



# S J C O G , I N C .

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AND  
THE COUNTY OF  
SAN JOAQUIN

July 25, 2014

BDCP Comments  
Ryan Wulff, NMFS  
650 Capitol Mall, Suite 5-100  
Sacramento, CA 95814

Re: Draft BDCP Plan Public Review Comment Letter Pertaining to San Joaquin County  
Multi-Species Habitat Conservation and Open Space Plan (SJMSCP)

Dear Mr. Wulff:

SJCOG, Inc. is the administrator of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Our staff has continuously been involved with the evolution of the Bay Delta Conservation Plan (BDCP) since the inception. Our agency is glad to provide individual comments on the Draft BDCP Plan. In addition to this individual comment letter, SJCOG, Inc., in conjunction with other Delta Initiative Coalition stakeholders, is submitting a separately transmitted joint comment letters. As reference, our agency also concurs with the issues raised in the 'Friends of the River' letter dated May 15, 2014 regarding the extension of the comment period due to the failure to release the draft Implementation Agreement (IA).

SJCOG, Inc. has identified issues in the prior releases of the BDCP draft documents (part or whole) which were again not fully addressed in this specific Draft BDCP document sections as requested. The continued concerns with the BDCP (and further displayed in BDCP Draft Environmental Impact Report/Environmental Impact Study) are very similar to those our agency has voiced previously to Resource Agency staff, BDCP leadership through both the Schwarzenegger and Brown administrations, key BDCP staff, and consultant firms throughout the years regarding overlapping parts of San Joaquin County covered by the SJMSCP. They are:

- The unforeseen impacts to the SJMSCP with regards to the federal and state permits being implemented under the existing SJMSCP to balance development and protection of species within San Joaquin County which the Draft BDCP document still does not fully address.

- Certain proposed activities and oversight of the BDCP, such as the types and extent of restoration in the Delta which may have a negative impact on existing preserves and our ability to acquire future preserves within San Joaquin County to meet the obligations of the SJMSCP's existing permits in cooperation with our federal and state partners.
- The future impacts by the BDCP requiring excessive administrative time and costs to the SJMSCP to provide the vast amount of coordination and information to minimize the potential devastating effects to the existing habitat plan.

A more global concern our staff continues to have of the Draft BDCP document is all the Delta counties which have or are developing HCPs or NCCPs in partnership with federal and state regulatory agencies are not being given a seat at the table or a full voice with the overlap of the plans.

Focusing on the SJMSCP, the San Joaquin County plan area covers approximately one-third of the Sacramento-San Joaquin Delta in both the Primary and Secondary Zones. The SJMSCP is a permitted habitat conservation plan containing existing agreements with our federal partner, United States Fish and Wildlife Service (USFWS) and state partner, California Department of Fish and Wildlife (CDFW) including but not limited to a very complicated Biological Opinion issued with the take permits. These existing agreements are a major difference between SJMSCP and the other HCPs/NCCPs under development. Therefore, the SJMSCP (and other implementing plans) should be considered an existing condition and fully included as such as the baseline.

The SJMSCP has been diligently fulfilling the terms of the Implementation Agreement, Biological Opinion and issued federal and state take permits by mitigating for development impacts in San Joaquin County through minimizing incidental take of species and acquisition of conservation easements as habitat preserves under an existing conservation strategy which include vast areas considered under the proposed BDCP.

After numerous hours of analysis of the enormous amount of text of the various documents which make up the Draft BDCP and the Draft BDCP EIR/EIS, our staff continues to have the same concerns previously expressed in our communications to BDCP staff and consultants as well as new concerns from the Draft BDCP and Draft EIR/EIS which need to be addressed/examined/explained more completely. All these concerns are matters which can cause great conflict between the already approved implementing SJMSCP under federal and state take permits and the proposed developing BDCP.

