

1. Costs associated with revising flood contingency and evacuation maps and other emergency plans as projects are constructed changing the topography or other characteristics of the area.
 2. Costs associated with updating risk assessments and response priorities as Project implementation changes topography and other local conditions.
- 5.4.3.3-Water Quality Improvement. Potential facilities listed in this section that may result from meeting water quality objectives in San Joaquin County include treatment plants and conveyance facilities. The following additional impacts should be added and mitigation actions identified.
 1. Costs associated with revising flood contingency and evacuation maps and other emergency plans as projects are constructed changing the topography or other characteristics of the area.
 2. Costs associated with developing regional systems for protection of a new conveyance facility crossing multiple jurisdiction boundaries.
 3. Degradation of local ability to protect the public by placement of new or enlarged treatment plants serving regional areas where catastrophic health conditions to regional populations could be created by their loss.
 4. Costs associated with updating risk assessments and response priorities as the Project implementation changes topography and other local conditions.
 - 5.4.3.4-Flood Risk Reduction. The potential projects identified in this section may reduce the demand on emergency response systems but since the Project does not indicate that all risk would be eliminated then the following negative impacts should be added and mitigation actions identified.
 1. Costs associated with revising flood contingency and evacuation maps and other emergency plans as projects are constructed changing the topography or other characteristics of the area.
 2. Costs associated with updating risk assessments and response priorities as the Project implementation changes topography and other local conditions
 - 5.4.3.6.3- Mitigation Measure 5-4. This discussion of mitigation measures is confusing. The Project identifies in Chapter 7 of the Delta Plan recommended actions for improving emergency response. Yet in this section isolated, fragmented, and incomplete actions are identified for improving emergency response and intermixed with potential levee and floodway improvements.

In order to be consistent with the Delta Plan itself the mitigation actions listed by the authors for improving emergency response should be replaced with a single mitigation action to implement the SB27 Task Force strategy.

Implement the SB27 Task Force recommendations and establish a funding program for maintaining plans, contingency maps, protocols, and systems in a current and effective state as Project implementation changes the risks, topography, and other conditions of the study area.

Where the authors list physical mitigation actions such as building new evacuation - roads, etc., these should be replaced with a single mitigation action as follows.

Implement and fund a mitigation program for identifying and placing new physical structures and facilities needed to mitigate the negative impacts on emergency response capabilities and performance of Project implementation.

The potential placement of new or enlarged treatment plants degrades the ability of local agencies to protect public health and safety by creating conditions where one levee failure could eliminate potable water supplies and waste disposal systems for regional populations. The only acceptable mitigation action would be one where the potential for extended loss of such facilities is extremely low. Any level of protection of a levee where it is the single source of flood protection for such facilities would not be adequate to meet this requirement. Mitigation for such facilities should include the placement of a secondary flood defense, e.g. ring levee or structure elevation, in addition to the level of protection provided by a primary levee.

For facilities arising from implementation of Project policies and recommendations which provide potable water or waste treatment services to regional populations, a secondary flood defense will be added to facility design where flood protection is limited to only one primary flood control structure, e.g. levee.

6. Section 6 - Land Use and Planning.

- Page 6-15, 6.2.1.4.1, line 24 states that the updated General Plan is anticipated in Summer 2011. The Community Development Department anticipates that the updated General Plan may go to the Board of Supervisors in Fall 2012 for consideration.
- Page 6-15, 6.2.1.4.2, line 41 states that Mountain House is “projected to eventually become a small, incorporated city.” Mountain House, at build out, is anticipated to be a community of approximately 48,000 people.
- Page 6-36, lines 21-23, states that growth in Tracy has been “fueled by an influx of residents who commute to work in the Bay Area via the Altamont Commuter Express (i.e., ACE train).” It is not accurate to state or imply that most residents commute to the Bay Area via the ACE train. Most, in fact, commute by automobile. Actual commute patterns can be obtained from the San Joaquin Council of Governments.
- Page 6-36, lines 27 and 28, states that public access to the San Joaquin River is limited. It should be noted that there is public access located in the general area. The San Joaquin County Department of Parks and Recreation should be contacted for details regarding public river access.

