



February 1, 2012

Ms. Terry Macaulay  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

Subject: Comments to Delta Plan EIR

Dear Ms. Macaulay:

Thank you for the opportunity to comment on the Delta Plan EIR (EIR). Yolo Basin Foundation submitted Delta Plan scoping comments to the Delta Stewardship Council on January 26, 2011. Those comments are attached to this letter. This letter will refer to comments in the scoping letter.

As you know the Yolo Basin Foundation is a partner with CA Dept. of Fish and Game (Fish and Game) at the Yolo Bypass Wildlife Area (Wildlife Area). As such our focus is on building partnerships within the Yolo Bypass. The 16,750-acre Yolo Bypass Wildlife Area is a 22 square mile mosaic of seasonal and permanent wetlands, uplands, and wildlife friendly farming and grazing. However, while there is frequent mention of the Yolo Bypass in the Delta Plan, there doesn't appear to be any mention of the impacts to the Wildlife Area of changes to the Yolo Bypass for flood control or floodplain inundation. Please address these issues or describe where they can be found in the document. If there are impacts identified what mitigation measures are being proposed?

Our scoping letter and attachments discusses the impacts of actions proposed for the Yolo Bypass. We understand that the EIR is programmatic, however, there is enough known about the effects of increased floodplain inundation on the thousands of acres of managed wetlands and agriculture on the Wildlife Area and the privately managed lands in the Bypass that impacts should be discussed in the EIR. Four ongoing planning efforts, Central Valley Flood Protection Plan (CVFPP), The Bay Delta Conservation Plan (BDCP) effort, together with the Delta Habitat Conservation and Conveyance Program ("DHCCP") led by DWR have done studies, conducted extensive modeling and have preliminary plans. The intersection of these plans with the Delta Plan and the impacts to current land uses should be discussed in the EIR. Please address these impacts or address where they are found in the EIR. If these impacts are significant what mitigations measures are being proposed.

We urge the writers of the EIR to discuss the benefits of the current land uses in the Yolo Bypass and the subsequent impacts associated with recommended changes listed in the EIR on flood control, agriculture, wildlife management, and vector control. Our January

2011 scoping comments state, "The benefits of current uses must be considered fully in any plan that proposes changes to the operation of the Bypass. Please refer to the attached binder beginning with the document: *BDCP Habitat Conservation Measure (FLOO1.1) Modification of Fremont Weir and Spring Inundation of the Yolo Bypass* (Document 4). The Yolo Basin Foundation has provided related comments to the BDCP Steering Committee, Delta Stewardship Council, Delta Vision and the CALFED Ecosystem Restoration Program for over 10 years." The benefits of current land uses should be fully elaborated before the public can understand the impact of the Delta Plan. We understand that CEQA is not designed to describe benefits but in this case it is important to understand the impacts to current agriculture, flood control, habitat management and vector control activities.

Flood Control, habitat restoration and agriculture currently co-exist in the Yolo Bypass. This is successful based on careful implementation of wetlands best management practices, wildlife friendly farming practices and mosquito control best management practices developed in the last twenty years. The EIR needs to address the impacts of proposed changes for increased floodplain inundation on existing management practices. What are the impacts and how will a balance be reached that extends the currently successful practices?

The EIR misses the opportunity to make recommendations to build on existing partnerships in the Yolo Bypass. The management of the Yolo Bypass Wildlife Area exemplifies the effectiveness of strong partnerships. The importance of building on existing partnerships in the Bypass is not listed in the recommendations in Appendix C. Descriptions of these partnerships are essential in order address potential impacts.

In the Yolo Bypass there are wetlands projects currently being planned, not just aquatic habitat related plans. These projects address goals of the Central Valley Joint Venture, the Yolo Bypass Wildlife Area Land Management Plan and others. They are being funded in various ways including North American Wetlands Conservation Act funds, Duck Stamp funds, and other ongoing federal or state wetland easement programs. The EIR misses the opportunity to make integrated management a cornerstone of the Delta Plan. We believe that these current plans should be described in better detail in the EIR.

