, 17 narrated informational webinar episodes have been posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Please refer to Episode 9 for an overview of air quality, GHG, and climate change impacts. Background documents,

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		applied throughout the chapter). To enhance the document's organization, the document preparers should also consider including a header on each page citing to the alternative under review; renumbering of impacts: AQ-1through AQ-4 as AQ-la through AQ-1d, AQ-5 through AQ-8 as AQ-2a through AQ-2d, and AQ-10 through AQ-13 as AQ-3a through AQ-3d, etc., as they each cover the same type of impacts within the four affected air districts; and making use of more distinct formatting for various sections.	additional factsheets, and FAQs also continue to be available on-line. For more information, please see Master Response 38 regarding the length and complexity of the document.
1787	256	The Draft EIR/EIS's Discussion of Significant Impacts from Criteria Pollutant Emissions Is Inadequate The Draft EIR/ EIS provides summary tables with criteria pollutant emission estimates for Project construction [footnote 24: For example: Draft EIR/EIS, Table 22-:-86, Criteria Pollutant Emissions from Construction of Alternative 4 (lbs/ day and tons/year).] and operation [footnote 25: For example: Draft EIR/EIS, Table 22-87, Criteria Pollutant Emissions from Operation of Alternative 4 (lbs/ day and tons/year).] for each affected air district compared to the respective air district's quantitative significance thresholds (where significant impacts are underlined). For the SMAQMD, the Draft EIR/ EIS additionally provides a summary table with results of PM1O dispersion modeling compared to the air district's quantitative significance threshold for increases in PM1O concentrations. The Draft EIR/ EIS then goes through the NEPA and CEQA impacts for each of the above-summarized 19 impacts (AQ-l through AQ-19) and identifies which pollutants would exceed applicable air district thresholds and would therefore be considered significant, typically in just one sentence that provides little to no additional information beyond that provided in the summary tables or prior discussions. The Draft EIR/ EIS fails entirely to put these significant impacts on air quality into perspective; in other words, it provides no discussion of the severity of the resulting impacts or a discussion of the impacts in the context of the respective air basin's existing air quality. As an example: For impacts resulting from construction of Alternative 4 in the SFBAAB under the Bay Area Air Quality Management District's jurisdiction, the Draft EIR/EIS simply states that emissions would exceed the respective significance threshold for ROGs in the years 2019 through 2021and 2024 and for NOx during the years 2017 through 2024. [footnote 26: Draft EIR/EIS, p. 22-234.] Review of Draft EIR/ EIS Table 22-86 shows that maximum daily emissions of ROG during Alternative 4 construction would be up to 167 pounds per day ("lbs/ day") (Year 2020), exceeding the BAAQMD' s daily significance threshold for ROG of 54 lbs/ day by 209% [footnote 27: Year 2020: (167 pounds ROG/ day) / (54 pounds ROG/ day) - (1) = 2.09.]; maximum daily emissions of NOx during Alternative 4 construction would be up to l,030 lbs/ day (Year 2020), exceeding the BAAQMD' s daily significance threshold for NOx (54 lbs/ day) more than 18 times, or by 1807%. [footnote 28: Year 2020: (1030 pounds NOx/ day) / (54 pounds NOx/ day) - (1) = 18.07.] The chart below illustrates the immensity of ROG and NOx emissions within the SFBAAB over the 9-year construction phase of Alternative 4 (2016 through 2024) in comparison to the BAAQMD' s significance thresholds for these	Impacts AQ-1 through AQ-4 evaluate construction-generated reactive organic gases (ROG) and nitrogen oxides (NOx) against adopted air district thresholds. The Public Draft EIR/EIS concludes that violations of these thresholds "could contribute to or worsen existing air quality conditions". Text has been added to the impact analysis to further indicate and make explicit that violation of adopted air district thresholds could contribute to secondary ozone formation, which could impede regional attainment of the national ambient air quality standards (NAAQS) and California ambient air quality standards (CAAQS). While project-generated construction emissions could worsen existing air quality, Mitigation Measure AQ-2a through AQ-4a would offset NOx and ROG (as applicable) to net zero. All offsets must come from projects located within the same air basin as the generated emissions. Reductions must also be achieved (contracted and delivered) by the applicable year in question (i.e., emissions generated in year 2018 would need to be reduced offsite in 2018). Mitigation Measure AQ-2a through AQ-4a would therefore eliminate the potential for increased ozone formation and adverse effect on future air quality and regional attainment of the NAAQS and CAAQS.

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		pollutants. The Draft EIR/EIS makes no effort to put emissions of these ozone precursors into context with respect to the federal and state ozone non-attainment status of the region.	
1787	257	ATT16: ATT1: Graph Showing Alternative 4 daily construction emissions of ROG and Nox (accounting for Environmental Commitments) compared to BAAQMD's CEQA daily construction significance thresholds for ROG and NOx.	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	258	Emissions in the above chart [see ATT16: ATT1] include the mitigating effects of the Environmental Commitments laid out by the Draft EIR/EIS. The above chart illustrates just how enormous construction emissions of ROG and NOx would be under Alternative 4 and how much these already mitigated emissions would exceed the significance thresholds established by the affected air district; thresholds which are generally considered to be indicators whether emissions are expected to result in or contribute substantially to a violation of an Ambient Air Quality Standard (AAQS). Given the San Francisco Bay Area Air Basin's nonattainment status for federal and state ozone standards and the almost decade-long construction period, emissions of this magnitude suggest that construction of the BDCP would impede attainment of AAQS. Analyses of other pollutants and air basins suffer from the same problems. I suggest that the Draft EIR/EIS be revised to illustrate and discuss impacts of criteria pollutant emissions in. context and provide air dispersion modeling.	The air quality analysis concludes that emissions in excess of adopted air district thresholds for reactive organic gases (ROG) and nitrogen oxides (NOx) could contribute to or worsen existing air quality conditions, including secondary ozone formation and attainment of the national and California ambient air quality standards. Mitigation Measures AQ-2a through 4a are available to reduce this effect by offsetting NOx and ROG (as applicable) emission to net zero. Please see response to comment 1787-256 for additional information. With respect to dispersion modeling, consistent with accepted and standard practice, ozone impacts were evaluated by quantifying mass emissions of ROG and NOx. The Plan Area air districts have adopted thresholds of significance for ROG and/or NOx to assist the region in attaining the federal and state ozone standards. The mass emissions thresholds also account for expected criteria air pollutant contributions from downwind air basins (see California Air Resources Board 2011b in the Administrative Record for the Draft EIR/EIS). Accordingly, the ROG and NOx thresholds can be used in lieu of complex photochemical modeling to identify projects that could result in significant secondary ozone formation that could impede regional attainment of the state and federal ozone standards. Photochemical modeling is therefore not conducted for the project as a detailed assessment of ROG and NOx emissions relative to adopted air district thresholds is performed in Chapter 22, Air Quality and Mitigation Measures AQ-2a through 4a are available to reduce this effect by offsetting NOx and ROG (as applicable) emission to net zero.
1787	259	The Draft EIR/EIS Should Have Conducted Dispersion Modeling for Criteria Pollutant to Determine Compliance with Ambient Air Quality Standards Rather than Solely Relying on Quantitative Thresholds of Significance For most pollutants, the Draft EIR/EIS relies solely on a comparison of estimated construction and operational emissions to quantitative daily or annual CEQA thresholds of significance developed by the affected air districts. These thresholds were developed for determining the significance of distinct and short-term land use projects, not for a large-scale linear construction project that extends across multiple counties and air basins over almost a decade, and can therefore not be solely relied upon .to demonstrate compliance. In addition to quantifying emissions compartmentalized for each air district, an adequate evaluation of air quality impacts for such a large-scale linear project would also include dispersion modeling of resultant pollutant concentrations in ambient air to determine where, when and how often ambient air quality standards would be exceeded.	The thresholds of significance adopted by the four local air districts in the Plan Area are intended for application to land use development projects and plans that occur within the boundary of each air district. The geographic range of a project within the air district boundary (i.e., whether it is confined to single property boundary or spans linearly across multiple properties) has no bearing on the applicability of the adopted threshold to the environmental impact analysis. All mass emissions thresholds adopted by the Plan Area air districts account for expected criteria air pollutant contributions from downwind air basins. Accordingly, use of the Plan Area air district thresholds to evaluate construction and operational impacts associated with BDCP is appropriate and supported by substantial evidence (see California Air Resources Board 2011b in the Administrative Record for the Draft EIR/EIS and also the local air district threshold justification reports for additional information). With respect to dispersion modeling, while it may help provide an assessment of whether construction activities exceed the NAAQS/CAAQS, DWR has discretion over the analysis approach and impact thresholds,

