

## **California Advisory Committee On Salmon and Steelhead Trout**

February 26, 2014

Charlton H. Bonham, Director  
California Department of Fish and Wildlife  
1416 Ninth St., 12<sup>th</sup> Floor  
Sacramento, CA 95814

Subject: Recommendation to deny incidental take permit and Natural Communities Conservation Plan for Bay Delta Conservation Plan

Dear Director Bonham;

The California Advisory Committee on Salmon and Steelhead in our capacity to advise you, the director of the California Department of Fish and Wildlife, in preparing and maintaining “a comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries” in California,<sup>1</sup> recommends that the you deny issuance of an incidental take permit for the Bay Delta Conservation Plan’s Alternative 4 (BDCP) as a Natural Communities Conservation Plan (NCCP). The BDCP does not meet the requirements of Fish and Game Code 2820 for an NCCP and cannot legally be approved because it will contribute to the further decline of Sacramento River Winter Run and Spring Run Chinook salmon.

All races and runs of Central Valley salmon and steelhead populations have experienced over 90% declines since the State Water Project came on line in the 1960’s. In particular, naturally produced Chinook populations have experienced severe declines resulting in the listing of Sacramento Winter Run as endangered and the Spring Run as threatened under the federal and state Endangered Species Acts. Adult returns of these two species are far below the fish doubling goals of the Anadromous Fish Restoration Program. Attachments 1 and 2 are figures from the Anadromous Fish Restoration Program showing the severe declines these two runs of Chinook salmon have experienced in the Sacramento River basin.<sup>2</sup>

---

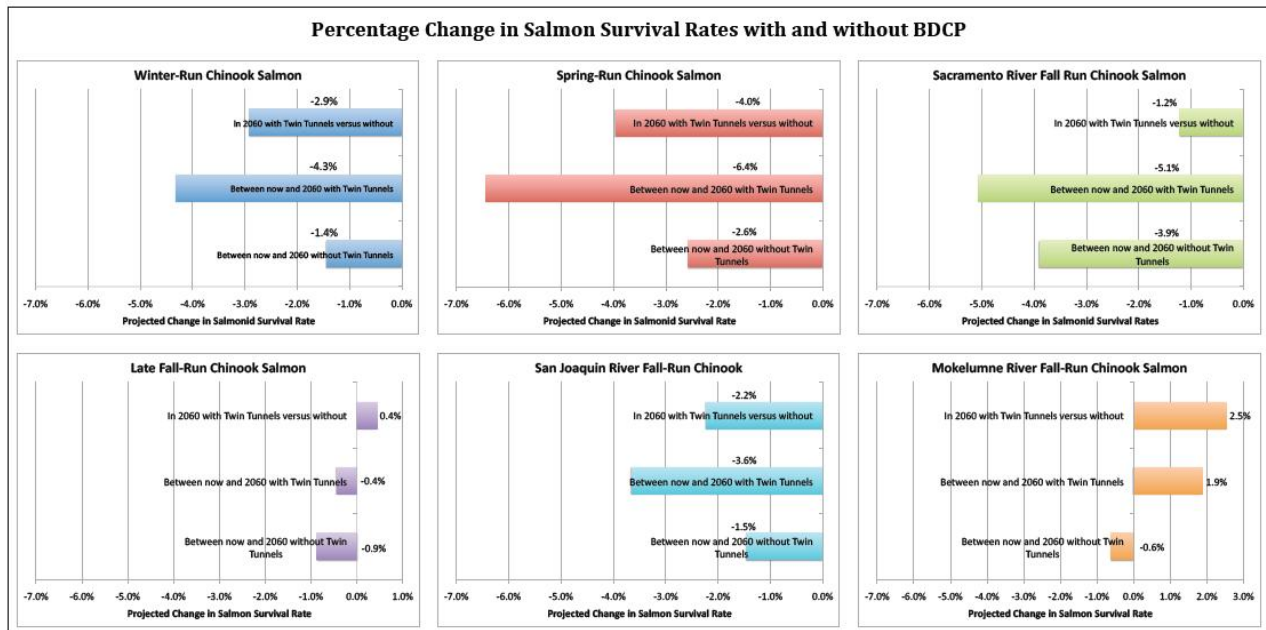
<sup>1</sup> California Fish and Game Code § 6920 (2008)

§ 6920. Preparation and maintenance of program; Consultation with public agencies

(a) The department shall, with the advice of the Advisory Committee on Salmon and Steelhead Trout and the Commercial Salmon Trollers Advisory Committee, prepare and maintain a detailed and comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries.

