

Notice of Preparation

To: State Clearing House, Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: California Department of Water Resources
901 P. Street, Bonderson BLDG, 4th Floor, PO Box 942836
Sacramento, CA 95814

Subject: Notice of Preparation of a Draft Environmental Impact Report

Department of Water Resources will be the Lead Agency and will prepare an environmental impact report for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project.

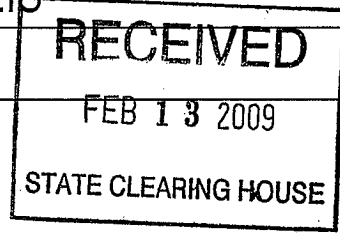
The project description, location, and the potential environmental effects are contained in the attached materials. A copy of the Initial Study (is is not) attached.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

Please send your response to Delores Brown, Division of Environmental Services at the address shown above. We will need the name for a contact person in your agency.

Project Title: Bay Delta Conservation Plan EIR/EIS

Project Applicant, if any:



Date 2/13/09

Signature Barbara McDonnell

Title Chief, Division of Environmental Services

Telephone 916-376-9700

Reference: California Code of Regulations, Title 14, (CEQA Guidelines) Sections 15082(a), 15103, 15375.

DEPARTMENT OF WATER RESOURCES

DIVISION OF ENVIRONMENTAL SERVICES
3500 INDUSTRIAL BOULEVARD
WEST SACRAMENTO, CA 95691

**REVISED NOTICE OF PREPARATION****REVISED NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT AND
ENVIRONMENTAL IMPACT STATEMENT FOR THE
BAY DELTA CONSERVATION PLAN**

(State Clearinghouse Number: 2008032062)

February 13, 2009

INTRODUCTION

Pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), the California Department of Water Resources (Department), National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the U.S. Bureau of Reclamation (Reclamation) will initiate the preparation of a joint Environmental Impact Report and Environmental Impact Statement (EIR/EIS) for the Bay Delta Conservation Plan (BDCP) for the Sacramento-San Joaquin Delta, California.

The Department is the lead agency under CEQA, Reclamation is the lead agency under NEPA for the proposed BDCP, and NMFS and USFWS are co-lead agencies under NEPA. The Federal co-lead agencies have requested that the U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) participate in the EIR/EIS as cooperating agencies for the purposes of compliance with their regulatory programs, including the Clean Water Act. EPA and the Corps have agreed to participate.

The BDCP is being prepared through a collaboration of state, federal, and local agencies pursuant to authority provided in: (1) Section 10(a)(1)(B) of the Federal Endangered Species Act (ESA) of 1973, as amended, and (2) the Natural Community Conservation Planning Act (NCCPA), California Fish and Game Code, Section 2800 et. seq. or Section 2081 of the California Endangered Species Act (CESA), California Fish and Game Code 2050 et. seq. The BDCP process may provide the basis for the Department to apply for incidental take permits (ITP) pursuant to Section 10 of the Federal Endangered Species Act and California Fish and Game Code Section 2835, while Reclamation will obtain Biological Opinions and incidental take statements (ITS) pursuant to Section 7 of the Federal Endangered Species Act. These incidental take authorizations will allow the incidental take of threatened and endangered species resulting from certain covered activities and conservation measures associated with water operations of the California State Water Project (SWP), as operated by the Department, and the federal Central Valley Project (CVP), as operated by Reclamation. Such measures will be identified through the planning process.

BACKGROUND INFORMATION

The Department and Reclamation, along with the Metropolitan Water District of Southern California (MWD), the Kern County Water Agency (KCWA), the Santa Clara Water District (SCVWD), Alameda County Flood Control and Water Conservation District, Zone 7 (Zone 7), the San Luis and Delta Mendota Water Authority (SLDMWA), the Westlands Water District (WWD), and Mirant Delta (known collectively as the "Potentially Regulated Entities" or PREs), are preparing the BDCP for their covered activities within the Geographic Scope described below. It is the goal of the PREs that the BDCP follow a process that meets:

1. The requirements of Section 10(a)(1)(B) of the ESA for non-federal PREs and result in the issuance of ITPs from the U.S. Fish and Wildlife Service and National Marine Fisheries Service (collectively the Services) to certain of the PREs;
2. The requirements of an ITP under the California fish and wildlife protection laws, either pursuant to the NCCPA, Section 2835 and/or Section 2081 of the Fish and Game Code; and
3. The requirements of Section 7 of the ESA related to consultation with other federal agencies, resulting in the issuance of Biological Opinions, including ITSs, from the NMFS and or USFWS on specific activities of certain members of the PREs.