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		Given the ozone and PM10 and PM2.5 nonattainment status of all three affected air basins [footnote 29: Draft EIR/EIS, Table 2-4, p. 22-13.] and the large amounts of ozone and particulate matter precursor emissions during the 9-year construction period, modeling of ambient concentrations of these pollutants would provide a greater understanding of the Project's local and regional impacts on air quality. Modeling of pollutant concentrations in ambient air is typically provided for large-scale projects such as the BDCP.	and has elected to utilize the local air district thresholds and offset emissions to net zero to satisfy general conformity and address regional air pollutant impacts. Conformity can be demonstrated through either dispersion modeling and comparing concentrations to the NAAQS, or offsetting emissions to net zero. Accordingly, the two approaches are essentially "equal" with respect to emissions and regional impacts to the NAAQS/CAAQS. The lead agencies undertook an extensive consultation process with the four Plan Area air districts to confirm sufficient emissions reduction credits were available to offset project- generated emissions to net zero. Copies of the air district coordination are provided in the general conformity determination. Please also see response to comment 1787-258.
1787	260	The Draft EIR/EIS Fails to Analyze Carbon Monoxide Concentrations from Vehicle Exhaust The Draft EIR/ EIS identifies CO as a pollutant of concern that would be emitted with motor vehicle exhaust, [footnote 30: Draft EIR/EIS, Section 22.1.3, p. 22-2-5.] and identifies the quantitative significance thresholds of established by the four air districts, which are defined as a violation of a state AAQS for C0. [footnote 31: Draft EIR/EIS, Table 22-9, p. 22-42.] Yet, the Draft EIR/EIS provides no discussion of CO impacts, presumably because none of the affected air districts has established quantitative mass emissions thresholds for CO and instead define the threshold as a violation of a state Ambient Air Quality Standard for CO, which requires modeling of resulting concentrations in ambient air. The Draft EIR/EIS does not discuss why it deems an analysis and modeling of ground-level CO concentrations beyond providing CO emission estimates for the construction and operational phases of the BDCP for either phase unnecessary. Given that CO emissions during some years of construction by far exceed the CEQA significance thresholds of 550 lbs/ day established by many air districts in California (e.g., Imperial County Air Pollution Control District [footnote 32: Imperial County Air Pollution Control District, CEQA Air Quality Handbook, Guidelines for the Implementation of the California Environmental Quality Act of 1970, as Amended, November 2007; http:/ /www.co.imperial.ca.us/airpollution/Forms %20&%20Documents/ CEQA/ CEQA %20Handbk%20 Nov%202007.pdf.], Monterey Bay Unified Air Pollution Control District [footnote 33: Monterey Bay Unified Air Pollution Control District, CEQA Air Quality Guidelines, 2008; http:/ /mbuapcd.org/ pdf/ CEQA full %20(1).pdf.], San Luis Obispo Air Pollution Control District [footnote 34: San Luis Obispo County Air Pollution Control District, CEQA Air Quality Handbook, A Guide for Assessing the Air Quality Impacts for Projects Subject to CEQA Review, April 2003; http://www.slocounty.ca.gov/ Assets /PW I LOWWP /Reference+ Materials+for+County/ CEQA + Air+Quality+Handbook.pdf.], and the South Coast Air Quality Management District [footnote 35: South Coast Air Quality Management District, SCAQMD Air Quality Significance Thresholds, March 2011; http://www.aqmd.govIdocsIdefault-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2.]) - e.g., for Alternative 1B in the SMAQMD (2015:879 lbs/ day; 2016: 1,279 lbs/ day; 2017:1,214 lbs/ day) and in the SJVAPCD (2015:2,650 lbs/ day; 2016: 2,409 pounds per day; 2017: 1876 lbs/ day) for Alternative 4 in the Bay Area Air Quality Management District (2020: 723 lbs/ day) - ground level concentrations of CO should be modeled to determine whether vehicle exhaust during construction would result in violation	The four air quality management districts in the Plan Area are the Bay Area Air Quality Management District (BAAQMD), Sacramento Metropolitan Air Quality Management District (SMAQMD), Yolo-Solano Air Quality Management District (YSAQMD) and the San Joaquin valley Air Pollution Control District (SJVAPCD). These agencies have jurisdiction over local air quality control and have adopted rules and regulations to ensure the national and State ambient air quality standards (NAAQS and CAAQS, respectively) are achieved. As described in Section 22.3.2, all four air districts have adopted thresholds of significance to assist lead agencies in determining whether project-generated emissions would interfere to impede the region's ability to attain the NAAQS, or whether project-generated emissions would cause increased risk to human health. With respect to attainment of the NAAQS, none of the four air districts have adopted a regional threshold for carbon monoxide (CO). All four air districts are currently in attainment for the NAAQS for CO and are considered maintenance areas; in fact, no exceedances of the CAAQS or NAAQS for CO have been recorded in the BAAQMD or SJVAPCD since 1991. The California State Implementation Plan for Carbon Monoxide (2004) will expire in 2018, at which time, the planning areas will have demonstrated attainment of the CO NAAQS for more than 20-years and will officially be redesigned attainment areas. Recognizing this, none of the four Plan Area air districts have proposed regional thresholds for CO (see for example, the BAAQMD's Threshold Justification Report, which indicates that a CO threshold is not proposed, as construction-based controls are not currently required to achieve regional attainment for CO). Accordingly, an analysis of regional CO impacts in the Plan Area is not required as regional CO is not a pollutant of air quality concerned, as defined by the scientific and regulatory agencies with air quality jurisdiction in the Plan Area. With respect to the potential for increased risk to human health, the four Plan Area air districts have adopted the CAAQS as the threshold of significance. Localized CO impacts (or CO "hot-spots") typically result from increased traffic congestion, particularly when a high percentage of that traffic is comprised of gasoline-powered vehicles. All four Plan Area air districts have adopted screening criteria that provide a conservative indication of whether project-generated traffic will cause a potential CO hot-spot. The air districts establish that if the screening criteria are not met, a quantitative analysis of project-related CO concentrations would not be necessary and the project would not cause localized violations of CO CAAQS. Chapter 22 has been revised to include an analysis of potential CO hot-spots from construction-generated traffic. The assessment utilizes the screening criteria adopted by the Plan Area air districts to determine the significance of potential impacts. Please refer to Section 22.3.2.1 and Impact AQ-13 in the recirculated EIR/EIS.

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		of state standards. The Draft EIR/EIS should be revised to include an appropriate analysis and discussion.	
1787	261	The Draft EIR/EIS Fails to Quantify Emissions for All Construction Phases and Emission Sources and, thus, Underestimates Construction Emissions The Draft EIR/ EIS quantifies emissions of criteria pollutants generated by mobile and stationary construction equipment exhaust, employee vehicle exhaust, and fugitive dust from land clearing during the Project's 9-year construction phase. [footnote 36: Draft EIR/EIS, p. 22-270.] These emissions are substantially underestimated due to incorrect assumptions and methodologies. The Draft EIR/EIS Incorrectly Calculates Fugitive Dust Emissions from Grading The Draft EIR/ EIS states that it quantified fugitive dust emissions (without project commitments) using California Emissions Estimator Model; estimates of the acres disturbed as a result of the major water conveyance features were obtained using geographic information systems ("GIS"). [footnote 37: Draft EIR/EIS, Appx. 22A, p. 22A-13.] The provided spreadsheets [footnote 38: "Construction_Dust.xlsx" and "Construction_Dust_Alt4.xlsx".] summarize CalEEMod outputs for fugitive dust PM10 emission from grading of specific areas such as tunnels, forebays, and river intakes for summer conditions (has higher dust daily emissions than winter). The CalEEMod runs for each structure assumed "General Heavy Industry" as land use with 10,000 square feet and lot acreage equal to grading acreage and assuming the grading phase occurs all in one day. [footnote 39: Ibid, see Footnote "Tunnel CalEEMod dust methodology."] The spreadsheets then divide these CalEEMod outputs for each structure by the number of days grading is expected to arrive at daily emissions in lbs/ day. The Draft EIR/EIS does not give an explanation why it deems this approach reasonable. This approach is not consistent with the assumptions incorporated into CalEEMod and, as a result, by far underestimates daily fugitive dust PM10 emissions: CalEEMod summer reports provide emission estimates for fugitive dust PM10 and PM2.5 emissions from material movement in lbs/ day. These emission estimates incorporate assumptions about the number and type of equipment depending on the acreage graded and the number of days anticipated for the respective construction phase. Running CalEEMod for the acreage to be graded, assuming it would occur all in one day and dividing the results by the expected number of days of grading does not .result in the same fugitive dust emissions as running CalEEMod for the acreage to be graded and specifying the period during which grading would occur. For example, for Alternative 4, the Draft EIR calculates fugitive dust PM10 emissions for River Intake 1at 0.559 lbs/ day assuming that grading of 190.85 acres would occur over 3633 days: (CalEEMod assuming 190.85 acres graded on one (1) day: 203.31pounds fugitive dust PM10)	The Public Draft EIR/EIS fugitive dust analysis was based on best available data at the time of the analysis. Since publication of the document, a revised cost estimate was prepared that provides total acreage, borrow, excavated, and dredged material for each construction phase. The estimate also identifies the maximum acreage and material that would be disturbed in any one day. The fugitive dust analysis has been revised to utilize the updated maximum daily cubic yardage and acreage values. Please refer to Appendix 22A, Air Quality Analysis Methods, for additional information. With respect to the modeling approach, emission factors for site grading and bulldozing have been calculated from Section 11.9, Western Surface Coal Mining of AP-42. This approach is consistent with the CalEEMod (version 2013.2.2) Users Guide and the resulting emission factors match CalEEMod outputs on a pound per acre and pound per hour basis. Although the CalEEMod Users Guide indicates that Section 13.2.4, Aggregate Handling and Storage Piles, of AP-42 is used to quantify emissions from Truck Loading, ICF could not independently derive matching emission factors through CalEEMod model runs. Since the CalEEMod results were slightly higher than the AP-42 calculations, truck loading emissions were quantified based on a pound per cubic yard emission factor obtained from the CalEEMod output, rather than using AP-42. Please refer to Appendix 22A and Chapter 22, Air Quality and Greenhouse Gases, Section 22.3.3 in the recirculated EIR/EIS. It is important to note that the public draft EIR/EIS fugitive dust analysis is based on emissions data from CalEEMod version 2011.1.1, which was the latest model version available at the time of the analysis. The model has since been updated twice to correct previous modeling errors and glitches, as well as to ensure the model utilizes the best available methodologies, science and data. Accordingly, comparing modeling results between version 2011.1.1 and version 2013.2.2 (which was used by the commenter) may not yield a valid comparison due to underlining programming upgrades and changes.

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		/ (363.3 days) = 0.559 lbs/day fugitive dust PM10 during grading I ran CalEEMod as intended, i.e., assuming 190.85 acres would be graded over 363.3 days and otherwise relying on the Draft EIR/EIS's assumptions (model run attached): CalEEMod assuming 363.3 days and 190.85 acres graded: 6.84 lbsjday fugitive dust PM10 emissions during grading The model run using the entire time period for the acreage to be graded results in fugitive dust PM10 emissions that are more than ten times higher than those calculated by' the Draft EIR. Clearly, the model cannot be "tweaked" the way the Draft EIR/EIS approached the fugitive emission estimates for grading. Further, even if the Draft EIR/EIS's approach were acceptable, the assumption of 363.3 days to grade 190.3 acres is too high and, thus, results in a substantial underestimate of emissions. The Draft EIR/ EIS's estimates of fugitive dust PM2.5 emissions suffer from the same incorrect approach because the Draft EIR/ EIS scales PM2.5 from PM10 emissions by a factor of 0.108. The Draft EIR/ EIS provides no explanation why it does not rely on the PM2.5 emissions output generated by CalEEMod. Review of CalEEMod shows that the Draft EIR/ EIS's scaling factor by far underestimates fugitive dust PM2.5 emissions during grading: the factor derived from the CalEEMod model run discussed above is 0.503 [footnote 40: (PM2.5: 3.4382 lbs/ day) / (PMlO: 6.8351lbs/ day) = 0.5032.],five times higher than that assumed by the Draft EIR/ EIS.	
1787	262	The Draft EIR/EIS Fails to Account for Fugitive Dust Emissions from Site Preparation, Truck Loading, Entrained Road Dust, Road Paving, and Architectural Coatings In addition to, and for some structures simultaneously with, grading, fugitive dust would also be generated during site preparation and bulldozing and result from entrained road dust from haul truck and construction worker commuter vehicles on paved and unpaved roads, truck loading and unloading on site. The Draft EIR/EIS makes no attempt to estimate these emissions. In particular, construction would generate 32 million cubic yards of tunnel muck and 8 million cubic yards of dredging material that will have to be disposed of and substantial amounts of borrow materials that would have to be brought to the tunnel construction sites. [footnote 41: Maven's Notebook, A Water, Science and Policy Blog, A Preliminary Analysis of the Infrastructure of the Bay Delta Conservation Plan, February 13, 2014; http:// mavensnotebook.com/20 14/02/13/ the-infrastructure-of-the-bay-delta-conservation-plan-the-san-diego-county-water-authority-begins-a- preliminary-analysis/.] Further, construction of some of the BDCP structures will require road paving and the use of architectural coatings, which both result in reactive organic gas emissions. The Draft EIR makes no mention of these emission sources and, thus,	Emissions associated with loading borrow, excavated, and dredged material on trucks have been evaluated based on updated information from the revised cost estimate. Please see response to comment 1787-261. While reusable tunnel muck (RTM) will be extracted during tunneling, the material will be completely saturated and therefore would not constitute a fugitive dust concern. The piles will remain moist throughout tunnel construction due to the continual addition of RTM. Once tunneling is complete, top soil or other control strategies outlined in Appendix 3B, Environmental Commitments will either be placed or the material may be transported to final disposal sites. Final disposal of the RTM, if moved, would be subject to all emissions control strategies outlined in Appendix 3B, Environmental Commitments. Please refer to Chapter 31 for additional information. Entrained road dust from offsite vehicles, including employee commuting cars and equipment and material delivery trucks, were evaluated based on AP 42 Section 13.2.1 for paved roads. Entrained road dust from onsite vehicles required for general crew and material movement were evaluated based on AP 42 Section 13.2.2 for unpaved roads. The factors obtained from AP 42 are consistent with the CalEEMod Users Guide and match model outputs on a pound per mile basis. Please refer to Appendix 22A, Air Quality Analysis Methods, in the recirculated EIR/EIS.

