



BDCP1663.

July 28, 2014

Secretary Jewell
United States Department of the Interior
Bureau of Reclamation
Mid-Pacific Region, Bay-Delta Office
801 I Street, Suite 140
Sacramento, CA 95814-2536

Secretary John Laird
California Natural Resources Agency
1416 Ninth Street, Suite 1311
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**Re: Comments of Yolo Basin Foundation (YBF)
on the Public Draft EIR/EIS (EIR/S) of the Bay Delta Conservation Plan (BDCP)**

Dear Secretary Jewell and Secretary Laird:

This letter provides comments of the Yolo Basin Foundation (YBF) and its Board of Directors on the BDCP EIR/EIS Public Draft. The Yolo Basin Foundation (<http://www.yolobasin.org>) is a non-profit organization dedicated to the appreciation and stewardship of wetlands and wildlife through education and innovative partnerships. YBF was founded in 1990 as a community-based organization to assist in the establishment of the Yolo Bypass Wildlife Area. We are universally credited with being the driving force behind the partnership that created the Yolo Bypass Wildlife Area (YBWA). Our most significant partnership is with the California Department of Fish & Wildlife, who owns and manages the YBWA. Yolo Basin Foundation continues as the communication link between many people and organizations involved in creating wetlands and managing the land in the Yolo Bypass. In recognition of its role as an informed communication and relationship facilitator, the Legislature specifically designated an ongoing governance role (non-voting) for YBF in its Delta Conservancy enabling legislation.

YBF's Comments are intended primarily to correct deficiencies, defects and omissions in the Public Draft that will improve its final version. YBF is particularly concerned to point BDCP consultants and drafters to publically available information developed over many years that may have been overlooked or dismissed. YBF understands that the BDCP is a programmatic level document and that the Resources Agency has committed to involving stakeholders including YBF in the development of project specific plans for actions described in BDCP and specifically Conservation Measure 2, Yolo Bypass Fisheries Enhancement (CM2). Nevertheless, YBF believes that an accurate and informed BDCP programmatic document that fully considers locally derived bottom-up perspectives is an important element of a successful conclusion for the BDCP process.

Thank you for consideration of our views.

Sincerely and respectfully,


PETER BONTEDELLI
Board Chair


ROBIN KULAKOW
Executive Director

**Comments of Yolo Basin Foundation (YBF)
on the Public Draft of the Bay Delta Conservation Plan (BDCP) and the
Public Draft of the BDCP EIR/S**

The BDCP EIR/S is a massive document that is difficult to wade through without an army of consultants and analysts. We have done our best to make Comments on the EIR/S, with references to page and line numbers. Those comments can be found beginning on 23.

Pages 2-22 of this document contain the Comments YBF is submitting on the BDCP Public Draft. The substance of the BDCP Comments pertain to both documents (BDCP and BDCP EIR/S). However, the chapters, pages, and line numbers in the EIR/S are obviously different. Due to lack of time and the enormity of the task we were not able to provide the different EIR/S page and line number references for the comments on pages 2 through 22. That task will have to wait for another time.

Please refer to page 23 for comments on the EIR/S that are page-specific to that document. Additionally we are including by reference the Yolo County comments on the BDCP EIR/S that pertain specifically to the Yolo Bypass Wildlife Area.

Overview of YBF Comments

Review of the thousands of pages of the BDCP has been challenging. Given the volume of BDCP material, the availability of comprehensive Yolo Bypass materials, and the high profile of the Yolo Bypass Wildlife Area, we are puzzled by the superficial description of the habitat values of the Yolo Bypass in general and the Yolo Bypass Wildlife Area (YBWA) in particular, especially in Chapter 2, “*Existing Ecological Conditions.*” Chapter 3 *Conservation Strategy* is riddled with inaccuracies, errors, confusion and ambiguity, beginning with the problem that the language describing protected lands in Chapter 3 is ambiguous and very confusing. The effects analysis in Chapter 5, “*Effects Analysis,*” is disappointingly and unacceptably vague when the Yolo County agriculture model, Yolo Bypass Wildlife Area Land Management Plan, and waterfowl analysis all provide enough supporting information for a more thorough analysis.

