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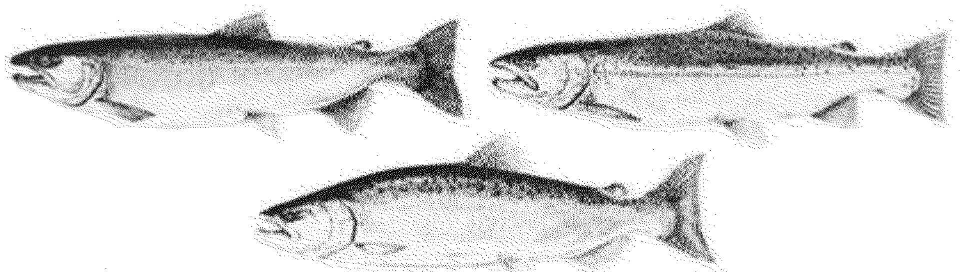

California Advisory Committee On Salmon and Steelhead Trout !

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February!26,!2014!!

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Charlton!H.!Bonham,!Director!
California!Department!of!Fish!and!Wildlife!
1416!Ninth!St.,!12th!Floor!
Sacramento,!CA!95814!

!

Subject:!Recommendation!to!deny!incidental!take!permit!and!Natural!Communities!
Conservation!Plan!for!Bay!Delta!Conservation!Plan!

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Dear!Director!Bonham;!

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The!California!Advisory!Committee!on!Salmon!and!Steelhead!in!our!capacity!to!advise!you,!the! director!of!the!California!Department!of!Fish!and!Wildlife,!in!preparing!and!maintaining!"a! comprehensive!program!for!the!protection!and!increase!of!salmon,!steelhead!trout,!and! anadromous!fisheries"!in!California,[1]!!recommends!that!the!you!deny!issuance!of!an!incidental! take!permit!for!the!Bay!Delta!Conservation!Plan's!Alternative!4!(BDCP)!as!a!Natural! Communities!Conservation!Plan!(NCCP).!!The!BDCP!does!not!meet!the!requirements!of!Fish!and! Game!Code!2820!for!an!NCCP!and!cannot!legally!be!approved!because!it!will!contribute!to!the! further!decline!of!Sacramento!River!Winter!Run!and!Spring!Run!Chinook!salmon.!!!

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All!races!and!runs!of!Central!Valley!salmon!and!steelhead!populations!have!experienced!over! 90%!declines!since!the!State!Water!Project!came!on!line!in!the!1960's.!!In!particular,!naturally! produced!Chinook!populations!have!experienced!severe!declines!resulting!in!the!listing!of! Sacramento!Winter!Run!as!endangered!and!the!Spring!Run!as!threatened!under!the!federal!and! state!Endangered!Species!Acts.!!Adult!returns!of!these!two!species!are!far!below!the!fish! doubling!goals!of!the!Anadromous!Fish!Restoration!Program.!!Attachments!1!and!2!are!figures! from!the!Anadromous!Fish!Restoration!Program!showing!the!severe!declines!these!two!runs!of! Chinook!salmon!have!experienced!in!the!Sacramento!River!basin.[2]!

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[1]!California!Fish!and!Game!Code!§!6920!(2008)!
§!6920.!Preparation!and!maintenance!of!program;!Consultation!with!public!agencies!
(a)!The!department!shall,!with!the!advice!of!the!Advisory!Committee!on!Salmon!and!Steelhead!Trout!and!the! Commercial!Salmon!Trollers!Advisory!Committee,!prepare!and!maintain!a!detailed!and!comprehensive!program! for!the!protection!and!increase!of!salmon,!steelhead!trout,!and!anadromous!fisheries.
[2]!http://www.fws.gov/stockton/afrp/Documents/Doubling_goal_graphs_020113.pdf !

!