The Yolo Basin Foundation board values environmental education and has supported a very successful K-12 school program that has brought over 4,000 students annually out to the Wildlife Area. These students come from five counties, including the Delta counties of Solano, Yolo and Sacramento. Appendix C makes a recommendation to work on expanding wildlife viewing and other recreational opportunities in the Delta. Support for and expansion of environmental education programs in the Delta should also be a recommendation.

While it is essential that ecosystem restoration efforts for all species continue, it is equally important that there be funds for operations and maintenance costs for existing habitat area such as State Wildlife Areas. O & M costs are an ongoing problem for habitat restoration projects on public lands. This is an important ingredient that should be addressed in the Delta Plan. Unsupervised lands will impact the spread of invasive species.

The impacts of minimal funding of O&M costs are significant and put all habitat projects at risk. How will the plan assure that such funding is provided? If it is not provided this could result in a potential physical impact that should be addressed in the EIR.

The Yolo Basin Foundation appreciates the extensive public outreach prior to preparation of the Delta Plan EIR. We also appreciate the mention of coordination with the Yolo Basin Foundation in the future. The Foundation looks forward to being of service in carrying out elements of the Delta Plan.

Sincerely,



Betsy Marchand  
Chair



Robin Kulakow  
Executive Director

January 26, 2011

Ms. Terry Macaulay  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

**Re: SCOPING COMMENTS OF YOLO BASIN FOUNDATION  
for the DELTA PLAN**

Dear Ms. Macaulay:

Thank you for the opportunity to provide scoping comments for the Delta Plan. Please include the documents in the attached binder as part of this letter. These documents are referred to in the body of the letter and provide additional information and detail in support of the Comments.

The Yolo Bypass is an important part of the landscape, infrastructure and community of the Delta. The Bypass is a 59,000-acre floodway that protects the City of Sacramento and surrounding communities and farmland by diverting Sacramento River flows onto farmland and open space when they reach flood stage. There is a complex mosaic of publicly and privately managed agricultural land and seasonal wetlands that maintain the floodway; contribute to the agricultural economy of Yolo and Solano Counties; sustain essential habitat for birds traveling the Pacific Flyway and endangered flora and fauna; and provide a myriad of public uses including hunting, bird-watching, outdoor education, hiking, research, painting, photography and other recreational activities.

The Yolo Bypass is home to the 16,740-acre Yolo Bypass Wildlife Area (Wildlife Area) owned and managed by the California Department of Fish and Game (Fish and Game). Rice farming, organic tomatoes and rangeland on the Wildlife Area property provide income to farmers and ranchers and fund the operations of the Wildlife Area. Wildlife friendly farming practices provide food and shelter for migratory and resident birds by the tens of thousands. A popular and growing hunting program serves over 4,000 hunters every year.

The Yolo Basin Foundation provides a full complement of educational and outreach programs in partnership with Fish and Game. Monthly field trips, summer bat viewing, a spring vernal pool open house and the California Duck Days wetlands festival provide high quality wildlife viewing, hiking, and educational opportunities for thousands of people every year. The Discover the Flyway program for schools brings over 4,000 K-12 students to the Wildlife Area annually, from over 100 schools in Sacramento, Yolo, Solano, El Dorado and Placer Counties. Painters and photographers visiting the Wildlife

Area pursue their art in growing numbers. Over 100 volunteers contribute 5,000 hours of work to support these programs.

Many regulatory issues affect management of land in the Yolo Bypass. All activities must maintain the flood control function of the Bypass by restricting the growth of tules, cattails, willows, and cottonwoods. Research is underway that will contribute to the development of Best Management Practices to address the Delta methyl mercury TMDL requirements. Farmers and wetland managers must comply with the requirements of the Ag Waiver program. Control of vector-borne diseases is regulated by the Sacramento Mosquito and Vector Control District using innovative Best Management Practices. Each of these projects has been the subject of long-term discussion and planning to develop adaptive management procedures for the Bypass.