The programmatic level mapping of modeled habitat on conservation lands contains significant errors that could have been more accurate had the readily available local sources published by YBF and Yolo County been consulted (For example, Chapter 3, part 2 maps on modeled habitat on conservation lands). The apparently systematic omission, dismissal and exclusion of the YBF and Yolo County materials would be an abuse of discretion if perpetuated in the final BDCP document. While we concur with much of the programmatic description of CM2, we are concerned that the failures which we describe in more detail below will undercut the efficacy of the CM2 proposal.

YBF comments will focus on descriptions and actions that will directly impact the Yolo Bypass Wildlife Area in Chapters 2, 3 and 5. YBF’s comments on specific text in the public draft of BDCP should be read to apply to all substantially similar text appearing in the document. YBF reserves the right to provide additional comments on BDCP as work on it continues.

YBF supports the actions described in the February 25, 2014 letter (attached) from Secretary Laird to the Yolo County Board of Supervisors that commits to flexibility in development of the project level actions to implement CM2 to protect existing land uses. Significantly this letter recognizes that late season flooding is of the greatest concern to Yolo County, which YBF agrees with. The programmatic document should explicitly acknowledge this approach and commitment to the structuring of subsequent project-level activities with full input from local stakeholders.

The Yolo County draft BDCP comment letter is available on the website of the Yolo County Board of Supervisors and was presented in draft form to the Board on July 15, 2014. Please refer to Item 43:http://yoloagenda.yolocounty.org/agenda_publish.cfm?dsp=ag&seq=293 The draft BDCP letter is Attachment B on the website. By reference please include the county letter and attachments including the February 25th letter from Resources Secretary Laird and the Draft Technical Memorandum on Potential Fish Benefits of Yolo Bypass Fish Habitat Proposals.

Yolo Basin Foundation contribution to stakeholder outreach and engagement for BDCP

As a stakeholder with considerable experience in the evolution of land uses in the Yolo Bypass, especially the 16,800-acre Yolo Bypass Wildlife Area, YBF has worked hard to furnish BDCP consultants and agencies with information and experiential resources to assist in informed, reasoned decision-making. YBF appreciates the effort made by the Resources Agency to involve Yolo Bypass stakeholders in the development of Conservation Measure 2, Yolo Bypass Fisheries Enhancement (CM2) through the Yolo Bypass Fisheries Enhancement Planning Team (YBFEP). YBF has participated fully in the forum created by the YBFEP. In addition YBF has enhanced stakeholder communication by facilitating numerous Yolo Bypass Working Group¹ meetings that provided an opportunity for dialogue with BDCP staff and the entire Yolo Bypass stakeholder community. YBF has also provided an additional forum to provide additional discussion for agency staff and a wide-ranging group of stakeholders by co-sponsoring the Lower Yolo Bypass Planning Forum with the Delta Protection Commission. YBF has also contributed in furthering stakeholder communication as a member of the Delta Conservancy Board of Directors and the Yolo County Water Resources Association Technical Advisory Committee. YBF board and staff have participated in countless field trips to the Yolo Bypass Wildlife Area and other parts of the Yolo Bypass to assist elected officials, agency staff and water contractors in gaining an on-the-ground understanding of functions of the Bypass and how flood protection, agriculture, managed wetlands and public use are successfully co-existing under current operations.

YBF has also provided valuable information to agency staff and consultants by making the Yolo Bypass Management Strategy (the Strategy) and the Yolo Bypass Wildlife Area Land Management Plan (the Management Plan) easily available at www.yolobasin.org. These documents, developed through inclusive stakeholder processes over many years, address many of issues that BDCP also attempts to address in CM2. They are incorporated by reference in these Comments. The BDCP must take them into account in describing and assessing existing and proposed management regime for *managed* wetlands, which for purposes of the BDCP is defined as a natural community.