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		by far underestimates maximum daily emissions during construction.	Fugitive reactive organic gases (ROG) from paving were calculated using an emissions factor of 2.62 pounds of ROG per acre, as reported in the CalEEMod Users Guide appendix. Please refer to Appendix 22A in the recirculated EIR/EIS. Very few materials would require painting or exterior coatings. Moreover, all painting or coatings would be applied offsite (i.e., materials would be shop-coated). Accordingly, there would be no onsite fugitive ROG from architectural coatings.
1787	263	The Draft EIR/EIS's Relies on Incorrect Assumptions for Trip Lengths and Underestimates On-Road Vehicle Emissions The Draft EIR/EIS estimates emissions from on-road vehicles for materials hauling and general crew movement during construction assuming: Vehicle trips used for materials hauling and general crew movement would be 9.5 miles in all air districts, based on Plan area California Emissions Estimator Model default trips lengths for "commercial work" trips. Employee vehicle trips would be 10.8 miles in the Yolo-Solano Air Quality Management District, Sacramento Metropolitan Air Quality Management District, and San Joaquin Valley Air Pollution Control District, based on Plan area California Emissions Estimator Model (CalEEMod) default trips lengths for "home based work" trips. Employee vehicle trips would be 12.4 miles in the Bay Area Air Quality Management District, based on Plan area CalEEMod default trips lengths for "home based work" trips. [footnote 42: Draft EIR/EIS, Appx. 22A, pp. 22A-ll and 22A-12.] This approach by far underestimates on-road vehicle emissions because the default trip lengths from CalEEMod are far too short for construction activities occurring under the BDCP. First, the CalEEMod•default trip lengths for commercial and home-based work trips are not applicable to the construction phase and but were developed for CalEEMod to calculate operational emissions; the location of construction activities for the BDCP throughout mostly rural areas will require considerably longer construction worker commutes and haul vehicle trips than if the BDCP were located in an urbanized area. Based on a report by the Electric Power Research Institute ("EPRI"), Socioeconomic Impacts of Power Plants, construction workers will commute as much as 60 miles daily to construction sites from their homes rather than relocate, and considerably further on a weekly basis. [footnote 43: http://www.epri.com /abstracts/Pages/ProductAbstract.aspx?ProductId=EA-3660.] This indicates that the construction workforce would likely come from much farther than about 10 miles from the construction sites. Further, the conceptual engineering report indicates that there may not be enough suitable borrow material [footnote 44: Maven's Notebook, op. dt.], suggesting that borrow material will have to be sourced, from far and wide, requiring considerably	The Public Draft EIR/EIS utilized trip length assumptions from the CalEEMod Users Guide, which is the approved and recommended model for evaluating air quality and greenhouse gas impacts in CEQA documents. The study cited by the commenter was published in 1982 and is specific to construction of national power plants, whereas the CalEEMod default trip lengths are based on surveys over the past decade specific to California. Regardless, since publication of the Public Draft EIR/EIS, the trip length assumptions have been revised to reflect the most recent project-specific data, including a geospatial analysis of labor densities in the Plan area based on guidance from the project engineers. Please refer to Appendix 22A in the recirculated EIR/EIS for a summary of the updated offsite trip distances for employee commuting, equipment and material delivery, and supply pick up trips.

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		longer haul distances than assumed by the Draft EIR/EIS.	
1787	264	The Draft EIR/EIS Overestimates the Emission Reduction Effectiveness of Environmental Commitments The Draft EIR/EIS calculates emissions during construction assuming implementation of several Environmental Commitments to reduce construction-related pollutants, including: -Electrification of 5% of equipment in the following general categories: Air compressors Cranes Excavators Pumps Other construction equipment Loaders Dozers -Electrification of all materials-handling equipment and welders. -Electrification of 75% of general industrial equipment. -Electrification of 10% of light duty on-road vehicles. -Use of diesel particulate filters on 100% of all non-electrified off-road, marine, and locomotive equipment. -Use of compressed natural gas (CNG) in 10% of heavy-duty trucks and 50% of forklifts. -Use of Tier 4 engines in diesel locomotives.45 The Draft EIR/EIS contains no discussion of the feasibility of these assumptions. For example, there may not be a diesel particulate filter ("DPF") available for all off-road, marine vessels or locomotive equipment. If the Draft EIR/EIS relies on the effectiveness of the Environmental Commitments for all equipment, it must demonstrate their feasibility. Further, the Draft EIR/EIS assumes that installation of DPFs would result in an 85% of PM1O and PM2.5, based on information obtained from CARB. [footnote 46: Draft EIR/EIS, Appx. 3B, p. 3B-23.] Review of the CARB's website shows that an 85% reduction in particulate	Air quality is a complex and vital resource in California. Given the dynamic and complex nature associated with project-generated air pollutants, the lead agencies have developed a comprehensive and aggressive mitigation strategy to address air quality and associated human health effects. The measures described in Appendix 3B, Environmental Commitments, of the EIR/EIS reflect emissions control strategies based on currently available technologies. Based on extensive coordination with construction contractors, equipment manufacturers, industry experts, legal counsel, and air district staff, DWR has slightly revised the Construction Equipment Exhaust Reduction Plan to provide additional implementation flexibility and to improve the level of achieved environmental protection. The revised exhaust reduction plan will ensure all feasible onsite emissions reduction measures will be incorporated into the BDCP project design. As discussed in Appendix 3B, Environmental Commitments, of the recirculated EIR/EIS, the Construction Equipment Exhaust Reduction Plan is comprised of several aggressive performance standards. Specifically, an average performance standard of model year 2013 engines is identified for offroad equipment. This performance standard must be achieved at each construction site, although construction contractors may utilize a variety of control strategies to meet an emissions output equivalent to or better than a model year 2013 fleet. Potential control strategies include engine electrification, use of tier 3 or 4 engines, and use of diesel particulate filters. In developing the offroad equipment performance standard, DWR performed a detailed review of currently verified equipment control technologies (see http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm) and consulted with industry experts regarding the availability of Tier 3 and Tier 4 engines in California. The analysis confirms sufficient control technologies will be available at the time of construction to achieve the aggressive performance standard for offroad equipment. Emission factors (grams/horsepower- hour) for model year 2013 offroad engines were calculated based on the equipment specific zero-hour emission factors and annual deterioration rates. The Sacramento Metropolitan Air Quality Management District's (SMAQMD) Construction Mitigation Calculator was utilized to facilitate this analysis, since it automates the annual emission factor calculations. Inputs for the zero-hour emission factors and annual deterioration rates are obtained from the California Air Resource's Board (ARB) Offroad Model. Model year 2013 emission factors were calculated for each piece of equipment in the construction inventory and for all construction years (2016-2029). With respect to onroad vehicles, the Construction Equipment Exhaust Reduction Plan includes a performance standard of model year 2010 engines. This commitment will accelerate compliance with the ARB's In-Use Diesel Regulation by requiring all vehicles (14,000 pounds and heavier) utilize 2010 engines or newer at the start of construction. Model year 2010 emission factors were obtained from the ARB's EMFAC model for each vehicle type and all construction years (2016-2029). The Construction Equipment Exhaust Reduction Plan also includes a Tier 3 engine requirement for marine

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		matter emissions is achieved only by Level 3 DPFs; Level 2 DPFs achieve only a 50% reduction and Level 1 DPFs only 25% reduction. Since the Environmental Commitments do not specify what level of DPF would be installed, an 85% reduction cannot be guaranteed. Further, the Level 3 DPFs achieving an 85% particulate matter reduction were verified by CARB for particular engine years and types of equipment; it cannot be assumed that a Level 3 DPF is available for all construction equipment across the board. For the often very old, heavy-duty off-road equipment such as graders or dozers [footnote 47: See Union of Concerned Scientists, Digging Up Trouble, The Health Risk of Construction Pollution in California, November 2006; http://www.ucsusa.org/assets/documents/clean_vehiclesIdigging-up-trouble.pdf.], which often account for the highest emissions from a construction fleet, there may be none available. What's more, the Draft EIR/EIS assumes an 85% emission reduction over the state-wide fleet-average for each equipment, many of which already have DPFs installed or are newer models for which an 85% reduction cannot be achieved as they already comply with CARB standards for newer equipment. Finally, there is currently only one DPF available for marine vessels, a Level 2 DPF manufactured by Rypos, Inc., which is verified for "certain diesel engines that are either certified marine engine originally manufactured from model year 2004 to 2009, marine engines modified with the Clean Cam Technology System (CCTS) technology, or other marine engines meeting the terms and conditions specified in the Executive Order." [footnote 48: CARB, Verification Procedure - Marine; http://www.arb.ca.govIdiesel/verdevIvt/marine.htm.] This DPF only achieves a 50% particulate matter reduction. Further, it is unlikely, that the marine vessels that would be used during the BDCP construction qualify for installation of this particular DPF. Thus, the 85% reduction efficiency for DPFs cannot be applied to marine vessels. Thus, the Draft EIR/EIS's across-the-board assumption of 85% particulate matter emission reductions due to installation of DPFs on all non-electrified diesel-powered equipment by far underestimates emissions. Instead, the lead agency should rephrase the Environmental Commitments to specify the most stringent Tier-rating applicable for each type of equipment (without any "if feasible" or "if available") and the Draft EIR/EIS should be revised accordingly. Review of the Environmental Commitments shows that they are inadequately worded and not enforceable and that there is considerable room for improvements. Instead, a considerably higher reduction in carcinogenic diesel particulate matter emissions can be achieved by requiring the use of new or higher-tiered equipment that would comply with the latest EPA and CARB emission standards. (The Draft EIR's assumptions for the emission reduction efficiency for measures addressing	vessels and a Tier 4 engine requirement for tunneling locomotives. Advanced engine tiers (Tier 3) for marine vessels were phased in by the U.S. Environmental Protection Agency (EPA) between 2009 and 2014. Consultation with tunneling locomotive engine manufacturers confirms Tier 4 engines will be available at the time of construction. Emission factors for Tier 3 marine vessels and Tier 4 tunneling locomotives were obtained from the ARB, as described in Appendix 22A, Air Quality Analysis Methods. The revisions to the Construction Equipment Exhaust Reduction Plan provide for enhanced implementation flexibility and an aggressive level of environmental protection and emissions reduction. The commitments have been determined feasible by the project engineers and are part of the project design, implementation of which is considered a condition of project approval. With respect to the efficacy of fugitive dust reductions, the Fugitive Dust Control Plan addresses particulate matter from 1) site grading, 2) unpaved roads, and 3) concrete batching. As noted in Appendix 3B, Environmental Commitments, water will be applied to all exposed soil areas at an adequate frequency to maintain moist soil conditions. Consistent with air district guidance and the Western Regional Air Partnership's Fugitive Dust Handbook, a fugitive dust reduction of 61% for active construction areas and 55% for unpaved roads has been assumed. These assumptions are likely conservative as watering will likely occur at a frequency greater than 3.2 hours to maintain moist soil conditions (watering at frequency of 2.1 hours achieves a fugitive dust reduction of 74%). Reductions achieved at the concrete batch plants from the use of watering/chemical stabilizers and other emissions controls were obtained from the SMAQMD's Concrete Batching Policy Manual. Reductions cited in this guidance are specific to the Sacramento-San Joaquin area and are based on achieved-in-practice technologies.