Therefore, SJCOG, Inc. strongly recommends the following be addressed by any subsequent drafts or documents for the BDCP:

- Chapter 2 Section 2.3 Existing Ecological Conditions

The Draft BDCP defines and categorizes the ecological landscape with data from various sources and dates. The Draft BDCP uses definitions from the CALFED Bay-Delta Program (2000), California Department of Fish and Wildlife (CDFW - 2005/2006) and Department of Water Resources (DWR), to name a few, as well as GIS data using the 2007 Vegetation and Land Use Classification Map of the Sacramento-San Joaquin River Delta from 2007. Other sources used by BDCP were from the developing HCP/NCCP programs from surrounding counties (e.g. Yolo County Heritage and South Sacramento HCP) with dates from around 2008. The western area of the Delta (e.g. western Area of Additional Analysis) was truthed in 2011 via Google Earth imagery and ground truthing by consultants.

The existing ecological condition definitions and mapping data used to analyze the BDCP are stale. Most of the data is between 5-10 years old in an ever-changing environment of the Delta. The Draft BDCP document states that the every changing cultivated land in the Delta are based on the ‘crop-rotation patterns’ and ‘market forces’ of the industry. Those factors lead to show dramatic trends in the last 30-40 years in the Delta (e.g. an 18-fold increase in vineyards – 2007 DWR). The Draft BDCP should take the steps to use more current data and truthing of the ‘existing ecological condition’ and natural communities’ landscape to understand the reality of the Delta today.

- Chapter 3 Section 3.2.3.2 Physical Habitat Restoration

The proposed conservation measure of 84,000 acres of natural communities contains 65,000 acres of tidal natural communities and associated transitional uplands distributed across the Plan Area, but primarily within Suisun Marsh, South Delta and Cache Slough ROAs. In addition, the proposed plan calls for another 5,000 acres of riparian restoration to occur within future floodplains and tidal restoration areas.

The South Delta is primarily an agricultural landscape of row and field crops which support a robust agricultural economy and various suites of species covered under the existing SJMSCP. The South Delta lands are a focal point to the existing conservation strategy employed by the SJMSCP over the first 14-years of implementation of the county-wide habitat plan covering San Joaquin County. The SJMSCP has encumbered over 1,600 acres of agricultural lands in the South Delta and Conservation Zone 7 area for protection of row and field crop habitat for proliferation of the multitude of species under the SJMSCP (Figure 3.2-12 and 15 BDCP). In the near future, the SJMSCP has more lands negotiated for protection within the area to continue the important strategies of the SJMSCP. The proposed BDCP conversion of some of the best agricultural lands within San Joaquin County to tidal communities will cause great harm to the local economy, generations of farming families and the SJMSCP’s commitment to fulfilling the obligations of the existing permits.

- Chapter 3 Section 3.2.4 Developing the Terrestrial Resources Component of the Conservation Strategy

The proposed BDCP's terrestrial strategies are stated as *'actions to provide connectivity between areas that are important for sustaining and improving ecosystem functions and for the conservation of covered species.'* It continues to discuss species along the periphery of the Plan Area as *'opportunities for increased habitat connectivity will be mostly between existing and newly protected terrestrial species' habitat in the Plan Area and protected terrestrial species' habitat adjacent to the Plan Area (mostly associated with adjacent or surrounding HCPs and NCCPs).'*

This section of the proposed Plan Area for the BDCP puts a higher value and need of the proposed BDCP's conservation strategy than that of any of the surrounding plans which are developing or already in existence. Since 2001, the SJMSCP has been providing the protection, improvement and connectivity for the protected species within the SJMSCP (Figure 3.2-12 and 15 BDCP). The tone of the section assumes the adjacent lands and/or surrounding HCPs/NCCPs should be subordinate to the developing BDCP strategies and proposed restoration plans there in. This is illogical because the SJMSCP is to be considered baseline existing condition by the BDCP. The assumption of the proposed BDCP is in direct conflict to the SJMSCP.

