

**From:** Sue Walde <walde@isd.us.com>  
**Sent:** Thursday, July 03, 2014 3:32 PM  
**To:** BDCP.comments@noaa.gov  
**Subject:** ISD Comment letter  
**Attachments:** Comments on the BDCP DEIR-DEIS.pdf

On behalf of President David Huerta and the Board of Ironhouse Sanitary District, I am submitting the District Comment letter.

Respectfully,

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Ryan Wulff, NMFS  
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Sacramento, CA 95814

Email [BDCP.Comments@noaa.gov](mailto:BDCP.Comments@noaa.gov)

**SUBJECT: Comments on the BDCP DEIR/DEIS**

Dear Mr. Wulff:

Ironhouse Sanitary District (ISD) is pleased to submit the following comments on the Draft Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) for the Bay Delta Conservation Plan (BDCP).

**Comment 1:** Alternatives development in Chapter 3 of the Bay Delta Conservation Plan Draft EIR/EIS is inadequate, and failed to consider a full range of alternatives. A full range of statewide alternatives such as the increased use of recycled water, implementation of desalinization facilities, water conservation methods, and modified farming/cropping practices to reduce reliance on surface water supplies should have been included and analyzed in the range of alternatives developed.

**Comment 2:** In the Bay Delta Conservation Plan Draft EIR/EIS (Chapter 8, page 437, line 33), for preferred Alternative 4, it is stated "...the percent of days exceeding EC (electrical conductivity) objectives and percent of days out of compliance would *increase* at..., San Joaquin River at Jersey Point...." ISD discharges treated effluent *year-round* just downstream of Jersey Point in compliance with NPDES permit No. CA0085260 issued by the Central Valley Regional Water Quality Control Board. In 2010, ISD spent \$68 million to upgrade its wastewater treatment facilities to allow discharge of treated effluent into the San Joaquin River. The EIR/EIS failed to address the impacts higher electrical conductivity levels in the Delta will have on ISD's (and other entities in the Delta) ability to discharge legally permitted treated effluent into the San Joaquin River and other Delta locations.

**Comment 3:** Chapter 8, Water Quality, of the Bay Delta Conservation Plan Draft EIR/EIS fails to adequately address the water quality impacts of the Bay Delta Conservation Plan. Potable water for the majority of ISD customers comes from the Delta surface water supplies. The proposed project will adversely impact Delta water quality in the western Delta as well as other areas of the Delta. The adverse impact to water quality (salinity increases) will cause ISD's customers to install water conditioning

units to mitigate for drinking water supply sources higher in salinity (electrical conductivity), which will result in wastewater higher in salinity. These conditioning units, which typically discharge brine during recharge, will increase the influent salinity to the wastewater treatment plant, and hence the effluent salinity, which could have a major impact on ISD's ability to discharge its legally permitted treated effluent into the San Joaquin River.

In addition, as ISD currently recycles one half of its treated effluent on its agricultural fields, increased salinity in effluent water will adversely impact ISD's ability to use its effluent as irrigation water for its fields and crops. ISD is also currently producing a Recycled Water Feasibility study to further recycle its treated effluent for irrigation throughout ISD's service area, for industrial process and cooling waters, as well as for future indirect potable reuse opportunities. Increased electrical conductivity in ISD's treated effluent will adversely limit ISD's ability to recycle its treated water to irrigate crops, to assist with industrial processes, and possibly to use its water for high and better uses like indirect potable reuse.

**Comment 4:** Increased salinity in the Delta at Jersey Point will adversely impact ISD's ability to utilize its significant water rights on both its mainland and island properties for purposes of irrigation of crops as well as for a water supply for its significant animal resources (2,400+/- head of cattle) on Jersey Island. ISD believes the increase in electrical conductivity in the San Joaquin River, resulting from implementing the preferred alternative in the BDCP will increase the salinity in its groundwater as well as its irrigation water and reduce ISD's ability to farm its ground and recycle its water.

**Comment 5:** The California Environmental Quality Act (CEQA) provides that the project description for the DEIR/DEIS for the BDCP must include all relevant parts of the BDCP, **including reasonably foreseeable future expansion or other activities that are part of the BDCP** (Emphasis added.) *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 C3d 376. CEQA also requires that the lead agency, in this case the BDCP Proponents, may not split the BDCP, a single large project, into small pieces so as to avoid environmental review of the entire project. *Orinda Ass'n v Board of Supervisors* (1986) 182 CA 3d 1145, 1171. The DEIR/DEIS fails to meet this standard and therefore is inadequate because the project description does not include nor does the DEIR/DEIS analyze the 2014 Drought Emergency Temporary Rock Barriers, Steamboat and Sutter Sloughs and False River, California, DWR March 2014, Sheets 1 – 15 (“Barriers”).