ED_000733_PSTs_00029757-00001

Furthermore,!according!to!data!from!Chapter!5,!Effects!Analysis!of!the!November!2013!Draft! BDCP,!operation!of!the!Twin!Tunnels!project!will!reduce!winter!run!and!spring!Chinook!salmon! smolt!survival!by!2.9%!and!4%,!respectively.!!See!Salmon!Survival!Rates!Figure!below!taken! from!BDCP!Chapter!5.!!Supporting!data!and!source!tables!are!shown!in!Attachment!3.[3]!!
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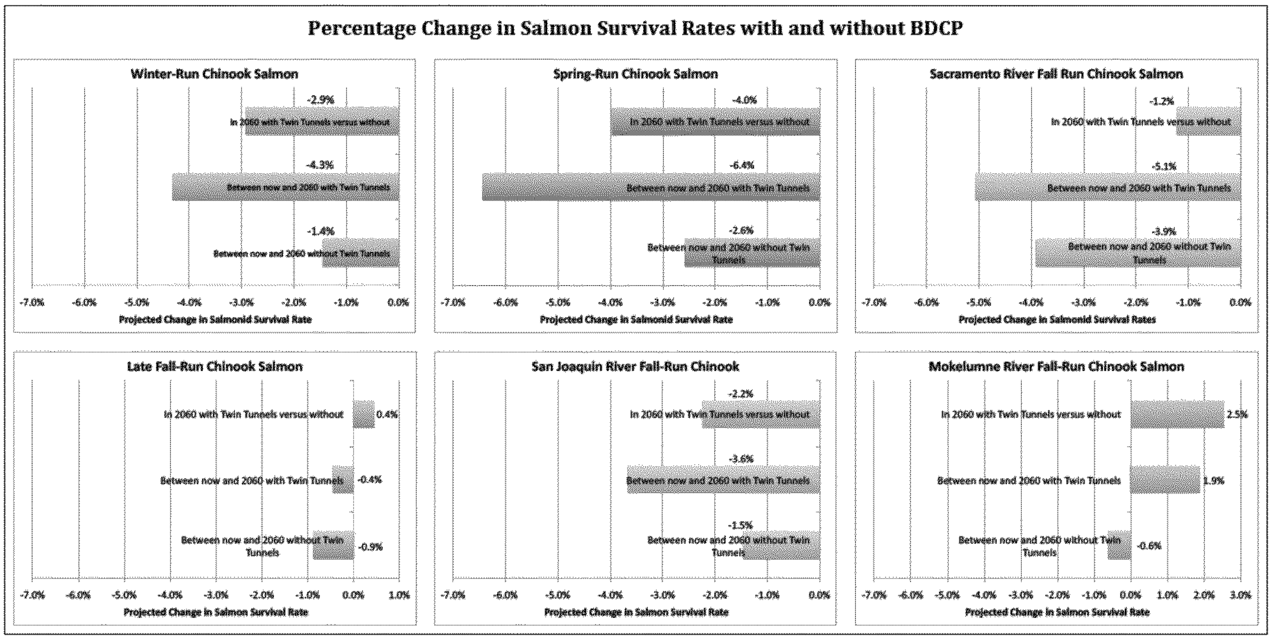

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BDCP!promotes!the!unproven!scientific!hypothesis!that!habitat!restoration!can!substitute!for! flow.!However,!the!State!Water!Resources!Control!Board!has!already!indicated!that!Delta! inflows!and!outflows!are!presently!insufficient!to!help!listed!species!recover!their!former! abundance.[4]!BDCP!would!reduce!Delta!outflow,!which!contributes!to!the!decreases!to!salmon! smolt!survival!rates!modeled!by!BDCP.!!
!

The!concept!of!improving!riparian!and!subtidal!habitat!to!create!an!aquatic!food!supply!for!the! Delta!to!make!up!for!too!much!water!diverted!is!an!unproven!theory!that!has!been!criticized! extensively!by!federal!agencies!in!their!"red!flag"!comments!on!the!BDCP.[5]!Climate!change!will!
!!

[3]!Figure!A!taken!from!Draft!BayUDelta!Conservation!Plan,!Chapter!5,!Effects!Analysis,!Sections!5.5.3!through!5.5.6,! Tables!5.5.3U10,!5.5.4U5,!5.5.5U8,!5.5.5U10,!5.5.5U18!and!5.5.5U20!!See! http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Public_Draft_BDCP_Chapter_5U_Effects_Analysis.sflb.ashx!

[4]!"Development!of!Flow!Criteria!for!the!SacramentoUSan!Joaquin!Delta!Ecosystem! Prepared!Pursuant!to!the!SacramentoUSan!Joaquin!Delta!Reform!Act!of!2009."!SWRCB,!August!3,!2010.!!Page!4,! second!bullet.!!See! http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/final_rpt080310.pdf!!