Since the first set of scoping meetings that occurred from April 28th, 2008 to May 14th, 2008, the planning efforts for the BDCP have advanced. All comments from the first set of scoping meetings will be taken into consideration for the development of the EIR/EIS. A preliminary scoping report has been completed; all comments from the first set of scoping meetings are available online (<http://www.water.ca.gov/deltainit/comments.cfm>). The BDCP has also released a document entitled, "Overview of the Draft Conservation Strategy for the Bay Delta Conservation Plan" which is also available online (http://resources.ca.gov/bdcp/docs/12.19.08_HO_BDCP-Overview_of_Conservation_Strategy_With_Core_Elements.pdf). Formal preparation of the draft EIR/EIS is commencing and is incorporating all necessary information as it is created in connection with, and as part of the BDCP process. The BDCP process is continuing with the cooperation of the Services, the California Resources Agency, California Department of Fish and Game (CDFG), the PREs, including Mirant Delta, and various stakeholders, including the Nature Conservancy, Environmental Defense, Defenders of Wildlife, the California Farm Bureau, the Natural Heritage Institute, The Bay Institute, Contra Costa Water District, and American Rivers. All of these organizations are participants in the Steering Committee and guide the preparation of the BDCP. Friant Water Authority and the North Delta Water Agency became Steering committed members on October 17, 2008. The Services and CDFG are participating in the Steering Committee's efforts in an ex-officio basis, providing technical input and guidance in support of the Steering Committee's efforts. CDFG will be a responsible agency under CEQA for this EIR/EIS process. The participants are undertaking these planning efforts pursuant to: (1) the Planning Agreement that was signed October 2006 and amended April 2007 to guide the BDCP process; and (2) the Points of Agreement dated November 2007 (see Resources Agency website, <http://resources.ca.gov/bdcp/> for Planning Agreement). This website <http://www.water.ca.gov/deltainit/bdcp.cfm> provides open access to comprehensive documentation of the planning process, and a detailed schedule of past and future planning activities.

PROJECT DESCRIPTION

Purpose and Project Objectives

The purpose and project objectives of the proposed actions are to achieve the following:

To be granted incidental take permits for the covered species that authorize take related to:

1. The operation of existing State Water Project Delta facilities and construction and operation of facilities for the movement of water entering the Delta from the Sacramento Valley watershed to the existing State Water Project (SWP) and Federal Central Valley Project (CVP) pumping plants located in the southern Delta;
2. The implementation of any conservation actions that have the potential to result in take of species that are or may become listed under the ESA, pursuant to the ESA at §10(a)(1)(B) and its implementing regulations and policies;
3. The diversion and discharge of water by Mirant LLC for power generation in the Western Delta.

To improve the ecosystem of the Delta by:

1. Providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species; and
2. Protecting, restoring, and enhancing certain aquatic, riparian, and associated terrestrial natural communities and ecosystems.
3. Reducing the adverse effects to certain listed species of diverting water by relocating the intakes of the SWP and CVP;

Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts, when hydrologic conditions result in the availability of sufficient water, consistent with the requirements of State and federal law and the terms and conditions of water delivery contracts and other existing applicable agreements.

Need

The Delta is currently a conduit for water that is used for a wide range of in-stream, riparian and other beneficial uses, including drinking water for over 25 million Californians and irrigation water for agricultural lands in the Delta and the San Joaquin Valley. While some beneficial water users depend on the Delta for only a portion of their water needs, others are highly dependent on supplies from the Delta. While overall water supplies have remained finite, conflicts have arisen and intensified among Delta Water users as total demands have increased for various users and regulatory requirements for rare, threatened or endangered species have also increased. With the forecast of reduced precipitation in the Sacramento and San Joaquin valley watersheds, the struggle to meet these demands will be magnified.

The recent regulatory requirements to protect Delta smelt and longfin smelt have taken a more

ecosystem approach to minimizing effects of water project operations than past regulatory requirements. These requirements affect the timing of flow restrictions associated with meeting the habitat requirements for threatened and endangered species. There exists a need to protect and recover these species in order to reduce conflicts and provide for healthy ecosystems.

