

Ryan Wulff
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Mailed and submitted to
BDCP.comments@noaa.gov
on July 29, 2014

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

The Honorable John Laird
Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, California 95814

Submitted by - Long Island Property Owners Association
LIPOA
Walnut Grove, California

July 28, 2014

COMMENT LETTER SUBMITTED PERTAINING TO THE EIR/EIS

LIPOA submits the following comment letter pertaining to the EIR/EIS document for the Bay Delta Conservation Plan (BDCP or Tunnel Project).

Long Island – This letter is submitted on behalf of owners on Long Island, situated approximately nine miles downstream of the proposed project as well as residents in the vicinity of and downstream of the proposed diversion point. Long Island consists of 34 residential lots all maintained by the property owners. Long Island is surrounded by water with the Sacramento River on one side and a Dredger Cut on the other. Access to Long Island is via a private bridge. Property ownership dates back over 7 decades. Long Island residents have maintained the Dredger Cut for over 4 decades, including maintenance dredging approximately every ten years, including an ongoing project for which permits have recently been issued by seven different federal and state agencies. This property is one of a kind in the Sacramento Delta and residents have invested hundreds of thousands of dollars in the island and the assessed value of the property is conservatively over \$17 million dollars. The proposed project will adversely affect the property at Long Island and have significant environmental effect on the delta and Sacramento regions above and below the proposed project. A current dredging project at Long Island is paid for entirely by property owners at a cost of nearly \$200,000. Substantial environmental work was done prior to approval of the project. The Tunnel Project will adversely impact the dredge work and will result in a declining condition in the Dredger Cut caused by silt build up. A companion project at Vierra's resort, one half mile downstream from Long Island will incur a similar expense and suffer similar effects. As part of this project LIPOA commissioned a hydrology study relating to flows, weed growth, dredge options, and silt build up in the Dredger Cut

Impacts from the Proposed Project - -

Water Flows - The summer and spring flows will be dramatically reduced by the water diverted 9 miles upstream. Residents depend on spring and summer flows for recreation and to reduce weed growth. The drought over the past two years has resulted in decreased flows and warmer water. The reduction of flows from Oroville, Shasta and Folsom all dramatically affect the use of property on Long Island. We are tide dependent and the low tides are lower than most long time residents can remember. The dramatic decreases in flows in the Sacramento caused by the tunnels will exacerbate our low and high tide conditions. In many months of the spring, summer and fall the residents can only use docks at high tide conditions. The tunnel project will adversely affect the ability of residents to enjoy the use of their property even at high tide conditions. The owners have substantial investments in the island and the Tunnel Project has not examined the impact on recreation for property owners, impacts to the Dredger Cut and the increased costs that owners will incur for future dredge projects caused by low flows. Low flows allow sediment to deposit in the slough channel (Dredger Cut) at a much more rapid rate. As the sediment builds at the up and down stream ends, it slows further and causes even great deposits of silt.

The Tunnel Project has failed to examine the effects on flows for our neighbors or similarly situated property owners below the diversion point. Our studies show that greater silt will be deposited as flows slow. The lower flows impact fish, including the green sturgeon which we were recently required to analyze with our dredge project. The EIR/EIS significantly underestimates the flows from the diversion and thus the impacts experienced by all users below the Tunnel Project and the potential impacts to all reservoirs that are the source of the Sacramento River.

The Tunnel Project assumes that Sacramento water users and American River water user's contracts could be violated in order to provide the required water for the Tunnel Project. This assumption is flawed. The project assumes the Folsom Lake could go to a dead pool status once every ten years and thus jeopardizing all other downstream users, including farmers and users like the owners on Long Island who depend on this water below the proposed site of the Tunnel Project.

The City of Folsom and other American River water agencies have provided extensive comments regarding the flawed analysis. This letter incorporates the comments provided by those agencies relative to the BDCP analysis and Climate Change and incorporates those comments by reference.

The Tunnel Project will adversely affect all residents on all sides of Grand Island as flows will be decreased in Steamboat Slough as well. The users of the water ways on all sides of Grand Island, including Snug Harbor, the marinas and Hogback launch ramp will all be affected. Summer is the highest recreational use period and likely the highest period of demand for users of the water diverted by the Tunnel Project. These properties will also experience greater invasive weed growth as a result of the lower and slower flows. The EIR fails to analyze the

impact on users on all sides of Grand Island and fails to offer any mitigation measures or adequately examine how the impacts on these users can be mitigated.

The Tunnel Project fails to provide any mitigation for the property owners who will not have beneficial use of their property. The tunnel project does not provide any mitigation or analyze any potential mitigation measures such as dredging in the Sacramento River or the Dredger Cut to reduce the significant impacts of the project.

