

From: Tim Stroshane <spillwayguy@gmail.com>
Sent: Monday, July 28, 2014 3:53 PM
To: BDCP.Comments@noaa.gov
Cc: Conner Everts
Subject: Environmental Water Caucus Supplemental Comments on BDCP
Attachments: EWC BDCP Supplemental Comments FINAL.pdf

Mr. Wulff:

On behalf of EWC co-facilitator Conner Everts, the Environmental Water Caucus (EWC) has prepared and now submits additional supplemental comments on the Bay Delta Conservation Plan documents. These remarks supplement what we submitted to you previously on June 11, 2014, then under signature of Nick Di Croce. We continue to oppose the Bay Delta Conservation Plan.

We request that you treat our June 11th comments and these attached comments as one submittal and respond to them as one submittal.

We request a reply email confirming your receipt of these supplemental comments from the EWC. Please do not hesitate to contact Conner Everts or myself should you have questions.

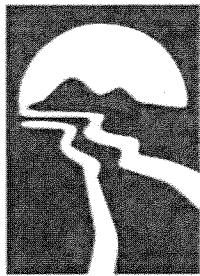
Sincerely,

Tim Stroshane
Consultant to the Environmental Water Caucus
510.524.6313

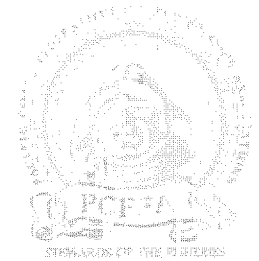
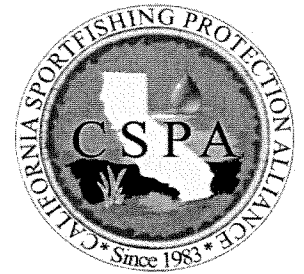
ENVIRONMENTAL WATER CAUCUS SUPPLEMENTAL COMMENT LETTER

BAY DELTA CONSERVATION PLAN, EIR/EIS,
AND DRAFT IMPLEMENTING AGREEMENT

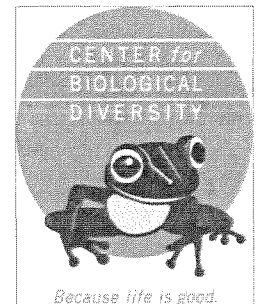
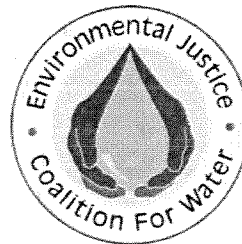
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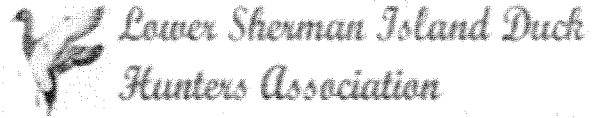


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CA Save Our Streams Council



Tuolumne River Trust



Sasta Clarita Organization
of Planning and the
Environment (SCOPE)

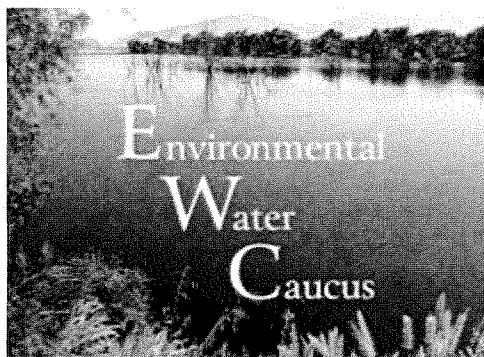


NORTHERN
CALIFORNIA COUNCIL



FEDERATION OF
FLY FISHERS





July 28, 2014

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

Via Email to: BDCP.Comments@noaa.gov

Subject: Supplemental Comments on the Draft Bay Delta Conservation Plan, Its Draft EIR/EIS, and Its Draft Implementing Agreement

Dear Mr. Wulff:

The Environmental Water Caucus (EWC) has prepared and now submits additional comments on the above-referenced Bay Delta Conservation Plan documents to supplement the remarks we supplied to you previously on June 11, 2014. We continue to oppose the Bay Delta Conservation Plan.

Our comments incorporate by reference comments from San Joaquin County, and the California Sportfishing Protection Alliance (made separately and in addition to those they join with the California Water Impact Network and AquAlliance), in addition to those incorporated comments we cited in our June 11th letter to BDCP on page 12, footnote 4. We request that you treat our June 11th comments and these attached comments as one submittal and respond to them as one submittal.

The topics our letter covers include, but are not limited to:

- A brief summary of the main points of EWC's June 11th comment letter.
- The Bay Delta Conservation Plan seeking to revive a version of the failed Environmental Water Account of the CalFED-era. This is unacceptable. That program sought to purchase "environmental water" to benefit listed fish species in the Delta, but instead presided over the Pelagic Organism Decline that has put Delta ecosystems on the brink of collapse.
- Additional documentation that increased cross-Delta water transfers are a central purpose of the Twin Tunnels project and must be analyzed in the EIR/EIS.