There are large sections of privately owned and managed seasonal wetlands that operate as duck hunting clubs. Thousands of acres of land are under federal and state conservation easements. The Natural Resources Conservation Service, US Fish and Wildlife Service, State Department of Water Resources and Fish and Game own these wetland easements. There are also several mitigation banks in the Bypass, for Giant Garter Snakes and Delta Smelt, both endangered species.

All land in the Bypass is subject to flood easements dating back as far as 1916. Levees are maintained by a series of Reclamation Districts. The Department of Water Resources also maintains miles of Yolo Bypass levees. There is concern that the Yolo Bypass does not have the carrying capacity needed to protect property during the largest storm events.

The Delta Plan will join numerous other land management plans guiding land use in the Bypass that are already in place; and others are underway. There are specific wetland restoration and management goals for the Yolo Basin in the Central Valley Joint Venture Management Plan, implementing the North American Waterfowl Management Plan, an international treaty respecting waterfowl migrations along the Pacific Flyway, among other routes. The Yolo Bypass Wildlife Area has an innovative Land Management Plan that was adopted by Fish and Game in 2007. The Yolo Natural Heritage Program (HCP/NCCP) is in the final stages of development by Yolo County. Each wetland conservation easement has an associated wetland management plan. The Central Valley Flood Protection Plan is under development by the Department of Water Resources (DWR) with a 2012 deadline. The Bay Delta Conservation Plan (BDCP) includes far-reaching conservation and water management measures that would profoundly affect land management in the Bypass. Land management in the Bypass has been characterized by years of patient cooperative and collaborative planning represented by these existing plans.

The Yolo Bypass Wildlife Area is a prime example of ecosystem management rather than single species management for a specific special status species. Yolo Bypass agricultural fields and wetlands are home to many special status species. The Yolo Bypass provisions in the Delta Plan should respect and replicate this ecosystem approach.

The following is taken from the Yolo Bypass Wildlife Area Land Management Plan Biological Resources Section 3.5 ([www.yolobasin.org](http://www.yolobasin.org)):

Two-hundred-eighty terrestrial vertebrate species are known to use the Yolo Bypass Wildlife Area at some point during their annual life cycles (Appendix G), over 95 of which are known to breed in the Yolo Bypass Wildlife Area. The Yolo Bypass Wildlife Area also provides suitable habitat for 23 additional species that may occur on site but have not yet been observed there. The Yolo Bypass Wildlife Area is also known to support 38 special-status wildlife species (Table 3.5-3), and many more are locally rare or have specialized habitat requirements that the Wildlife Area provides. The Wildlife Area also provides seasonal or permanent aquatic habitat for 44 species of fish, 8 of which are special-status species (Table 3.5-5). Hundreds of invertebrate species also inhabit the Wildlife Area, including five special-status invertebrates (Table 3.5-3). Under the ecosystem management approach, management of the Yolo Bypass Wildlife Area is intended to maximize benefits for the full suite of these species as opposed to management at the single-species level.

For over 20 years the Yolo Basin Foundation has facilitated discussions among the many stakeholders in the Bypass. These discussions continue regularly with the Yolo Bypass Working Group. We encourage Delta planners to use the knowledge gained through many hours of stakeholder meetings. The Yolo Bypass Working Group is a good forum to gather and share information, listen to stakeholder concerns, and develop partnerships. Many successful collaborations have grown out of relationships that began with the Yolo Bypass Working Group.

The Yolo Bypass Working Group has contributed to a series of land management plans, technical studies, and policy discussions. Please refer to the letter to Joe Grindstaff dated July 1, 2010 in the attached binder (Document 1). Also refer to the two documents following the letter: *Timeline of Yolo Bypass Documents* (Document 2) and the *History of Stakeholder Involvement in the Yolo Bypass* (Document 3). The Delta Plan, and its Bypass provisions, should embody the principles of adaptive management reflected in the ongoing discussions of stakeholders such as the Yolo Bypass Working Group.

