

November 2, 2013



Mark Cowin, Director

California Department of Water Resources

PO Box 942836, Room 1115-1

Sacramento, CA 94236-0001

Dear Sir:

I am writing on behalf of the Stone Lakes National Wildlife Refuge Association (Association) to provide an update on recent discussions of the Stone Lakes Conservation Working Group. Our Association, and the staff of the Stone Lakes National Wildlife Refuge (Refuge), have met several times with members of the BDCP planning team. The Association is a volunteer nonprofit public benefit corporation and comprised of interested citizens founded in 1995 with the purpose of supporting the Refuge and its goals. Among its activities, the Association works to ensure that the Refuge is protected from adverse impacts on the Refuge and its wildlife and resources. The Association is operated by a volunteer Board of Directors.

As you know, the Refuge is a large complex of natural wetlands, lakes and riparian areas within the Sacramento-San Joaquin Delta that provides critical habitat for waterfowl and other migratory birds of international concern, as well as a number of endangered plant and animal species. The Refuge and the surrounding agricultural areas are home to several special status species, including the tri-colored blackbird, greater sandhill crane, white-faced ibis, long-billed curlew, Swainson's hawk, burrowing owl, giant garter snake and valley elderberry longhorn beetle. The Refuge Boundary incorporates 18,000 acres, of which approximately 6400 acres are managed by the United States Fish and Wildlife Service (USFWS).

The Refuge, together with the Cosumnes River Preserve represents significant public investment to protect wetlands and foraging habitat near an urban area. Yet the Refuge remains one of most impacted refuges in country. In a 2005 annual report on threats to the National Wildlife System, the Refuge was identified as one of the six most threatened refuges in the nation. Since 2005, vineyard conversions, encroaching urban development, new transmission lines, wind and solar power facilities and urban runoff have only increased the many challenges facing the Refuge.

The Refuge is ground zero for major components of the Bay Delta Conservation Plan's (BDCP) proposed Conservation Measure 1, the Tunnel Conveyance Facility. The three large water intake plants, the tunnel entrance and forebay and the permanent and temporary transmission lines serving them are all proposed to be within or adjacent to the Refuge. The Refuge will experience significant direct and indirect impacts from the project, and the Association is an affected stakeholder.

The USFWS and California State Department of Fish and Wildlife (DFW), as cooperating agencies on the BDCP, must consider whether to issue take permits to the California State Department of Water Resources (DWR) for the tunnels. They must take into account species impact, both terrestrial and aquatic, in considering permit issuance.

The Association has been engaged in the BDCP from the outset, expressing major concerns as early as May 2009. We have pushed for a Stone Lakes Working Group since March 2011. Beginning in 2013 we have been working with BDCP planners and USFWS and DWR staff to address our concerns at several working group meetings

Changes to the project over the last several months have reduced the scale of project impacts on Stone Lakes. The forebay location is now near Twin Cities Road on less sensitive habitat with less impact to sensitive species. The forebay is now smaller, with a lower elevation. The BDCP is now committing to create new wetland roosting and associated uplands to better link the flyway route. The Avoidance and Mitigation Measures (AMM's) are stronger. Transmission line mitigation and route adjustments are in the works.

The Association appreciates the commitment that BDCP planners have made to address our concerns. We appreciate the efforts to improve mitigation for impacted terrestrial species. We appreciate that mitigation may increase wetland roost and foraging acres managed by the Refuge, although we are certainly cognizant that the peripheral tunnel project is not the preferred way to implement the Stone Lakes NWR.

Even with these mitigation efforts, the Association is concerned that the CM1 Optimal Alignment proposal—the Tunnel Conveyance Facility—has not adequately addressed all the impacts to the affected species covered in the plan. In part this is because the project has been continually changing and the project description remains uncertain and incomplete. We hope that the upcoming Public Review Draft will provide the necessary and required design details and additional proposed mitigation to better assist us in understanding the impacts and issues related to this project. In summary, our remaining concerns are:

