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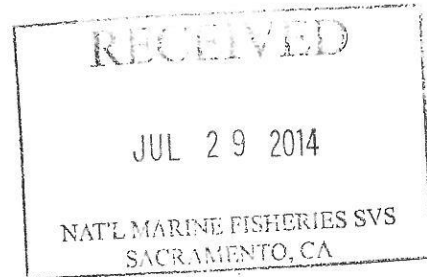
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AND
THE COUNTY OF
SAN JOAQUIN

July 25, 2014

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



Re: BDCP Draft Environmental Impact Report/Environmental Impact Study (EIR/EIS)
Comment Letter Pertaining to 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. In addition to this individual comment letter on the BDCP Draft EIR/EIS, 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 the comment period due to the failure to release the draft Implementation Agreement (IA).

We identified issues in the prior releases of the BDCP draft document which were again not fully addressed in those specific BDCP document sections nor in this BDCP Draft EIR/EIS. The continued concerns with the BDCP and this Draft EIR/EIS are very similar to those our agency has voiced previously to BDCP staff 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 BDCP draft EIR/EIS 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.
- 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 further concern our staff had after review of the Draft EIR/EIS is all the Delta counties which have or are developing HCPs or NCCPs approved or to be approved by federal and state regulatory agencies are not being given a full voice with the overlap of the plans.

Focusing on the SJMSCP, the 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 partners United States Fish and Wildlife Service (USFWS) and state partners California Department of Fish and Wildlife (CDFW) agencies including a very complicated Biological Opinion issued with the take permits. These existing agreements are a major difference between SJMSCP and the others under development. Therefore, the SJMSCP (and other implementing plans) should be considered an existing condition and included as such as the baseline.

The SJMSCP has been diligently fulfilling the terms of the Implementation Agreement and issued federal and state take permits by mitigating for development in San Joaquin County through acquisition of conservation easements and establishment of habitat preserves under an existing conservation strategy which include areas considered under the proposed Delta Plan and the incorporated 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 of an EIR/EIS:

Chapter 4 –

- Section 4.1.2 Project Level and Program Level Analyses

As described as a short-coming of the document in this section, the future planned *'locations for restoration and preservation actions within the conservation zones have not been specifically identified at this time'* which means the document is guessing about the impacts to other implementing (e.g. SJMSCP and East Contra Costa HCP/NCCP) and developing (Solano, South Sacramento, Yolo) plans surrounding the Delta. The

document states the ‘analysis is being done at a programmatic level based on theoretical effects of typical construction, operation and maintenance activities that would be undertaken for implementation of CM2-CM22 at a program-level of analysis, describing what environmental effects **MAY** occur in future project phase.’ The document pushes future project-level review (as necessary) prior to implementation of specific measures other than CM-1. The reality of approving one of the largest infrastructure projects which can greatly affect existing and planned habitat conservation plans in the Delta without fully vetting the actual impacts seem near sighted.

The Draft EIR/EIS should take a step back to further detail the specific sites, acreages and restoration/preservation concepts to fully evaluate the impacts in consultation with the specific habitat plan administrators before release of the final EIR/EIS document.

- Section 4.2.1.1 CEQA and NEPA Baselines

The ‘Existing Conditions’ assumed in the baseline employed in this draft EIR/EIS document is supposed to take into account facilities and ongoing programs that existed as of February 13, 2009. The SJMSCP has been in existence since 2001 and implementing in partnership with the USFWS, under a Section 10 take permit, and CDFW, under a Section 2081 take permit successfully within San Joaquin County which covers approximately 33% of the Sacramento San Joaquin Delta area. Over that time, the SJMSCP has employed a Conservation Strategy which is the back bone of the preserve system to off-set the loss of thousands of acres of covered activities within San Joaquin County over the 50-year term of the take permits. The BDCP Draft EIR/EIS has not based the document on the full build out of the SJMSCP for the overlap areas of the two very different plans which can create unrecoverable impacts to an existing habitat plan.

The Draft EIR/EIS should consider the full build out of the SJMSCP (covered activities and preservation) as the baseline. Also, our agency cannot fully comment on the draft EIR/EIS without **adequate time** to review in concert with the important accompanying document of the draft IA.

- Section 4.2.5.2 Cumulative Effects Analysis

The Draft EIR/EIS states the SJMSCP was accounted for as an existing condition under the cumulative effects analysis based on Appendix 3D, *Defining Existing Conditions, the No Action/No Project Alternative, and Cumulative Impact Conditions*, but in the section described it only mentions ‘the contribution of the BDCP to other programs, projects and policies’ rather than the destructive conflicts which would occur from the BDCP overlapping the already existing SJMSCP which has been implementing since 2001.