The levees in the Delta are at risk of failure from a number of causes, including seismic activity and sea level rise associated with global climate change. The ability of the Department and Reclamation to export water from the Delta would be compromised should one or more of these levees fail. Such levee failure would result in an interruption of water supply for both urban and agricultural uses. Another impact of levee failure would be severe degradation of water quality in the Delta with potential adverse impacts upon the aquatic ecosystem. Improvements to the conveyance system are needed to respond to these increased demands upon water supply reliability, water quality, and the aquatic ecosystem. Improvements to the conveyance system will also respond to risks on water supply reliability due to a levee failure.

The EIR/EIS will analyze a reasonable range of alternatives developed to address the purposes identified above.

Covered Activities

The BDCP covered activities may include, but are not limited to:

1. Existing Delta conveyance elements and operations of the CVP and SWP;
2. New Delta conveyance facilities (including power line alignments) and operations of the CVP and SWP generally described in the BDCP November 2007 Points of Agreement (<http://resources.ca.gov/bdcp/>);
3. Operational activities, including emergency preparedness of the CVP and SWP in the Delta;
4. Operational activities in the Delta related to water transfers involving water contractors or to serve environmental programs;
5. Maintenance of the CVP, SWP, and other facilities in the Delta;
6. Facility improvements of the CVP and SWP within the Statutory Delta (California Water Code Section 12220);
7. Ongoing operation of and recurrent and future projects related to other Delta water users, as defined by the BDCP Planning Agreement (<http://resources.ca.gov/bdcp/>);
8. Projects designed to improve Delta salinity conditions; and
9. Conservation measures included in the BDCP, including, but not limited to, fishery related habitat restoration projects, adaptive management, and monitoring activities in the Delta.

Covered Species

Species proposed for coverage in the BDCP are species that are currently listed as Federal or State threatened or endangered or have the potential to become listed during the life of the BDCP and have some likelihood to occur within the project area. The covered species that are the initial focus of the BDCP include certain aquatic species such as:

1. Central Valley steelhead *Oncorhynchus mykiss*;

2. Central Valley Chinook salmon *Oncorhynchus tshawytscha* (spring-run and fall/late fall-runs);
3. Sacramento River Chinook salmon *Oncorhynchus tshawytscha* (winter-run);
4. Delta smelt *Hypomesus transpacificus*;
5. Green sturgeon *Acipenser medirostris*;
6. White sturgeon *Acipenser transmontanus*;
7. Splittail *Pogonichthys macrolepidotus*; and
8. Longfin smelt *Spirinchus thaleichthys*.

Other species that will be considered for inclusion in the BDCP include, but may not be limited to:

1. Swainson's hawk *Buteo swainsoni*;
2. Bank swallow *Riparia riparia*;
3. Giant garter snake *Thamnophis gigas*; and
4. Valley elderberry longhorn beetle *Desmocerus californicus dimorphus*.

This list identifies the species that will be evaluated for inclusion in the BDCP as proposed covered species, but the list may change as the planning process progresses. The participants anticipate that species may be added or removed from the list once more is learned about the nature of the covered activities and the impact of covered activities on native species within the planning area.

Planning Goals

The BDCP will include goals and objectives for the management of Covered Activities and conservation of Covered Species. As proposed in the Planning Agreement, the planning goals include:

1. Provide for the conservation and management of covered species within the planning area;
2. Preserve, restore, and enhance aquatic, riparian, and associated terrestrial natural communities and ecosystems that support covered species within the planning area through conservation partnerships;
3. Allow for projects that restore and protect water supply, water quality, and ecosystem health to proceed within a stable regulatory framework;
4. Provide a means to implement covered activities in a manner that complies with applicable State and federal fish and wildlife protection laws, including the NCCPA or CESA, FESA, and other environmental laws, including CEQA and NEPA;
5. Provide a basis for permits necessary to lawfully take covered species;
6. Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements for covered activities within the planning area;
7. Provide a less costly, more efficient project review process which results in greater conservation values than project-by-project, species-by-species review; and
8. Provide clear expectations and regulatory assurances regarding covered activities occurring within the planning area.