¹ The Yolo Basin Foundation initiated the Yolo Bypass Working Group in 1998 under a CALFED Ecosystem Restoration Grant. Participants include landowners (farmers, ranchers, duck hunters), Department of Water Resources, Central Valley Flood Protection Board, CA Department of Fish and Wildlife, US Fish and Wildlife Service, Natural Resources Conservation Service, Dixon and Yolo Resource Conservation Districts, Sacramento Area Flood Control Agency, Yolo County, City of West Sacramento, City of Davis, California Waterfowl Association, Ducks Unlimited, Sacramento Yolo Mosquito Vector Control District, American Rivers and others. The 2000 Governor's Environmental and Economic Leadership Award was presented to YBF in recognition of the Yolo Bypass Working Group for outstanding contributions in the area of environmental restoration and rehabilitation.

**YBF and Yolo County collaborate to address
the lack of base line data about land use in the Yolo Bypass**

Early in the development of the BDCP, YBF voiced concern that plans were being formulated without basic baseline information on existing land uses. We worked with Yolo County staff and the Yolo County Board of Supervisors to address this deficiency. As far as we know this is the first time in the many years of Delta planning that local government and stakeholders pro-actively took on the task of developing, funding and carrying out independent studies with the goal of contributing data and ideas for mutually acceptable outcomes to address Delta issues.

Yolo County is doing an excellent job of providing impressive levels of technical information on important Yolo Bypass stakeholder issues including an agriculture economic assessment tool, infrastructure documentation and proposed solutions to improve drainage and water supply, a waterfowl energetics model, an independent review of fisheries studies, and hydraulic model review and development. YBF worked closely with the County on development of the studies' scope of work and in acquiring data through communication with Yolo Bypass farmers, wetland managers and conservation organizations to assist the study teams in collecting on the ground information from the people who know the Bypass best. The studies make a unique pro-active contribution to the development the data that should inform the completed BDCP. These documents are available on the Delta e-library webpage on the Yolo County website. From the numerous errors and omissions detailed below, it is clear that the BDCP programmatic document fails to take them into account.

**Mitigation of effects of CM2 on existing land uses including managed wetlands
in the Yolo Bypass is missing**

YBF recognizes that the BDCP is a programmatic document. Mitigation of CM2 effects, is not described in this draft of the BDCP, although verbally committed to at meetings by responsible state and federal officials. The BDCP needs to recognize that the existing managed wetlands and their management regimes, and cultivated lands, are currently providing habitat for covered species. Mitigation of impacts to these lands, including existing management practices and regimes, must be specifically and formally acknowledged in the final BDCP document. This includes specifically impacts on existing management practices and routines for managed wetlands.

There may be an implied assumption in **Objective MWNC1.1 (Page 3.4-100, Table 3.4.3-5)** that impacts to existing managed wetlands in the Yolo Bypass can be mitigated for by creating new managed wetlands outside the Bypass. The same assumption may be implied for mitigation due to loss of cultivated land in the Bypass. YBF is concerned that there is not enough available acreage either in the plan area or adjacent to it to provide for the large scale mitigation (i.e. creation of new wetlands or protection of cultivated land that will be needed) Therefore, it is important to avoid the situation where existing cultivated land is taken out of production in order to create managed wetlands for mitigation purposes. We all lose if this conflict (trading off existing cultivated land for new managed wetlands) remains unresolved in implementation of CM2, because cultivated land is often habitat for protected species.

There must be a clear set of goals and objectives in the BDCP that commits to **minimizing CM2 impacts to current land uses on existing conservation lands and managed wetlands in the Yolo Bypass** including managed wetlands, grasslands, cultivated land, non-tidal perennial aquatic habitats and public use. It is equally important that impacts to managed wetlands in the Yolo Bypass not be mitigated by purchasing easements on land already owned in fee by the CDFW. This tactic would result in a significant net loss of conservation lands and especially managed wetlands in the Yolo Bypass Wildlife Area.

YBF suggests the following language for two goals and one objective for CM2:

***Goal:** Minimize impacts to managed wetlands and cultivated lands in the Yolo Bypass so as to reduce the need for mitigation in or adjacent to the plan area.*

***Goal:** No degradation of terrestrial conditions in the Yolo Bypass for covered species and other wetland dependent species.*

***Objective:** Implement covered activities so as not to result in degradation of current conditions for covered terrestrial species and other wetland dependent species, and not to result in net loss of managed wetlands.*

Incomplete or Incorrect Description of the Yolo Bypass and Yolo Bypass Wildlife Area.