<sup>2</sup> [http://www.fws.gov/stockton/afrp/Documents/Doubling\\_goal\\_graphs\\_020113.pdf](http://www.fws.gov/stockton/afrp/Documents/Doubling_goal_graphs_020113.pdf)

Furthermore, according to data from Chapter 5, Effects Analysis of the November 2013 Draft BDCP, operation of the Twin Tunnels project will reduce winter run and spring Chinook salmon smolt survival by 2.9% and 4%, respectively. See Salmon Survival Rates Figure below taken from BDCP Chapter 5. Supporting data and source tables are shown in Attachment 3.<sup>3</sup>



BDCP promotes the unproven scientific hypothesis that habitat restoration can substitute for flow. However, the State Water Resources Control Board has already indicated that Delta inflows and outflows are presently insufficient to help listed species recover their former abundance.<sup>4</sup> BDCP would reduce Delta outflow, which contributes to the decreases to salmon smolt survival rates modeled by BDCP.

The concept of improving riparian and subtidal habitat to create an aquatic food supply for the Delta to make up for too much water diverted is an unproven theory that has been criticized extensively by federal agencies in their “red flag” comments on the BDCP.<sup>5</sup> Climate change will

<sup>3</sup> Figure A taken from Draft Bay-Delta Conservation Plan, Chapter 5, Effects Analysis, Sections 5.5.3 through 5.5.6, Tables 5.5.3-10, 5.5.4-5, 5.5.5-8, 5.5.5-10, 5.5.5-18 and 5.5.5-20 See

[http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/Public\\_Draft\\_BDCP\\_Chapter\\_5\\_-\\_Effects\\_Analysis.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Public_Draft_BDCP_Chapter_5_-_Effects_Analysis.sflb.ashx)

<sup>4</sup> “Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem

Prepared Pursuant to the Sacramento-San Joaquin Delta Reform Act of 2009.” SWRCB, August 3, 2010. Page 4, second bullet. See

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/deltaflow/docs/final\\_rpt080310.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/final_rpt080310.pdf)

<sup>5</sup> See

[http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/Federal\\_Agency\\_Comments\\_on\\_Con\\_sultant\\_Administrative\\_Draft\\_EIR-EIS\\_7-18-13.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Federal_Agency_Comments_on_Con_sultant_Administrative_Draft_EIR-EIS_7-18-13.sflb.ashx) and

[http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library\\_-\\_Archived/Effects\\_Analysis\\_-\\_Fish\\_Agency\\_Red\\_Flag\\_Comments\\_and\\_Responses\\_4-25-12.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library_-_Archived/Effects_Analysis_-_Fish_Agency_Red_Flag_Comments_and_Responses_4-25-12.sflb.ashx) and

[http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/NMFS\\_Progress\\_Assessment\\_Regar\\_ding\\_the\\_BDCP\\_Administrative\\_Draft\\_4-11-13.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/NMFS_Progress_Assessment_Regar_ding_the_BDCP_Administrative_Draft_4-11-13.sflb.ashx) and

[http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/NMFS\\_Evaluation\\_of\\_Flow\\_Effects\\_o\\_n\\_Survival\\_-\\_BDCP\\_Admin\\_Draft\\_-\\_4-11-13.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/NMFS_Evaluation_of_Flow_Effects_o_n_Survival_-_BDCP_Admin_Draft_-_4-11-13.sflb.ashx) and

contribute to sea level rise directly in the Delta; this will help push X2 eastward into the Delta. BDCP analysis also shows that Sacramento River inflow will decrease directly from operation of the Twin Tunnels, and to some degree from lower upstream runoff (controlled by climate change and reservoir operation). The combined effect of continued high diversions from the Delta through BDCP (for the sake of “increased reliability”) and the effects of climate change and X2 movement eastward will have a deleterious effect on Sacramento Winter Run and Spring Run Chinook salmon.

