



S J C O G , I N C .

555 E. Weber Avenue • Stockton, California 95202

209.468.3913 • 209.468.1084 (fax)

July 22, 2009

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ESCALON,
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TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

Mike Chrisman, Secretary
Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Subject: Bay Delta Conservation Plan (BDCP) Effects on the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), San Joaquin County, California

Dear Secretary Chrisman:

SJCOG, Inc. serves as the administrator of the SJMSCP and has since the implementation of the habitat plan's fifty year permits in 2001. The implementation of the SJMSCP came after seven years, four month, and seven days of negotiating and planning for this very large regional comprehensive plan. The SJMSCP covers over 900,000 acres of area, which includes 43% of the Sacramento-San Joaquin Delta's Primary Zone and 97 species through 52 vegetative communities across the county under the federal Section 10(a)(1)(B) and state Section 2081(b) Incidental Take Permits. The SJMSCP is a one of a kind plan.

Over the last two years, SJCOG, Inc. staff has been involved through numerous communications regarding the SJMSCP and the proposed BDCP. SJCOG, Inc. staff has been active with Undersecretary Karen Scarborough through multiple meetings, as an individual habitat plan and as part of the Northern California Conservation Planning Partnership (NCCPP). As the discussions began with the impacted counties, the BDCP was described as an aquatic-based plan covering solely aquatic species. The BDCP sought help for terrestrial impacts from entities like the SJMSCP. As the BDCP evolved, the proposed plan expanded into a habitat conservation plan (HCP) and Natural Communities Conservation Plan (NCCP) including terrestrial species. Because of this change in the BDCP, SJCOG, Inc. has grave concerns which, to date, have not been fully or even partially addressed even while the BDCP continues to be on a fast track to approval. These concerns are:

1. Impacts on SJMSCP Habitat Preserves
2. Impacts on SJMSCP Covered Activities

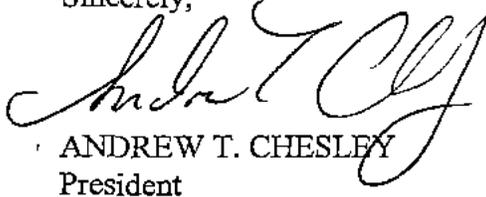
3. Preserve Monitoring
4. BDCP Restoration Areas conflicting with SJMSCP's ability to acquire preserves at reasonable costs
5. Overlap of Coverage Area BDCP and SJMSCP
6. Other unknown Impacts Arising Out of this Process

These concerns have been presented to Undersecretary Scarborough, the BDCP Steering Committee, Department of Fish and Game (DFG), and United States Fish and Wildlife Service (USFWS) in multiple formats. Attached is a summary of the concerns. (Attachment 1) This summary was reviewed and approved by the SJCOG, Inc. Board of Directors.

To date, SJCOG, Inc.'s comments and concerns have not been addressed. In fact, SJCOG, Inc. has not been invited to sit as a serious participant in the BDCP process. This is unacceptable in the light of the major impacts on San Joaquin County and the SJMSCP.

As the development of the BDCP moves forward, SJCOG, Inc. strongly recommends greater inclusion in the process from the habitat plans already charged and permitted with responsibility for terrestrial species. Further, this agency strongly recommends higher degree of transparency and more revealing dialogue that can address these specific concerns to find a mutually workable solution. SJCOG, Inc. looks forward to being engaged in the process more effectively.

Sincerely,



ANDREW T. CHESLEY
President

*Mike:
I would really like to
find a way to work
cooperatively. [Signature]*

Enclosure

CC: SJCOG, Inc. Board Members
California Department of Fish and Game – Carl Wilcox, Brenda Johnson, Dan Gifford
United States Fish and Wildlife Service – Ren Lohofener, David Hayes, Cay Goode, Susan Jones, Ellen McBride
Senator Lois Wolk, 5th District
Assemblymember Alyson Hubor, 10th District
Senator Dave Cogdill, 14th District
Assemblymember Cathleen Galgiani, 17th District
Assemblymember Bill Berryhill, 26th District
Terrence Dermody, San Joaquin County

Attachment 1

San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and the Bay Delta Conservation Plan (BDCP) SJMSCP Staff Comments (April 2009)

A. Habitat Preserves

The SJMSCP has acquired and holds several habitat preserves to mitigate the impacts caused by loss of habitat under the active USFWS and California DFG permits which are within the bounds of the proposed BDCP maps that you have depicted. As of December 2008, the SJMSCP has under easements over 1,800 acres of preserve land in the Delta Zone and another 3,200 acres in the Southwest Zone of the SJMSCP. Most of those preserve lands are within the bounds of the proposed BDCP. In the future, the SJMSCP will be required to acquire more preserve acreage for mitigation that appears to fall within the BDCP plan area.

More importantly, the route of the eastern alignment of the proposed Peripheral Canal appears close to, or passes through, existing SJMSCP preserves. The preserve design for the SJMSCP attempts to locate preserve acres in a mosaic pattern in important habitat areas. New Hope Tract, Brack Tract, and Terminous Tract are important habitat areas for Giant Garter Snake (GGS), Sandhill crane, and Swainson's hawk. In order for the SJMSCP to fulfill its responsibilities under the USFWS permits, the Plan contemplates building preserves featuring these species in the area of the eastern canal alignment.

There are similar plans for preserve systems in the south Delta near Tom Payne Slough, Old River, and along the San Joaquin River between Vernalis and Mossdale, which fall within the boundaries of the BDCP mapped area

As part of the SJMSCP's conservation strategy, habitat enhancement is conducted on SJMSCP preserves. Enhancements may be small hedge rows/ limited tree planting, or larger riparian habitat restoration. SJMSCP has begun work bring all the individual conservation preserve plans under a regional strategy for better management. The regional conservation strategy will be based on all potential easement land and the connectivity for the betterment of the multi-species covered under the SJMSCP. The BDCP will need to ensure a congruent and complimentary mitigation and monitoring component to that begun by SJMSCP.