Ryan Wulff, NOAA

July 28, 2014

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- Identifying additional flaws in the BDCP habitat restoration conservation measures.
- Demonstrating that BDCP's weak formulation of "rough proportionality" fails to comply with a plain reading of the term's meaning in the absence of established criteria for evaluating the appropriate relationship between water project impacts and water project mitigations.
- Describing and criticizing how property tax levies may be used to help finance the Twin Tunnels project and potentially overcome agricultural and urban water agencies' concerns with the project's overall affordability.
- Other comments about the EIR/EIS.

Numerous inadequacies in the BDCP EIR/EIS are identified in our June 11th comments and these comments submitted today. The Draft EIR/EIS on the Bay Delta Conservation Plan should be revised and recirculated.

We said on June 11th and we reiterate here that BDCP is a bad deal for California and an even worse deal for the Delta. Fish and people need both habitat and flows to recover and restore the Delta to good health. BDCP will accomplish neither for the people of the Delta nor the people of California.

Thank you for considering these comments. If you have questions or require clarification, please do not hesitate to contact EWC consultant Tim Stroshane, (510) 524-6313 and spillwayguy@gmail.com, or Conner Everts, EWC co-facilitator, (310) 394-6162 x111 and connere@gmail.com.

Sincerely,



Conner Everts



David Nesmith

Co-Facilitators
Environmental Water Caucus

Attachment: Supplemental BDCP Comments

Supplemental Comments of the Environmental Water Caucus
on the Bay Delta Conservation Plan, EIR/EIS and Draft Implementing Agreement
July 29, 2014

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¹ Comment preparation and consultation managed by Tim Stroshane for the Environmental Water Caucus. Contributors to these supplemental comments include Bill Jennings (California Sportfishing Protection Alliance), Doug Obegi (Natural Resources Defense Council), Patricia Schifferle (Pacific Advocates), and Osha Meserve (Local Agencies of the North Delta).

**Supplemental Comments of the Environmental Water Caucus
on the Bay Delta Conservation Plan, EIR/EIS and Draft Implementing Agreement
July 29, 2014**

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**Supplemental Comments of the Environmental Water Caucus
on the Bay Delta Conservation Plan, EIR/EIS and Draft Implementing Agreement
July 29, 2014**

I. Supplemental Comments on the Bay Delta Conservation Plan

The Environmental Water Caucus (EWC) wishes to incorporate by reference the comments of San Joaquin County, as approved by the County Board of Supervisors on July 8, 2014.² The County's comments contain perceptive and detailed criticisms of the Draft Bay Delta Conservation Plan, its Draft EIR/EIS and its Draft Implementing Agreement. Many of the County's comments parallel comments provided by the Environmental Water Caucus on June 11, 2014.³ The following comments supplement the EWC's earlier comments and we request that both documents be considered and responded to as a single submittal.

Synopsis of EWC Comments, June 11th

The EWC provides first a synopsis of key comments we have already made for the sake of clarity and brevity.

- We believe the Bay Delta Conservation Plan is fundamentally flawed because it has incorporated the North Delta diversion intakes and tunnels project erroneously as a "conservation measure" that will demonstrably fail, as the Plan's own Effects Analysis shows, to conserve the species and resources its BDCP Applicants claim the project will benefit.
- The BDCP fails utterly to uphold federal principles of environmental justice that are to be implemented under not only the National Environmental Policy Act of 1969, but also federal and state civil rights law. BDCP's failure to provide adequate public outreach and key documents translated into other languages describing the process, the project, and its impacts on the Delta and environmental justice communities in several translations is an egregious failures of the Applicants' public outreach plan, and consequently a civil rights violation. The BDCP Applicants have yet to indicate how they intend to rectify this error in the conduct of its entire BDCP planning process.
- The BDCP is premised on a flawed ecological hypothesis that habitat restoration can substitute for flow and appreciably contribute to the survival and recovery of listed species. Our comments demonstrate, using BDCP data, that this hypothesis is very likely to fail for inadequate scientific disclosure and analysis, lack of management experience, and a lack of funding for adaptive management.
- The Tunnels project is to be operated in general independently of the biological goals and objectives of BDCP and will be regulated primarily through real-time operational actions

² San Joaquin County Office of the County Counsel, *Presentation Regarding the Public Draft Bay Delta Conservation Plan (BDCP), Adoption of a Resolution Reaffirming San Joaquin County's Opposition to the BDCP, Approving the County's Comments to the BDCP and the Related EIR/EIS and Implementing Agreement for BDCP, and Authorizing the Submission of those Comments to the Appropriate State and Federal Agencies*, presented to the San Joaquin County Board of Supervisors, June 23, 2014, 101 pages. Accessible online July 9, 2014, at http://www.sjgov.org/board/board%20meetings/Agendas/070814/MG99041/AS99066/AI101933/DO101934/DO_101934.PDF.

³ *Environmental Water Caucus Comment Letter, Bay Delta Conservation Plan and EIR/EIS*, June 11, 2014, 259 pages. Accessible online at <http://ewccalifornia.org/reports/bdcpcomments6-11-2014-3.pdf>. Hereafter, *EWC June 11th BDCP Comment Letter*.

