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February 6, 2013

SENT VIA EMAIL TO BDCP.Comments@resources.ca.gov

Bay Delta Conservation Plan
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

RE: Comments on Task Order ICF-11 and Amendment 1
Benefits and Costs of the Bay Delta Conservation Plan

Dear Dr. Meral:

This letter provides comments on Task Order ICF-11 and Amendment 1 Benefits and Costs of the Bay Delta Conservation Plan (“Cost Benefit Study”) on behalf of Stone Lakes National Wildlife Refuge (“Stone Lakes NWR”) Association.

Established by the U.S. Fish and Wildlife Service (“USFWS”) in 1994, Stone Lakes NWR is one of the few urban wildlife refuges in the nation. It is also a key part of the Pacific Flyway providing over 6,400 acres of critical habitat for waterfowl and other migratory birds of international concern, as well as a number of endangered plant and animal species. Stone Lakes NWR and its surrounding agricultural areas are home to several species that are endangered and threatened or of special status concern including, the tri-colored blackbird, greater sandhill crane, white-tailed kites, Swainson’s hawk and long-billed curlew. In 2005, USFWS designated it as one of the six most threatened refuges among the 540 refuges nationwide. (See *State of the System: An Annual Report on the Threats to the National Wildlife System*, National Wildlife Refuge Association (2005), at p. 9, available at: <http://refugenet.org/new-pdf-files/BeyondtheBoundaries.pdf>; see also <http://www.fws.gov/stonelakes/ccp.htm>.) This designation was primarily based on impacts from surrounding urbanization.

Now, the Bay Delta Conservation Plan (“BDCP”), particularly the infrastructure component, threatens the continuing viability of Stone Lakes NWR. The Association is concerned that the new northern diversion facilities, including a massive new forebay directly adjacent to Stone Lakes NWR, will alter habitat conditions within the Delta in a manner that would negatively impact wildlife that use Stone Lakes NWR and the surrounding area. Moreover, conversion of current agricultural lands to tidal and other wetlands under BDCP will destroy important feeding and foraging habitat for migratory birds. According to the 2012 Administrative Draft BDCP and EIR/EIS, the BDCP would

have negative impacts on the viability of Swainson's hawk, sandhill crane and the tricolored blackbird due to conversion of cultivated land.

Contrary to these initial findings, in the *Impacts to Delta agriculture* section on page 3, the Scope of Work states that:

BDCP proposes to also permanently preserve in agriculture use an equivalent amount to provide habitat value for crop-dependent species such as Swainson's hawk and sandhill crane. While in the short-term there may be a net loss of cultivated land, BDCP proposes to also substantially increase the protection of cropland in the Delta, ensuring that it will not be converted to other uses. This section of the report will consider the economic significance of these changes.

The Scope of Work is incorrect to assume neutral or positive effects on Swainson's hawk and sandhill crane for the following reasons:

(1) BDCP cannot "substantially increase the protection of cropland in the Delta" because the Delta is already protected from large scale development and conversion by the Delta Protection Commission's existing Resource Management Plan, combined with individual County land use designations, as well as probable additional restrictions to be adopted this year in the Delta Stewardship Council's Delta Plan. Because of the existing restrictions on urban development in the Delta, there is little threat of future urbanization in the Delta. Moreover, BDCP has so far not proposed to help protect the Refuge from urbanization of adjacent areas outside the legal Delta, such as Elk Grove, which are still subject to development pressures and are not currently restricted.

(2) Even if protection of habitat for crop-dependent species is provided in the long term under BDCP, it is not clear when, if ever, that will occur. Meanwhile in the short term, BDCP will certainly destroy thousands of acres of habitat for crop-dependent species as a result of construction of the new water intakes, forebay and associated facilities. Moreover, changes in water quality, such as increased salinity, as a result of the new diversions, would further limit the local cultivation of wildlife friendly crops. With only programmatic review and no identified funding source for protection of cropland in conjunction with the habitat component of BDCP, it is unclear when, if ever, this habitat will be available. In the meantime, construction and operation of the BDCP conveyance facilities will certainly remove migratory bird habitat in the short term.

Thus, it is not reasonable to assume any benefit to crop-dependent species as a result of BDCP in the Cost Benefit Study.

The Association is also concerned that the Cost Benefit Study accurately characterize *Impacts to recreational activities in the Delta*, as mentioned on page 4 of the Scope of Work. Stone Lakes NWR just opened a new visitor center in 2012 and is working to increase accessibility to the public. A ten-year construction period for BDCP conveyance facilities directly adjacent to the Refuge will disrupt and interfere with visitor experiences. Moreover, operation of these same facilities will change the character of the Refuge and the new Visitor Center. These negative impacts to recreation should be considered. To the extent other recreational activities could be enhanced in the future as a result of BDCP, those benefits should only be taken into account if an identified funding source for those visitor facilities exist. Fundamentally, placing major statewide water infrastructure in a wildlife viewing and bird watching area is not a benefit.

The Association disagrees, moreover, with the lack of analysis of alternatives to the core BDCP proposal in the Cost Benefit Study. The Association and others have been requesting that BDCP conduct an optimization study to guide the design of the diversions and associated facilities. The proposed 750-acre forebay directly adjacent to the edge of the Refuge that removes essential foraging habitat and brings noise, light, traffic and power lines into an important habitat area is particularly troubling. The BDCP, however, has systematically failed to use modern engineering practices to develop a practical project while minimizing the impacts on the Refuge. The Association therefore requests that the Cost Benefit Study compare the costs and benefits associated with a more carefully designed facility with those of the currently proposed BDCP.

The Cost Benefit Study should also specifically address the costs associated with bird strikes from new transmission lines needed for the pumping facilities. Under the proposed tunnel alternative, an interconnection line would run from I-5 through the center of the Stone Lakes NWR boundary to supply power to pumping stations and the Intermediate Forebay. Power poles and associated power lines impact avian species by increasing the risk of electrocution and collisions by obstructing flight paths and exposing birds to hazardous perch sites.¹ As a result, any new powerlines to serve BDCP facilities must be placed underground to reduce human, bird, and landscape impacts, as was done recently with a 230 kV powerline in Hillsborough.²

¹ See Avian Power Line Interaction Committee website, available at: <http://www.aplic.org/>; see also FWS Avian Protection Plan Guidelines, available at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/APP/AVIAN%20PROTECTION%20PLAN%20FINAL%204%2019%2005.pdf>.

² See CPUC Decision 04-08-046, available at: http://docs.cpuc.ca.gov/published/FINAL_DECISION/39122.htm.

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Thank you for your attention to these matters, which requires that the Scope of Work be amended to more accurately reflect costs of the BDCP in terms of damage to biological and recreational resources of Stone Lakes NWR. Please feel free to contact my office should any further information be required.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

cc: Commissioner Michael L. Connor, MLConnor@usbr.gov