B. Covered Activities

Since 2001, as the countywide habitat plan, the SJMSCP provides take authority for a number of covered activities. Seven cities and San Joaquin County are permit holders under the SJMSCP. Within the bounds of the proposed BDCP, it is very likely that there will be an overlap of plans and, therefore, a duplication of take. The permit holders will allow take of habitat for covered activities, such as residential/commercial development, transportation projects and other activities described in Section 8.4 of the SJMSCP. Although the SJMSCP anticipates that the bulk of

development will occur in or around the Spheres Of Influences of the participant cities, there are a number of San Joaquin County projects that may occur in a variety of locations.

Also within the SJMSCP, there are designated areas of full avoidance and no-take for specific species that prohibit development activities to occur. This is especially true for GGS habitat. The SJMSCP requires full avoidance in the last known population within San Joaquin County in the area west of I-5 on Terminous Tract, Shin Kee Tract, White Slough Wildlife Area and Rio Blanc Tract. Those areas are in direct conflict with the proposed easterly alternative to the Peripheral Canal alignment. Other areas of the proposed BDCP Planning Area intersect with potential GGS habitat described in the SJMSCP Section 5.2.4.8 in the 'Primary Zone of the Delta and Central Zone contiguous with known occupied habitat in the White Slough area north to the San Joaquin/Sacramento County line and south to Paradise Cut, as well as into the Southern Central Zone and Southwest/Central Transition Zone, including the area east of I4 from the Alameda/San Joaquin County line to Tracy and east of Interstate 580 to the east edge of Agricultural Habitat Lands east of the San Joaquin River.'

C. Monitoring

As part of the SJMSCP's monitoring and adaptive management requirement, individual preserves will be monitored for compliance, habitat enhancement and covered species presence. SJMSCP has begun work bring all the individual conservation preserve plans under a regional strategy for better management. The regional conservation strategy will be based on all potential easement land and the connectivity for the betterment of the multi-species covered under the SJMSCP. The BDCP will need to ensure a congruent and complimentary mitigation and monitoring component to that begun by SJMSCP.

D. Overlap of Coverage Area

Based on the overall coverage area of the proposed BDCP (primary and secondary zone of the Delta), there are issues to be considered. The BDCP was initially an aquatic species plan, which has morphed into an aquatic and terrestrial species plan. The types of projects which will be covered under the BDCP have not been completely formulated or investigated for impacts to the existing, permitted HCP/NCCP (SJMSCP and ECCHCP/NCCP) or the various plans currently under development.

The BDCP Planning Area overlaps a substantial amount of acreage within San Joaquin County already included in the SJMSCP's coverage area within four distinctive habitat zones (Primary Zone of the Delta, Central Zone, Central/Southwest Transition Zone and Southwest Zone). The Permits' Biological Opinion calculation of the total amount of allowed take under the SJMSCP has already considered impacts to occur within the county, as well as the same lands to be considered as potential mitigation lands. A reduction in lands available to provide the required mitigation can cause the SJMSCP to fail in the objectives set forth in the permits.

As stated in the BDCP Biological Goals and Objectives Working Group April 1, 2009 draft, the proposed BDCP states that "coverage is anticipated to be primarily provided through conservation of sufficient covered species habitats through proposed BDCP physical habitat restoration actions,

undertaken in conjunction with the conservation actions under approved and planned HCP/NCCPs that intersect the BDCP Planning Area and Suisun Marsh." This concept is not clearly defined as to how this will be done.

The SJMSCP is clearly defined as to process and mitigation requirements to satisfy development impacts under both the Federal Section 10 and State Section 2081 permits, which have been ongoing since 2001 in San Joaquin County covering the areas proposed in the BDCP Planning Area. Furthermore, the above referenced document does not include goals and objectives of all the common species (approximately 17) already covered within the SJMSCP since 2001 in the handouts and terrestrial resources subgroup notes. Until those goals and objectives and the BDCP's scope permitted activities are flushed out there is a cyclic discussion.

Possibly, the best collective approach that will not duplicate efforts for impacts within San Joaquin County borders is dual coverage. The BDCP will cover aquatic impacts (within the water banks) by projects and the SJMSCP will cover terrestrial impacts (outside the water channel). This approach should dispel any true overlap or duplication of the two separate habitat plans covering the same lands. It will allow the SJMSCP to continue functioning essentially in a similar manner which has been authorized and permitted after some alterations. There will need to be some amending of the SJMSCP permits or two supplemental permits for those projects not otherwise described as "covered activities" in the San Joaquin plan. The amending could range from cooperative consultation between USFWS, CDFG, BDCP and SJMSCP to an actual amending of the SJMSCP permit to include specie and acreage impacts. This amending concept can be streamlined by the merging the existing SJS MCP Biological Opinion and the on-going work currently being done for the BDCP including San Joaquin County lands.

E. Other Considerations

These concerns are to be integrated from the Northern California Conservation Planning Partners:

- Diverting water from the Sacramento River will move the salt line eastward, affecting the Delta salinity with tidal movement, and make less of the aquatic habitat useable.
- Plans are being discussed for minimizing canal impacts to convert the Vic Fazio Yolo Bypass Wildlife Management Area into fish habitat. This is a vital habitat area currently utilized by hundreds of thousands of migrating and wintering shorebirds, waterfowl, songbirds, etc. This land use change will render the habitat unusable for a large majority of those fauna.