- Page 6-36, line 29, states that Lathrop has begun “to expand west of I-5 with new residential uses.” It should be noted that there are also new commercial and industrial uses to the west of I-5.
- Page 6-43, 6.4.1, lines 31 and 32 states that “The Proposed Project and alternatives would not directly result in construction or operation of projects or facilities, and therefore would result in no direct land use impacts.” This doesn’t seem to be an accurate statement, as the BDCP will be part of the Delta Plan, and therefore part of the “Proposed Project.” The BDCP will likely have significant land use impacts.
- Page 6-45, lines 3-5, states “Project-specific impacts would be addressed in project-specific environmental studies conducted by the lead agency at the time the projects are proposed for approval.” This is stated throughout the document and though we know this is a program level EIR, leads to somewhat vague discussions of impacts and a sense of incompleteness.
- Page 6-49, lines 5-7, states that San Joaquin County has land designated for “exclusive agricultural use.” This is not an accurate statement, and it appears throughout this section. The San Joaquin County General Plan has no such designation, and there is no such zoning. Most of the agricultural land in the Delta is designated A/G, General Agriculture, and zoned AG, General Agriculture. There are some uses other than agricultural land uses that are permitted or may be conditionally permitted with an approved discretionary land use permit.
- Page 6-57, line 21-26, states that “new water treatment facilities could be constructed on lands designated for exclusive agriculture use in Yolo or San Joaquin counties, conflicting with these local land use controls and resulting in a loss of agricultural land.” As stated above, there is no such “exclusive agricultural” designation in San Joaquin County. Although a water treatment facility may be conditionally permitted in agriculturally designated and zoned land in San Joaquin County, if it were proposed on land within the primary zone of the Delta, there would be potential consistency issues with General Plan policies. And even if consistent with General Plan policies and zoning, there would still be a potentially significant loss of agricultural land.
- 6.4.3.5.1 Impact 6-1e: Physical Division of an Established Community Effects of Project Operation: Page 61, Line 17, Add "to" to the sentence: "...access points in the Delta, are unlikely to physically divide communities in the Delta, and instead are likely..."

7. Section 11 - Geology and Soils.

- All references to "septic systems" throughout the EIR should be changed to "onsite wastewater treatment systems (OWTS)." Assembly Bill (AB) 885 (Chapter 781, Statutes of 2000) was approved by the California State Legislature and signed into law in September 2000. The legislation directed the State Water Resources Control Board (SWRCB) to promulgate statewide onsite wastewater regulations by the year 2004. Public comments on a draft statewide regulatory policy are currently being reviewed by SWRCB staff, and the draft policy is proposed for SWRCB adoption by the summer of 2012.
- Page 11-1, Line 20. Remove "disposal" and add "treatment systems" to sentence: "...soil shrinking and swelling; and the potential for construction of on-site wastewater disposal treatment systems in..."

11.5.3.1.8 Impact 11-8a: Have Soils Incapable of Adequately Supporting the Use of Septic Tanks or Alternative Waste Water Disposal Systems Where Sewers Are Not Available for the Disposal of Waste Water.

- Page 11-44, Lines 37-38. Remove "disposal" and add "onsite wastewater treatment systems" to sentences: "Soil properties that affect the ability to support the use of septic tanks onsite wastewater treatment systems or alternative onsite wastewater disposal treatment systems include:"
- Page 11-45, Line 9. Remove "septic" and add "onsite wastewater treatment" to sentence: "...and depth to groundwater is relatively shallow, may not be suitable for supporting a septic onsite wastewater treatment systems."

11.5.3.3.8 Impact 11-8c: Have Soils Incapable of Adequately Supporting the Use of Septic Tanks or Alternative Waste Water Disposal Systems Where Sewers Are Not Available for the Disposal of Waste Water

- Page 11-59, Line 9: Remove "septic" and add "onsite wastewater treatment" to sentence: "...constructed in remote locations, an septic tank onsite wastewater treatment system or alternative onsite wastewater disposal treatment system would have to be..."
- Page 11-59, Line 21: Remove "septic" and add "onsite wastewater treatment" to sentence: "...and depth to groundwater is relatively shallow, may not be suitable for supporting septic onsite wastewater treatment systems."