All of the conservation measures in BDCP with the exception of CM1 (Twin Tunnels) are programmatic in nature. Funding is far from assured, as identified in a recent Legislative Analyst’s report. The LAO report identified that ecosystem restoration funding has not been secured and cost overruns are likely for land acquisition for habitat restoration. According to the report,<sup>6</sup>

*“If bond funds are not available in the near future and no additional funding sources are identified, some ecosystem restoration may not be funded, including the restoration actions needed before the tunnels begin operation. The BDCP states that the SWP and CVP will not pay additional costs or forgo water in the event of a funding shortfall.”*

The funding plan at Table 8-37 of Chapter 8 in BDCP confirms the LAO’s conclusion. The state and federal water contractors propose that they will only pay for 68.4 percent of BDCP’s costs. Nearly 95 percent of their financing commitment is solely to the Twin Tunnels project in Conservation Measure 1, and the rest of BDCP’s costs would be borne by taxpayers at large.

Because Sacramento River Winter Run and Spring Run Chinook salmon are already significantly depleted and BDCP will further reduce smolt survival, the Department of Fish and Wildlife cannot make a finding that the BDCP NCCP will lead to recovery of the species.

None of the alternatives considered in the BDCP Draft Environmental Impact Statement and Report would lead to the recovery of Sacramento River Winter Run and Spring Run Chinook salmon. None of the alternatives analyzed reduces the amount of water diverted upstream of or within the Delta. None of the alternatives analyzed considers meeting or moving toward meeting the State Water Resources’ Control Board’s Delta Outflow Criteria of 2010 that was specifically required by the legislature in 2009 “to inform planning decisions for the Delta Plan and the BDCP.”<sup>7</sup>

Therefore, findings approving a NCCP for the Bay-Delta Conservation Plan cannot be made pursuant to Section 2820 of the Fish and Game Code for the following reasons:

---

[http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/U\\_S\\_Fish\\_and\\_Wildlife\\_Service\\_Staff\\_BDCP\\_Progress\\_Assessment\\_4-11-13.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/U_S_Fish_and_Wildlife_Service_Staff_BDCP_Progress_Assessment_4-11-13.sflb.ashx)

<sup>6</sup> “Financing the Bay-Delta Conservation Plan”, Legislative Analyst’s Office, 2/12/14. p 8. See <http://www.lao.ca.gov/handouts/resources/2014/Financing-the-BDCP-02-12-14.pdf>

<sup>7</sup> Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem by the State Water Resources Control Board, August 3, 2010. See [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/deltaflow/docs/final\\_rpt080310.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/final_rpt080310.pdf)

1. BDCP does not contribute to recovery and would jeopardize the continued existence of Sacramento River winter-run and spring-run Chinook salmon because smolt survival through the Delta is reduced by the project. (Fish & Game Code Section 2081(c))
2. The concept of habitat restoration measures to offset impacts from increased water withdrawals from the Delta (increased “reliability”) is not supported by science, including but not limited to the 2010 SWRCB Delta Outflow Criteria. (Fish & Game Code Section 2081(b)(2))
3. The applicants do not assure funding and water supplies for habitat restoration measures. Habitat restoration measures will not be “shovel-ready” when the Twin Tunnels begin construction. (Fish & Game Code Section 2081(b)(4) and 2820(a)(10))
4. BDCP does not include analysis of an alternative or alternatives that would meet the recovery goals for Sacramento River Winter Run and Spring Run Chinook salmon. Such an analysis should at least take into consideration the State Water Resources Control Board’s 2010 Delta Outflow decision. (Fish & Game Code Section and 2820(e))

In summary, the Bay-Delta Conservation Plan does not meet the requirements of the California Endangered Species Act or the Natural Communities Conservation Plan Act to recover Sacramento River winter-run and spring-run Chinook salmon. The BDCP NCCP is to be submitted to support issuance of an incidental take permit by the Department of Fish and Wildlife. For all of the above reasons, we urge you to reject approval of the BDCP as an NCCP.

