

Appendix 3I

BDCP Compliance with the 2009 Delta Reform Act

The purpose of this appendix is to explain the requirements as outlined in the 2009 Delta Reform Act required for the Bay Delta Conservation Plan (BDCP) to be incorporated into the Delta Plan and to be eligible for State funding. This appendix addresses how the BDCP will meet the Delta Reform Act requirements and guide readers to where this information is contained within the EIR/S.

The BDCP will be incorporated into the Delta Plan and eligible for state funding once it is (1) approved by the Department of Fish and Game (DFG) as a Natural Community Conservation Plan (NCCP), (2) approved as a Habitat Conservation Plan (HCP) by the federal fish agencies (Fish and Wildlife Service [FWS] and National Marine Fisheries Service [NMFS]), and (3) found by DFG to meet the requirements of California Water Code section 85320(b).

Approval as a NCCP

Approval as a NCCP requires compliance with Division 3, Chapter 10 of the California Fish and Game Code, a review by DFG and a determination by DFG that the proposed plan meets Chapter 10 requirements.

Approval as a HCP

Approval as an HCP requires compliance with the federal Endangered Species Act (16 U.S.C. 1531 et seq.). The review and determination of compliance will be conducted by FWS and NMFS.

Meeting the Requirements of California Water Code Section 85320(b)(2)

Section 85320(b) says in summary that the BDCP shall not be incorporated into the Delta Plan and the public funding benefits associated with the BDCP shall not be eligible for state funding unless the BDCP complies with the NCCPA (Division 3, Chapter 10 of the California Fish and Game Code – see discussion above) and complies with CEQA (Division 13 of the California Public Resources Code), including a comprehensive review and analysis of seven specifically listed items in section (b)(2). The seven specific items listed include: (A) reasonable range of flow criteria, rates of diversion, and other operational criteria required for an NCCP, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses; (B) reasonable range of conveyance alternatives including through-Delta, dual conveyance, and isolated conveyance, and including further capacity and design options of a lined canal, unlined canal, and pipelines; (C) potential effects of climate change, possible sea level rise up to 55 inches, precipitation changes and runoff patterns on the alternatives and habitat restoration activities considered in the EIR; (D) potential effects on migratory fish and aquatic resources, (E) potential effects on Sacramento River and San Joaquin River flood management, (F) resilience and recovery of the conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster, and (G) potential effects of each conveyance alternative on Delta water quality. The chart below lists each of the seven requirements and illustrates how the BDCP is meeting these requirements.