The Draft EIR/EIS should note the BDCP does contribute but also has adverse impacts in the cumulative aspect of the existing conditions.

- Section 4.2.5.3 Mitigation Approach

The Draft EIR/EIS states the *'mitigation related to restoration and other activities in CM3-CM22 shall be the responsibility of a larger group of agencies (including DWR and Reclamation) as set forth in relevant portions of the BDCP'* and *'responsibilities for particular measures will be described in the **Mitigation Monitoring and Reporting Program** to be issued in connection with the Final EIR/EIS.'* Unfortunately, our staff was unable to identify the mitigation (who, what, when, why, where) details with relation to impacts to the existing SJMSCP areas which overlap the proposed BDCP conservation zones or locate the **Mitigation Monitoring and Reporting Program** noted.

We respectfully request a copy of the **Mitigation Monitoring and Reporting Program** to be provided and discussed fully with all the surrounding habitat plan administrators and regulatory agencies (e.g. USFWS and CDFW) to review and comment further before the Final EIR/EIS is released.

Chapter 12 -

- Section 12.0.2.1 Natural Communities

The Draft EIR/EIS touched on a list of 'Natural Communities' with relation to terrestrial species but for simplicity, the cultivated lands were not studied in-depth.

The cultivated lands must be studied in-depth to understand the reality of the environment for terrestrial species between the agricultural land types (e.g. row and field crop habitat, multi-purpose habitat, irrigated pasture habitat, etc.) because each classification has specific impacts to various species (e.g. swainson's hawk, burrowing owls, tricolor black bird, etc.). The breakdown of the type of cultivated lands will greatly affect the surrounding plans which may require conservation of these types of cultivated lands that are in conflict with the proposed BDCP.

- Section 12.0.3 Environmental Consequences

The Draft EIR/EIS calls out the first eleven conservation measures (CM 1 – 11) in this section. The CM 1, which regards construction and operation of water conveyance facilities, and CM 2 - 11 are measures which restore, protect, manage or enhance.

The section does not differentiate that CM1 actually deteriorates the value of the environment while CM 2 – 11 may provide actual benefit to the environment for BDCP. The use of building the facility as a conservation measure would be like considering the building of a large cement gas extraction pad for equipment as a benefit to the agricultural and natural environment it is within. The CM 2 – 11 providing benefit to the SJMSCP is still to be determined.

- Section 12.0.6.2 Comparison of Effects of the Alternatives

The Draft EIR/EIS section goes into numerous scenarios which would cause great losses of natural communities and cultivated lands in the range of 40,000 acres on the lowest end to upward of 100,000 acres on the highest end. The alternatives each have dramatic effects on the Delta (and other programs planned or existing) except for the lone alternative of **No Action Alternative**. The Draft EIR/EIS states *'under the No Action Alternative, there would be no water conveyance facilities construction effects on natural communities. Also, there would be no restoration, protection or enhancement of natural communities resulting from the other BDCP conservation measures. Several programs that are under way or in the planning stages to increase wetlands and riparian natural communities in the absence of the BDCP will benefit natural communities and increase wildlife-friendly agriculture in the study area.'*

The logical response is building the project in any alternative other than the No Action Alternative causes more harm than benefit. Especially, by the Draft EIR/EIS states other existing or planned programs are providing the same or better benefit than the BDCP would. For the natural communities and agricultural mosaic in relation to the species, invest the money in the existing or planned programs within the areas to bolster the success.

- Section 12.1.2.1 Natural Community Mapping Methods

The Draft EIR/EIS defines and categorizes the landscape with data from various sources and dates. The Draft EIR/EIS uses definitions from the CALFED Bay-Delta Program (2000) and CDFW (2005/2006) as well as GIS data using the 2005 USDA Farm Service Agency National Agriculture Imagery Program. 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 of from around 2008. The western area of the Delta (e.g. western Area of Additional Analysis) was truthed in 2012 via Google Earth imagery and ground truthing by consultants.

The natural communities' 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 EIR/EIS should take the steps to use more current data and truthing of the natural communities and landscape to understand the reality of the Delta today.

- Section 12.2.3.1 City and County General Plans

The Draft EIR/EIS mentions the San Joaquin County General Plan 2010 adopted in 1992 and five policies from the Resources Element are considered applicable to the BDCP. Also, the General Plan is under revision currently.