PROJECT AREA

The planning area for the BDCP will consist of the aquatic ecosystems and natural communities, and potentially adjacent riparian and floodplain natural communities, within the Statutory Delta (California Water Code Section 12220). The Statutory Delta includes parts of Yolo, Solano, Contra Costa, San Joaquin, and Sacramento counties. However, it may be necessary for the BDCP to include conservation actions outside of the Statutory Delta that advance the goals and objectives of the BDCP within the Delta, including as appropriate, conservation actions in the Suisun Marsh, Suisun Bay, and areas upstream of the Delta (Figure 1). Any conservation actions outside the Statutory Delta would be implemented pursuant to cooperative agreements or similar mechanisms with local agencies, interested non-governmental organizations, landowners, and others. The EIR/EIS project area for which impacts are evaluated may be different than the BDCP geographic scope.

ENVIRONMENTAL BASELINE

CEQA Guidelines Section 15125 states that an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation (NOP) is published, or if no Notice of Preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant. Normally, the environmental baseline is the same as existing conditions.

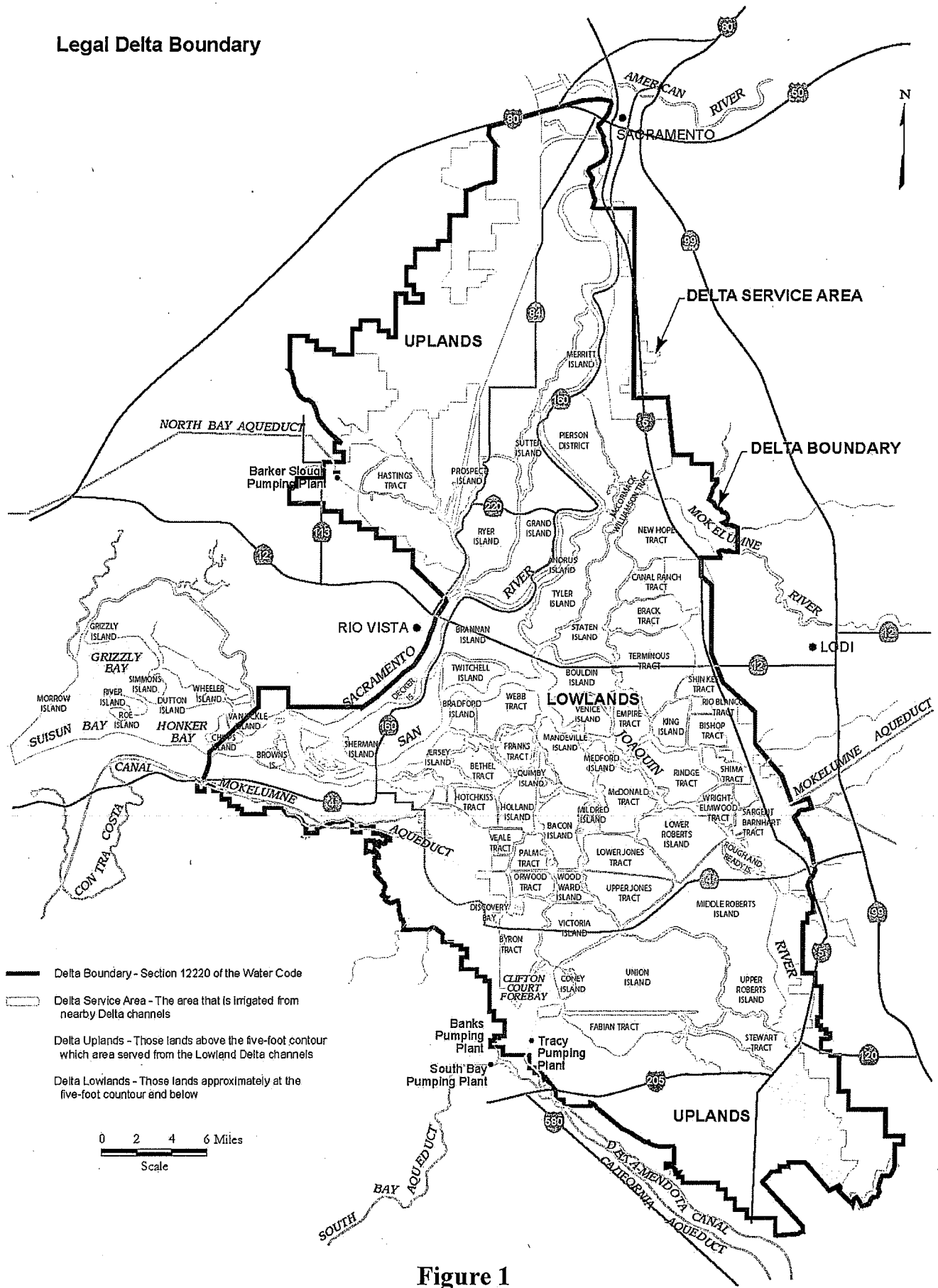
Alternatives

The BDCP will likely consist of three major elements: 1) actions to improve ecological productivity and sustainability in the Delta; 2) potential capital improvements to the water conveyance system; and 3) potential changes in Delta-wide operational parameters of the CVP and SWP associated with improved water conveyance facilities.

Potential habitat restoration measures that could improve ecological productivity and sustainability in the Delta may involve the creation and/or restoration of floodplain; freshwater intertidal marsh; brackish intertidal marsh; channel margin; and riparian habitats. Floodplain restoration opportunities exist in the North Delta/Yolo Bypass and upper San Joaquin River areas; and intertidal marsh restoration opportunities exist throughout the Delta and in Suisun Marsh. Channel margin habitat restoration opportunities exist for improving habitat corridors and as a component of floodplain restoration. Riparian habitat restoration opportunities exist as a component of floodplain, freshwater intertidal marsh, and channel margin habitat restoration.

Three general alternatives are being considered as they relate to the potential changes in the water conveyance system and CVP and SWP operations. These include: 1) a through Delta alternative; 2) a dual conveyance alternative; and 3) an isolated facility alternative. The dual conveyance alternative may include use of existing points of diversion during some circumstances and potential new points of diversion at various locations in the North Delta, as well as facilities to move water from new points of diversion to the existing SWP and CVP pumping facilities in the South Delta. The fully isolated facility alternative would include

Legal Delta Boundary



- Delta Boundary - Section 12220 of the Water Code
- - - Delta Service Area - The area that is irrigated from nearby Delta channels