We thank you for your consideration of these points and look forward to hearing back from you on this important matter.

Sincerely,



Vivian Helliwell, Chairman  
 P.O. Box 307  
 Eureka, CA 95502  
[vhelliwell@mcn.org](mailto:vhelliwell@mcn.org)

cc: Honorable Wesley Chesbro, Chairman Joint Committee on Fisheries and Aquaculture  
 Kevin Shaffer, CDFW Program Manager, Anadromous Fisheries Branch

Attachments:

- 1- Anadromous Fish Restoration Program Figure 4: Estimated yearly adult natural production, and in river adult escapements of Winter Run Chinook salmon
- 2- Anadromous Fish Restoration Program Figure 5: Estimated yearly adult natural production, and in river adult escapements of Spring Run Chinook salmon in the Central Valley rivers and streams.
- 3- Central Valley Salmon Smolt Survival With and Without BDCP

# ATTACHMENT 1

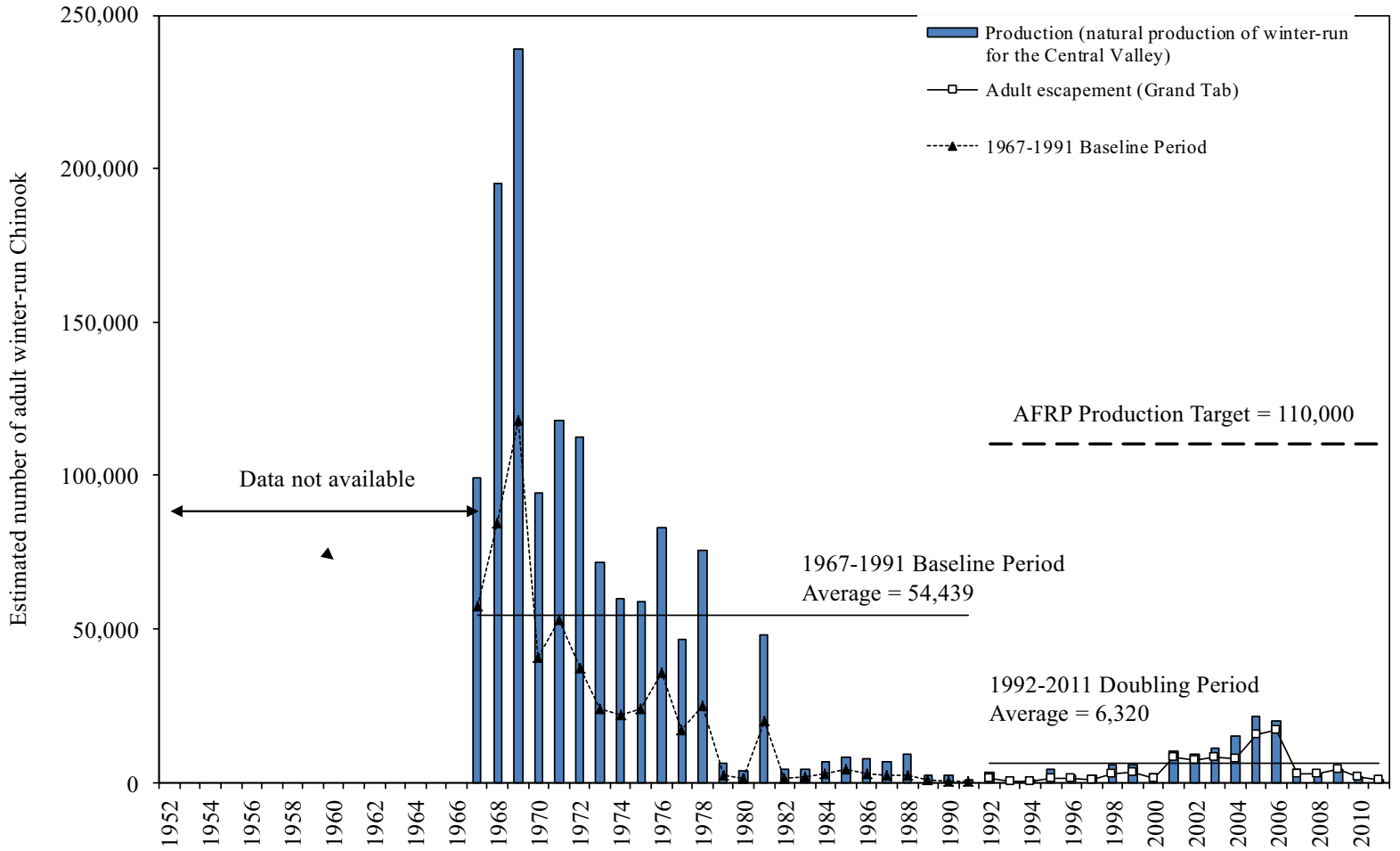


Figure 4. Estimated yearly adult natural production, and in river adult escapements of winter-run Chinook salmon in the Central Valley rivers and streams. 1992 - 2011 numbers are from CDFG Grand Tab (Apr 24, 2012). 1967-1991 Baseline Period numbers are from Mills and Fisher (CDFG, 1994).