Weed Growth - The result of lower flows in the past year has been dramatically increased weed growth of over 4 types of aquatic weeds, including several which are invasive to the delta and are attempted to be controlled by Dept of Boating and Waterways (DBW). See <http://www.dbw.ca.gov/BoaterInfo/AquaInvSpec.aspx> for weed varieties. The Delta is being inundated by invasive weeds and our island has seen a dramatic increase in the past several years. The weed growth this year is even more dramatic than others due to low flows. As temperatures warm and the flows decrease the weeds grow exponentially. The weed growth impacts and prevents in some cases fish to utilize the water and makes navigation very difficult if not impossible depending on the flow and the tide level. The efforts to eradicate weeds by DBW are ineffective when there is even a small flows like we have in our Dredger Cut particularly with tidal action. The EIR fails to examine the impact on weed growth in the delta and fails to provide or study any potential mitigation measures for weed eradication.

Water Temperature – The current drought is a clear example of the correlation between flow and water temperature. This project will take hundreds of thousands of cubic feet of water from the lower Sacramento system, just 9 miles above our homes. The water temperature has risen since the drought and is further affected by low flows and weed growth. The temperature is measured objectively and the weed growth is dramatic and apparent. The project will only further raise water temperatures, particularly in the summer and spring months when water is most in demand by the downstream users of the Tunnel Project. The Tunnel Project will divert water that keeps the lower delta cool and reduces the impacts partially described above. The Tunnel Project will cause waters to warm in the American River affecting fish in the entire system. The Tunnel Project will significantly impact fish that are already struggling to survive in the delta.

Water temperature increases will adversely affect fish, result in more rapid invasive and other weed growth and the project has failed to adequately study the impact on water temperature or to provide or study any mitigation measures to lessen or eliminate the impacts. The EIR/EIS has failed to adequately examine the efforts on steelhead and fall run salmon. In addition the Green Sturgeon in the delta is impacted by water temperature and silt flows and the project has failed to analyze these impacts. If the state and federal agencies do not allow the delta system to be operated to the detriment of the fish, then the EIR/EIS has failed to present an accurate picture of the project. The EIR has failed to study the no project alternative option or to study and propose how the project can be mitigated to less than a significant level related to water temperatures.

Increase in Silt Build up – The project will result in increased silt build up in the Dredger Cut and the Sacramento River. Our study by a licensed engineer and hydrologist as well as personal

observation by owners on Long Island demonstrates that lower flows, particularly in the spring and summer will dramatically increase silt build up. Flows from upstream of the Tunnel Project site will disturb silt and the reduction of flows at the tunnel site will result in depositing solids at a greater rate and cause further silt build up. Our residents bear the entire cost burden of Dredger Cut maintenance dredging and the EIR/EIS has failed to examine the impacts on the river or dredger cut in the area of Long Island or any of the marinas, or residential properties downstream of the tunnel project caused by silt build up.

The project itself will create significant flows of silt in the Sacramento River for years to come. There is no analysis of the impact of the silt flows from the project, just 9 miles above our residences.

No dredging has occurred in the Sacramento River below Walnut Grove for boat traffic in many years. The impacts on flows with diversions upstream will adversely affect navigation with any boats utilizing a sizable keel. Boat traffic for other boats will be impacted in low tides to a much more significant level. Boats docked on the river will potentially be impacted in lower tide situations and there is no analysis of these impacts or mitigation measures to address the impacts.

The EIR fails to examine the impact on users of water, including water wells downstream of the project who will be impacted by decreased flows and increased silt build up. Pumps along the river for irrigation depend on clear areas, free of silt build up.

Salinity and Impacts on Wells- The EIR fails to adequately examine the potential for salinity in the river downstream of the project and fails to provide any mitigation measures to address salinity or alternatives to the project to avoid salinity. Historically and with droughts, the salinity levels have crept up river and impacted farms and lawful water users. Our residents are all on wells for domestic and landscape purposes. The EIR does not examine the potential for salinity in the river, and its dramatic impact on all aspects of life in the delta, farming and water usage. Once salinity impacts users, the impact may and is likely to be irreversible.

Recent efforts that were abruptly stopped to install curtains at Walnut Grove to curtail salinity demonstrate the severity of the salinity threat. The Tunnel Project proposes to reduce flows by hundreds of thousands of cubic feet and result will be increased threats of salinity downstream from the tunnel diversion. The threat in the Spring of 2014 of salinity resulted in dramatic proposals by state agencies. These proposals including blocking access to certain areas and using lifts to move boats. The dramatic proposals were deemed necessary even without any reduction in water due to the Tunnel Project. If the tunnels are constructed, the water will flow through them. The result is simply less water below the diversion point. It is clear, that the threat of salinity and other impacts will not be lessened and, in fact, will be increased. The project fails to examine the impacts on fish cause by salinity and increased silt. There are no adequate mitigation measures to prevent the devastation that one low flow season that increases salinity will cause. The project has failed to mitigate or attempt to mitigate to a less than significant level.

