

1624 Hood Franklin Road  
Elk Grove, CA 95757  
www.stonelakes.org



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Via Email ([delores@water.ca.gov](mailto:delores@water.ca.gov))

Ms. Delores Brown  
Division of Environmental Services  
California Department of Water Resources  
901 P St., Bonderson Bldg., 4th Fl.  
P. O. Box 942836  
Sacramento, CA 95814

Re: Comments on Revised NOP for BDCP EIR/EIS

Dear Ms. Brown:

This letter provides the comments of the Stone Lakes National Wildlife Refuge Association (Association) on the Revised Notice of Preparation (NOP) for the joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Sacramento-San Joaquin Bay Delta Conservation Plan (BDCP). The Association also submitted comments on the previously issued NOP, which are attached as Exhibit A. The Association is a nonprofit organization dedicated to preserving and protecting the Stone Lakes National Wildlife Refuge (Stone Lakes NWR), which is located within the legal Delta. Among other activities, the Association has worked to ensure that Stone Lakes NWR is protected from adverse impacts relating to changes in flows and water quality due to surrounding development in coordination with local, state and federal agencies.

The Refuge is the single largest complex of natural wetlands, lakes and riparian areas remaining in the Sacramento-San Joaquin Delta, and provides critical habitat for waterfowl and other migratory birds of international concern, as well as a number of endangered plant and animal species. Stone Lakes NWR and its surrounding agricultural areas are home to several special status species, including the tri-colored blackbird, greater sandhill crane, white-face ibis, long-billed curlew, Swainson's hawk, burrowing owl, giant garter snake and valley elderberry longhorn beetle.

Please consult the "Final Comprehensive Conservation Plan and Environmental Assessment for the Stone Lakes National Wildlife Refuge," available at <http://www.fws.gov/stonelakes/ccp.htm> for specific information regarding Stone Lakes NWR resources and as background for development of the content of the EIR/EIS.

## **Background**

In 1972, the U.S. Army Corps of Engineers recommended establishing a national wildlife refuge in the Stone Lakes Basin after completing a flood control study of Morrison Creek, Sacramento County's largest creek system. In 1994, following six years of study and public meetings, the U.S. Fish & Wildlife Service (FWS) established Stone Lakes NWR in Sacramento County, which borders the Cities of Sacramento and Elk Grove. Stone Lakes NWR is the 505th refuge in the National Wildlife Refuge System and one of the few urban wildlife refuges in the nation. The goals of Stone Lakes NWR are to:

1. Preserve, enhance, and restore a diverse assemblage of native Central Valley plant communities and their associated fish, wildlife, and plant species;
2. Preserve, enhance, and restore habitat to maintain and assist in the recovery of rare, endangered, and threatened plants and animals;
3. Preserve, enhance, and restore wetlands and adjacent agricultural lands to provide foraging and sanctuary habitat needed to achieve the distribution and population levels of migratory waterfowl and other water birds consistent with the goals and objectives of the North American Waterfowl Management Plan and Central Valley Habitat Joint Venture;
4. Create linkages between Refuge habitats and habitats on adjacent lands to reverse past impacts of habitat fragmentation on wildlife and plant species;
5. Coordinate Refuge land acquisition and management activities with other agencies and organizations and to maximize the effectiveness of Refuge contributions to regional habitat needs;
6. Provide for environmental education, interpretation, and fish and wildlife-oriented recreation in an urban setting accessible to large populations; and
7. Manage wetlands and adjacent floodplain lands in a manner consistent with local, State, and Federal flood management; sediment and erosion control; and water quality objectives.

(57 Fed. Reg. 33007 (July 24, 1992).)

## **General Comments**

The Association is concerned that the BDCP as currently proposed, would have significant negative impacts on Stone Lakes NWR and that little is being done to lessen those impacts. Though not disclosed in the NOP, the Association understands that the eastern alignment of the canal, which traverses Stone Lakes NWR, is now being pursued as the preferred conveyance alternative. This component of the BDCP would change to the manner in which the state and federal water projects deliver water to the pumps in the South Delta, shunting Sacramento River water around the Delta prior to entering the state and federal pumps. Assessment of potential impacts on Stone Lakes NWR of this and other potential BDCP project components has been difficult because the BDCP lacks a detailed and stable project description. Moreover, the Association has not been able to obtain the up-to-date conveyance route maps that would assist in providing advice to the BDCP as to how to avoid impacts on Stone Lakes NWR.