## ATTACHMENT 2

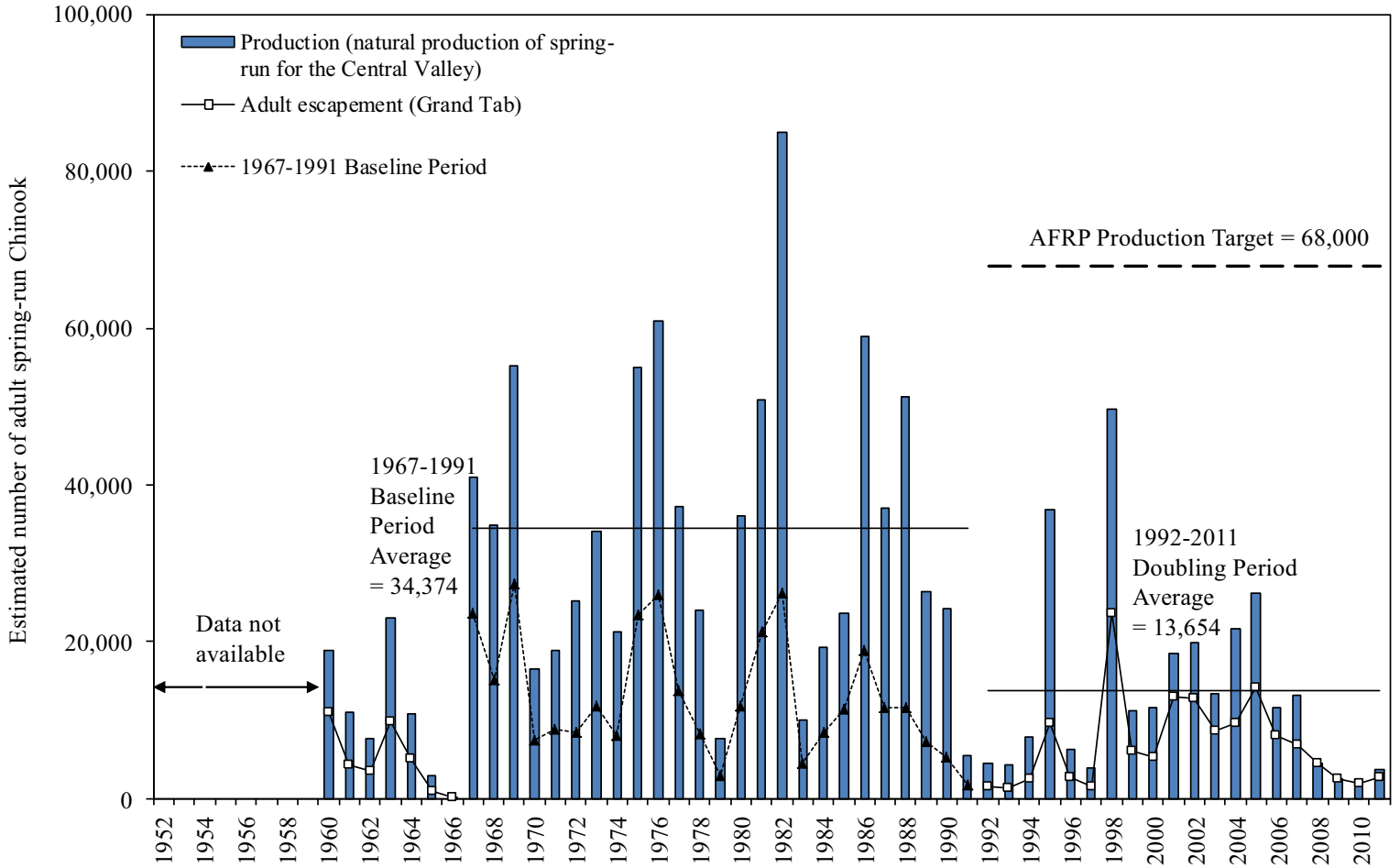


Figure 5. Estimated yearly adult natural production, and in-river adult escapements of spring-run Chinook salmon in the Central Valley rivers and streams. 1960 - 1966 and 1992 - 2011 numbers are from CDFG Grand Tab (Apr 24, 2012). 1967-1991 Baseline Period number are from Mills and Fisher (CDFG, 1994).

## ATTACHMENT 3

<b>Percentage Change in Salmon Survival Rates with and without BDCP</b>							
<b>Salmon Run/Statistic</b>	<b>BDCP Chapter 5 Source Table</b>	<b>Baseline Conditions Now (EBC1)</b>	<b>Baseline Conditions in 2060 Without BDCP (EBC2-LLT)</b>	<b>Twin Tunnels Operation in 2060 (ESO-LLT)</b>	<b>Between Now and Without Twin Tunnels by 2060</b>	<b>Between Now and With Twin Tunnels by 2060</b>	<b>In 2060 With Twin Tunnels versus Without</b>