[5]!See! http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Federal_Agency_Comments_on_Consultant_Administrative_Draft_EIRUEIS_7U18U13.sflb.ashx!and! http://baydeltaconservationplan.com/Libraries/Dynamic_Document_LibraryU_Archived/Effects_AnalysisU_Fish_Agency_Red_Flag_Comments_and_Responses_4U25U12.sflb.ashx!and! http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/NMFS_Progress_Assessment_Regarding_the_BDCP_Administrative_Draft_4U11U13.sflb.ashx!and!! http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/NMFS_Evaluation_of_Flow_Effects_on_SurvivalU_BDCP_Admin_DraftU_4U11U13.sflb.ashx!and!

contribute!to!sea!level!rise!directly!in!the!Delta;!this!will!help!push!X2!eastward!into!the!Delta.!! BDCP!analysis!also!shows!that!Sacramento!River!inflow!will!decrease!directly!from!operation!of! the!Twin!Tunnels,!and!to!some!degree!from!lower!upstream!runoff!(controlled!by!climate! change!and!reservoir!operation). !The!combined!effect!of!continued!high!diversions!from!the! Delta!through!BDCP!(for!the!sake!of!"increased!reliability")!and!the!effects!of!climate!change! and!X2!movement!eastward!will!have!a!deleterious!effect!on!Sacramento!Winter!Run!and! Spring!Run!Chinook!salmon.!!!

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All!of!the!conservation!measures!in!BDCP!with!the!exception!of!CM1!(Twin!Tunnels)!are! programmatic!in!nature.!Funding!is!far!from!assured,!as!identified!in!a!recent!Legislative! Analyst's!report.!The!LAO!report!identified!that!ecosystem!restoration!funding!has!not!been! secured!and!cost!overruns!are!likely!for!land!acquisition!for!habitat!restoration.!!According!to! the!report,![6]!

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"*If bond funds are not available in the near future and no additional funding sources are identified, some ecosystem restoration may not be funded, including the restoration actions needed before the tunnels begin operation. The BDCP states that the SWP and CVP will not pay additional costs or forgo water in the event of a funding shortfall*."!!

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The!funding!plan!at!Table!8b37!of!Chapter!8!in!BDCP!confirms!the!LAO's!conclusion.!The!state! and!federal!water!contractors!propose!that!they!will!only!pay!for!68.4!percent!of!BDCP's!costs.! Nearly!95!percent!of!their!financing!commitment!is!solely!to!the!Twin!Tunnels!project!in! Conservation!Measure!1,!and!the!rest!of!BDCP's!costs!would!be!borne!by!taxpayers!at!large.!

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Because!Sacramento!River!Winter!Run!and!Spring!Run!Chinook!salmon!are!already! significantly!depleted!and!BDCP!will!further!reduce!smolt!survival,!the!Department!of!Fish!and! Wildlife!cannot!make!a!finding!that!the!BDCP!NCCP!will!lead!to!recovery!of!the!species.!

!

None!of!the!alternatives!considered!in!the!BDCP!Draft!Environmental!Impact!Statement!and! Report!would!lead!to!the!recovery!of!Sacramento!River!Winter!Run!and!Spring!Run!Chinook! salmon.!!None!of!the!alternatives!analyzed!reduces!the!amount!of!water!diverted!upstream!of! or!within!the!Delta.!!None!of!the!alternatives!analyzed!considers!meeting!or!moving!toward! meeting!the!State!Water!Resources'!Control!Board's!Delta!Outflow!Criteria!of!2010!that!was! specifically!required!by!the!legislature!in!2009!"to!inform!planning!decisions!for!the!Delta!Plan! and!the!BDCP."[7]!

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Therefore,!findings!approving!a!NCCP!for!the!BaybDelta!Conservation!Plan!cannot!be!made! pursuant!to!Section!2820!of!the!Fish!and!Game!Code!for!the!following!reasons:!

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http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/U_S_Fish_and_Wildlife_Service_Staff_BDCP_Progress_Assessment_4b11b13.sflb.ashx!

[6]!"Financing!the!BaybDelta!Conservation!Plan",!Legislative!Analyst's!Office,!2/12/14.!!p!8.!!See! http://www.lao.ca.gov/handouts/resources/2014/FinancingbthebBDCPb02b12b14.pdf!

[7]!!Development!of!Flow!Criteria!for!the!SacramentobSan!Joaquin!Delta!Ecosystem!by!the!State!Water!Resources! Control!Board,!August!3,!2010. See! http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/final_rpt080310.pdf!