- Delta Uplands - Those lands above the five-foot contour which area served from the Lowland Delta channels
- Delta Lowlands - Those lands approximately at the five-foot contour and below

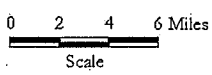


Figure 1

potential new points of diversion at various locations in the North Delta and facilities to move water from new points of diversion to the existing SWP and CVP pumping facilities in the South Delta. The improved through-Delta alternative could include new temporary or permanent barriers to modify existing hydraulics or fish movement within the Delta, armoring of levees along Delta waterways to ensure continued conveyance capacity, and/or actions to improve conveyance capacity in existing Delta waterways.

New points of diversion could be located along the Sacramento River between South Sacramento and Walnut Grove. The new conveyance facility could extend from the new points of diversion to the existing SWP and CVP pumping facilities in the South Delta and be located either to the west or east of the Sacramento River. Potential CVP/SWP operations changes include the seasonal, daily, and real time amounts, rates, and timing of water diverted through and/or around the Delta. Potential corresponding changes to water exports could also be developed.

Other actions to reduce threats to listed fish that may be evaluated for implementation by the BDCP include measures to minimize other stressors. These other stressors may include: (1) non-native invasive species; (2) toxic contaminants; (3) other sources of impairment of water quality; (4) hatcheries; (5) harvest; (6) non-project diversions; and (7) commercial and recreational activities. Implementation of potential habitat creation and restoration activities and measures to minimize other stressors will be evaluated throughout the Delta, and possibly upstream and downstream of the Delta, as appropriate to meet the objectives of the plan.

Preliminary locations, alignments, and capacities of new conveyance facilities, as well as habitat restoration activities and actions to address other stressors, to be evaluated in the EIS/EIR will be informed by the scoping process. In addition to the potential alternatives described above, other reasonable alternatives identified through the scoping process will be considered for potential inclusion in the alternatives analysis.

POTENTIAL ENVIRONMENTAL EFFECTS

The EIR/EIS will analyze resources that could be affected by the project, including but not limited to the covered species listed above, as well as:

1. Aquatic Environment
2. Potentially Affected Wetlands and Terrestrial Habitat
3. Surface and Groundwater Hydrology
4. Geology and Soils
5. Water Quality
6. Water Rights
7. Seismic Stability
8. Aesthetics
9. Air
10. Land Use
11. Historic and Cultural Resources
12. Environmental Health and Safety
13. Public Services and Utilities
14. Energy and Natural Resources

15. Effects of Climate Change Including Sea Level Rise
16. Greenhouse Gas Emissions

Potential adverse effects are likely in each category, though it is premature to determine whether or not such effects, in a particular category, will be significant for purposes of CEQA.