The Yolo Bypass is a central part of the discussion regarding how to address the decline of native fish populations. There has been a 10-year focus on a proposal to modify the Fremont Weir to improve habitat for these fish, primarily salmon, in the Bypass. Most recently, proponents of the Bay Delta Conservation Plan (BDCP) have spent millions of dollars pursuing a conceptual proposal that would permanently lower the Fremont Weir, to increase the frequency and duration of spring flooding. Some studies have purported to show that shallow flooding of the Bypass may provide habitat for young salmon as they move downstream from their natal creeks. However, such prolonged flooding would have potentially devastating effects on flood-protection, agriculture, habitat and recreational values currently supported by existing plans. These impacts have not been studied.

The BDCP is a recent plan for the Yolo Bypass that does not build or draw upon the many existing plans that maintain the agriculture and seasonal wetlands that support the flood protection function and values. Before the Delta Plan proposes changes to land management in the Yolo Bypass such as the BDCP, there should be a

comprehensive look at the entire Bypass. Any changes to Bypass land uses should respect and embody the ecosystem approach, the current diversity of uses and the collaborative community-based efforts that shape and support them.

The Yolo Bypass does have a role to play in the improvement of native fish habitat. However, the modification of the Fremont Weir is a concept for which the downstream impacts to agriculture and managed wetlands that maintain the primary flood protection role have not been analyzed. The local stakeholders who understand the importance of the diverse land uses in Bypass have not been heard; this is a significant defect in the BDCP process. It is time to address the impacts to the Yolo Bypass that have been overlooked for years during discussions involving selective subsets of stakeholders. The benefits of current uses must be considered fully in any plan that proposes changes to the operation of the Bypass. Please refer to the attached binder beginning with the document: *BDCP Habitat Conservation Measure (FLOO1.1) Modification of Fremont Weir and Spring Inundation of the Yolo Bypass* (Document 4). The Yolo Basin Foundation has provided related comments to the BDCP Steering Committee, Delta Stewardship Council, Delta Vision and the CALFED Ecosystem Restoration Program for over 10 years.

The Yolo Basin Foundation is committed to finding solutions to Delta issues involving the Yolo Bypass. To that end we have been working with a group of Yolo Bypass stakeholders to develop the “Westside Option” as a potential alternative to the modification of the Fremont Weir. Please refer to the conceptual document in the attached binder describing this proposal: *Preliminary Description of a Westside Yolo Bypass Management Option for Rearing Juvenile Salmon* (Document 8). We are working with Yolo County and other stakeholders to develop a scope of work to begin investigating this alternative.

The Yolo Basin Foundation Board of Directors encourages the Delta Plan participants to use the many resources developed through the collaborative efforts of the Yolo Bypass Working Group. We are available to assist with stakeholder outreach as the Plan develops. It is essential that the far-reaching Delta Plan begin with the local community and build upon the many unique partnerships that are working in the Yolo Bypass.

Sincerely,

Betsy Marchand  
Board Chair

Robin Kulakow  
Executive Director

**Yolo Basin Foundation Op-Ed Regarding the Bay Delta Conservation Plan**  
*(This opinion piece appeared in the Davis Enterprise on 4/26/09 as  
“Spring Flooding Imperils Bypass.”)*

Don't throw the baby out with the bathwater! A measure contained in the Bay Delta Conservation Plan (BDCP) would do just that if it isn't modified.

The Sacramento-San Joaquin Delta ecosystem is in trouble. Governor Schwarzenegger has assembled an army of agency leaders, staff and consultants with the goal of solving the Delta ecosystem crisis and providing guaranteed water to Southern California people and farms before he leaves office. “Delta Vision,” published in November 2008, is the outcome of their effort, and the BDCP is a complex multi-party plan to carry out the goals of “Delta Vision” within the context of the state and federal endangered species acts.

A model for solving the Delta's problems exists here in Yolo County--the 16,000-acre Yolo Bypass Wildlife Area, and the partnerships it was founded on. Instead of incorporating this successful model, policy makers are on their way to undoing 20 years of community effort to create and manage this amazing public resource.