1. BDCP!does!not!contribute!to!recovery!and!would!jeopardize!the!continued!existence!of! Sacramento!River!winterB-run!and!springB-run!Chinook!salmon!because!smolt!survival! through!the!Delta!is!reduced!by!the!project.!(Fish!&!Game!Code!Section!2081(c))!!
2. The!concept!of!habitat!restoration!measures!to!offset!impacts!from!increased!water! withdrawals!from!the!Delta!(increased!"reliability")!is!not!supported!by!science,! including!but!not!limited!to!the!2010!SWRCB!Delta!Outflow!Criteria.!!(Fish!&!Game!Code! Section!2081(b)(2))!
3. The!applicants!do!not!assure!funding!and!water!supplies!for!habitat!restoration! measures.!!Habitat!restoration!measures!will!not!be!"shovelB-ready"!when!the!Twin! Tunnels!begin!construction.!(Fish!&!Game!Code!Section!2081(b)(4)!and!2820(a)(10))!
4. BDCP!does!not!include!analysis!of!an!alternative!or!alternatives!that!would!meet!the! recovery!goals!for!Sacramento!River!Winter!Run!and!Spring!Run!Chinook!salmon.!!Such! an!analysis!should!at!least!take!into!consideration!the!State!Water!Resources!Control! Board's!2010!Delta!Outflow!decision.!!(Fish!&!Game!Code!Section!and!2820(e))!

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In!summary,!the!BayBDelta!Conservation!Plan!does!not!meet!the!requirements!of!the!California! Endangered!Species!Act!or!the!Natural!Communities!Conservation!Plan!Act!to!recover! Sacramento!River!winterB-run!and!springB-run!Chinook!salmon.!!The!BDCP!NCCP!is!to!be! submitted!to!support!issuance!of!an!incidental!take!permit!by!the!Department!of!Fish!and! Wildlife.!For!all!of!the!above!reasons,!we!urge!you!to!reject!approval!of!the!BDCP!as!an!NCCP.!

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We!thank!you!for!your!consideration!of!these!points!and!look!forward!to!hearing!back!from!you! on!this!important!matter.!

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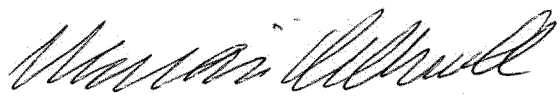
Sincerely,!



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cc:!Honorable!Wesley!Chesbro,!Chairman!Joint!Committee!on!Fisheries!and!Aquaculture! !!!!!!Kevin!Shaffer,!CDFW!Program!Manager,!Anadromous!Fisheries!Branch!

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Attachments:!!

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1B Anadromous!Fish!Restoration!Program!Figure!4:!Estimated yearly adult natural production, and in river adult escapements of Winter Run Chinook salmon
2B Anadromous!Fish!Restoration!Program!Figure!5:!Estimated yearly adult natural production, and in river adult escapements of Spring Run Chinook salmon in the Central Valley rivers and streams.
3B Central Valley Salmon Smolt Survival With and Without BDCP