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		fugitive dust are similarly flawed. However, due to time constraints, I was unable to summarize the deficiencies.	
1787	265	The Draft EIR/EIS Improperly Defers Analysis of Compliance with the Applicable Air Quality Plans and Its Conclusions Regarding Project Compliance Are Not Supported The Draft EIR/ EIS considers effects to be adverse under NEPA and/ or significant under CEQA if they would conflict with or obstruct implementation of the applicable air quality plan. The Draft EIR/ EIS defines "conflict with or obstruct" as circumstances in which total direct and indirect emissions in excess of General Conformity de minimis thresholds do not conform to the appropriate air basin state implementation plans ("SIPs"), where conformance would be demonstrated by satisfying any of the following requirements: Showing that the emission increases caused by the federal action are included in the SIP. Demonstrating that the State agrees to revise the SIP to include to include emission increases. Offsetting the action's emissions in the same or nearby area to net zero within the same time frame as they are generated. Mitigating to reduce the emissions increase to net zero. Utilizing a combination of the above options. [footnote 49: Draft EIR/EIS, p. 22-39.] The BDCP affects three air basins, the Sacramento Valley Air Basin, the San Joaquin Valley Air Basin, and the San Francisco Bay Area Air Basin. The Draft EIR/ EIS analyzes compliance with the applicable air quality plans in Impact AQ-9 and presents a summary table for criteria pollutant emissions from construction and operation of Alternative 4 and finds that applicable federal de minimis thresholds for NOx in the Sacramento Federal Nonattainment Area, San Joaquin Valley Air Basin, and San Francisco Bay Area Air Basin would be exceeded during construction during one or more years of construction [footnote 50: Draft EIR/EIS, Table 22-89, p. 22-45 and pp. 22-246 through 248.], requiring a federal Conformity Determination. For each air basin, the Draft EIR claims that Appendix 22E, Conformity Letters, include demonstrations "by the federal lead agencies (Reclamation, U.S. Fish and Wildlife Service, and National Marine Fisheries Service) that project emissions would not result in an increase in regional NOx emissions, as construction-related NOx emissions would be fully offset to zero through implementation of Mitigation Measures [AQ-2a and AQ-2b for the SFNA, AQ-4a and AQ-4b for the SJVAB, and AQ-3a and AQ-3b for the SFBAAB], which require additional onsite mitigation and/ or offsets" which "will ensure the requirements of the mitigation and offset program are implemented and conformity requirements are met." [footnote 51: Draft EIR/EIS, pp. 246-247.] However, Appendix 22E, Conformity Letters, contain no such demonstrations but instead states: "Confirmation of a	Since publication of the Public Draft EIR/EIS, the construction analysis has been revised to reflect project design changes and incorporate a revised cost estimate. Similar to the process undertaken for the public draft, the BDCP Proponent reengaged air district staff to confirm the availability of emissions reduction credits in light of the revised analysis. Please refer to Appendix 22E for copies of the air district coordination letters. As discussed in response to comment 1787-266, the federal conformity regulations do not require the project-level environmental documents to include the conformity determination or specific mitigation contracts. Rather, the NEPA document and conformity determination can be independently circulated for public review, provided they both meet the applicable public review and report requirements (see CFR 93.156 for those specific to conformity determinations). While an environmental document is not required to include the conformity determination, the lead agencies have elected to achieve concurrent public review of the recirculated EIR/EIS and BDCP conformity determination. Attachment 22E-1 includes the air district letters (BAAQMD and SJVAPCD). As described in Appendix 22E, coordination with SMAQMD is ongoing. Copies of the air district coordination letters are provided in the general conformity determination (see Appendix 22E in the recirculated EIR/EIS).

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		general conformity determination is expected as part of the general conformity consultation process. Documentation on the conformity determination. (e.g., memos, meeting minutes, etc.) will be provided at a later date." This approach not only improperly defers analysis and deprives the public of review, it also renders the Draft EIR/ EIS's conclusions regarding adverse and significant impacts unsupported and premature. Further, the federal lead agencies do not have statutory authority over implementing the SIPs in the three affected air basins but rather the four air districts, BAAQMD, SMAQMD, SJVAPCD, and YSAQMD, are responsible for implementing plans to attain state and federal ambient air quality standards in these air basins and must be consulted regarding the federal conformity determination.	
1787	266	As a recent letter from the San Joaquin Valley Air Pollution Control District (SJVAPCD) indicates, the non-enforceable "good faith efforts" required by the DWR in these mitigation measures have not produced any enforceable commitment and conversations have come to a standstill. The SJVAPCD also points out that mitigation efforts performed outside of the District's oversight have generally come up far short in reducing emissions. Thus, it is unclear how the lead agencies would demonstrate conformity. The Draft EIR/ EIS should be recirculated for public review once federal conformity determinations have been completed and once all air districts have entered into the development mitigation contracts specified in Mitigation Measures AQ-2a, AQ-2b, AQ-3a, AQ-3b, AQ-4a, and AQ-4b.	DWR is committed to working with SJVAPCD and all other air districts in the Plan Area to reduce construction emissions and avoid adverse effects to regional and local air quality. As outlined under Mitigation Measure AQ-4a and discussed in Chapter 22, Air Quality and Greenhouse Gases, DWR proposes to mitigate air quality impacts through a Voluntary Emission Reduction Agreement (VERA) with SJVAPCD. Criteria pollutants in excess of the federal de minimis thresholds will be reduced to net zero (0). Criteria pollutants not in excess of the de minimis thresholds, but above SJVAPCD CEQA thresholds will be reduced to quantities below the numeric thresholds. DWR would provide the funding necessary for SJVAPCD to issue incentives for emission reduction projects that are not required by law to reduce their emissions, thereby offsetting the construction emissions and satisfying the basic criterion of additionally. While use of a VERA is DWR's preferred method for mitigating air quality impacts, the environmental document includes Mitigation Measure AQ-4b to provide additional flexibility and environmental protection. The measure is not intended to supersede a VERA with the SJVAPCD. Rather, it is identified as a complementary approach to ensure emissions are offset according to the performance standards established by the environmental analysis. If necessary, additional reductions may be achieved under Mitigation Measure AQ-4b through DWR-sponsored projects that do not overlap with programs covered by District incentive programs. Consultation with the air district was reinitiated in 2015, and formal confirmation from SJVAPCD that emissions reductions needed for each of the water conveyance facility alternatives can be achieved as outlined under Mitigation Measure AQ-4, based on currently estimated construction emissions and reasonably foreseeable emissions reduction projects in the SJVAB, was requested by DWR on April 24, 2015. Confirmation of offset availability was provided by SJVAPCD on June 23, 2015 (refer to Appendix 22E). With respect to inclusion of the general conformity determination in the EIR/EIS, 40 CFR 93.155 and 40 CFR 93.156 include reporting and public participation requirements for federal conformity determinations. The conformity regulations do not require the project-level environmental document to include the conformity determination or specific mitigation contracts. Rather, the NEPA document and conformity determination can be independently circulated for public review, provided they both meet the applicable public review and report requirements (see CFR 93.156 for those specific to conformity determinations). Please refer to Appendix 22E. SJVAPCD's confirmation of offset availability in the San Joaquin Valley was included in the

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			conformity determination.
1787	267	The Draft EIR/EIS Underestimates Health Risks The Draft EIR/ EIS presents the results of a health risk assessment for diesel particulate matter ("DPM") emissions contained in combustion exhaust during the construction phase in Impacts AQ-10 through AQ-13 for each alternative. This health risk assessment is based on emission estimates that include an 85% reduction in DPM emissions for installation of DPFs on all non-electrified diesel-powered construction equipment. As discussed in Comment IV.E.4, these emissions are by far underestimated and, thus, the health risks are equally underestimated.	The Construction Equipment Exhaust Reduction Plan has been revised to provide additional implementation flexibility and improve the level of achieved environmental protection. The plan is comprised of several aggressive performance standards for offroad equipment, onroad vehicles, marine vessels, and locomotives. With respect to offroad engines, an average performance standard of model year 2013 engines is identified. The revised modeling reflects implementation of this commitment, as opposed to equipment specific control strategies (e.g., engine electrification). Please see response to comment 1787-264 for additional information.
1787	268	The Draft EIR/EIS Underestimates Greenhouse Gas Emissions The Draft EIR/EIS substantially underestimates emissions of greenhouse gases because it a) relies on a C02 emission factor that is not applicable to BDCP construction and b) takes credit for re-absorption of C02 far in excess of the findings of scientific studies for this process. The Draft EIR/EIS Relies on an Unsupported Carbon Dioxide Emission Factor for Concrete and Likely Substantially Underestimates Greenhouse Gas Emissions Construction of the various facilities associated with the BDCP such as intakes, pumping plants, control structure/forebays, canals, siphons, buried pipelines and tunnels would require vast amounts of concrete; for Alternative 4, the Draf t EIR/ EIS estimates close to five (5) million cubic yards. [footnote 52: Draft EIR/EIS, Appx. 22A, Table 22A-9, p. 22A-16.] Concrete is made by mixing cement, water, and aggregates (sand and gravel, crushed stone, or other granular materials) and contains about 7 to 15% of cement by weight; higher compressive strengths are achieved by increasing the amount of cement and reducing the water content of the mix. [footnote 53: Portland Cement Association, Technical Brief, Green in Practice 102 - Concrete, Cement, and C02; http://www.concretethinker.com/technicalbrieflConcrete-Cement-C02.aspx.] Cement manufacturing releases large amounts of carbon dioxide ("CO2") through fuel combustion (40%) and calcination (60%). The C02 emissions due to calcination are formed when the raw materials (mostly limestone and clay) are heated to over 2500°F and C02 is released from the decomposed limestone to form calcium oxide ("CaO"). [footnote 54: Ibid.] The Portland Cement Association ("PCA") conducted a life cycle assessment ("PCA Study") for a variety of concrete mixes, mainly differing in cement content and, thus, compressive strength. The PCA Study determined that concrete production generates CO2 emissions from 318 pounds per cubic yard of concrete ("lbs C02/ cuyd") for low-compressive strength concrete mix of 3,000 pounds per square inch ("psi") up to 555 lbs CO2/ cuyd for high-compressive strength concrete mix with 5,000 psi. [footnote 55: Michael A. Nisbet, Medgar L. Marceau, and Martha G. VanGeem, PCA, Environmental Life Cycle Inventory of Portland Cement Concrete,	Since publication of the Public Draft EIR/EIS, a revised cost estimate was prepared that provides detailed information on concrete volumes, including the quantity required to construct each feature (e.g., intakes, tunnels). Based on data provided by DWR, structural components (e.g., intakes) would require compression strength between 3,000 and 4,000 pounds per square inch (psi), whereas the tunnel segments would require strength between 6,000 and 8,000 psi. The GHG analysis has been revised to evaluate GHG emissions based on the quantity of concrete required at the various compression strengths. Please refer to Appendix 22A, Air Quality Analysis Methods, in the recirculated EIR/EIS. It is important to note that neither the ARB nor any air district in the State require an analysis of GHG emissions from concrete batching or other lifecycle components. This is because lifecycle analyses typically require hundreds of assumptions that are often speculative and beyond the scope of a project-level environmental document. The lead agencies voluntarily elected to include GHG emissions from concrete batching as emission factors have been relatively well defined and the majority of concrete would be batched onsite. Accordingly, the GHG analysis in the BDCP EIR/EIS exceeds published analysis expectations and represents a comprehensive assessment of GHG emissions, based on available information and science.