- Chapter 3 Section 3.2.4.1 Conservation Targets

The lead paragraph of the section states *'The conservation targets are intended to satisfy mitigation requirements associated with the effects of covered activities on natural communities and covered species and provide the conservation of those species and their habitats.'*

The proposed project footprint impacts and operations associated with the exporting of waters from the northern state rivers to deliver to export pumps must impact a large amount of natural tidal communities to dictate the described mitigation/restoration. Even under standard mitigation requirements ratios of 3:1 for natural community mitigation, the proposed creation/restoration requirement of 85,000 acres of natural tidal communities from the existing prime agricultural lands which serve as an economic driver to families and counties as well as habitat to protected species would be exorbitant to mitigate the proposed project. Please identify the natural tidal communities impacted by the footprint and operation of the project which requires the mitigation.

- Chapter 3 Section 3.2.4.2.1 Reserve System Assembly Principles

The section lists bulleted principles which assist in the Reserve System Assembly to guide and support decisions of the proposed BDCP Implementation Office regarding the acquisition of reserve lands (not all included):

- Protect, enhance, and restore the ecological diversity of natural communities and covered species habitats at the periphery of the Plan Area on lands

- mostly likely to accommodate future sea level rise and less likely to be flooded as a result of levee failures.
- Design reserves to appropriately scale the ecological gradient and emphasize compatibility between restored natural communities and working landscapes (e.g. cultivated lands).
  - Maximize connections between reserves and with existing conservation lands in and adjacent to the Plan Area.
  - Where feasible, build off of existing conservation lands and management systems to increase management efficiency, connectivity, and patch size.
  - Protect the highest value natural communities and covered species habitats available consistent with the BDCP implantation schedule.
  - Implement conservation measures for terrestrial and nontidal wetland communities and covered wildlife and plants in a manner that complements or supports the conservation strategies of approved and developing conservation plans for areas adjacent to and overlapping the Plan Area.

Based on the principles stated in this section of the proposed BDCP as guiding and supporting of the BDCP Implementation Office's decisions, the repetitious concept through the principles are protection of lands with focus on working landscapes (cultivated lands) and existing HCP/NCCP conservation strategies. The concern is the potential plan to remove highly productive active agricultural lands in the South Delta. Based on the guiding and supporting principles, the land in the South Delta and Conservation Zone 7 provide benefit to the entire San Joaquin County (land owners, agricultural economy, County tax rolls and SJMSCP conservation strategy/preserve system). The concept of removing large patches of lands above mean sea level to convert to non-agricultural uses (e.g. tidal communities) seems counterintuitive to the guiding and supporting principles listed because of the detriment to those in San Joaquin County.

- Chapter 3 Section 3.2.4.2.3 Relationship of the Conservation Strategy with other Regional Conservation Planning Programs

As noted in this section, the SJMSCP has the largest amount of overlap area (more than 300,000 acres) with the proposed BDCP. Further the section states the proposed BDCP Implementation Office may partner with willing regional conservation planning sponsors to jointly implement such actions which complement each plan and provide economies of scale/efficiencies listing specific criteria (not all listed):

- The BDCP is responsible for the mitigation of its effects.
- The mitigation actions and the mitigation requirements of the BDCP must be additive to the mitigation obligation of other plans (e.g. BDCP mitigation cannot supplant the mitigation obligations of other plans and vice-versa).

The SJMSCP has been an active participant with discussions since the inception of the proposed BDCP to grasp the entirety of the potential conflicts created between the existing habitat plan and the proposed BDCP. To date, the discussions have not

yielded much headway for common ground (e.g. governance, guarantees, etc.). The concerns are the proposed BDCP project and required mitigation of the effects will cause great harm to the permitted SJMSCP in fulfillment of the obligations (e.g. conservation goals and strategies). The existing SJMSCP has been implementing efficiently since 2001 for protecting various habitat community types in San Joaquin County but now may be supplanted by the potential BDCP conservation strategy, goals, restoration and/or governance. The SJMSCP overlaps multiple proposed BDCP conservation zones (CZ 4, 5, 6, 7, 8) in whole or part where existing preserves and strategies have been employed (Figure 3.2-12 and 15 BDCP). The potential of increased costs, administration, competition or loss of mitigation inventory are unclear in the proposed BDCP document.