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2-1-13

ATTACHMENT 1

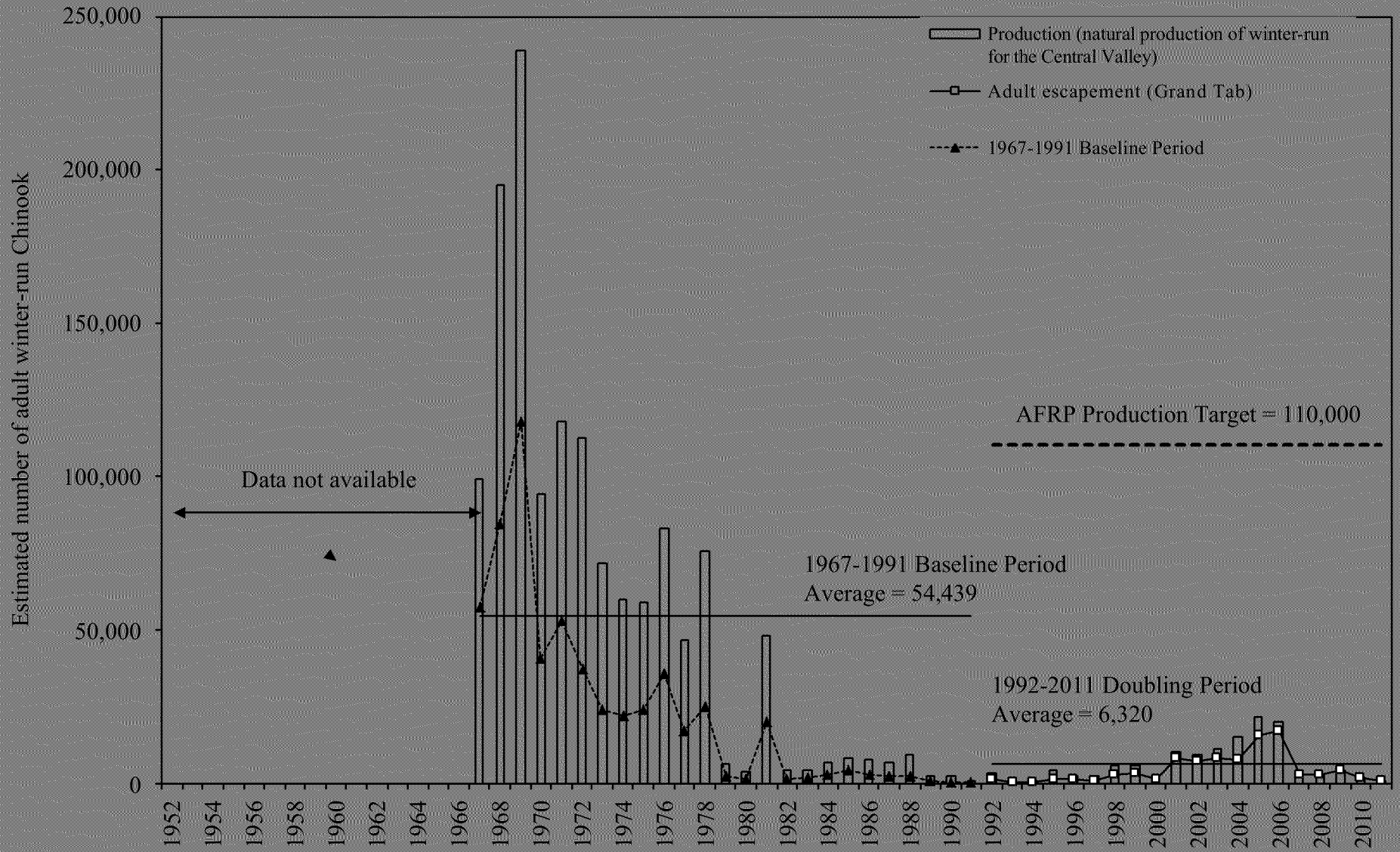

Figure 4. Estimated yearly adult natural production, and in river adult escapements of winter-run Chinook salmon in the Central Valley rivers and streams. 1992 - 2011 numbers are from CDFG Grand Tab (Apr 24, 2012). 1967-1991 Baseline Period numbers are from Mills and Fisher (CDFG, 1994).