The Association requests that the proponents of the BDCP carefully consider impacts of implementing the BDCP on the resources of Stone Lakes NWR in the EIS/EIR. The significant public investments that made Stone Lakes NWR possible should be honored by providing the very highest level of protection to the resources of Stone Lakes NWR. *Project components that would threaten the ability of the Refuge to continue to serve the purposes for which it was created should not be pursued.*

## **Specific Suggestions**

The Association recommends that the EIR/EIS address the following issues:

1. **Project Description.**

A clear description of the Project is necessary for environmental review purposes. Such a description has not yet been provided. This lack of information interferes with the ability of the Association to meaningfully comment on the Revised NOP. It is only by also monitoring the BDCP Steering Committee meeting proceedings and handouts that the Association is aware of the latest configuration of project components that would affect Stone Lakes NWR, primarily a massive canal and associated infrastructure. Also through these investigations, the Association understands that habitat restoration activities are no longer being targeted for lands within Stone Lakes NWR.

Given the gravity of impacts and long term implications of the BDCP, Association urges that selection of each Project component be underlain by a

strong scientific foundation. The Association questions, for instance, whether an isolated canal actually is a “conservation measure” at all, given the wide-reaching effects that construction and operation of such a canal would have, not just on Stone Lakes NWR, but on the entire route of the massive Project. Additionally, the Association is concerned that while a new diversion point may lessen impacts on aquatic organisms at the pumps, it may do so at an unacceptable cost to habitat and viability of terrestrial species as well as other aquatic species on the Sacramento River. Many of these species were not formerly impacted by the SWP and CVP operations and also are protected under the state and federal endangered species laws.

2. Project Setting.

The environmental setting in the EIR/EIS must include a detailed description of Stone Lakes NWR and other similar resources within the Delta. This description should be made with reference to the Comprehensive Conservation Plan and other available research materials.

3. Project Impacts.

The Association is primarily concerned about the impacts a massive canal and associated facilities would have on the existing and planned uses of Stone Lakes NWR. As explained above, Stone Lakes NWR provides essential habitat to a variety of species. Long term plans described in the Comprehensive Conservation Plan include long-term plans for many improvements to better serve wildlife needs as well as the surrounding communities. (Comprehensive Conservation Plan, pp. 71-92.) Construction of a massive canal on even part of Stone Lakes NWR would interfere with the ability to implement many of these plans, including the ability to effectively manage lands for conservation purposes that are bisected by the canal. The EIR/EIS must fully analyze these conflicts.

The Association has been actively working to address flooding issues at Stone Lakes NWR for several years. The Refuge is within the 100-year floodplain and damaging floods have occurred in the Beach-Stone Lakes basin an average of one out of every three years. Extensive flooding occurred in 14 of the last 40 years. (Comprehensive Conservation Plan, p. 64.) This flooding has been exacerbated by urbanization to the east (Elk Grove) and north (Sacramento) of Stone Lakes NWR. Pursuant to a settlement agreement, the Association is now working collaboratively with the City of Elk Grove to develop a drainage plan for the area that minimizes flooding and pollution of Stone Lakes NWR. There is a concern that construction of a canal and associated facilities would further interfere with the hydrology of the area to create even worse flooding of Stone Lakes NWR. The EIR/EIS must fully analyze these impacts.

Cumulative land use changes and development are also a serious source of concern. Wildlife reliant upon Stone Lakes NWR also depend on and utilize the surrounding lands for foraging and other activities; much of this land is in active agricultural production. Thus, the effects of a massive canal and associated facilities are a concern within and near the Stone Lakes NWR boundary, regardless of whether those lands are actually within the formal boundary. Because Stone Lakes NWR cooperates with agricultural activities in the area to provide habitat benefits, the Association is also concerned about the fragmenting impacts of canal construction on the continued viability of existing agricultural uses. Moreover, construction and operation of the canal would create traffic, noise, air pollution and other disturbances to sensitive wildlife.

Stone Lakes NWR provides important wintering habitat for migratory birds such as the greater sandhill crane. Availability of habitat for these birds in the region has already been severely diminished by urbanization. The further impact caused by location of a large canal in Stone Lakes NWR and other nearby habitat areas must be fully analyzed.

The Association is also tracking a related project that would also bifurcate and disrupt lands within Stone Lakes NWR: the Transmission Agency of Northern California Transmission Project (TANC). One alternative route of the TTP includes massive transmission lines through Stone Lakes NWR. If built, these lines may prevent birds from landing at Stone Lakes NWR. TANC, in combination with the canal and associated facilities, would result in cumulative environmental impacts on sensitive species that must be carefully considered. Moreover, given the need for power along any new conveyance route, these projects may be interrelated and interdependent, making it necessary to review the projects in tandem.