1. What is the meaning of the statement ‘the BDCP actions and mitigation requirements of the BDCP being additive’?
2. What would be the result if there is conflicting actions or needs between the existing SJMSCP and proposed BDCP (e.g. permits needs, land acquisitions, etc.)?

- Chapter 3 Section 3.3.5.1 Reserve System

The section identifies in the table for Goal L1 and subsequent ‘Objectives’ the minimum number of target acres per Restoration Opportunity Area (ROA). The Objective L1.3 addresses tidal natural communities and transitional uplands restoration in the amount of 65,000 acres is planned. The ‘Objective’ further identifies target minimums of 1,500 acres for the Cosumnes/Mokelumne ROA and 5,000 acres for the South Delta ROA.

In order to attain the minimum target numbers within the overlap ROAs of the Cosumnes/Mokelumne (minimum – 1,500 acres) and the South Delta (minimum – 5,000 acres) means the removal of highly productive agricultural lands. These areas are partially or completely within the SJMSCP plan area which are part of the agricultural habitat conservation strategy employed under the implementing habitat plan for San Joaquin County. The reduction of available agricultural lands will dramatically impact the ability of the SJMSCP to fulfill the obligations of the SJMSCP permits over the life of the plan (2001-2051). Further, the SJMSCP has existing easements (e.g. Ishizuka in the Cosumnes/Mokelumne ROA and Wing Levee Preserve in the South Delta ROA) which could be greatly affected by the conversion of such large magnitude to something other than agriculture. The change of highly productive agriculture lands can cause other concerns to the generations of farming families losing land by eminent domain to achieve the goal, a loss of productive agriculture in a flourishing agricultural economy, a decrease in San Joaquin County tax rolls and create an unknown concern for Mosquito/Vector Control in San Joaquin County in the potential tidal natural community.

- Chapter 3 Section 3.3.6.4.2 Natural Community Goals and Objectives

The section identifies in Goal TFEWNC1: Large, interconnected patches of tidal freshwater emergent wetland natural community within the 'Reserve System' of the proposed BDCP. The Objective TFEWNC1.1 addresses of the 65,000 acres of tidal natural communities and transitional uplands (Objective L1.3 above) will restore or create at least 24,000 acres of tidal freshwater emergent wetland in Conservation Zones 1, 2, 4, 5, 6, and/or 7. The section goes on to provide the rationale (TFEWNC1.2) would be expectations of the restoration/creation to potentially occur *'along the mainstem and several channels of the San Joaquin, Old and Middle Rivers...and near the confluence of the Cosumnes and Mokelumne Rivers.'*

In order to attain the target numbers within the overlap Conservation Zones means the removal of highly productive agricultural lands. These areas are partially or completely within the SJMSCP plan area which are part of the agricultural habitat conservation strategy employed under the implementing habitat plan for San Joaquin County. The reduction of available agricultural lands will dramatically impact the ability of the SJMSCP to fulfill the obligations of the SJMSCP permits over the life of the plan (2001-2051). Further, the SJMSCP has existing easements (e.g. Ishizuka, Burchell, Nuss, White Slough, Hilder, Beck, Wing Levee, Jaques, Pombo, Pelegri, Alegre, Mizuno, Cabral) all within the Conservation Zones which could be greatly affected by the conversion of such large magnitude to something other than agriculture. The change of highly productive agriculture lands can cause other concerns to the generations of farming families losing land by eminent domain to achieve the goal, a loss of productive agriculture in a flourishing agricultural economy, a decrease in San Joaquin County tax rolls and create an unknown concern for Mosquito/Vector Control in San Joaquin County in the potential tidal natural community.