The Yolo Bypass Wildlife Area, owned and operated by the CA Department of Fish and Game, exemplifies the power of diverse interests working together, and its success is possible because of widespread community and agency support that is based on a long running grassroots effort. It exists within the flood control function of the Bypass; it contributes to the agricultural economy of Yolo County; and it is an open space jewel for the regional community, all while providing a healthy, diverse wetlands ecosystem. The fact that the Yolo Bypass Wildlife Area is located adjacent to the State Capitol means it is accessible to a large metropolitan population, and its impact on building a community environmental ethic should not be underestimated.

The BDCP proposes to construct a notch in the Fremont Weir in order to prolong spring flooding, fundamentally changing how the Bypass works. The Fremont Weir currently diverts up to 500,000 cubic feet per second of water into the Yolo Bypass when the Sacramento River reaches flood stage. The proposed modification would be used to flood the Bypass for a 45 day period between January and May in most years.

This proposal is based on studies that compared the health of young ocean-going salmon that were carried by floodwaters into the Bypass with similar smolts caught in the Sacramento River. The fish that migrated via the Bypass showed signs of being healthier than those that migrated through the channelized Sacramento River. It is hypothesized that the difference is based on time spent in the shallow waters of the Yolo Bypass floodplain.

While this proposed measure may improve the survival chances for some young salmon in a few more years than currently happens, it is only one among many actions that need to be completed to improve salmon survival throughout their life cycle to the ocean and back. The Yolo Bypass Wildlife Area Land Management Plan contains five other actions to improve conditions for salmon and other native fish without notching the Fremont Weir. A copy of the plan can be found on the Yolo Basin Foundation's website: [www.yolobasin.org](http://www.yolobasin.org).

Increased frequency and duration of spring flooding will have a serious impact on agriculture and habitat management in the Yolo Bypass, tipping the balance toward inviability. The extensive rice growing operations in the Bypass provide millions of dollars of income that contributes to the vibrant Yolo County agriculture economy as well as valuable habitat for water birds. The Yolo County Agriculture Commission estimates that the combination of rice and other crops plus ranching in the Yolo Bypass creates about \$44 million in direct farm income annually.

Rice farmers need to start preparing the ground and planting rice starting in March. There are already years in which spring flooding prevents this field work and the rice acreage decreases significantly. Increased spring flooding makes nearly every year a bad year for Bypass farmers and the habitat benefits they provide.

Agriculture, including ranching, is fully integrated into the management of the Wildlife Area. With the involvement of the Dixon Resource Conservation District, agricultural activities help Fish and Game fulfill their habitat goals while generating important income for the operation of the Wildlife Area. This income is what makes it possible for the Wildlife Area to be open to the public and managed in a way that creates and sustains diverse habitat.

Spring flooding is problematic in other ways. Floodwaters that linger into spring encourage the growth of tules, cattails, and willows which left unmanaged will slow down the movement of floodwaters. This proliferation of emergent vegetation reduces the ability of the Yolo Bypass to move floodwaters away from urban areas as designed. Late spring flooding also adversely affects the success of ground nesting birds because the growth of grasses that provide cover is delayed.

Yolo Basin Foundation, the nonprofit associated with the Wildlife Area, is working to deliver the message to the members of the BDCP Steering Committee that there are other measures available to improve aquatic habitat for fish while sustaining the existing high quality mosaic of farm fields and wetlands. We are encouraging them to work with us to develop a set of actions that builds upon the success of the Yolo Bypass Wildlife Area and honors current management underway on public and private lands throughout the Yolo Bypass.

We also urge the citizens of Yolo County to weigh in on the BDCP effort by expressing support for the protection of the Yolo Bypass Wildlife Area and the values it represents. The BDCP EIR/EIS scoping process is open for public comment until May 14<sup>th</sup>. For information on how to submit comments go to <http://www.resources.ca.gov/bdcp/>.