Stone Lakes NWR has been designated as one of the six most threatened refuges in the nation. (See *State of the System: An Annual Report on the Threats to the National Wildlife System*, National Wildlife Refuge Association (2005), at p. 9, available at: <http://refugenet.org/new-pdf-files/BeyondtheBoundaries.pdf>; see also <http://www.fws.gov/stonelakes/ccp.htm>.) This designation was primarily based on impacts from surrounding urbanization. The insertion of significant infrastructure such as the canal and TANC would even further threaten the continuing viability of Stone Lakes NWR. These impacts must be carefully studied and mitigated.

The Association is also concerned that the new northern diversion point, combined with other BDCP components could alter habitat conditions within the Delta in a manner that would negatively impact wildlife that use Stone Lakes

NWR. For example, changes in water quality in the Sacramento River and the Delta waterways may affect the availability of food for species that also rely on Stone Lakes NWR for habitat. Each proposed change to the ecosystem may have ripple effects through the food chain that must be carefully studied to weigh costs and benefits of any proposed changes to the system.

#### 4. Mitigation for Project Impacts

Should the canal and associated facilities be planned for construction in Stone Lakes NWR, a comprehensive mitigation program will be necessary to meet mitigation requirements of CEQA and NEPA. Once a clear Project definition is developed, the Association would work with the BDCP proponents to develop suitable mitigation measures. As a fundamental matter, the BDCP must provide mitigation for impacts to resources at Stone Lakes NWR occur *within Stone Lakes NWR*. Given the significant public investment in Stone Lakes NWR, cumulative threats to Stone Lakes NWR, any resources expended to mitigate for the significant effects of the Project must be aimed at improving habitat conditions within Stone Lakes NWR. Otherwise, the BDCP may seriously interfere with the ability of Stone Lakes NWR to attain its statutory goals, threatening its continued viability as a refuge.

#### 5. Project Alternatives

As noted above, the Association questions the need for the canal component of the BDCP. The cost, complexity and controversy of the canal demand that the environmental document thoroughly and non-peremptorily consider project alternatives. A comprehensive strategy incorporating agricultural and urban water conservation; alternative sources such as desalinization and tertiary-treated wastewater; and storage strategies, including groundwater banking, conjunctive use and additional storage must be described and evaluated as a project alternative to Delta export. Review of the costs associated with these strategies (see “The Economics of Ending Delta Water Exports Versus the Peripheral Canal: Checking the Data of the PPIC” by Dr Jeffrey Michael) suggest that implementing such a strategy would be competitive with the cost of the Peripheral Canal.

The environmental analysis also must consider alternative canal design to reduce impacts on the Stone Lakes National Wildlife Refuge. These alternatives should include: (1) diversions originating south of Hood as identified in the alternative identified by the Public Policy Institute of California in their report: “Beyond the Peripheral Canal: Envisioning Futures for the Sacramento-San Joaquin Delta”, (2) a smaller overall design flow for the canal involving fewer diversion points from the Sacramento River, (3) underground construction of the

canal where it passes through and adjacent to the Stone Lakes NWR, and (4) a combination of all of the above. If the primary purpose of the canal is to protect the Delta fisheries and improve the ecological functioning of the Delta estuary, then more southerly diversions from the Sacramento River should also be considered.

Finally, and for the purpose of creatively thinking outside the box in confronting Delta ecosystem problems, the environmental analysis should consider an alternative that diverts Sacramento Regional Sanitation District's Regional Treatment Plant wastewater flows directly into a canal or pipeline. To the extent that treatment plant discharges are related to the collapse of the salmonid food chain, such an alternative would lessen those impacts as well as reduce the need to divert fresh water directly from the Sacramento River.

The Association and Stone Lakes NWR staff are willing to work directly with DWR and BDCP staff to better define these alternatives.

### **Conclusion**

The Association feels strongly that whatever measures the BDCP ultimately pursues to address the species issues associated with Delta water exports should not degrade Stone Lakes NWR, which is already a threatened resource. Please contact me, or our counsel, Osha Meserve (916-455-7300, [osha@semlawyers.com](mailto:osha@semlawyers.com)) if you have any questions regarding the information contained in this letter or would like to obtain more information about Stone Lakes NWR for purposes of drafting the EIR/EIS.

Very truly yours,



Liz Zainasheff  
President

Senator Lois Wolk, 5th District

Bart McDermott, Refuge Manager, SLNWR, [Bart\\_McDermott@fws.gov](mailto:Bart_McDermott@fws.gov)

Rob Burness, Watershed Chair, Stone Lakes NWR Association,  
[rmburness@comcast.net](mailto:rmburness@comcast.net)

Don Nottoli, Sacramento County Board of Supervisors, [nottolid@saccounty.net](mailto:nottolid@saccounty.net)

Robin Kulakow, Executive Director, Yolo Basin Foundation,  
[robin@yolobasin.org](mailto:robin@yolobasin.org)