Chapter 2 – Existing Ecological Conditions;

Comment: Descriptions of managed wetlands in Chapter 5 are inconsistent with descriptions on Pages 2-18, 2-80, 2-95. The description of the managed wetlands in the Yolo Bypass does not adequately describe the multiple habitat benefits. All descriptions of managed wetlands should include the multiple species that benefit from them. Refer to:

The Yolo Bypass Wildlife Area Wildlife Area Land Management Plan (June 2008) Section 5.2.1 Biological Elements states that there are opportunities to manage for nine sub-elements of species guilds that include waterfowl, shorebirds and wading birds, upland game species, raptors, cavity-nesting birds, neo-tropical birds, other water bird species and special-status species. The management is based on Moist Soil Best Management Practices.

Chapter 3 is riddled with errors relating to the Yolo Bypass and the Yolo Bypass Wildlife Area that can be avoided by referring to and utilizing existing management documents and studies.

Chapter 3 *Conservation Strategies* is substantially deficient in its consideration of the Yolo Bypass and the Yolo Bypass Wildlife Area. The chapter's treatment of these lands and land uses – both descriptive and prescriptive -- appears to be built around a pre-conceived solution, large-scale modification of the Fremont Weir, in search of problem that may not exist if the facts are objectively laid out and considered. Chapter 3 of the final document should accurately reflect existing studies, programs, management regimes their legal and statutory bases. The Public Draft does not.

BDCP species accounts document the importance of the combination of rice fields and wetlands to the giant garter snake and other covered species, as well as migratory waterfowl. The state and federal government, acting pursuant to international treaties and statutory programs of equal dignity and authority with the Endangered Species Act (ESA) have, through the Central Valley Joint Venture and other efforts, spent millions of dollars creating wetlands over the past decade or more in the Yolo Bypass to comply with these requirements. YBF is concerned about the potential impacts of CM2 on existing Yolo Bypass wetlands and therefore important terrestrial species habitat, including giant garter snake and migratory waterfowl habitat. These issues are wholly unaddressed in the Public Draft document. The failure to address them in the final document would be an abuse of discretion.

Yolo Bypass is both a Terrestrial Corridor and an Aquatic Corridor whose unique character must recognized and accounted for

The Public Draft fails to acknowledge the role of the Yolo Bypass and Yolo Bypass Wildlife Area as important corridors for both terrestrial and aquatic species. This is a pervasive error in the BDCP document. Examples include:

(1) Page 3.2-25 Table 3.2-3 Landscape Linkages and the following section Page 3.3-8, Objective 1.3.1 and Page 3.3-46 3.3.5.3, lines 24-27, Fish and Wildlife Movement

Comment: The Yolo Bypass provides for linkages for managed wetlands, alkali seasonal wetlands, grasslands, and riparian habitat that provide habitat for covered terrestrial species including giant garter snake, Swainson's hawk, least Bell's vireo, tri-colored blackbirds and white-tailed kites. It also provides a linkage with Cache Creek, Willow Slough Bypass, and Putah Creek.

Question: Why is the Yolo Bypass categorized as solely an aquatic corridor in Table 3.2-3? It would appear that this characterization is at odds with all of the facts.

(2) Page 3.3-8, Objective 1.3.1 states as an objective:

Protect and improve habitat linkages that allow terrestrial covered and other native species to move between protected habitats within and adjacent to the Plan Area.

Question: Why isn't the Yolo Bypass and the YBWA explicitly acknowledged as a suitable place for Objective 1.3.1?

(3) Chapter 3, pages 3.2-17-18 states:

Section 3.2.4.2.1 Reserve System Assembly Principles, page 3.2-x, Lines 20-21

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.

Page 3.2-18, lines 18-19

Juxtapose restored habitats with existing habitats to improve and maintain habitat corridors and connectivity among covered species habitats.

Question: Why isn't the Yolo Bypass and the YBWA explicitly acknowledged as meeting these principles and objectives?