- Chapter 3 Section 3.3.6.5.2 Natural Community Goals and Objectives

This section identifies Goal VFRNC1: Extensive wide bands or large patches of interconnected valley/foothill riparian natural community. Further, the section explains the Objective VFRNC1.1 to restore or create 5,000 acres of valley/foothill riparian natural community, with at least 3,000 acres occurring on restored seasonally inundated floodplain. Identified in Objective VFRNC1.2 is protection of 750 acres of existing valley/foothill riparian natural community in Conservation Zone 7 to occur by year 10 of the proposed BDCP. Also, the section identifies at least 3,000 acre will occur in the south Delta seasonal floodplain restoration site in Conservation Zone 7.

In order to attain the target numbers within the overlap Conservation Zones means the removal of highly productive agricultural lands. These areas are partially or completely within the SJMSCP plan area which are part of the agricultural habitat conservation strategy employed under the implementing habitat plan for San Joaquin County. The reduction of available agricultural lands will dramatically impact the ability of the SJMSCP to fulfill the obligations of the SJMSCP permits over the life of the plan (2001-2051). Further, the SJMSCP has existing easements (e.g. Ishizuka,

Burchell, Nuss, White Slough, Hilder, Beck, Wing Levee, Jaques, Pombo, Pelegri, Alegre, Mizuno, Cabral) all within the Conservation Zones which could be greatly affected by the conversion of such large magnitude to something other than agriculture. The change of highly productive agriculture lands can cause other concerns to the generations of farming families losing land by eminent domain to achieve the goal, a loss of productive agriculture in a flourishing agricultural economy, a decrease in San Joaquin County tax rolls and create an unknown concern for Mosquito/Vector Control in San Joaquin County in the potential tidal natural community.

- Chapter 5 Section 5.4 Effects on Natural Communities

This section addresses the proposed changes for the BDCP in terms of aquatic and terrestrial restoration and enhancements for all of the following:

- Tidal Perennial
- Tidal Mudflat
- Tidal Brackish Emergent Wetland
- Valley/Foothill Riparian
- Nontidal Perennial Aquatic and Nontidal Freshwater
- Alkali Seasonal Wetland
- Vernal Pool Complex
- Managed Wetland
- Other Natural Seasonal Wetland
- Grassland
- Cultivated Lands

The section describes the expected net effect of the actions taken by the proposed BDCP in a very one-sided light but does not delve into the real effects of the proposed removal of the fertile ground to the surrounding communities (e.g. farmers, local jurisdictions and HCPs/NCCPs) with the vast amount of land conversion being proposed. To focus on just one portion of the overall section of cultivated lands due to the covered activity, the proposed actions will PERMANENTLY REMOVE an approximate total of 55,372 acres of high quality producing agricultural land in the Delta. As stated in the section, the amount of acres is 11% of the entire cultivated lands within the proposed Plan Area of the BDCP. The breakdown of the loss is as follows converting highly productive agricultural lands to non-agricultural uses:

- 629 acres (1%) Fremont Weir/Yolo Bypass inundation
- 960 acres (2%) from tidal natural communities restoration
- 1,950 acres (4%) nontidal marsh restoration
- 2,000 acres (4%) grassland restoration
- 2,087 acres (4%) levee construction for floodplain expansion
- 3,593 acres (6%) seasonal floodplain restoration
- 4,588 acres (8%) from conveyance facility construction
- 39,565 acres (71%) from tidal natural communities restoration