Unfortunately, the Draft EIR/EIS does not fully explain the SJ County and the existing General Plan 2010 are part of the implementing SJMSCP for impacts within SJ County. The current and revision will continue to be part of the SJMSCP for providing conservation and enhancement with SJ County. Furthermore, the Draft EIR/EIS does not provide any discussion of the other jurisdictions with San Joaquin County that are

within the potential plan area of the BDCP (e.g. City of Lathrop, City of Lodi, City of Stockton or City of Tracy) which are also signatories of the SJMSCP. The Draft EIR/EIS should include those jurisdictions' General Plan information in this section.

- Section 12.2.3.2 Habitat Conservation Plans

The Draft EIR/EIS note there is a relationship with other existing or developing habitat conservation plans discussed later in the section (12.3.3.18 Effects on Other Plans).

The SJMSCP comments will be addressed within that section.

- Section 12.3.3.17 Cumulative Effects on Terrestrial Biological Resources

The Draft EIR/EIS states the Action Alternatives *'would have little or no negative effect or would have long-term beneficial effect on nearly all of the terrestrial biological resources of concern in the study area. This is consistent with the goal of HCP/NCCP programs, which is to improve long-term viability of special status species and their habitats. The positive effects of implementing the BDCP are similar in all of the project alternatives other than the No Action Alternative. There are relatively small variations in the acres affected by construction of the alternative water conveyance facilities (CM1), but the restoration, protection, enhancement and stressor reduction elements of the alternatives are the same for Alternatives 1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 6A, 6B, 8 and 9.'*

Also, this section describes cumulative effects on Giant Garter Snake Movement and Connectivity between Subpopulations. It is stated in Impact BIO-190 under the second bullet point that *'A number of HCP's have been issued by USFWS for projects anticipated to impact the giant garter snake, which include San Joaquin County Multi-Species HCP....'* and other areas within the giant garter snake range being developed.

As stated earlier in the Draft EIR/EIS – Section 12.0.6.2, the various alternative actions will have a wide range of impacts (project construction footprint and CM 2 – 11) on the existing landscape of the entire Delta ranging from 40,000 acres on the lowest end of the spectrum up to 100,000 acres of impact on the highest end. These changes would greatly have effect on the existing habitat landscape, local county governments' bottom tax rolls, productivity of the lands and especially the terrestrial species within each surrounding Delta County with existing or developing HCP/NCCPs. More discussion and explanation is needed with regards to the logic of the contradictory concept:

How do near-term period of alternatives disrupting temporarily or permanently removal of natural communities and modeled habitat for special status plant and wildlife species seem offset with potential undisclosed near-, mid-, and long-term conservation actions? One example is the impacts at Staten Island which is a specie friendly easement created with state public funds within San Joaquin County for the sand-hill cranes. Not to mention the SJMSCP complimentary habitat preserves adjacent to the Staten Island location. The sand-hill crane preserve on Staten Island and the adjacent SJMSCP preserves will have various impacts such as muck piles established large exhaust stacks

created and 5-9 years of construction activity, noises and vibrations occurring where lands have been set aside in protection for the species.

The SJMSCP holds two take authority permits under Section 10 (federal) and 2081 (state) which include potential giant garter snake habitat under incidental take minimization measures prescribed under the plan. The permits do not cover direct take of the giant garter snake or cover activities for giant garter snake impacts in the “Known Occupied Areas” as clearly defined in the SJMSCP (e.g. known occupied habitat for the giant garter snake is the area west of I-5 on Terminous Tract, Shin Kee Tract, White Slough Wildlife Area, and Rio Blanc Tract). These “Known Occupied Areas” are the same tracts of land some of the BDCP alternative actions will be impacting.

- Section 12.3.3.18 Effects on Other Conservation Plans

The Draft EIR/EIS was to analyze the impacts to the surrounding HCP/NCCP of the Delta which call out six (6) that will be impacted due to the overlap of the potential BDCP plan area. While four (4) are still in development (e.g. South Sacramento, Yolo, Solano and Yuba-Sutter), the BDCP will have impacts on the remaining two (2) HCP/NCCP and an adopted Conservation Strategy Plan. The Delta’s two implementing HCP/NCCP programs have been in the implementation phase with federal and state regulatory partners since as early as 2001 (e.g. SJMSCP). The *‘construction of the water conveyance facilities would reduce the amount of available cultivated land for acquisitions by overlapping conservation plans byas much as 14,016 acres in the San Joaquin County HCP (Alternatives 1B, 2B, 6B).’*

The table 12-11 describes the range of impacts to the SJMSCP for the footprint alone to be between 6 acres to 14,050 acres.

