

**Bay Delta Conservation Plan  
Review Document Comment Form**

**Document:** WORKING DRAFT CONSERVATION STRATEGY, CHAPTER 3, AUGUST 3, 2009

**Name:** Erik Ringelberg/Osha Meserve **Affiliation:** Reclamation District 999 (Clarksburg District)

**Date:** 8/31/09

Please use this form to document your comments to the above document. Please number your comments in the first column and indicate the page, section, and line number (if provided) that reference the comment's location in the review document in the next three columns. **Return completed comment forms to Rick Wilder ([wilderrm@saic.com](mailto:wilderrm@saic.com)).**

To be of the greatest value to the document development process, please make your comments as specific as possible (e.g., rather than stating that more current information is available regarding a topic, provide the additional information [or indicate where it may be acquired]; rather than indicating that you disagree with a statement, indicate why you disagree with the statement and recommend alternative text for the statement). Do not enter information in the **Disposition** column. This column will be used by SAIC to record how each comment was addressed during the document revision process.

No	Page #	Section #	Line #	Comment	Disposition
1	3-2 3-7	3.1 3.2.1	14-17 1-3	<p>It is misleading to assume and infer here (and elsewhere in the document) that changes to conveyance will enhance productivity of ecological processes and advance conservation of species. 'Enhancing the productivity of its ecological processes' is scientifically doubtful and not necessarily beneficial. It does not fulfill the goals stated on ln. 8 "ecological functions and processes," by focusing on maximizing some undisclosed "productivity," and it is purely speculative to claim that it will "advance the conservation of multiple species and communities that depend upon them."</p> <p>The project may reduce its current level of take by modification of its actions, but the complexities of the interactions of its new operations and facilities make it difficult to ascertain what the new project impacts will have on the actual conservation of aquatic species.</p>	
2	3-7 3-66 passim	3.2.1 3.4.1. 3	9 25	<p>"[M]eeting water supply goals" and "water supply reliability" is referenced throughout the document. What it means to meet the water supply goals of the exporters has not, however, been quantitatively defined. Without a definition of water supply goals, it is impossible to assess the ability of the draft conservation strategy to actually conserve the species of concern. To the extent meeting water supply goals simply means exporting as much water as possible out of the Delta, that definition does not provide adequate specificity for analysis and is also may be inconsistent with the current SWP and CVP contracts, which do contain upper limits on exports. Those limits, however, have been shown in recent years to be unsustainable and too high to protect species of concern within</p>	

				the Delta. The PREs must define specific water supply goals and/or reliability criteria to create an adequate description of covered activities.	
2	3-6 3-13	3.2.1 3.2.3	17-25 5-7	As a justification for new points of diversion and conveyance, the chapter states that such a change would facilitate restoration of tidal and floodplain habitat in the South Delta. Modeling provided to the public to date, however, shows that the South Delta facilities would continue to be operated frequently even if new northerly diversion points are constructed. Thus, it is not clear how restoration in the South Delta would be facilitated, given that the “better” conditions would only exist some of the time.	
	3-8	3.2.1	39-42	<p>The “reduction in contaminants” is a factor wholly out of BDCP’s control and has been the focus of significant State and Federal efforts since the enactment of the Clean Water Act. An overarching problem with this chapter, and as stated repeatedly by the Independent Science Advisors, scientific assertions need to have scientific foundation, relevant citations, and a range of expected outcomes.</p> <p>For specific example, the <i>postulated</i> change in primary productivity remedied by <i>assumed</i> increased nutrient input from tidal marsh restoration will interact synergistically by what specific mechanism, with what specific pesticide and herbicide reductions to provide what non-linear improvement, such that it “benefits” the aquatic food web how and where?</p> <p>This chapter should also address how potentially increased post-project agricultural return flows from the San Joaquin, with their consequent loads of concentrated toxic salts, excess nutrients, low dissolved oxygen, pesticides and herbicides, may act synergistically to worsen aquatic conditions in the Delta when less Sacramento water flows to the middle reaches due to new northern diversion points.</p>	
	3-9	3.2.2	passim	No consideration is mentioned on changes to water quality, recreation on the river, or other ecosystem changes from taking potentially half of the flow of the Sacramento River at a time. These and other concerns may dictate minimum instream flows and should be considered as early as possible in the process.	
	3-9	3.2.2	5	Here and elsewhere new conveyance is called a conservation measure. It is not clear such an action meets the legal definition of a conservation measure, even if it could reduce take that might otherwise occur at the South Delta pumps by replacing those facilities some of the time. Under the ESA, the term “conserve” means “the use of all methods and procedures which are necessary to bring endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. [Examples.]” (16 U.S.C., § 1532(3).) Conveyance should therefore be referred to as a covered activity, since it appears to be an attempt to mitigate impacts on species that are caused by the existing water delivery system, and will not actually conserve species according to the ESA definition.	
	3-9	3.2.2	26-29	This discussion and elsewhere refers to bypass flows. It appears that the correct term is minimum instream flows, as	

				new diversion points are not the same as a dam, and the Projects have no current rights to operate a dam on the Sacramento River, which would be required to bypass a set amount of water. Please clarify the relationship between inflow requirements; fish screen bypass requirements, and facility intake/operational bypass requirements; instream flow for fish, other water rights users, water quality standards, and other beneficial uses; and outflow requirements. Instream flows will need to be set upstream and downstream of any new proposed intakes.	
3-14	3.2.5	11-14		This section references other HCPs/NCCPs that have been adopted or are in the planning process. It is not clear that the BDCP would "support and complement" these other plans. In fact, it appears that the BDCP contains many elements that conflict directly with these other plans, which are locally based on a foundation of scientific understanding (unlike the BDCP). If a "support and complement" statement is to be made, BDCP must make many adjustments. The proof of this statement could include documentation of responses to numerous technical questions posed to the BDCP by these programs, and letters of support from these existing programs.	
3-16 3-9	3.2.6 3.4.1	2 23-24		The reference to reliable water supply should specify "for export." It does not appear that reliable water supply for in-watershed use is a goal of the BDCP, or any regions other than those served by the project.	
3-13	3.2.4	Figure 3.1		The figure is titled Restoration Opportunity Areas (ROAs) and includes both floodplain and tidal ROAs in the legend and on the figure. Staff stated in the Steering Committee meeting on July 30, 2009, that this figure only describes tidal ROAs, and that is why the Clarksburg bypass is not included. Please correct the text and/or the figure to reflect the true purpose of the description, and provide a figure that includes ALL ROA's. A separately submitted technical memorandum describes RD 999's concerns this issue in further detail.	

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