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		PCA R&D SERiAL NO. 2137a, revised July, 2002; http://www.nrmca.org/taskforce/item_2_talkingpoints/sustainability/sustainability/sn2137a.pdf.] The Draft EIR/ EIS does not discuss the types and properties of concrete required for the various project components but instead relies on an average value of 400 lbs C02/ cuyd [footnote 56: Draft EIR, p. 22-32.] for concrete batching (which can be scaled to a compressive strength of about 3,030 psi in the LCA Study). Normal strength Portland cement concrete varies from 3,000 to 6,000 psi [footnote 57: The Engineering Toolbox, Concrete Properties, Properties of Normal Strength Portland Cement Concrete; http://www.engineeringtoolbox.com/concrete-properties-d_1223.html.] and structural concrete is often specified at 4,000 to 5,000 psi, [footnote 58: Nisbet et al., op cit.] but depending on the application can be much higher (up to 19,000 psi). [footnote 59: PCA, High-Strength Concrete; http://www.cemerit.org/cement-concrete-basics/products/high-strength-concrete.] For example, the Federal Highway Administration ("FHWA") recommends compressive strengths of 3,500 to 4,500 psi for cast-in-place concrete lining of road tunnels, 4,000 to 5,000 psi for precast segments, and 5,000 psi to 7,000 psi for one pass lining segments. [footnote 60: FHWA, Technical Manual for Design and Construction of Road Tunnels - Civil Elements, Chapter 10 - Tunnel Lining; http://www.fhwa.dot.gov/bridge/tunnel/pubs/nhi09010 /10a.cfm.] Presumably many parts of the BDCP would require structural concrete with higher compressive strength and associated higher CO2 emission factors than assumed by the Draft EIR/EIS, Thus, GHG emissions are likely substantially underestimated. The Draft EIR/ EIS should be revised to include an analysis of the concrete properties required for the various BDCP structures and the CO2 emission factors should be selected/scaled and GHG emission calculations revised accordingly.	
1787	269	Emissions Reductions from Reabsorption of CO2 into Concrete Are Unrealistic and Not Scientifically Supported• After hardening, concrete re-absorbs small quantities of CO2 and undergoes a series of reactions in a reverse process to calcination, called carbonation, to form calcium carbonate ("CaCO3"), or calcite, and possibly other carbon-based chemical compounds. [footnote 61: Aggregate Research, Concrete Found to Absorb CO2 Making It More Environmentally Friendly than First Thought, May 19, 2009; http:IIwww.aggregateresearch.com/articles/16260IConcrete-Found-to-Absorb-CO2-Makillg-it-More-Environmentally-Friendly-Than-First-Thought.aspx.] The Draft EIR/EIS discusses and accounts for CO2 reabsorption in its quantification of greenhouse gas emissions as follows: Emissions benefits from CO2 absorption associated with concrete use were calculated using information provided by Portland Cement Association (Portland Cement Association 2011). Over the lifetime of a concrete structure, approximately 57% of the CO2 emitted during	The absorption of carbon dioxide (CO2) by concrete structures is a well-documented process, as summarized by the commenter. CO2 absorption over the life of a concrete structure through carbonation is the topic of active and ongoing scientific study; see for example, Evaluation of CO2 emission–absorption of fly-ash-blended concrete structures using cement-hydration-based carbonation model, published in October 2014 in Materials and Structures. This study concludes that the CO2 absorbed by service life of a concrete structure is approximately 3.79–8.47% (or about 266 kilograms of CO2/cubic meter concrete) of the CO2 emitted during manufacturing. This is one of many studies that quantify CO2 absorption by concrete structures. Despite this ongoing research, there is no generally accepted methodology for estimating the quantity of CO2 that will be reabsorbed by specific concrete structures within specific timeframes. Accordingly, DWR has elected to remove the quantified benefit associated with carbonation from the recirculated draft EIR/EIS . Accordingly, the revised GHG analysis represents a conservative assessment of potential GHG emissions, as a small portion of emissions generated during concrete batching would likely be reabsorbed over the life of the project. Please refer to Appendix 22A, Air Quality Analysis Methods, in the recirculated EIR/EIS.

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		calcination will be reabsorbed into the limestone of the structure. Roughly 50% of these emissions will be absorbed once the structure is demolished and returned to fine particles (typically through recycling). To account for the partial reabsorption of CO2 during the life of the structure, emissions generated by calcination were multiplied by 7%. Because 2025 conditions only occurs 3-5 years after concrete manufacturing, CO2 absorption benefits were assigned to 2060 conditions. CO2 emissions reabsorbed by concrete recycling (50%) were not quantified since project demolition is outside the scope of the analysis. [footnote 62: Draft EIR/EIS, p. 22-34.] The Draft EIR/EIS does not explain how it concluded that 7% carbonation of the CO2 emissions during calcination in 2060, i.e., 34 years after construction is complete, is appropriate and reasonable for the BDCP's structures. Based on a literature review, the Draft EIR/EIS by far overestimates the greenhouse gas benefits attributable to concrete carbonation: The carbonation process is conceptually straightforward: CO2 gas molecules diffuse into the small pores at the surface of concrete and react with calcium hydroxide ("CaOH"), locking calcium carbonate within the pores. This blocks additional CO2 from penetrating deeper into the concrete, effectively limiting the amount of carbonation that can occur in concrete to a modest layer near the surface. Carbonation is not only surface-oriented, it is also slow [footnote 63: Alan S.E. Kren, Civil and Structural Engineer, Assessing the Role of Concrete Carbonation in Sustainable Practice, November 2009; http://cenews.com/article/7672/assessing_the_role_of_concrete_carbonation_in_sustainable_practice.] and the net CO2 uptake during the service life of a structure is strongly dependent on the type of concrete, its application, and the environment it is exposed to. The speed of carbonation is governed by the size and geometry of the porosity, the degree of water saturation, the type of cement/ binder, the temperature, etc. Depending on the compressive strength and exposure conditions, carbonation depths after 70 years of service life have been determined between about 4 millimeters (about 0.16 inches) and about 84 millimeters (about 3.3 inches) with the shorter depths corresponding to high compressive strength concrete in wet or buried conditions and the longer depths corresponding to low-compressive strength concrete under indoors or sheltered conditions. [footnote 64: Claus Pade and Maria Guimaraes, The CO2 Uptake of Concrete in a 100 Year Perspective, Cement and Concrete Research, Vol. 37, pp. 1348-1356, 2007; http://www.scribd.com/doc/71750575/Pade-and-Guimaraes-I.] In other words, wet and buried concrete does not easily carbonate [footnote 65: Ibid.] which is due to biological degradation and the slowness of exchange reactions between water and the gases in the atmosphere. [footnote 66: Kren, op. cit.] What's more, many modern concrete mixes incorporate complementary cementing materials ("CCMs") such as fly ash or slag; these mixes do not favor carbonation because the CCMs react with the CaOH to form secondary hydration reaction products such as calcium-silicate-hydrates that are not readily	

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		carbonated. [footnote 67: Kren, op. cit.] In fact, carbonation of concrete is traditionally viewed as a deterioration mechanism, because it lowers the pH of the concrete, which in turn causes the reinforcement steel to lose its electrochemical protection promoting corrosion. Indeed for many concrete structures the concrete composition and reinforcement cover are designed to avoid carbonation-induced reinforcement corrosion during the service life of the concrete and carbonation of these structures is negligible, [footnote 68: Ibid.] luckily one should think for all the high-rises and dams that are still in service after more than seven decades. I also note that the Draft EIR/EIS's reference to an approximately 57% CO2 uptake over the lifetime of a concrete structure, can be traced to a life cycle assessment study for country-wide concrete CO2 lifecycles in four Nordic countries, specifically for Denmark. [footnote 69: Pade and Guimaraes, op. cit.] The 57%, which was determined for a 100-year period, include the effects of demolition after a 70-year service life; demolition assumes crushing of concrete, which vastly increases the exposed the surface area over the remaining 30 years and accounts for 34% of total CO2 absorption; i.e., during the 70-year service life only 24 % of the CO2 absorbed during calcination are absorbed. For the other three countries, total CO2 uptake - also including demolition - compared to the CO2 emitted during calcination was considerably lower at 33% for Norway and Sweden and 34% for Iceland. [footnote 70: Ibid.] Thus, citing only to the Denmark results without noting that they represent an outlier is disingenuous. Further, this study was performed on country-wide basis which makes assumptions about the specific types of concrete used (ready-mix concretes with various compressive strengths, pre-cast concrete products and pre-cast elements), the volumes of concretes used in various applications (hollow blocks, other slabs, roof, walls, facades, columns/beams, etc.), exposure conditions (indoor/outdoor, painted/ exposed), and typical thickness of the structural elements (between 0.03 and 0.4 meters, i.e., between 1.2 and 15.7 inches). [footnote 71: Ibid.] Therefore, the resulting country-wide estimates for CO2 reabsorption rates in Nordic countries are not representative for the types of concrete used and the thickness and exposures of BDCP concrete structures. A similar study for the U.S. estimated only a 7.6% of CO2 uptake compared to the CO2 emitted during calcination (without demolition) for a 100-year service life, [footnote 72: Ibid.] considerably less than determined for the four Nordic countries. Thus, the Draft EIR/EIS's assumption of 7% CO2 absorption after 34 years compared to the CO2 emitted during calcination is not supported, especially not given the types of concrete structures that would be constructed for the BDCP, i.e., wet and/ or buried water conveyance structures, which will show very little carbonation. Thus, the Draft EIR/EIS's GHG emissions are considerably underestimated. Given the absence of a generally accepted methodology, if the Draft EIR/EIS insists on accounting for carbonation for the BDCP, it must, for a given concrete structure, first	