California Water Code 85320(b)	BDCP Compliance
<p>Comprehensive review and analysis of a reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural communities conservation plan, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses.</p>	<ul style="list-style-type: none"> ● BDCP Effects Analysis ● BDCP EIR/EIS <ul style="list-style-type: none"> ○ Water Supply (5.2.1-5.2.3, 5.3.1-5.3.4) ○ Surface Water (6.2.1-6.2.3, 6.3.1-6.3.4) ○ Groundwater (7.2.1-7.2.3, 7.3.1-7.3.3, 7.4) ○ Water Quality (8.2.1-8.2.3, 8.3.1-8.3.4) ○ Fish and Aquatic Resources (Ch. 11)
<p>Comprehensive review and analysis reasonable Range of Delta Conveyance alternatives including:</p> <ul style="list-style-type: none"> ● Through-Delta alternative ● Dual Conveyance alternative ● Isolated Conveyance alternative ● Further Capacity and design options of <ul style="list-style-type: none"> ○ Lined canal ○ Unlined canal ○ Pipelines 	<ul style="list-style-type: none"> ● BDCP EIR/EIS <ul style="list-style-type: none"> ○ Description of Alternatives (3.3.1, 3.4.1-3.4.3, 3.5.1-3.5.16, 3.6.1-3.6.4)^a ○ Alternatives Appendix (Appendix 3D)
<p>Comprehensive review and analysis of the potential effects of the following ON the conveyance alternatives and habitat restoration activities considered in the EIR:</p> <ul style="list-style-type: none"> ● Climate change ● Possible sea level rise up to 55 inches ● Possible changes in total precipitation and runoff patterns 	<ul style="list-style-type: none"> ● BDCP EIR/EIS <ul style="list-style-type: none"> ○ Climate Change (Ch. 29) ○ Air Quality and Climate Change Appendices
<p>Comprehensive review and analysis of the potential effects on:</p> <ul style="list-style-type: none"> ● Migratory fish ● Aquatic Resources 	<ul style="list-style-type: none"> ● BDCP Effects Analysis ● BDCP EIR/EIS <ul style="list-style-type: none"> ○ Fish and Aquatic Resources (Ch. 11) ○ Species related appendices
<p>Comprehensive review and analysis of the potential effects on flood management for :</p> <ul style="list-style-type: none"> ● Sacramento River ● San Joaquin River 	<ul style="list-style-type: none"> ● BDCP EIR/EIS <ul style="list-style-type: none"> ○ Water Supply (Ch. 5) ○ Surface Water (Ch. 6) ○ Groundwater (Ch. 7)
<p>Comprehensive review and analysis of the resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by:</p> <ul style="list-style-type: none"> ● Earthquake ● Flood ● Other natural disaster 	<ul style="list-style-type: none"> ● BDCP EIR/EIS <ul style="list-style-type: none"> ○ Description of Alternatives (Ch. 3) ○ Seismic and Climate Change Risk Appendix ○ Surface Water (Ch. 6)
<p>Comprehensive review and analysis the potential effects of each Delta conveyance alternative on Delta water quality.</p>	<ul style="list-style-type: none"> ● BDCP EIR/EIS <ul style="list-style-type: none"> ○ Water Quality (Ch. 8)
<p>^a Alternatives reviewed and analyzed in the EIR/EIS are listed below.</p> <p>No Action Alternative</p> <p>Alternative 1A – Dual Conveyance with Pipeline/Tunnel and Intakes 1-5 (15,000 cfs; Operational Scenario A)</p> <p>Alternative 1B – Dual Conveyance with East Alignment and Intakes 1-5 (15,000 cfs; Operational Scenario A)</p> <p>Alternative 1C – Dual Conveyance with West Alignment and Intakes W10W5 (15,000 cfs; Operational Scenario A)</p> <p>Alternative 2A – Dual Conveyance with Pipeline/Tunnel and Five Intakes (15,000 cfs; Operational Scenario B)</p> <p>Alternative 2B – Dual Conveyance with East Alignment and Five Intakes (15,000 cfs; Operational Scenario B)</p>	

Alternative 2C – Dual Conveyance with West Alignment and Intakes W1-W5 (15,000 cfs; Operational Scenario B)
Alternative 3 – Dual Conveyance with Pipeline/Tunnel and Intakes 1 and 2 (6,000 cfs; Operational Scenario A)
Alternative 4 – Dual Conveyance with Pipeline/Tunnel and Intakes 2, 3, and 5 (9,000 cfs; Operational Scenario H)
Alternative 5 – Dual Conveyance with Pipeline/Tunnel and Intake 1 (3,000 cfs; Operational Scenario C)
Alternative 5A – Isolated Conveyance with Pipeline/Tunnel and Intakes 1-5 (15,000 cfs; Operational Scenario D)
Alternative 6B – Isolated Conveyance with East Alignment and Intakes 1-5 (15,000 cfs; Operational Scenario D)
Alternative 6C – Isolated Conveyance with West Alignment and Intakes W1-W5 (15,000 cfs; Operational Scenario D)
Alternative 7 – Dual Conveyance with Pipeline/Tunnel, Intakes 2, 3, and 5, and Enhanced Aquatic Conservation (9,000 cfs; Operational Scenario E)
Alternative 8 – Dual Conveyance with Pipeline/Tunnel, Intakes 2, 3, and 5, and Increased Delta Outflow (9,000 cfs; Operational Scenario F)
Alternative 9 – Through Delta/Separate Corridors (15,000 cfs; Operational Scenario G)

1
2