Robin Kulakow  
Ann Brice  
Yolo Basin Foundation



## **BDCP Habitat Conservation Measure (FLOO1.1): Modification of Fremont Weir and Spring Inundation of the Yolo Bypass**

The Yolo Bypass Wildlife Area is a unique resource that provides substantial environmental, social, and economic benefits to the people of California. The 16,000 acres consists of an outstanding mix of terrestrial and wetland habitats that is home to many threatened and endangered species. It is the most popular wildlife viewing, environmental education, and waterfowl hunting destination in the Sacramento Delta.

Habitat Conservation Measures described in the Bay Delta Conservation Plan will have adverse impacts on the Yolo Bypass Wildlife Area. Specifically, the proposed Floodplain Habitat Restoration Conservation Measure (FLOO1.1): “Modify the Fremont Weir and the Yolo Bypass to provide for a higher frequency and duration of inundation,” must be evaluated for compatibility with existing public use programs, agricultural and wetland operations, and legal obligations under state, federal and international law.

The immediate **adverse impacts** of more frequent inundation of the Yolo Bypass include but are not limited to:

- **Public Use (All public use activities cease when the Bypass floods.)**
  - School Program: Approximately 4,000 students annually visit the Wildlife Area annually as part of the “Discover the Flyway” program. The program attracts students from over 100 schools in 5 counties.
  - Hunting Activity: Over 4,000 hunters utilize the area from throughout northern California. Hunter dollars provide the largest component of the operating budget at Yolo.
  - Wildlife Viewing: It is estimated that 30,000 people a year visit the Wildlife Area to view the large variety and number of birds, which peak in the winter and spring months.
- **Agriculture**
  - Agricultural Activities: There will be an inability to plant fields until they have dried out enough to begin ground tillage. Delaying this initiation of farming activity severely limits what can be grown here. White rice production will be severely impacted.
  - Forage value of uplands: Prolonged flooding results in the introduction of unwanted plant species, such as cocklebur, in the uplands. This will lead to a reduction in grazing lease fees and subsequent reduction in operating funds.
- **Wildlife**
  - Spring Nesting: This activity will be nearly eliminated. Ground nesting birds such as waterfowl, harriers, kites and shorebirds are especially vulnerable to spring flooding.
  - Rodent Presence: Fewer rodents, due to flooding, results in a reduction in food for wintering raptors.
  - Threatened and Endangered Terrestrial and Wetland Species: There will be adverse impacts to numerous protected species.

### ***Adverse Impacts (continued)***

- **Vector Control**
  - Best Management Practices: Established BMPs for wetland management under controlled conditions will not apply, resulting in increased mosquito production. The BMPs are the basis for our working relationship with Sacramento Yolo Mosquito and Vector Control District.
- **Flood Control**
  - Agreed upon vegetation densities will not be manageable with increased spring flooding, which encourages uncontrolled growth of tules, cattails and willows. This will make the Wildlife Area non compliant with the flood control function of the Yolo Bypass.
- **Methylmercury**
  - Best Management Practices: Current BMPs developed as part of a Total Maximum Daily Load for the Delta, will reduce the creation of methylmercury in wetlands that is subsequently transported to the Delta. These BMPs will not be applicable with increased flooding. The result could be a net increase in the levels of methylmercury being transported to the Delta.

### **Existing Obligations Impacted by FLOO1.1:**

- Agreements signed by DFG to manage habitat that is compatible with flood control: Project Modification Report, USACOE and DFG 1992; Other MOUs signed in 1994.
- Legal requirements of federal and state easement programs including federal Wetland Reserve Program, Presley Program and others on both public and private lands require a set management regime.
- Use of NAWCA funds to restore wetlands obligated DFG to manage the constructed wetlands for the benefit of migratory waterfowl and shorebirds in perpetuity.
- Increased spring inundation compromises the long established goals of the Central Valley Joint Venture and violates the DFG's commitment to manage these wetlands for waterfowl and shorebirds.
- Increased spring inundation affects the International Waterfowl Management Plan, an international treaty aimed at protecting migratory waterfowl populations.
- The Wildlife Area provides important habitat for several listed species, including Giant Garter Snake, Snowy Plover, Conservancy Fairy Shrimp, and Ferris' Alakali Milk Vetch.