These Barriers are both reasonably foreseeable and part of the BDCP for several reasons, including: (1) during the 1976-77 drought, rock barriers were placed in several Delta channels, including Sutter Slough and Dutch Slough,<sup>1</sup> and (2) these barriers are addressed in DWR, Delta Drought Emergency Barriers, Administrative Draft, April 2009. Even if the Barriers are not explicitly included in the Project Description of the BDCP

<sup>1</sup> Protecting Water Supplies and Delta Water Quality with Emergency Drought Barriers, DWR, March 2014, p.1.

DEIR/DEIS, they are *de facto* an integral part of the BDCP. As the BDCP DEIR/DEIS acknowledges in Chapter 8 that increases in salinity at multiple locations within the Delta will occur as part of the project, the BDCP DEIR/DEIS must analyze the need for rock barriers as part of the project. Although sometimes described with the adjectives “temporary” or “emergency,” unfortunately these barriers are likely to become, especially in the western Delta, permanent, routinely used defenses against salinity intrusion in response to implementation of the BDCP and California’s cycle of recurring droughts. CEQA demands that the DEIR/DEIS analyze the Barriers because they are both reasonably foreseeable and activities that are part of the BDCP. To allow the Barriers to be analyzed separately in other CEQA documents constitutes impermissible piece-mealing.<sup>2</sup>

To state it in concrete terms, the authors of the BDCP DEIR/DEIS must revise Chapter 8: Water Quality in order to analyze the short and long term impacts on salinity in the western Delta of the installation of the Barriers. In particular, the BDCP DEIR/DEIS authors must analyze the impacts of the installation of barriers as a result of the implementation of the BDCP as well as how barrier installations in response to future droughts would change once the BDCP is implemented.

**Comment 6:** The DEIR/DEIS does not adequately analyze, in a focused, specific and coherent manner, the impact of the salinity intrusion which will be caused by the BDCP on the riparian and appropriative water rights held by various entities in the western Delta. These entities include but are not limited to ISD.

ISD owns lands located along the west bank of Marsh Creek in Contra Costa County and the accompanying riparian right to divert water from Marsh Creek. The water right ID is S018558, Face Value 68.75 acre-ft/year.

ISD is also the owner of Jersey Island and the holder of a riparian right to divert water from the San Joaquin and False Rivers, Piper, Taylor and Dutch Sloughs. The water right ID is S023983, Face Value 16,619 acre-ft/year.

The DEIR/DEIS presents several discrete, disparate discussions on the subject of salinity intrusion in the western Delta. For example, Appendix 3E discusses Potential Seismic and Climate Change Risks to SWP/CVP Water Supplies. In Appendix page 3E-3 in Section 3E.2.2, the DEIR/DEIS discusses Salinity/Seawater Intrusion. In Chapter 8, Water Quality, the DEIR/DEIS contains numerous references to EC (electrical conductivity) objectives as measured at Jersey Point. Chapter 8 at pages 8-562 and 563 discusses NEPA Effects and presents CEQA conclusions at pages 8-563 and 564.

However, as previously noted the DEIR/DEIS does not adequately analyze the impact of the salinity intrusion caused by the BDCP on the riparian and appropriative water rights held by various entities in the western Delta.

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<sup>2</sup> A lead agency may not split a single large project into small pieces so as to avoid environmental review of the entire project. *Orinda Ass'n v Board of Supervisors* (1986) 182 CA 3d 1145, 1171.

**Comment 7:** Figure 14-1 Overview of Agricultural Type contains an error. The purple designation for Field, Truck, Nursery, and Berry Crops shown on Jersey Island is incorrect and should be removed.