Winter-Run	5.5.3-10						
Average		34.7%	34.2%	33.2%	-1.4%	-4.3%	-2.9%
Median		32.4%	31.8%	28.7%	-1.9%	-11.4%	-9.7%
Spring-Run	5.5.4-5						
Average		31.1%	30.3%	29.1%	-2.6%	-6.4%	-4.0%
Median		27.0%	26.4%	25.1%	-2.2%	-7.0%	-4.9%
Sac River Fall Run	5.5.5-8						
Average		25.7%	24.7%	24.4%	-3.9%	-5.1%	-1.2%
Median		22.8%	21.6%	22.4%	-5.3%	-1.8%	3.7%
Late Fall-Run	5.5.5-10						
Average		23.1%	22.9%	23.0%	-0.9%	-0.4%	0.4%
Median		20.1%	20.6%	21.3%	2.5%	6.0%	3.4%
San Joaquin River Fall-Run	5.5.5-18						
Average		13.7%	13.5%	13.2%	-1.5%	-3.6%	-2.2%
Median		10.7%	10.3%	12.1%	-3.7%	13.1%	17.5%
Mokelumne River Fall-Run	5.5.5-20						
Average		16.0%	15.9%	16.3%	-0.6%	1.9%	2.5%
Median		15.2%	14.0%	14.1%	-7.9%	-7.2%	0.7%

Source: Chapter 5, Effects Analysis, Sections 5.5.3 through 5.5.6, Bay Delta Conservation Plan, 2013.