(4) Page 3.3-46 3.3.5.3, lines 24-27, Fish and Wildlife Movement states:

Goal L3 and its associated objectives address protection of fish and wildlife movement within the reserve system. This goal is met for wildlife through acquisition of lands to assemble an interconnected reserve system (CM3 Natural Communities Protection and Restoration) and through enhancement of acquired lands to increase the ability for wildlife to move through these areas.

Question: Why aren't existing conservation lands such as the Yolo Bypass Wildlife Area explicitly included in the interconnected reserve system for Goal L3?

Definition of reserves vs wildlife areas is unclear

Chapter 3 pages 3.2-13-14 Section 3.2.4 Terrestrial Species..., lines 4,5 and 1,2,3 states:

The terrestrial resources component of the conservation strategy comprises a comprehensive set of actions that protects existing functioning natural communities, restores new areas of specific natural communities, enhances the function of degraded natural communities for covered species habitat, establishes long-term management of geographically distributed reserves, and establishes monitoring and adaptive management to measure and ensure success of the conservation strategy.

Question: How does the Yolo Bypass Wildlife Area (YBWA) fit into the “geographically distributed reserves” system described in line 2?

Question How would O&M on “geographically distributed reserve” lands be funded?

Question How would O&M on “geographically distributed reserves” be coordinated with existing conservation lands including the YBWA?

Answers to these questions should be provided in the final programmatic BDCP document; a failure to do so could undermine project-specific implementation of mitigation measures by affecting timing, extent and inter-relationship of the projects and the existing land uses affected by CM2.

Page 3.2-20 Table 3.2-2 line 12

Question: Is the Yolo Bypass Wildlife Area classified as a Type 2 Conservation Land?

This should be clarified.

Goals and Objectives for managed wetlands are weak and unclear

A. General Comment The Yolo Bypass is the primary focus of CM2. It is already the subject of several comprehensive management plans developed under international treaty and under federal and state laws. The BDCP programmatic document fails to address the following questions, which must be answered in any final document.

Question: How do the goals/objectives for managed wetlands, and impacts on existing management regimes, affect goals/objectives of the Central Valley Joint Venture Management Plan?

Question: How do the goals/objectives for managed wetlands, and impacts on existing management regimes, affect goals/objectives of the Yolo Bypass Wildlife Area Land Management Plan?

Question: How do the goals/objectives for managed wetlands, and impacts on existing management regimes, affect goals/objectives of the North American Wetlands Conservation Act and the long term commitments made by the grantees and cooperators who received millions of dollars in NAWCA grants to create managed wetlands on the Yolo Bypass Wildlife Area and on thousands of acres of privately owned land?

Question: How do the goals/objectives for managed wetlands, and impacts on existing management regimes, affect goals/objectives of the thousands of acres of privately owned land on which millions of dollars in funding through NRCS and USFWS wetlands programs were used?

B. Specific Comments related to weak and unclear goals and objectives statements

YBF's comments regarding weak and unclear goals and objectives, and the facts underpinning goals and objectives statements, applies to numerous sections throughout Chapter 3 including

(1) Page 3.4-100, Table 3.4.3-5.

Examples of Restoration Projects Implemented in and around the Plan Area, Sorted by Primary Natural Community, which states:

Objective MWNC1.1: Protect and enhance 8,100 acres of managed wetland, at least 1,500 acres of which are in the Grizzly Island Marsh Complex.

Question: What does this objective mean? Where would the 6600 acres that are not located in the Grizzly Island Marsh Complex be protected and enhanced? Are any of these 6600 acres of managed wetlands meant to mitigate for losses to managed wetlands in the Yolo Bypass?

Question: Does the BDCP consider Grizzly Island, located in the brackish waters of the San Pablo Bay, to be equivalent to freshwater managed wetlands in the Yolo Bypass and the YBWA?

(2) Page 3.3-51 Table 3.3-2 Expected Extent of Conserved Natural Communities in Plan Area with BDCP Implementation

Managed wetlands protected under BDCP	8100 acres,
restored by BDCP	500 acres,
Total conserved by BDCP	8600 acres.

Question: Do these acreages include wetlands restored by BDCP to mitigate for impacts to managed wetlands in the Yolo Bypass, including the YBWA as a result of CM2 implementation?