The tables 12-14 and 12-18, 12-19, 12-20, 12-21, 12-26 and 12-27 show the estimated acreage in the overlap for the various activities between the existing SJMSCP and the proposed BDCP to be a wide range. The tables states the BDCP would need a minimum of approximately 14,000 acres to 49,000 acres within the overlap area.

The Draft EIR/EIS states *‘the cultivated preservation needs of the BDCP and other conservation plan are deemed to be without conflict if the available cultivated land with full build-out is at least double the sum of the needs of the two plans in the overlap area. This assumption is based on the need to have more cultivated land for preservation than required to ensure that enough willing sellers are available for each plan.’* The Draft EIR/EIS refers to the draft BDCP out for public comment *‘Chapter 3, Section 3.4.1.3.1 Land Protection having a process for coordination among BDCP, South Sacramento HCP, and San Joaquin Multiple Species Conservation Plan to ensure sufficient lands are available in the overlap area for each plan to meet its conservation obligations.’*

For the SJMSCP as an implementing HCP since 2001, the discussions have been on-going with the BDCP staff and consultant regarding the Draft EIR/EIS calculations and the referenced section of the BDCP Chapter 3, Section 3.4.1.3.1 - Land Protection with regards to the proposed potential process between plans. The SJMSCP 2010 data used

for acreage accounting in the Draft EIR/EIS for potential impacts within the overlap area for the project alternatives and restoration/enhancements coupled with the SJMSCP are not accurate as reported to BDCP staff and consultants or available in the SJMSCP Annual Reports. To further complicate the matter, the assumptions used by the BDCP staff and consultants for the analysis was not accurate to the actual activities/allowances of the SJMSCP's conservation strategies which will decrease the overall acreage allowed to be used by the SJMSCP in the overlap area to meet the obligations of the issued permits. The Draft EIR/EIS shows lower acreage than the reality of lands impacted by the BDCP activities and over reports the available lands for the SJMSCP to acquire within the overlap area. As to the statement of 'deemed to be without conflict', it has been stated to BDCP staff repeatedly and now in writing to the Draft EIR/EIS there will be a major conflict because the 'double the sum of needs' does not exist in the overlap area to 'meet its conservation obligation' for the implementing SJMSCP.

On the matter of the BDCP Chapter 3, Section 3.4.1.3.1 – Land Protection statement in the Draft EIR/EIS, the most accurate description (from the SJMSCP viewpoint) would be described as the Chapter text is in the early infancy stage and needs to be completely vetted with all the surrounding Delta HCP/NCCPs. For the SJMSCP, nothing has been agreed upon with the implementing SJMSCP administrating agency, permittees or regulatory partners in accord with the BDCP as for any potential processes. A more detailed or accurate description of the entire Section of the Draft EIR/EIS is requested.

Our staff looks forward to working with the BDCP staff and consultants on the continued development of the BDCP document and BDCP final EIR/EIS (and draft IA when available) 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 plan in 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



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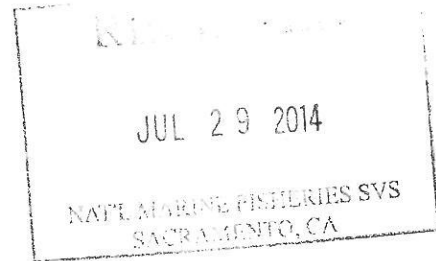
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Re: BDCP Draft Implementation Agreement (IA) Comment Letter Pertaining to SJMSCP

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. In addition to this individual comment letter on the BDCP Draft IA, SJCOG, Inc., in conjunction with other Delta Initiative Coalition stakeholders, may be submitting a separately transmitted joint comment letters.

Our agency identified issues in the prior releases of the BDCP draft documents which were again not fully addressed in those specific BDCP documents (e.g. the BDCP Public Draft, the Draft EIR/EIS or this Draft IA) in relation to those issues. The continued concerns with the BDCP and all the subsequent Draft documents are very similar to those our agency has voiced previously to BDCP staff regarding the overlap of vast tracts of land and species in parts of San Joaquin County covered by the existing county-wide habitat conservation plan. Those concerns are but not limited to:

- 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 BDCP draft EIR/EIS does not fully addressed.

- 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.
- 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 further concern our staff had after review of the Draft IA is all the Delta counties which have permitted HCPs or are developing HCPs or NCCPs be approved by federal and state regulatory agencies are not being given a full voice with the various overlapping areas of the BDCP and existing/potential plans.