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		determine the type of concrete used (including compressive strength, cement and CCM content), the thickness of the structure, and its exposure. Based on this information it can then calculate the depth of carbonation in 2060, i.e., after 34 years, based on the equations and carbonation rate constants provided in the literature, including the above cited studies. I suggest that the Draft EIR/EIS omit accounting for carbonation benefits, especially given that it does not account for the CO2 that is currently sequestered in vegetation and would be removed by the BDCP.	
1787	270	The Draft EIR/EIS improperly defers analysis of the efficacy of Mitigation Measures The Draft EIR/EIS improperly defers the analysis of the efficacy of a number of mitigation measures into the future: Mitigation Measure AQ-2a, AQ-2b, AQ-3a, AQ-3b, AQ-4a, and AQ-4b: Undertake a "good faith effort" to enter into a contract with the affected air districts to develop a mitigation program that would mitigate and offset emission to net zero. Mitigation Measure AQ-15: Develop and Implement a Greenhouse Gases (GHG) Mitigation Program Mitigation Measure AQ-18: Develop an Air Quality Mitigation Plan (AQMP) Mitigation Measure AQ-19: Prepare a Land Use Sequestration Analysis In order to quantify mitigated emissions, as required under CEQA, the lead agency may not defer the analysis of the efficacy of the above mitigation measures into the future.	With respect to Mitigation Measures AQ-2 (now AQ-1) through AQ-4, the Lead Agencies undertook a year-long consultation process with the four Plan Area air districts to confirm sufficient emissions reduction credits were available to offset project-generated emissions to net zero, consistent with the mitigation measures. Based on current and projected future reduction projects, all air districts confirmed that sufficient offsets would be available to successfully implement Mitigation Measures AQ-2 through AQ-4 and reduce project construction-emissions to net zero. Since publication of the Public Draft EIR/EIS, the construction analysis was revised to reflect project design changes and incorporate a revised cost estimate. Similar to the process undertaken for the public draft, the Lead Agencies reengaged air district staff to confirm the availability of emissions reduction credits in light of the revised analysis. DWR received confirmations from BAAQMD and SJVAPCD in April 2015; coordination with SMAQMD is still ongoing. Copies of the air district confirmations are provided in the general conformity determination (see Appendix 22E in the RDEIR/SDEIS). With respect to Mitigation Measure AQ-15 (now AQ-21), Appendix 22A evaluates potential GHG reductions that may be achieved by each of the 13 strategies. The reduction analysis was developed for informational purposes in order to validate the efficacy and feasibility of the strategies. As discussed in Mitigation Measure AQ-21, the Lead Agencies will develop a mechanism for quantifying, funding, implementing, and verifying emissions reductions associated with the selected strategies and facility-specific technologies. Lead Agencies will also conduct annual reporting to verify and document that selected strategies achieve sufficient emissions reductions to offset construction-related emissions to net zero. With respect to Mitigation Measures AQ-18 and AQ-19 (now AQ-24 and AQ-25), the measures are programmatic and intended to inform future environmental planning and analysis of the conservation measures. The mitigation program will be evaluated at the project-level, and specific actions tailored to each conservation measure will identify in subsequent project-level environmental analysis conducted for the CM2–CM11 restoration and enhancement actions.
1787	271	Bay Area Air Quality Management District Mitigation Measures AQ-3a and 3b In order to mitigate the significant impacts on air quality resulting from ozone precursor emissions during Project construction, the Draft EIR/EIS proposes Mitigation Measures AQ-3a and AQ-3b, which are intended to reduce emissions to net zero (0) for emissions in excess of General Conformity de minimis thresholds and to quantities below the BAAQMD' s	Please refer to comment 1787-270 regarding the deference of mitigation. Since publication of the Public Draft EIR/EIS, the construction analysis has been revised to reflect project design changes and incorporate a revised cost estimate. Similar to the process undertaken for the public draft, the BDCP Proponent reengaged air district staff to confirm the availability of emissions reduction credits in light of the revised analysis. Copies of the air district coordination letters are provided in the

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		applicable CEQA thresholds of significance: AQ-3a: Undertake a good faith effort to enter into a development mitigation contract with the BAAQMD in order to reduce of criteria pollutant emissions within the BAAQMD through the creation of offsetting reductions of emissions occurring within the SFBAAB. The preferred means of undertaking such offsite mitigation shall be through a partnership with the BAAQMD involving the payment of offsite mitigation fees. [footnote 73: Draft EIR/EIS, p. 22-236.] AQ-3b: Should DWR be unable to enter into what they regard as a satisfactory agreement with BAAQMD as contemplated by Mitigation Measure AQ-3a, or should DWR enter into an agreement with BAAQMD but find themselves unable to meet the performance standards set forth in Mitigation Measure AQ-3a, DWR will develop an alternative or complementary offsite mitigation program to reduce criteria pollutant emissions. [footnote 74: Draft EIR/EIS, p. 22-237.] These "mitigation measures" and the Draft EIR/EIS's discussion are inadequate. First, the Draft EIR/EIS improperly defers analysis of the feasibility of its proposed mitigation measures. Over the several years it took to develop the Draft EIR/EIS, the preparers of the document could (and should) have developed a mitigation plan in cooperation with the BAAQMD and quantified the emission reductions that can potentially be achieved. There is no guarantee that such emission reductions would in fact be available through feasible and enforceable programs that would concurrently reduce emissions in the affected areas. As such, the Draft EIR cannot conclude that impacts on air quality would be reduced to a level of less than significance. In fact, as discussed below, impacts on air quality during Project construction will likely remain significant after implementation of all proposed mitigation measures and the Environmental Commitments outlined in Chapter 3B. Second, Mitigation Measure AQ-3b acknowledges that the proposed "good faith" effort may not result in a favorable outcome: If a sufficient number of emissions reduction projects are not identified to meet the required performance standard, DWR will consult with BAAQMD, the ARB, or a qualified air quality expert employed by or retained by DWR to ensure conformity is met through some other means of achieving the performance standards of achieving net zero (0)for emissions in excess of General Conformity de minimis thresholds (where applicable) and of achieving quantities below applicable BAAQMD CEQA thresholds for other pollutants. [footnote 75: Draft EIR, p. 22-238.] This paragraph is meaningless. Since the Environmental Commitments have mostly exhausted all feasible mitigation, consultation with the BAAQMD and ARB or a "qualified air quality expert" would not come up with any more meaningful mitigation measures than	general conformity determination (see Appendix 22E in the recirculated EIR/EIS). Mitigation Measures AQ-2 through AQ-4 acknowledge that their implementation depends on consultation with air district staff and third party participation, and as such, the lead agencies will make a good faith effort to enter into contracts with all required parties. The performance standard of achieving net zero ROG and NOx emissions, however, will be outlined in the Mitigation Monitoring Report Protocol (MMRP) and considered a condition of project approval. With respect to the use of offsets to mitigate impacts under CEQA, CEQA Guidelines Section 15370 specifically identifies compensation or the provision of substitute resources as appropriate mitigation to reduce and avoid potential impacts. The use of offsets to reduce and avoid air quality impacts is also accepted mitigation by all four Plan Area air districts. Air district offset programs have operated in California for several decades and have achieved considerable emissions reductions. For example, the Sacramento Metropolitan Air Quality Management Districts (SMAQMD) Heavy-Duty Low-Emission Vehicle Incentive Programs (HDLEVIP) awards more than $7 million annually to emissions reduction projects in the Sacramento Valley. The San Joaquin Valley Air Pollution Control District's (SJVAPCD) Voluntary Emission Reduction Agreement (VERA) has also operated since 1992 and has a proven track record of reducing ozone precursors in the Central Valley. With respect to feasible onsite mitigation, the BDCP EIR/EIS identifies a suite of aggressive onsite measures that would substantially reduce criteria pollutant and greenhouse gas emissions. The commitments summarized in Appendix 3B were identified by the lead agencies based on a comprehensive review of all feasible onsite control strategies, considering project-specific equipment and reasonably foreseeable technologies. Accordingly, the BDCP EIR/EIS satisfies CEQA and air district requirements to implement all feasible onsite mitigation prior to pursuing offsets. Please also see response to comment 1787-264. With respect to the development of alternatives, the EIR/EIS evaluates a legally adequate reasonable range of alternatives. The scope of the alternatives analysis fully complies with both CEQA and NEPA. The broad range of alternatives included in the EIR/EIS has varying degrees of environmental impacts; this is evident from the air quality and greenhouse gas analysis conducted in Chapter 22, Air Quality and Greenhouse Gases. As shown in Section 22.3.3, several alternatives result in lower construction and operational emissions, relative to Alternative 4. Please refer to Master Response 4 for additional information.

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		already exhausted under Mitigation Measures AQ-3a and AQ-3b. In other words, if these measures fail, the Project construction would continue to result in significant unmitigated impacts on air quality. Third, Mitigation Measure AQ-3a (as well as AQ-2a and AQ-4a) relies principally on offsite mitigation, specifically on financial contributions to mitigation funds or programs administered by the BAAQMD and the CARB. This approach is not adequate under CEQA. Significant emissions must be mitigated by on-site measures to the extent feasible. There is considerable potential for reducing construction emissions beyond the measures outlined in the Environmental Commitments 3Bl.9, Construction Equipment Exhaust Reduction Plan, and 3B.1.18, Fugitive Dust Control Plan, which are already incorporated into the Draft EIR/ EIS's emission estimates. [footnote 76: Draft EIR/EIS, pp. 3B-23 and 3B-24 and 3B-33 and 3B-34.] Additional feasible mitigation measures are available and should be required to reduce the Project's significant impacts on air quality. Fourth, the Draft EIR/EIS does not develop alternatives that would avoid or minimize the identified significant air quality impacts. The corresponding mitigation measures for the other affected air districts are equally flawed.	
1787	272	San Joaquin Valley Air Pollution Control District Mitigation Measures AQ-2c and AQ-18 Other examples of the Draft/EIR's inadequate mitigation measures include proposed Mitigation Measures AQ-2c and AQ-12, which are intended to mitigate significant particulate matter impacts from construction in the SJVAPCD-administered air basin. Here, the Draft EIR/EIS proposes to relocate residents with an adequate distance to construction to avoid excess health threats due to PM1O and PM2.5 emissions. This would be verified by a health risk assessment. [footnote 77: Draft EIR/EIS, pp. 22-233 and 22-251.] This mitigation measure is not acceptable. First, the determination of its feasibility is deferred. Further, rather than relocating the receptors, the Draft EIR/EIS should evaluate the feasibility to relocate the emission sources that generate the emissions, e.g., the concrete batch plant, and/ or reduce emissions via best available control technology and demonstrate via ambient air quality modeling and a health risk assessment that ambient air quality standards and health risk standards would not be exceeded. In short, the Draft EIR/ EIS's half-hearted attempt at explaining away the significant impacts on air quality is not acceptable and fails to identify significant impacts on air quality and properly mitigate these impacts to the extent feasible before resorting to off-site mitigation. In my opinion, the Draft EIR/EIS misleads the public by maintaining that construction emissions could be mitigated to less than significance by proposed mitigation measures and Environmental Commitments.	Analyses of particulate matter effects and mitigation measures have been revised in the RDEIR/SDEIS and presented in this Final EIR. Please refer to Impact AQ-9 and Mitigation Measures AQ-9 for Alternative 4 and 4A which requires a tiered approach to reduce re-intrained road dust and receptor exposure. The tiered approached included applying dust suppressants first. If that was not sufficient in eliminating the issue at all receptors, DWR would offer temporary relocation of the affected residence. However, if relocation was not accepted, DWR would pave portions of the work sites until all exceedances were eliminated at affected residences. PM concentrations with implementation of Mitigation Measure AQ-9 would be reduced to a less-than-significant level. Additional analyses were also provide for the health risk impact discussion for the revised Alternative 4A (and Alternative 4) conveyance facility construction effects.