11.5.3.5.8 Impact 11-8e: Have Soils Incapable of Adequately Supporting the Use of Septic Tanks or Alternative Waste Water Disposal Systems Where Sewers Are Not Available for the Disposal of Waste Water

- Page 11-70, Lines 45-46: Remove "septic" and "disposal" and add "onsite wastewater treatment" to sentence: "...permanent facilities are constructed in remote locations, an septic tank onsite wastewater treatment system or

alternative onsite wastewater treatment disposal system would have to be installed for use during operation."

- Page 11-71, Line 5: Remove "septic" and add "onsite wastewater treatment" to sentence: "...Suisun Marsh appear to have limited suitability for supporting septic onsite wastewater treatment systems, impacts could be..."
- Page 11-71, Line 18: Remove "septic" and add "onsite wastewater treatment" to sentence: "...the proposed project included a new septic onsite wastewater treatment system/leachfield to service the restroom/shower building that..."
- Page 11-71, Line 20: Remove "septic" and add "onsite wastewater treatment" to sentence: "...construction and maintenance of restroom facilities and septic onsite wastewater treatment systems in areas prone to flooding."
- Page 11-71, Line 21: Remove "septic" and add "onsite wastewater treatment" to sentence: Because a septic onsite wastewater treatment system permit would be required from Butte County, which would include a soil profile..."
- Page 11-71, Line 23: Remove "septic" and add "onsite wastewater treatment" to sentence: "...related to soil suitability for supporting septic onsite wastewater treatment systems were less than significant. The San Luis Rey River..."
- Page 11-71, Line 25: Remove "septic" and add "onsite wastewater treatment" to sentence: "...potential impacts related to suitability of soils to support septic onsite wastewater treatment systems, but vault toilets that store sewage..."

11.5.3.6.8 Mitigation Measure 11-8:

- Page 11-77, Lines 14 to 24. Comment – The potential alternative onsite wastewater treatment systems noted in Lines 19-24 are methods of advanced sewage treatment, but they may not address issues of effluent dispersal, inadequate separation from high groundwater, or lack of adequate topsoil (which is very common in many areas of the Delta). The subject of engineered fill leach fields should be discussed as a potential mitigation for unsuitable onsite soils.

8. Section 14 - Hazards and Hazardous Materials.

No comments on description of current hazardous facilities and conditions. The addition of more hazardous materials sites would create a need for additional planning by emergency responders and preparation of emergency plans by the facility owners. The cost of necessary regulatory and emergency planning activities by the County would be covered by existing fees and programs. A key problem that arises in the placement of additional hazardous materials in the Delta is the increased complexity and cost of responding to a flooded area to prevent and reduce contamination by hazardous materials in the area. Add this mitigation action:

Fund and develop improved flood recovery and debris removal plans where Project implementation would lead to extended or permanent placement of Additional hazardous materials within the Delta.

14.3.4 Methyl Mercury

Page 14-4, Line 7. Sentence modified to read: "...1970 in the Delta indicate that mercury levels in certain fish species exceed numeric criteria established for the protection of..."

14.4.2.5 San Joaquin County

14.4.2.5.1 Hazardous Materials

Much of the information in "14.4.2.5.1 Hazardous Materials" for San Joaquin County is outdated. It is recommended that the language on Page 14-11, lines 9-44, and Page 14-12, lines 1-5, be replaced with the following language:

The California Environmental Protection Agency (Cal/EPA) Unified Program consolidates, coordinates, and makes consistent the administrative requirements, permits, inspections, and enforcement activities of six hazardous material and emergency response programs. The Legislature and State agencies responsible for these programs set the statewide standards, while local governments implement the standards. Cal/EPA oversees the administration of the Unified Program as a whole, while 83 government agencies at the local level are certified by the Secretary of Cal/EPA as Certified Unified Program Agencies (CUPAs).

The San Joaquin County EHD is the local CUPA responsible for the permitting, inspection, and enforcement of the six hazardous materials programs within the County as identified below:

a. *Hazardous Materials Management Plan or Business Plan Program.*

All hazardous materials that equal or exceed specified quantities must be reported to the local CUPA prior to storage of the hazardous materials onsite. Reporting quantities are 55 gallons or more of a hazardous liquid, 200 cubic feet of a hazardous gas, and 500 pounds of a hazardous solid. Facilities that store any of these amounts are required to file a Business Plan inventory and facility map that identifies specific hazardous material locations to prevent fire fighters, first responders, and other interested parties from possible exposure to chemical releases during an emergency event. There are over 2,900 regulated facilities within San Joaquin County. Source: California Health and Safety Code, Chapter 6.95, Article 1, and California Code of Regulations, Title 19.