San Joaquin County overlaps a great portion (approximately 40%) of the lands in the Plan Area which would equate to over 22,000 acres of loss if distributed proportionally. San Joaquin County and local jurisdictions, as land-use authority, will have little or no say over the potential removal of those productive lands by the proposed BDCP activities which will have great harm to the County (e.g. agricultural production, economic factors, taxes, loss of generations of family farms, etc.). Further, the SJMSCP which covers the same lands will be greatly affected by the PERMANENT REMOVAL of the highly productive agricultural lands which are potential habitat for the 97 covered species in the county-wide habitat conservation plan (which agricultural habitat types are a primary focus). The PERMANENT REMOVAL of the agricultural lands can greatly cause harm to the ability of the SJMSCP because of unforeseen cumulative impacts not taken into account within the SJMSCP's Biological Opinion was issued and/or to meet the obligations under the implementing federal and state take permits for mitigation requirements.

- Chapter 6 Section 6.1 Performing Implementation Actions

This section describes the proposed actions of performing the Implementation Actions, property acquisitions, planning/design, regulatory compliance, restoration schedule and post-permit term implementation. The Table 6-2 *Implementation Schedule for Natural Community Protection and Restoration Conservation Measures* details the type, acreage and term (near-term – 1 to 10 year; early long-term – 11 to 15 years; late long-term – 16 to 50 years) for each conservation measure under the proposed BDCP. The planned acquisition method is likely to occur on public lands but may require the acquisition of private lands by way of fee title or conservation easement. The actual implementation of each conservation measure may require more planning/design as these come to fruition with appropriate regulatory and jurisdictional entities.

The section on Implementation Actions is very general and does not have enough details to fully comment on the actions, timing and impacts each conservation measure. The 'kicking the can down the road' approach for the project level design costs/funding assurances and schedule of work makes commenting on this section rather difficult. With most public sector projects and especially under the many HCPs/NCCPs, the beginning of any construction activities (e.g. permit issuance and/or the ground breaking of the facilities) that create 'take' for loss of habitat for species should require the mitigation (fees, land dedication, etc.) of said project be provided. The proposed BDCP pushes the mitigation required because of the project impacts to be provided years after the project begun constructing and most during the later operations. As stated in Table 6-2, the mitigation requirements seem to be delegated to the future (near-term – 1 to 10 year; early long-term – 11 to 15 years; late long-term – 16 to 50 years) term of the permits which means impacts have occurred without actual mitigation being provided.

- Chapter 6 Section 6.2 Interim Implementation Actions

This section addresses various projects that are to be counted toward meeting the proposed BDCP's requirements but do not provide mitigation for an interim project. The section describes *'actions that have been completed, are in the process, or are planned to be initiated prior to the permit issuance'* for the proposed BDCP.

The section lists various projects which the proposed BDCP will be allowed credit toward the requirements under the permits. The lands are either public held lands or private land associated with another project in some capacity. The listed projects in the section create questions such as public lands owned by the state and the taxpayers of the state being used for Water Contractor's gains and mitigation from prior project that have been on-going being used for BDCP purposes under the permits. Some listed Interim Implementation Actions projects which need more details are:

- Calhoun Cut and Lindsey Slough Restoration
  - 927 acres property owned by CDFW – how was it acquired and what funds were used?
- Lower Yolo Restoration Project
  - Restoration project intended to help fulfill the tidal wetland mitigation requirement for the 2008 BiOp on Long-term Operation of the CVP and SWP – how is this not double dipping?
- Dutch Slough Tidal Restoration Project
  - 1,178 acre property owned by DWR – how was it acquired and what funds were used?
- McCormack-Williamson Tract Restoration
  - 1,660 acre property owned by The Nature Conservancy under a CALFED grant (USFWS funds) – do the USFWS funds used allow it to be used toward mitigation required by the proposed BDCP?
- Grizzly Slough
  - 489 acre property that was purchased in 1992 as mitigation for the SWP and owned by DWR. Nearly 70 acres has been utilized to mitigate for the Delta Levee Program while the remaining 450 acres (please check on math as remainder should be 419 acres) is planned for riparian and floodplain restoration – how is this not double dipping?
- Meins Landing Restoration Project
  - 666 acre waterfowl hunting club purchased in December 2005 by DWR in partnership with Suisun Marsh Preservation Agreement Agencies (DWR, CDFW, Reclamation, Suisun Resource Conservation District) and the California Coastal Conservancy – how was it acquired and what funds were used?
  - Part of the Van Sickle Island Levee Improvement Program and portions of the land not counted as mitigation for other DWR programs – what part is counted and not counted of the 666 acres or other land not identified?
- Hill Slough Tidal Restoration Project