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1787	273	The Environmental Commitments for Reductions of Diesel Particulate Matter Emissions Are Inadequate and Additional Feasible Mitigation Measures Exist and Must Be Required As discussed above, a considerably higher reduction in carcinogenic diesel particulate matter emissions than simply requiring installation of Diesel Particulate Filters on all non-electrified diesel-powered off-road, marine, and locomotive equipment can be achieved by requiring the use of new or higher-tiered equipment that would comply with the latest Environmental Protection Agency and California Air Resources Board emission standards. This requirement should be extended to on- road vehicles such as the numerous haul and delivery trucks.	As discussed in response to comment 1787-264, the exhaust reduction plan outlined in Appendix 3C, Environmental Commitments, has been revised. The updated environmental commitments include performance standards to ensure construction contractors utilize newer offroad and onroad engine technologies that are significantly cleaner and generate fewer emissions than older models. The offroad equipment performance standard can be achieved through a number of control strategies, including use of electrified equipment and tier 3 and 4 offroad engines. The lead agencies have also committed to a minimum of Tier 3 engines in all marine vessels and Tier 4 engines in all tunneling locomotives. The combined benefits of the BDCP's aggressive environmental commitments will dramatically reduce emissions generated by construction of the water conveyance facility.
1787	274	The Draft EIR/EIS's Cumulative Impacts Analysis Is Substantially Flawed The cumulative analysis presented in the Draft EIR/EIS is essentially the same as the project-level analysis. The Draft EIR/EIS simply identifies cumulative impacts only where it identified a Project impact on an individual level. There is no real discussion of cumulative impacts which must include "past, present, and probable future projects." In addition to the overlapping construction in several counties, proper cumulative impact analyses for air quality and greenhouse gas emissions must identify other past, present and probable future projects that would occur in the affected air basins or a summary of projections in the relevant planning documents.	The cumulative impact approach for air quality differs from other resource areas in the EIR/EIS. As discussed in Section 22.3.5, the air quality management agencies in the Study area have identified project-level thresholds to evaluate impacts to air quality (see Table 22-8). In developing these thresholds, the agencies considered levels at which project emissions would be cumulatively considerable. The emissions thresholds presented in Table 22-8 therefore represent the maximum emissions a project may generate before contributing to a cumulative impact on regional air quality. Accordingly, a separate analysis of project-level emissions and emissions from past, present, and reasonably foreseeable future projects is not needed since the project-level thresholds already consider emissions from past, present, and reasonably foreseeable future projects. Exceedances of the project-level thresholds, as identified in Sections 22.3.3 and 22.3.4, therefore would be cumulatively considerable.
1787	275	The air quality and GHG analysis in the Draft EIR/EIS fails to meet minimum professional standards for disclosure of Project air quality impacts and fails to include all feasible mitigation measures to reduce identified significant impacts. After wading through 408 pages of discussion, the reviewer is still left without a substantive understanding of the air quality and GHG impacts of this massive project. It is not acceptable that one of the largest construction projects in California that will span almost a decade should receive less scrutiny than a run-of-the mill residential or commercial development. I recommend that the lead agencies substantially revise the air quality and GHG section and mitigation measures to meet applicable NEPA and CEQA standards and recirculate the Draft EIR/EIS for public review, including all supporting spreadsheets, modeling files, and other supporting documentation.	Section 22.2.1.2 summarizes the United States Environmental Protection Agency's (EPA) Endangerment and Cause or Contribute Findings for GHG under Section 202(a) of the CAA. The text identifies the EPA's findings that GHG threaten the public health and welfare of current and future generations. However, as noted by the commenter, GHG emissions do not directly impact human health. Rather, elevated GHG concentrations in excess of natural levels induce large-scale climate shifts, which can expose individuals to increased public health risks. For example, increases in ambient temperature can lead to heat-related illnesses and death, whereas changes in disease vectors may lead to increased risk of infectious disease. Text was added to Section 22.1.2.2 to specifically highlight these threats and the link between elevated GHG concentrations and climate change risks. Chapter 22, Air Quality and Greenhouse Gases, evaluates how GHG emissions from construction and operation of the project would contribute to elevated GHG concentrations and associated public health threats induced by climate change. As discussed in Impacts AQ-21 and AQ-22, construction emissions will be offset to net zero through Mitigation Measure AQ-21, whereas operational emissions from SWP pumping will be reduced through modifications to DWR's Renewable Energy Procurement Program (REPP). Offsetting construction emissions ensures the project would not contribute to elevated GHG concentrations and associated climate change risks during construction. Likewise, reducing operational emissions consistent with DWR's Climate Action Plan ensures the project would not conflict with DWR's ability to achieve its 2050 GHG reduction goal. In addition to offsetting project-generated GHG emissions, the project may also increase the resiliency and

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			adaptability of the Plan Area to inevitable climate changes. For example, as described in Chapter 29, Climate Change, the project would enable continued water supply benefits and support ecosystem conditions that maintain or enhance aquatic and terrestrial plant and animal species.
1787	276	ATT16: ATT2: Tables of BDCP Construction and Air Quality CalEEMod output data	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	277	ATT16: ATT3: Resume of Petra Pless, D.Env., consultant for the Local Agencies of the North Delta (LAND)	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1787	278	ATT17: Email from Osha Meserve Lawyers requesting EIR/EIS Handouts dated May 20, 2008	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS. Please see above responses to comments.
1788	1	I am writing to express my concerns/observations about and opposition to the proposed BDCP and related documents.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	2	Funding for completion of all proposed conservation measures is not yet secured.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	3	The BDCP should be divided into two separate/distinct projects in order to make both projects more realistic and easily managed. Combining the co-equal goals in the BDCP is deceptive and makes a complex effort even more complex, difficult and costly to administer than it needs to be.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	4	The Director of Business Forecasting (Jeffrey Michael, PhD) at the University of Pacific has demonstrated that the proposed BDCP is not cost effective and the analysis of alternatives in the EIR/EIS is incomplete.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	5	Promoters of the BDCP claim benefits will arise to the economy, jobs, Delta environment, [and] covered/listed species if approved. Said benefits have been overstated to gain	ince 2006, the proposed project has been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings. The preferred

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		acceptability on the part of the public.	alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. An analysis of economic impacts, including impacts related to agriculture, recreation, water rates, and taxes are evaluated in the Draft BDCP Statewide Economic Impact Report as online at: http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Draft_BDCP_Statewide_Economic_Impact_Report_8-5-13.sflb.ashx. The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts; as such it is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.Please see Master Response 3 for more information on the purpose and need for the project.
1788	6	There is no guarantee that planned environmental restoration activities will be completed.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	7	Proposed issuance of Incidental Take Permits to SWP/CVP water contractors is unacceptable under any circumstance.	For information on compliance with the Endangered Species Act please see Master Response 5.
1788	8	Listing several alternatives in the EIR/EIS that are merely variations of the proposed alternative does not amount to real consideration/evaluation of alternatives. The list of proposed alternatives in the EIR/EIS does not include alternatives outside of those proposed by DWR staff and SWP/CVP water contractors indicating a bias to the recommended solution.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For more information on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	9	A proposed agreement to reimburse county governments in the project area for property tax revenues lost due to conversion of real property to BDCP purposes in unacceptable.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	10	Repayment of costs for bonded indebtedness on the part of SWP/CVP water contractors should be evidenced by a written promise to pay secured by the assets of those contractors since they will be the major beneficiaries of increased water diversions.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	11	Uncertainty involving funding of Delta restoration is due mainly to the need for approval of three proposed bond issuances, each requiring approval by a vote of the public.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.

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1788	12	The statement that proposed diversion will average 4.5 to 5.6 million acre-feet (+ or - 10%) annually from the Sacramento River is ambiguous and unacceptable.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For more information on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	13	Stating that diversion of large volumes of water from the Sacramento River and the south Delta, thereby converting the Delta to a saltwater marsh to benefit covered/listed species of fish is not supported by science.	The Proposed Project would enable DWR to construct and operate new conveyance facilities that improve conditions for endangered and threatened aquatic species in the Delta while at the same time improving water supply reliability, consistent with California law (see, e.g., Cal.Wat. Code, § 85001[c]). Implementing the conveyance facilities would help resolve many of the concerns with the current south Delta conveyance system, and would help reduce threats to endangered and threatened species in the Delta, including entrainment south Delta export facilities. For instance, implementing a dual conveyance system would align water operations, and their location, to better reflect natural seasonal flow patterns by creating new water diversions in the north Delta equipped with State-of-the-art fish screens, thus reducing reliance on south Delta exports during times of the year when listed aquatic species are present and most vulnerable. For more information on mitigation measures to minimize contraction and operational-related impacts to fish species, including Delta and longfin smelt, please see Chapter 11, EIR/EIS.
1788	14	When combined with upstream diversions from the Sacramento River, operations of existing SWP/CVP conveyance facilities will substantially reduce the amount of fresh water flowing through the Delta.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For more information on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	15	Releases from storage for diversion, eco-system health and/or controlling saltwater instruction will tend to reduce the amount of water stored in reservoirs upstream of the Delta over the course of a water year.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For more information on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	16	Many Delta growers and ranchers rely on water diverted directly from the Delta.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1788	17	The value of the need for redundancy in having two bores (tunnels) is overstated and attempts to rely on creating fear of a potential unanticipated, catastrophic event.	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/S.
1788	18	There is no mention of providing support for collection/treatment of polluted run-off from agricultural and/or industrial activities.	Chapter 8, Water Quality of the Final EIR/EIS analyzes any runoff impacts resulting from implementation of the action alternatives and mitigates any impacts accordingly. Please see Impacts WQ-11, WQ-12, WQ-19, WQ-21, and WQ-31.
1788	19	There is no mention of regulation of pumping groundwater for irrigation included in the BDCP.	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For more information on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see