**Comment 8:** At page 29-20, lines 12 through 21, the DEIR/DEIS states:

#### **Resilience/Adaptation**

The BDCP alternatives, with the exception of Alternative 9, would not add resiliency to existing levees; levee fragility would remain high and increase with time as in the No Action/No Project Alternative. However, BDCP Alternatives 1A-8 would provide additional adaptability to catastrophic failure of Delta levees. By providing an alternate conveyance route around the Delta, Alternatives 1A-8 provide a mechanism to continue making water deliveries to SWP/CVP contractors and local and in-Delta water users with conveyance interties even if the Delta were temporarily disrupted by a catastrophic levee failure. Alternative 9 adds additional resiliency to the Delta by strengthening and reinforcing levees critical to the through-Delta conveyance route, however, this alternative does not increase the adaptive capacity of the system.

ISD does not dispute this statement. However, the DEIR/DEIS should, but unfortunately does not, analyze the impacts of “providing an alternate conveyance route around the Delta” on the availability and willingness of the state legislature and State Department of Water Resources (DWR) to provide funding to local reclamation districts for ongoing levee repair and maintenance. In other words, the availability of an alternative conveyance route around the Delta could potentially serve as a disincentive for DWR’s funding of levee repair and maintenance because “worst case,” in the event of levee failure and salinity intrusion into the Delta, there is an alternative means to route fresh water around rather than through the Delta.

**Comment 9:** The DEIR/DEIS in Figure 20-4: Solid Waste Facilities shows that a “Disposal” facility is located in the center of Jersey Island. The term “Disposal” facility is not defined, nor is it discussed in the text of Chapter 20 – Public Services and Utilities. ISD believes this reference to “solid waste disposal facility” is to an area on Jersey Island where ISD use to receive and store certain salvaged building materials delivered by local contractors until RD 830 reuses these materials for Jersey Island levee repair. The symbol for “disposal” should be removed from Jersey Island in Figure 20-4.

**Comment 10:** The DEIR/DEIS Glossary in Chapter 35, page 35-29 defines the term Restoration Opportunity Area (ROA). Figures 24-3, -5 and -6 show a Restoration Opportunity Area on the former Emerson, Gilbert & Burroughs properties and on the eastern fringe of the ISD Mainland property along the west bank of Marsh Creek. Figure 26-1 also shows the West Delta Restoration Area (ROA) which again includes the eastern fringe of the ISD Mainland property along the west bank of Marsh Creek. Please provide

This concludes ISD's comments on the DEIR/DEIS. Please contact Tom Williams, General Manager of ISD, if you have any questions. Thank you for your attention to this letter.

Sincerely,



David Huerta, President,  
Ironhouse Sanitary District Board of Directors

cc: ISD Board of Directors  
Honorable Supervisor Mary N. Piepho, Board of Supervisors, District III  
Honorable Jim Frazier, California State Assembly, 11<sup>th</sup> District  
Honorable John Garamendi, Member House of Representatives, 3<sup>rd</sup> District  
Honorable Senator Mark DeSaulnier 7<sup>th</sup> District  
Honorable Jerry McNerney, Member House of Representatives, 9<sup>th</sup> District  
Mayor, City of Oakley  
Mayor, City of Brentwood  
Mayor, City of Stockton  
Mayor, City of Antioch  
Town of Discovery Bay  
Byron Bethany Irrigation District  
Delta Protection Commission  
Contra Costa Water District  
Diablo Water District

**From:** Gerald Meral <jerrymeral@gmail.com>  
**Sent:** Friday, July 04, 2014 9:27 PM  
**To:** BDCP.Comments@noaa.gov  
**Cc:** Karla Nemeth; Zippin, David; Greg Thomas; Marc Ebbin  
**Subject:** comment on Chapter 8  
**Attachments:** comment on Chapter 8.docx

The Natural Heritage Institute recommends that the attached addition to Chapter 8 of BDCP be included in the final text.

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Jerry Meral, Ph.D.  
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#### 8.3.5.3.5. State General Fund

Traditionally the state general fund has not been used to pay for habitat restoration or for ecologically necessary flows. But, as described above, there has been extensive use of general obligation bonds for these purposes, and they will continue to be used in the future.

General obligation bonds are repaid using the state's general fund to pay for bond principal and interest. Another way to use the general fund would be to pay for habitat and flows directly from the general fund, thus avoiding bond interest payments. It would be possible to appropriate funds directly from the general fund to the Department of Fish and Wildlife on an annual basis to pay for the state share of habitat or flows necessary for individual fish species. If this were done, it would have to be on an annual basis, since no legislature can require appropriations from future legislatures.

The administration and legislature may consider this payment method as a full or partial alternative to the general obligation bonds described above.