(3) Page 3.3-13 states:

Goal MWNC1: Managed wetland that is managed and enhanced to provide suitable

habitat conditions for covered species and native biodiversity.

Comment: The same questions apply to the managed wetlands goals/objects on the following pages starting at 3.3-83 through 3.3-290

Pages 3.3-83-84, Section 3.3.6.9 Managed Wetlands state:

Goal L2: Ecological processes and conditions that sustain and reestablish natural communities and native species.

- Objective L2.6: Increase native species diversity and relative cover of native plant species, and reduce the introduction and proliferation of nonnative species.

Goal MWNC1: Managed wetland that is managed and enhanced to provide suitable habitat conditions for covered species.

- Objective MWNC1.1: Protect and enhance 8,100 acres of managed wetland, at least 1,500 acres of which are in the Grizzly Island Marsh Complex.

Comment: This is a particularly weak set of goals and objectives considering that there are thousands of acres of existing managed wetlands that benefit covered species and that will be subject to losses as the result of CM2 activities. The weakness is further compounded by the fact that this same set of goals/objectives is used to meet goals/objectives for recovery of terrestrial species including Swainson's hawks page 3.3-255, lines 12-19; white-tailed kites, page 3.3-277 lines 6-13; and western pond turtles, pages 3.3-289 line 23 and 3.3-290, lines 1-8.

Question: Why are there only 2 objectives related to protecting and enhancing managed wetlands when there are thousands of acres of this natural community in the plan area?

Question: Do these objectives apply to wetlands that are to be restored to mitigate for losses to existing managed wetlands (i.e. CM2 in the Yolo Bypass)?

(4) Giant Garter Snake

Page 3.4-195, Section 3.4.10.2 Implementation, 3.4.10.2.1 Restoration Actions- Non tidal marsh, lines 12-13 state:

The Implementation Office will create 1,200 acres of non-tidal marsh in three conservation zones. The restored non-tidal marsh will consist of two blocks: 600 acres in Conservation Zone 2 outside the Yolo Bypass.

Questions: Will the 600 acres of non-tidal marsh and associated wetlands to serve as giant garter snake habitat. Will the non-tidal marsh be considered managed wetlands? Will they be part of the Yolo Bypass Wildlife Area?

Questions What giant garter snake population is this action mitigating for?

Questions If the 600 acres takes agricultural land out of production will this loss be mitigated?

**No degradation on managed wetlands and cultivated lands in the Yolo Bypass
must be a specifically stated goal**

Page 3.3-162, lines 17-25 state:

Goal FRCS3: No degradation of aquatic habitat conditions for fall-run/late fall-run Chinook salmon upstream of water facilities.

- Objective FRCS3.1: Implement covered activities so as to not result in a degradation of current habitat conditions for fall-run/late fall-run Chinook salmon (e.g., spawning sites, rearing sites, migration corridors) upstream of the Plan Area.

Objective FRCS3.2 Rationale: See rationale for Objective WRCS3.2 for general rationale for this objective.

Implementing covered activities in a way that will support a wide range of life-history strategies (i.e. early migrants as well as later migrants) without favoring any one particular life-history strategy will ensure that the BDCP contributes to a diversity of conditions that supports greater genetic diversity.

Comment: A similar goal and set of objectives should be written for managed wetlands and cultivated lands already existing in the Yolo Bypass Wildlife Area since there are covered species that use the area. Similar language should be used for covered species benefitting from established conservation lands in the Yolo Bypass. A similar rationale would be appropriate.

For example, the final document should contain this language:

***Goal:** Implement covered activities in a way that will support a wide range of life-history strategies without favoring any one particular life-history strategy will ensure that the BDCP contributes to a diversity of conditions that supports greater genetic diversity of both aquatic and terrestrial species.*

***Goal:** No degradation of habitat conditions for terrestrial species benefitting from habitat in the Yolo Bypass.*

***Objective:** Implement covered activities so as to not result in a degradation of current habitat conditions for covered aquatic and terrestrial species.*

***Objective Rationale:** Implementing covered activities in a way that will support a wide range of life-history strategies without favoring any one particular life-history strategy will ensure that the BDCP contributes to a diversity of conditions that supports greater genetic diversity of both aquatic and terrestrial species.*