b. *California Accidental Release Prevention Program (CalARP).*

The goal of the CalARP Program is to reduce the likelihood and severity of possible exposures to extremely hazardous material releases. Examples of extremely hazardous materials (regulated substances) include toxic gases such as chlorine, ammonia, sulfur dioxide and other toxic materials. The EHD CUPA

coordinates with facilities that handle extremely hazardous materials to evaluate the risks of covered processes and require appropriate Risk Management Programs (RMP). There are 144 CalARP/RMP regulated facilities in San Joaquin County. Source: California Health and Safety Code, Chapter 6.95, Article 1 and California Code of Regulations, Title 19.

c. Hazardous Waste Storage Program.

Under State law, every owner/operator who generates and stores hazardous waste on their property is considered a hazardous waste generator. There is no minimum generation or storage amount that triggers regulation under the program. The program goal is to ensure that hazardous waste is stored, treated, transported and disposed of properly. There are over 1,700 regulated hazardous waste generator facilities in San Joaquin County. Source: California Health and Safety Code, Chapter 6.5, and California Code of Regulations, Title 22.

d. Hazardous Waste Storage and Treatment (Tiered Permitting) Program.

A CUPA permit is required for all hazardous waste generated and treated onsite. The program goal is to ensure all hazardous waste is treated in accordance with California Health and Safety Code, Chapter 6.5, and California Code of Regulations, Title 22, requirements. There are 15 treatment facilities regulated in San Joaquin County.

e. Aboveground Petroleum Storage Act (APSA).

All petroleum stored aboveground in containers 55 gallons or larger are regulated under this program, if the total stored on site is at least 1,320 gallons. The facility owner is required to prepare a Spill Prevention Control and Countermeasure Plan (SPCC) to prevent any petroleum releases from reaching waters of the State. Aboveground tanks can be found at vehicle maintenance shops, trucking businesses, farms, school corporation yards and bulk storage fueling facilities. Near the Port of Stockton in the Delta, there are major transmission pipelines that transport petroleum fuel to bulk storage facilities for later delivery to service stations and other underground storage tank (UST) facilities. The CUPA conducts inspections at these facilities to assure compliance with the California Health and Safety Code, Chapter 6.67, and 40 Code of Federal Regulations, Part 112. There are over 700 APSA regulated facilities in San Joaquin County.

f. Underground Storage Tank Program.

The goal of the UST Program is to protect public health, the environment and groundwater from releases of hazardous materials, predominantly fuel, from USTs. To accomplish this goal, the EHD ensures that facilities with ongoing UST operations are properly permitted and meet the monitoring requirements

applicable to their type of equipment. This is accomplished during plan check and inspection activities. As the CUPA, the EHD is responsible for permitting installations of new UST systems, UST repairs, and piping removals, including plan checks and inspections. Gasoline stations are typical locations to find USTs but they can also be found at corporation yards, hospitals, communication facilities, vehicle maintenance shops, bus depots, farms, and even residential locations. Each UST site is inspected annually as mandated by State law. There are over 250 regulated facilities with USTs. Source: California Health and Safety Code, Chapter 6.7 and California Code of Regulations, Title 23.

- Page 14-12, Lines 7-8. Modify sentence to read: "No hazardous waste landfills occur in San Joaquin County, although illegal or mistaken the Forward, Inc. Landfill located at 9999 S. Austin Road, Manteca, is a Class II facility authorized to accept designated waste streams."

Designated waste is defined in the California Water Code section 13173, as one of the following:

- Hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to Section 25143 of the Health and Safety Code.
- Non-hazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan.

9. Section 16 - Population and Housing.

Section 16 discusses certain types of populations and housing, but fails to adequately address Permanent, Migrant and Seasonal Agricultural Worker housing. Although this population is a smaller percentage than those living in more urbanized parts of the Delta, permanent, migrant and seasonal agricultural worker needs are different and unique from the general population, and should be addressed as a separate group in this section.

In San Joaquin County, and especially the Delta area, the availability of legitimate housing for agricultural workers has been declining. Migrant and seasonal dormitory-style housing has significantly decreased over the past 10 years. Many agricultural workers have found housing in older mobile homes located on agricultural lands, as available and affordable. Because limited agricultural housing is an ongoing problem, State law provides for reduced local permitting requirements for agricultural worker housing in agricultural areas.