- 1,723 acre property owned by CDFW of which 640 acres and 200 acres will be considered – how was it acquired and what funds were used? Can BDCP count any toward obligations?
  - Tule Red Restoration Project
    - 350 acre tidal marsh with another 1,300 acre potential owned by Westervelt Ecological Services purchased to help fulfill the tidal wetland mitigation requirement of the 2008 USFWS BiOp for Coordinated Long-Term Operations of the CVP and SWP (USFWS 2008). Based on the MOA between Reclamation, USFWS, DWR, NMFS, CDFW and SFWC, this restoration project may also count toward BDCP tidal wetland restoration – how is this not double dipping?
    - Restoration may be expanded into an adjacent land owned by CDFW – how was it acquired and what funds were used?
  - Rush Ranch Restoration Project
    - 2,070 acres acquired by the Solano Land Trust in 1988 intended to help fulfill the tidal wetland requirement for the 2008 USFWS BiOp for the Coordinated Long-Term Operation of the CVP and SWP (USFWS 2008). Based on the MOA between Reclamation, USFWS, DWR, NMFS, CDFW and SFWC, this restoration project may also count toward BDCP tidal wetland restoration – how is this not double dipping?
    - Project was initiated through agreement with DWR, Reclamation and the Suisun Marsh Plan with partial funding through the CALFED ERP. Some restoration could count toward BDCP obligations – how was it acquired and what funds were used?
  - Prospect Island Restoration Project
    - 1,306 acre property acquired by DWR from General Services Administration in January 2010. The restoration project is intended to help fulfill the tidal wetland requirement for the 2008 USFWS BiOp for the Coordinated Long-Term Operation of the CVP and SWP (USFWS 2008). Per the Fish Restoration Program Agreement (2010) between CDFW, DWR and MOA with Reclamation, USFWS, DWR, NMFS, CDFW and SFWCA it may count toward BDCP obligations - how was it acquired and what funds were used? – how is this not double dipping?
    - The project is fully funded by SWP through the Fish Restoration Program Assistance – how do those funds associated with the State Water Project allowed to use toward the BDCP?
  - Chippis Island Restoration
    - 1,000 acre property which has only 750 acres available for potential mitigation land since 250 acres has been set aside for a previous mitigation project – is that the case or all 1,000 would be used toward the BDCP obligations?
  - Decker Island Restoration

- 658 acre property created in the early 1900 through deposits from Montezuma Hills. 473 acres is privately owned, CDFW owns 34 acres and Port of Sacramento owns 140 acres. Approximately 110 acres of restoration will provide habitat to migrating salmon and steelhead by the Port of Sacramento as a restoration project – what part of the land is mitigation obligation already (e.g. Port of Sacramento or CDFW Levee Program)? – how was the it acquired by CDFW and what funds were used? – is any of this going to be considered double dipping?

There are many questions, concerns and potential issues of the mingling of prior project obligations and counting toward the proposed BDCP obligations under a HCP/NCCP permit. More clarification on how prior BiOp or projects are related to the BDCP would be helpful as well as any information on the funding mechanisms used to secure the properties.