Subsequent comments on the Notice of Preparation, comments from the scoping meetings, and ensuing analyses will identify additional environmental impacts, if any.

SCOPING MEETINGS

The schedule for this EIR/EIS depends upon the development of the draft BDCP, which is expected to occur in early 2009. The federal Notice of Intent (NOI) for the BDCP was published in the federal Register on February 13, 2009. Joint Public Scoping meetings for the Federal NOI and this NOP are scheduled to take place at the following times and locations:

- March 9, 2009 at 6-10 pm. Chico Masonic Family Center, 1110 West East Avenue, Chico, CA 95926.
- March 10, 2009 at 6-10 pm. San Jose Marriott, Blossom Hill Room and Almaden Room, 301 South Market Street, San Jose, CA 95113.
- March 11, 2009 at 6-10 pm. Bakersfield Marriott at the Convention Center, Salon A and Hammons Room, 801 Truxtun Avenue Bakersfield, CA 93301.
- March 12, 2009 at 1-4 pm. Los Angeles Junipero Serra State Building, 320 West Fourth, Los Angeles, CA 90013.
- March 16, 2009 at 6-10 pm. San Diego Marina Village Conference Center, Captains Room and Room C8, 1936 Quivera Way San Diego, CA 92109.
- March 17, 2009 at 6-10 pm. Merced High School, 205 West Olive Avenue Merced, CA 95344.
- March 18, 2009 at 6-10 pm. Davis Veterans Center, 203 East 14th Street, Davis CA 95616.
- March 19, 2009 at 1-4 pm. Sacramento Hyatt Regency, 1209 L Street Sacramento, CA 95814.
- March 23, 2009 at 6-10 pm. Brentwood Community Multipurpose Room 730 Third Street, Brentwood CA 94513.
- March 24, 2009 at 6-10 pm. Stockton Civic Memorial Auditorium 525 North Center Street, Stockton, CA 95202.
- March 25, 2009 at 6-10 pm. Fairfield Hilton Garden Inn, Willow and Larkspur Rooms, 2200 Gateway Court, Fairfield, California 94533.
- March 26, 2009 at 6-10 pm. Clarksburg Community Church, 52910 Netherlands Avenue, Clarksburg, CA 95612.

Anyone interested in more information concerning the EIR/EIS process, or anyone who has information concerning the study or suggestions as to significant issues, should contact Delores Brown as provided below.

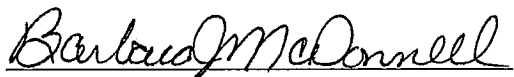
WRITTEN COMMENTS

This notice is being furnished to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives that will be addressed in the EIR component of the joint EIR/EIS. The primary purpose of the scoping process is to identify important issues raised by the public and affected agencies related to the issuance of ITPs for the BDCP. Written comments from interested parties are invited to ensure that the full range of issues related to the development of the BDCP and issuance of the ITPs are identified. All comment received, including names and addresses, will become part of the official administrative record and may be made available to the public. Written comments on this part of the Scoping process will be accepted until May 14, 2009.

Within 30 days after receiving the Notice of Preparation, each Responsible Agency and Trustee Agency shall provide the Lead Agency with specific detail about the scope, significant environmental issues, reasonable alternatives, and mitigation measures related to the Responsible Agency's or Trustee Agency's area of statutory responsibility that will need to be explored in the EIR/EIS. In accordance with CEQA Guidelines Section 15082(b)(1)(B), responsible and trustee agencies should indicate their respective level of responsibility for the project in their response.

Department practice is to make comments, including names, home addresses, home phone numbers, and email addresses of respondents, available for public review. Individual respondents may request that we withhold their name and/or home addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosures would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. The Department will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Written comments on the scope of the EIR/EIS should be sent to Ms. Delores Brown, Chief, Office of Environmental Compliance, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236 or by email at BDCPcomments@water.ca.gov.


Barbara McDonnell
Chief, Division of Environmental Services
Department of Water Resources

Date 2/13/09