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			Master Response 5.
1788	20	Concerning the BDCP, the following quote sums it up for me: "There is always an easy solution to every problem -- neat, plausible and wrong." -- H. L. Mencken	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
1789	1	I am opposed to the proposed Bay Delta Conservation Plan because the "preferred alternative", alternative 4, includes a "dual conveyance" (twin tunnels) diverting Sacramento River water under the Delta instead of through it. This plan is fundamentally flawed for at least three significant reasons. Point No. 1: There is no study indicating the state can accurately predict the extent of salt intrusion caused by the twin tunnels. Salt intrusions could be catastrophic. California's fresh water resources, Delta habitats and Delta farmland are too precious to leave to chance guesswork. The relationship between upstream diversions of water headed for the delta and increased salinity in the delta is well understood: decreased outflows cause increased salt intrusions. "Freshwater inflow into the Delta is highly correlated with salinity at Delta diversions pumps and is thus an extremely important driver." "The amount of water flowing into the Delta is the single most important determinant of salinity at the export pumps." (http://www.waterboards.ca.gov/rwqcb5/water_issues/drinking_water_policy/salinity_conceptual_model/pgs28_38.pdf) Salinity is driven by the complex interplay of many factors, some of which are out of our control. (ibid) We can monitor salt but we can't predict its future levels. The BDCP EIR/EIS acknowledges that increased salt intrusion into the Delta will be an adverse environmental consequence of the twin tunnels. But how bad will it get? We don't know. Some predict it will eliminate fresh water habitats in the eastern Delta harming ducks, egrets and other wildlife, drive salmon and other anadromous fish to extinction due to lack of attraction flows, kill Delta agriculture causing the collapse of the Sacramento/San Joaquin Delta regional economy, and contaminate ground water thus eliminating drinking water for the counties on the east side of the Delta.	The water quality assessment of the diversion of Sacramento River water under the project alternatives addresses effects on salinity-related parameters in the Delta, including electrical conductivity (EC) and compliance with related agricultural and fish and wildlife objectives in the Bay-Delta Water Quality Control Plan and degradation relative to these uses in Impact WQ-11 in Chapter 8, Water Quality. Where significant impacts to agricultural and fish and wildlife beneficial uses would occur due to the alternative, as opposed to other forces including climate change and sea level rise, mitigation to lessen those impacts is provided.
1789	2	Until a detailed study can accurately predict the full adverse consequences caused by the twin tunnel water diversions we must reject alternative 4 (twin tunnels). Intrusion of ocean water from the west through the bay isn't the only source of salt in the Delta. Agricultural runoff brings salts (as well as selenium and other toxic substances} from the south. Ironically, California's massive water conveyance system, the largest on the planet, causes salt to recycle through the environment instead of washing out to sea. The	The preferred alternative, Alternative 4A, proposes to stabilize water supplies, and exports could only increase under certain circumstances in which hydrological conditions result in availability of sufficient water and ecological objectives are fully satisfied. It is projected that water deliveries from the federal and state water projects under the preferred alternative would be roughly 10 percent more or equal to the average annual amount of water that would be diverted under the No Action Alternative (i.e. 2025 conditions without the preferred alternative).

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1780	1	Many years and hundreds of millions of dollars have been spent on study efforts while the Delta system continues to deteriorate. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and Federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.
		federal Central Valley Project began delivering Northern California water in the 1930s, primarily for irrigation in the southern portion of the Central Valley. In 1968, the pumps in Tracy began shipping more water south via the Governor Edmund G. Brown California Aqueduct. Irrigation with this water leached salts out of the soil. Some of that salt washed into the San Joaquin River which carried it to the Delta. Irrigation districts in Fresno and Kern Counties now push for the twin tunnels to avoid receiving the salts they put into Delta water! The drought, coupled with rising sea levels, will increase salt intrusion. This is the time to decrease, not increase diversions of water nature intended for the Delta. The Delta is suffering from lack of inflows of fresh water. It needs all the water it can get.	For information on how the project could affect salinity (electrical conductance), please see Chapter 8 Water Quality.
1789	3	BDCP dismisses desalinization as a viable option, ignoring recent technology which will make desalinization cost effective and sustainable. Underlying all California's water problems is a simple fact: there is not enough water. Much more water is contracted for than exists in the state. Merely moving water around does nothing to solve this basic problem. Diverting water is not only extremely harmful to the environment but unreliable and ultimately ineffective. To solve California's water problems long term we must stop moving water and start making water. Our water management system should mandate water recycling and reuse, rain water capture, conservation, and more efficient irrigation practices. These strategies should be exhausted before any further diversions are permitted. We must also develop sustainable desalinization. Although 71% of the Earth's surface is covered with water, our blue planet is in the grip of a water shortage. The reason: only 2.5% of all that water is fresh, and most of that fresh water is ice (glaciers and ice caps). All told, less than 1°/o of the world's water is accessible for direct human uses. It can be argued that there is only one way for humanity to preserve itself from a future catastrophe - tapping that other 97.5%- in other words, desalinizing water from the sea. Given the geographical configuration of California, tapping the Pacific Ocean is a key component for future survival. Why not start now, as Saudi Arabia, Australia and some other countries have. Over 1,500 large desalinization plants are operating around the world. Why has California lagged behind?	The proposed project is one component, among many, of the California Water Action Plan. The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/. By establishing a point of water diversion in the north Delta the proposed project is designed to improve native fish migratory patterns while securing reliable water deliveries. Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California's water resources. Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage.
1789	4	BDCP has dismissed desalinization as too costly to play more than a very small role in providing water to California. Currently that is true because California has failed to develop this option. But it need not stay true. New technologies, such as grapheme filtering, promise to be cheaper and more environmentally friendly than existing desalinization methods. California has the brainpower, research facilities, and high level universities (Cal Tech, Stanford, UC systems especially UC Davis, UC Berkeley, UC Santa Cruz, UC Santa Barbara, and UC San Diego) to make desalinization a viable option to meet California's future water needs. California should invest in research and development in new technologies that will actually make fresh water instead of going broke on unsustainable, backward thinking,	Please see response to Comment 1789-3.

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		divisive diversions that do not add a single drop to the state's water supply.	
1789	5	California's coastal counties hurt by drought (Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Los Angeles, Orange, and San Diego) are well positioned to use desalinization as a water source. San Diego has contracted to purchase 50,000,000 gallons of purified sea water per day and other coastal counties are exploring this option. The coastal counties being hurt by the prolonged drought should determine whether each county wants to consider a desalinization plant. The State of California should not make that determination. Let us build a future for California where Southern California becomes more self-reliant in managing its water supply. Let us give Northern California an opportunity to rebuild its water resources.	Please see response to Comment 1789-3. Desalination is one strategy used in California to develop new supplies, yet it is not the primary solution for the State's water shortage due to many factors, including limited capacity and technology, high costs and energy demands, and regulatory uncertainty.
1789	6	But what about the inland areas? The infamous Westside Mutual Water Co. in Central California covers land that once pumped oil and piped it to the coast for refining. Let us reverse that flow. The area has plenty of sunshine to use solar energy to pump sea water from the coast for desalinization. This is no more difficult than pumping it from Northern California, as we currently do. In fact, the trip is significantly shorter. Let us stop fighting over the limited percentage of Earth's water that is fresh and start using the planet's water in the ocean. Ultimately the state would benefit from a more diversified water system. Currently, our centralized water system is vulnerable to acts of terrorism. Water will never truly be reliable until it is locally controlled and sustainable. Each county should make its own decision about desalinization and the state should support this with research and development money.	Please see response to Comment 1789-4.
1789	7	Do not trust the fox to guard the hen house. California's highly politicized water governance system cannot be trusted to carry out the conservation goals of the BDCP. California's water deals have a long history of lack of transparency and avoidance of environmental protections. While I object to the twin tunnels, I strongly support the habitat restoration projects and Conservation Measures found in the BDCP. Unfortunately, the benefits of the Conservation Measures, if they are ever carried out, will be nullified by the diversions of the twin tunnels. Proponents of the BDCP claim that the twin tunnels will not increase diversions, just change the intake point, because permits for diversions are conditioned upon the needs of the environment. On paper this is true; in practice it is not. Numerous federal and state regulations, as well as the contractual terms of permits to divert, have always conditioned diversions on environmental needs, as mandated by law, and required mitigation for environmental harm. Yet the spring run Mokelummne gene pool of salmon is now extinct, the delta smelt is endangered, and the Sacramento/San Joaquin Delta ecosystem is on the point of collapse. The State of California is unwilling and unable to enforce its own laws, as shown by the poor condition of the Delta and number of its species on the endangered list.	Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) is being considered. For effects to fish species, please refer to Chapter 11, Fish and Aquatic Resources, Section 11.3.5.2, Alternative 4A—Dual Conveyance with Modified Pipeline/Tunnel and Intakes 2, 3, and 5 (9,000 cfs; Operational Scenario H).

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1789	8	Water contractors have the money and political clout to get what they want no matter what their permits require. Here are a few examples. (1) East Bay Municipal Utility District is permitted to dam the Mokelumne River and divert some of it water into an aqueduct to the east bay. Its permit requires it to release enough water into the river to support salmon and other wildlife. None the less, salmon populations in the Mokelumne plummeted. Biologists from the California Department of Fish and Wildlife (then Fish & Game) studied the problem and wrote a report setting forth the minimum amount of water EBMUD needed to release back into the river to support wildlife. EBMUD ignored the report. A public interest group sued EBMUD to comply with the report, and received an order requiring EBMUD to release water. EBMUD went over the head of the California Department of Fish and Wildlife biologists. The biologists were reassigned and a political appointee negotiated with EBMUD, allowing them to release much less water than the science indicated. (2) In the mid 1980ies, the state spent close to $75,000,000.00 in bond money to purchase the land and do the initial planning, permitting, and plumbing for the Kern Water Bank. But it never finished the project or got it operational. Instead, it transferred this public asset into private hands in a complex, multiparty deal. How the transfer came about is a bit murky because the deal was negotiated behind closed doors, as are many water deals. The public, small farmers, environmentalists and other stake holders were locked out of the negotiations. Lack of transparency is typical of these complex deals. The transfer happened at the height of a seven year drought. The state was not able to fully meet the contractual obligation to its water customers because the water just wasn't there. Everyone had to conserve. According Los Angeles Times staff writer Mark Arax, (December 19,2003) Kern County farmers got only 5% of the water contracted for and they threatened to sue the state Water Resource Board. The state blinked. The state agreed to transfer the Kern Water Bank to the Kern County Water Agency in exchange for a 45,000 acre feet reduction in Kern's 1,100,000 acre feet water contract. The state did not receive a dime for this asset that had cost the public $75,000,000. Critics have pointed out that the "paper water" payment was an illusion. The water agency had junior rights and thus was only entitled to water when water was available, which it wasn't. The state could not have delivered the additional 45,000 acre feet of water in any event because the water just wasn't there. The Kern Water Agency immediately turned the water bank over to its clients, Westside Mutual Water Co. and several other water agencies controlled by large private agricultural interests. The majority owner, Westside Mutual, is a subsidiary of Paramount Farming Co. which is a subsidiary of Roll International, a private holding company owned by politically well-connected Los Angeles businessman Stewart Resnick. The new owners of the water bank started selling some of the usurped public water at a profit on the open market. These examples are typical of water politics in California. Permit requirements mandated by federal and state environmental laws are rarely fully implemented and rarely enforced. The lack of transparency within the system hides this fact. Administering the BDCP will be no different. Effective June 1,2014,The California Department of Water Resources turned the	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/S. The proposed intakes would only be permitted to operate with regulatory protections, including river water levels and flow, which would be determined based upon how much water is actually available in the system, the presence of threatened fish species, and water quality standards. Flow criteria will be applied month by month and according to water year type. More information on the ranges of water project diversions, based on water year types and specific flow criteria, can be found in BDCP, Chapter 3, Conservation Strategy. Monitoring for compliance with D-1641 requirements or any future requirements for SWP/CVP water supply operations would be conducted year-round in the future under the proposed project. Please see Master Response 14 for additional discussion of how the proposed project would affect water quality in the Delta.

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		construction planning of the twin tunnels over to a new entity in which the diverters who will benefit from the diversions, including Los Angeles' Metropolitan and the Westside Mutual Water Co., will play a large role. These players know how to get around environmental protections. They have been doing it for years. If the twin tunnels get built, the Sacramento/San Joaquin Delta ecosystem will die because of lack of fresh water.	