- Chapter 6 Section 6.3 Planning, Compliance and Progress Reporting, 6.4 Regulatory Assurances, Changed Circumstances and Unforeseen Circumstances, and 6.5 Changes to the Plan or Permits

These sections addresses how the Implementation Office will prepare planning documents, implementation reports and demonstrate compliance with the BDCP document (e.g. Annual Work Plan and Budget, Delta Water Operations, Progress Report, Five-Year Review and Implementation Plan, Regulatory Assurances, Obligations of the Parties, etc.) that references a draft IA as a part of the whole project and those associated authorities under ESA, NCCPA and all other regulatory requirements.

The section is difficult to comment on without **adequate time** provided in concert with the recently released draft IA. The ‘whole project’ should be viewed as one entire documented project (e.g. BDCP document, EIR/EIS, and IA) rather than the piece meal approach for best results in relation to CEQA, NEPA, ESA, NCCPA. The draft BDCP document nor the draft IA document provide any assurance details of how the project, permits, oversight and funding will be established ahead of the impacts.

- Chapter 7 Implementation Structure

The chapter and subsequent sections describes a very overarching institutional structure and organizational arrangements for the proposed BDCP with the assignment of the duties/responsibilities to be figured out over the near term of plan implementation.

The section does not provide adequate representation of the Delta (e.g. environmental, general public, governments or HCPs/NCCPs) which makes up the impact area. The governance structure limits the regulatory agencies and is

essentially allowing the ‘fox to watch the hen house’ with very limited ability of the local communities to enact change when needed. The whole governance structure needs to be reconsidered and redesigned to include more local representation of the Delta communities at the table and involvement. It should include more than inclusion on the ‘Stakeholder Council’. Also, the regulatory authorities (e.g. USFWS, CDFW, NMFS, ACOE, etc.) should be provided ‘Veto’ authority within the proposed BDCP governance structure or following Implementation Agreements.

Also, our agency cannot fully comment on the draft BDCP because the important accompanying document of the draft IA to be reviewed in conjunction is lacking supporting details or requirements which cause concerns. The appointments are at the discretion of the Natural Resource Agency or the Authorized Entity Group rather than appointment and inclusion of local community stakeholders and other habitat conservation plan groups at large.

- Chapter 8 Implementation Costs and Funding Sources

This chapter and subsequent sections outlines the costs associated with implementation of the proposed BDCP and some components of the plan. The chapter notes the requirements of the proposed BDCP for permits with relation to the ESA and NCCPA to ensure adequate funding to carry out obligations. The proposed BDCP breaks down with the best assumptions possible the related costs and potential funding.

The section cannot be commented on without the funding (construction, implementation, mitigation, restoration, monitoring, etc.) details being provided by the draft BDCP sections or draft IA. Neither of the documents have sufficient information on assured funding for any part of the project. The project proponents have been admitting the repeatedly ‘the costs of the BDCP is high and there is concern it will increase’ which is not a surprise given the nature of public works projects over time during construction. A lacking and important piece which must accompany any review of the BDCP Implementation and Funding Sources chapter is the draft IA that establishes each proponent’s contribution to the project as a whole. The ‘whole project’ and especially the costs/funding should be viewed as one entire documented project (e.g. BDCP document, EIR/EIS, and IA) with **sufficient time provided** under CEQA, NEPA, ESA, NCCPA.

Our staff looks forward to working with the BDCP staff and consultants on the continued development of the BDCP document, the BDCP final EIR/EIS and the draft IA to insure a greater likelihood that the BDCP and SJMSCP will be complimentary to each other rather than conflicting.

Please feel free to contact myself or Steven Mayo, Program Manager, on my staff with any comments, concerns or additional needed information regarding the SJMSCP and the

continued work on behalf of the county-wide habitat conservation plan of San Joaquin County.

Sincerely,



STEVE DIAL  
Deputy Executive Director / Chief Financial Officer

Cc: SJCOG, Inc. Board  
Josh Emery, United States Fish and Wildlife Service  
Todd Gardner, California Department of Fish and Wildlife  
Habitat Technical Advisory Committee (HTAC) members  
Kathy Miller, City of Stockton Council Member and Delta Coalition Chair