ATTACHMENT 2

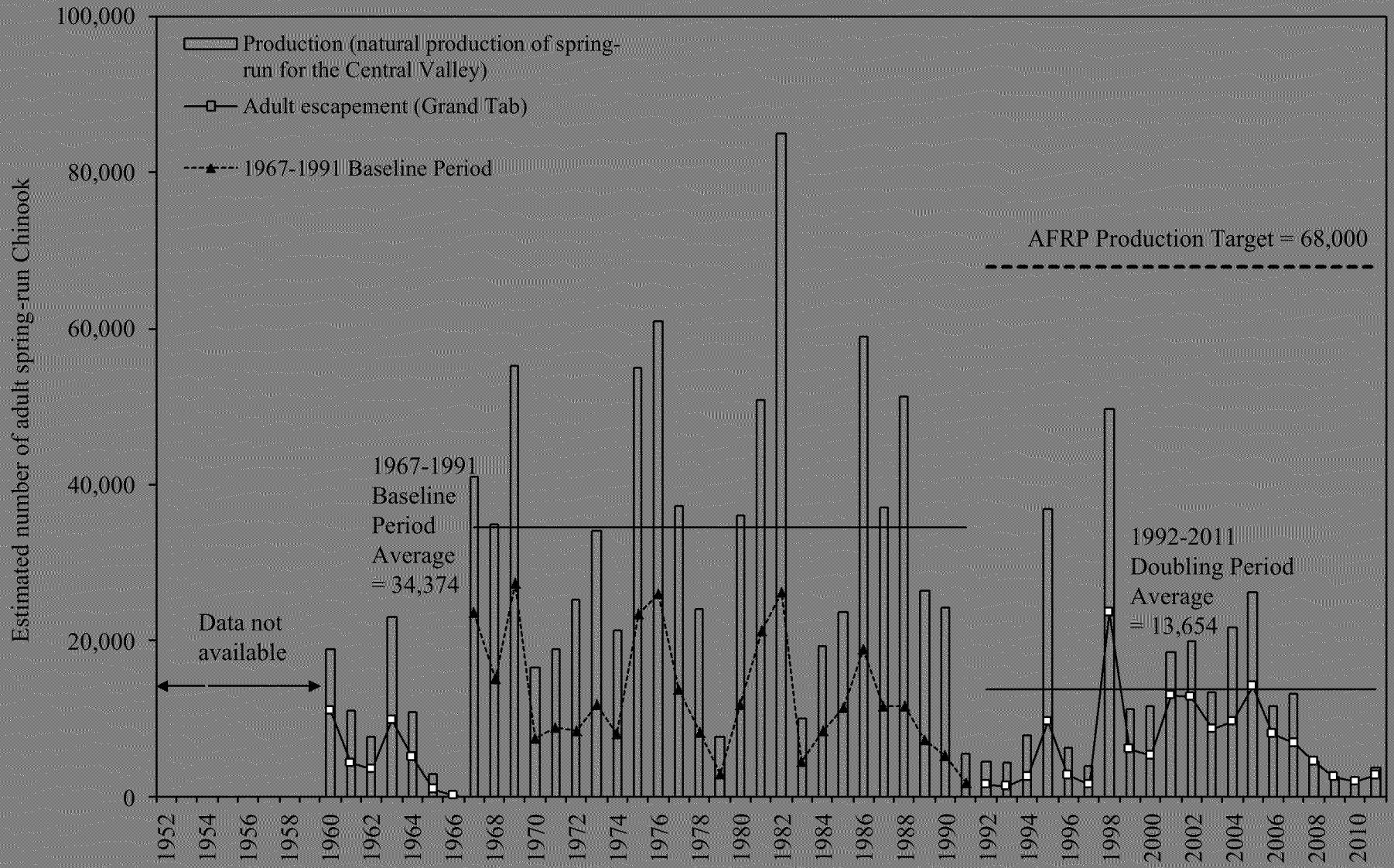

Figure 5. Estimated yearly adult natural production, and in-river adult escapements of spring-run Chinook salmon in the Central Valley rivers and streams. 1960 - 1966 and 1992 - 2011 numbers are from CDFG Grand Tab (Apr 24, 2012). 1967-1991 Baseline Period number are from Mills and Fisher (CDFG, 1994).

Percentage)Change)in)Salmon)Survival)Rates)with)and)without)BDCP

Salmon)Run/Statistic	BDCP) Chapter) 5)Source) Table	Baseline) Conditions)Now) (EBC1)	Baseline)Conditions) in)2060)Without) BDCP)(EBC2GLLT)	Twin)Tunnels) Operation)in)2060) (ESOGLLT)	Between)Now)and) Without)Twin) Tunnels)by)2060	Between)Now)and) With)Twin)Tunnels) by)2060	In)2060)With)Twin) Tunnels)versus) Without
Winter-Run	5.5.3-10						
Average		34.7%	34.2%	33.2%	-1.4%	-4.3%	-2.9%
Median		32.4%	31.8%	28.7%	-1.9%	-11.4%	-9.7%
Spring-Run	5.5.4-5						
Average		31.1%	30.3%	29.1%	-2.6%	-6.4%	-4.0%
Median		27.0%	26.4%	25.1%	-2.2%	-7.0%	-4.9%
Sac River Fall Run	5.5.5-8						
Average		25.7%	24.7%	24.4%	-3.9%	-5.1%	-1.2%
Median		22.8%	21.6%	22.4%	-5.3%	-1.8%	3.7%
Late Fall-Run	5.5.5-10						
Average		23.1%	22.9%	23.0%	-0.9%	-0.4%	0.4%
Median		20.1%	20.6%	21.3%	2.5%	6.0%	3.4%
San Joaquin River Fall-Run	5.5.5-18						
Average		13.7%	13.5%	13.2%	-1.5%	-3.6%	-2.2%
Median		10.7%	10.3%	12.1%	-3.7%	13.1%	17.5%
Mokelumne River Fall-Run	5.5.5-20						
Average		16.0%	15.9%	16.3%	-0.6%	1.9%	2.5%
Median		15.2%	14.0%	14.1%	-7.9%	-7.2%	0.7%

Source: Chapter 5, Effects Analysis, Sections 5.5.3 through 5.5.6, Bay Delta Conservation Plan, 2013.