Focusing on the SJMSCP, the 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 partners United States Fish and Wildlife Service (USFWS) and state partners California Department of Fish and Wildlife (CDFW) agencies including a very complicated Biological Opinion issued with the take permits and the SJMSCP Implementation Agreement. These existing agreements are a major difference between SJMSCP and the others under development. Therefore, the SJMSCP (and other implementing plans) should be considered an existing condition and included as such as the baseline.

The SJMSCP has been diligently fulfilling the terms of the existing SJMSCP Implementation Agreement and issued federal and state take permits by mitigating for development in San Joaquin County through acquisition of conservation easements and establishment of habitat preserves under an existing conservation strategy which include areas considered under the proposed Delta Plan and the incorporated BDCP.

After numerous hours of analysis of the enormous amount of text of the various documents which make up the Draft BDCP, the Draft BDCP EIR/EIS and the Draft IA, 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, Draft EIR/EIS and Draft IA 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 approved BDCP Implementation Agreement document:

1. The Draft IA in the first paragraph states a ‘note to reviewers’ regarding the “level of agency signatory” under this agreement remains to be determined. This leaves a large void in the purpose of the draft IA. The draft IA is the tie between the various documents, the project, the proponents of the project and the regulatory agencies which will be giving authority for impacts of said project. How is this possible to not know?

2. The Draft IA should provide details of the project (conditions and funding mechanisms for mitigation) and assignments of responsibilities during the various phases of the project (construction, implementation, mitigation, monitoring). The primary reason for the IA would be a solid contract between the project proponents and regulatory agencies as to the process and means for what will be built, how it will be built, funding to assure it can be mitigated fully and assurances of obligations to meet the various federal, state and local ordinances (e.g. NEPA, CEQA, ESA, CESA, etc.). Those details are lacking in the Draft IA.
3. The Draft IA does not provide the needed assurances, details or support the required information as noted in the draft BDCP public document (see chapters 6, 7 and 8) which was to be provided in the future IA. The prior drafted material ‘kicked the can down the road’ with details stating the details would be found in the future IA which is not the case.
4. The Draft IA insufficiencies can lead to compliance issues with the state’s Natural Community Conservation Planning Act (NCCPA) and federal Endangered Species Act (ESA) section 10 requirements. In addition, the insufficient draft IA can cause concerns with meeting the obligations under CEQA and NEPA for the project.
5. The Draft IA does not provide adequate assurances for the funding of the project (construction, implementation, mitigation, restoration or monitoring) for meeting the goals and obligations under the state and federal permits.
6. The Draft IA does not contain necessary details or language to support the assertions of meeting the NCCPA, CEQA, ESA, NEPA or any other requirement for projects of this magnitude.
7. The Draft IA shows the flaws with the BDCP’s implementation structure with the ‘Authorized Entity Group’; ‘Permit Oversight Group’; ‘Adaptive Management Team’; ‘Stakeholder Council’; and ‘Supporting Entities’ by giving the project proponents (DWR, SWP contractors and CVP contractors) equal to that of lead agencies on the state and federal level. There is a lack of any local representation with weight.
8. The Draft IA does not allow for any ‘checks/balance’ or veto allowance by the regulatory agencies providing the take permits as allowed in other habitat plans.

Our staff looks forward to working with the BDCP staff and consultants on the continued development of the BDCP document and BDCP final EIR/EIS (and draft IA when available) 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 plan in San Joaquin County.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Dial". The signature is fluid and cursive, with a large initial "S" and a long, sweeping tail.

STEVE DIAL
Deputy Executive Director / Chief Financial Officer

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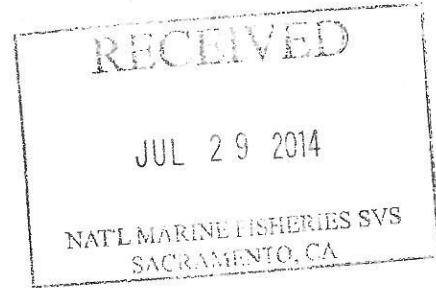
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SJCOG, Inc. has identified issues in the prior releases of the BDCP draft documents (part or whole) which were again not fully addressed in this specific Draft BDCP document sections as requested. The continued concerns with the BDCP (and further displayed 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 addressed.

- 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.
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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 is 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?
 - Chipps 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,

A handwritten signature in black ink, appearing to read "Steve Dial", written in a cursive style.

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