Impacts of Continued Drought or Future Droughts – The Tunnel Project will reduce the flows for all downstream users. The 2013-14 drought, one of the worst on record, has

heightened the demand by all users upstream and downstream of the project for any available water. Residents in the Sacramento region have dramatically reduced water usage and water agencies have imposed mandatory and other voluntary restrictions on water use. Some communities utilizing American River water have reduced consumption by over 25%, yet still have significant restrictions on water use and the delta is not receiving the flows that are necessary for a healthy system. All the while the Tunnel Project proposes to divert hundreds of thousands of acre feet each year, to the detriment of all lawful downstream users. Should the drought continue or when the next one comes, the potential users of the Tunnel Project will demand use of the tunnel diversion water and the downstream users will be adversely impacted. These users include some of the richest farmland in the western United States, if not the world. The Tunnel Project fails to adequately examine mitigation measure to address future droughts and impacts on users downstream of the diversion.

The EIR is fatally flawed as the analysis shows that Folsom Lake will be reduced to a dead pool one out of every ten years. The Delta and particularly the upper Delta and the American River depend on Folsom lake flows for viability. The American River depends on cold water flows and the Delta depends these flows for migratory salmon, steelhead, and stripers, all of which will be impacted based on the flows from the American River.

The EIR/EIS contains no analysis to explain what would happen to groundwater in the region and in particularly the upper delta as users with wells rely more heavily on groundwater than their riparian rights. This is a serious concern as many users rely exclusively on well water for home and irrigation use. Our residents are exclusively on well water and we are only 9 miles below the diversion point. Impacts on the quality of the water and the depth at which water may be obtained must be identified. BDCP must adequately address possible groundwater impacts in our region.

Socio Economic Impacts on the Delta Economy and Injury to Businesses Caused by Reduction in Water Below the Diversion Point are not Properly or Thoroughly Analyzed.

NEPA requires that an EIS address a project's socioeconomic effects of a Project. CEQA requires that an EIR address a project's socioeconomic effects that generate environmental consequences. The DEIR/DEIS fails to properly analyze BDCP's socioeconomic impacts to the Delta and the region.

The Delta economy survives and thrives on water and is dependent on water for all aspects of life. Tourism, fishing, boating, aquatic and bird life, small businesses who depend on users of the river and farming all depend on the flow of water through the delta. At one of the upper most reaches of the delta the Tunnel Project proposes to divert water essential to the life of the Delta. Residents of all income brackets, farm workers and small business owners and farmers will be dramatically affected by the tunnel project and no mitigation is offered to assist or to prevent harm to the residents, business and economy all of whom depend on the river for their livelihood. The Tunnel Plan is poorly conceived and would violate the Endangered Species Act (16 U.S.C.A. §§ 1531-1544) ("ESA") and the Natural Community Conservation Planning Act (Fish & Game Code §§ 2800-2835) ("NCCPA"). The Tunnel Plan fails to satisfy the most basic funding requirements of the ESA and the NCCPA because nearly all of the funding sources it identifies are too speculative, and there are no guarantees that anticipated funding will be

adequate to implement the proposed conservation measures. Further the plan fails to recognize any funding for the impacts described above including silt build up, weeds and salinity.

The EIR/EIS is Poorly Written, Confusing, Contradictory and Fails to Adequately Inform the Public of the Consequences of the Tunnel Project.

The DEIR/EIS is legally inadequate as an informational document because it is poorly organized and very difficult to read. It is fundamental that the EIR/EIS must be able to be understood, instead here it is incomprehensible to decision-makers and the public alike. The document fails to provide meaningful information about many of the project's environmental impacts. The confusing nature of the document itself — its extreme length, numerous cross-references, and contradictory statements — prevent the meaningful evaluation of BDCP's environmental consequences.

The EIR/EIS is Incomplete as It Has Failed to Obtain the Testing at the Project Site that Sought to Obtain.


The project intended to do testing at the project site. Property owners denied access and have thus far prevailed in their desire to keep the State from doing invasive testing on their land. To continue to pursue and EIR/EIS without the very testing they desired renders the project incomplete in its analysis of the site conditions.

The EIR/EIS Fails to Examine Viable Alternatives to the Proposed Plan

Alternatives have been offered by a host of individuals and organizations from smaller projects to diversions at a much lower point in the system that would avoid impacts to the delta and farmland. Alternatives must be examined and mitigation measures provided to avoid the disastrous impacts from the proposed Tunnel Project.

Conclusion

The BDCP and DEIR/EIS are fatally flawed. The plan and the environmental documents fail to analyze the impacts, provide mitigation measures, provide for funding to alleviate the impacts and present significant risks to the Delta and the American River water users, which in turn affect Delta users. The numerous flaws undermine its analysis and ability to withstand legal challenge. Because of these flaws, the plan must be significantly revised to address impacts to users upstream and downstream of the diversion points, including adding mitigation measures before any decisions can be made regarding permitting or implementing the plan.

LIROA President


Bruce Cline
17360 Grand Island Road
Walnut Grove, California 95690