- 1) The new forebay and tunnel entrance, even though it reduces foraging habitat loss and offers other advantages, is still within the Refuge Boundary. The tunnel crosses Refuge land and right of way and temporary permits will be required for the conveyor belt.
- 2) While we do not oppose the new location as it appears at this time to be the “least worse” site, we must recognize that the new location will potentially complicate completing the refuge in ways that we cannot completely predict. Landowners may be less willing to cooperatively manage lands for wildlife benefit, enter into conservation easements or sell land to the Refuge at affordable prices. In addition, the Association’s long term goal for public access along adjoining the old railroad grade may be compromised by forebay security concerns. We believe that the Tunnel Conveyance Facility project should include additional commitments to assisting the goal of completing the Refuge.
- 3) The planned transmission lines cross or are adjacent to Refuge lands, and their size and location remain subject to change as DWR negotiates with power providers. DWR remains reluctant to seriously consider undergrounding of permanent transmission lines.

- 4) We remain concerned about the mitigation of noise, light and facilities impacts on sensitive species. The greater sandhill crane is a flagship species for the Refuge and has high roost fidelity. It is not at all clear how well the species will tolerate the major intrusion of construction activity. The mitigation language in the plan is replete with "to the extent feasible" language. These potential impacts deserve continued study and attention to efforts to tighten the mitigation measures.
- 5) Muck storage on Zacharias Island, its placement and content, remain a concern. DWR describes the tunnel drilling lubricants as organic and vegetative based, but that could still very well include chemicals that are harmful to wildlife. DWR cites efforts to reduce storage and find beneficial uses for the muck, but there is no assurance that these will materialize. Quantitative commitments to muck minimization should be incorporated into the project.
- 6) Truck traffic will substantially increase along roads around the Refuge during the 10 year construction period. Traffic will significantly increase along Hood Franklin in front of Refuge Headquarters and adjacent to Blue Heron Trails which also is an identified greater sandhill crane roost area.
- 7) Staten Island's significant sandhill crane population is threatened by the new project alignment with muck storage and transmission lines crossing a major roost area. We will continue to be engaged in efforts to eliminate or greatly reduce these impacts.
- 8) There needs to be greater clarification and detail about the amount, timing and funding of new sandhill crane habitat.
- 9) It is increasingly evident that the overall project's conservation and mitigation measures are many and complex and will require vigilance in implementation. We are concerned that the proposed governance structure does not provide adequate assurances and balance to ensure that measures will be implemented. We believe there needs to be
 - Verification of how AMM's are intended to be implemented within the plan
 - Verification that the implementation of the AMMs are subject to credible oversight, especially during the intake/tunnel construction process
 - Verification that AMM implementation costs are included within the Plan
 - Verification that there is a place for the Association as part of the ongoing Plan oversight to ensure effectiveness of mitigation measures and adaptive mgmt responses

We will continue to review the governance portion of the project and provide input and recommendations just as we will continue to engage the BDCP process and work to ensure that the project, if it goes forward, will protect the Refuge's viability as a significant migratory waterfowl wetland.

While the Association will remain primarily concerned with the specifics of this project's impacts on the Refuge, The Association is aware of the large scale questions and issues associated with the project that deserve attention in the larger public interest. These questions include:


- Is the project is the best solution for meeting California's long term water needs?
- Will the proposed conservation measures to benefit impacted fish species be successful in increasing threatened populations?
- Will the project operate as proposed?
- Will it improve the long term viability of Delta lands?
- Is it the most economically viable and ultimately affordable solution to the state's water challenges?
- Who will ultimately pay for it?
- Are there adequate assurances that the project will not serve as a conduit for increased water transfers to the south at the expense of northern California needs?
- And perhaps most important: How much water is available to meet the needs of Californians and protect its native habitat and species, how will that availability change with climate change, and at what point may water availability issues become a limiting factor in California's growth?

The Association supports a comprehensive and unbiased effort to address these concerns, and urges that state and federal participants proceed with care and diligence. We, and all Californians, need and deserve careful and thoughtful deliberation before a decision is made to move forward with the largest construction project in State history.

If you have any questions, please don't hesitate to contact me at ellen@tech-hero.com, or Robert Burness, Association Conservation Committee chair, at rmburness.@comcast.net.

Thank you for your attention to these concerns.

Sincerely,



Ellen Carlson, President
Stone Lakes NWR Association

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