Some agricultural workers that reside in the Delta area may have immigration status issues and may not be well accounted for in census data. The statements in the EIR that these residents, if displaced, could easily be relocated may not be factual. The structures and mobile homes where agricultural workers currently reside have special agricultural worker permitting and they may not be able to relocate to another agricultural farm or to an available or affordable mobile home park. In addition, these workers' livelihoods and sources of income are closely associated with the location of their residence. Relocation and travel costs may have a significant impact on their ability to work and will likely reduce their income levels.

Although small in number, agricultural workers play an important role in the Delta environment. Their unique and special needs should be referenced in the EIR.

Lead. The San Joaquin County EHD investigates lead hazards under the California Department of Public Health Childhood Lead Poisoning Prevention Program, in conjunction with the San Joaquin County Public Health Services grant. Lead hazards are investigated and mitigated in homes where a child has been identified as having an elevated blood lead level. The San Joaquin County EHD enforces lead hazard abatement activities in the unincorporated areas, in accordance with California State Housing Law, when necessary to obtain compliance.

10. Section 19 - Transportation, Traffic, and Circulation.

As a means of ensuring that previous local agency land use decisions are not compromised, transportation and other infrastructure projects which are consistent with local agency General Plans, and Specific Plans where applicable, when the Delta Plan is adopted should be incorporated into the Delta Plan and therefore exempted from review by the Delta Stewardship Council.

11. Section 20 - Utilities and Service Systems.

- 20.3.1.4 Solid Waste Collection and Disposal. Page 20-5, Line 5.
- Table 20-3 - Solid Waste Disposal Facilities In and Near the Delta.
- Modify Table under San Joaquin County to state: "San Joaquin County San Joaquin County communities are served by three four disposal and transfer station facilities located outside of the Delta Forward, Inc. Landfill and Resource Recovery Facility, Lovelace Materials Recovery Facility and Transfer Station, North County Recycling Center and Sanitary Landfill, and Foothill Sanitary Landfill."
- Page 20-12, Lines 29-35. Indicates that onsite burial would be acceptable for the four-year project, and could meet State of California's diversion goals. It may not be acceptable to bury all materials onsite. Advance authorization for any onsite

burial must be obtained from the Regional Water Quality Control Board and the Solid Waste Local Enforcement Agency.

12. Section 21 - Climate Change and Emissions.

The DPEIR is sorely lacking for any substantive metrics, and the ones that are currently used throughout, cannot be relied upon.

13. Section 23 - Bay Delta Conservation Plan.

The DPEIR, in its consideration of the BDCP, fails to note that shortages of water within the Bay Delta must be taken into account. California water law is based on a priority system of state water rights; the most senior water rights are protected while junior water rights confer to more senior rights. Therefore, in instances of water shortage, the priority system trumps. (*Pleasant Valley Canal Company v. Borrego* (1998) 61 Cal.App.4th 742, 770.)

- Page 23-31, lines 33 and 34, states that “operation of these projects could create land use conflicts if they are incompatible with adjacent uses.” This is true, and needs to be fully discussed in this DPEIR, but it is deferred to a later discussion, presumably after the BDCP is finished.
- Page 23-31, lines 38-40, states that BDCP-related ecosystem restoration and enhancement “could conflict with existing agricultural zoning and Williamson Act contracts. These effects could be temporary... which would not be a significant impact, or permanent.” First, a project may not conflict with zoning, but may still have a significant impact from the loss of agricultural land. Secondly, one wonders how there would not be a permanent, significant loss of agricultural land from implementation of the as yet to be completed BDCP.

14. Section 24 - Other CEQA Considerations.

- Section 24-2, line 4: As the Delta Plan is written, the only obstacle removed is the ability to stop the increasing reliance on Delta water in areas outside of the Delta. The Delta Plan provides no guidance on how to provide a reliable water supply to these areas, as commented on section 1-4. In addition, if reliable water supplies were created, they would directly induce growth.

15. Section 25 - Comparison of Alternatives.

- Section 25-1, line 26: From the statement, “The degree to which the alternatives might or might not satisfy the project objectives and be feasible is something the Delta Stewardship Council will consider at some point after the release of this