



March 5, 2015

Via electronic submission at:

http://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=feb20-offsets-ws&comm_period=1

Greg Mayeur, Manager
Climate Change Program, Operations Section
California Air Resources Board
1001 I Street, Sacramento, CA 95812

Re: Comments Regarding the Rice Cultivation Offset Protocol, Impacts to Wildlife

Dear Mr. Mayeur:

This letter is submitted on behalf of the Center for Biological Diversity regarding the draft Compliance Offset Protocol for Rice Cultivation projects ("Rice Protocol") proposed for the California Greenhouse Gas Cap-and-Trade program. These comments are submitted as part of the informal comment period following the public workshop on February 20, 2015. These comments are focused on the Rice Protocol's impacts to wildlife in California.

The Center for Biological Diversity appreciates the attention that ARB has given to the wildlife impacts and the specific measures in the Rice Protocol intended to reduce the negative impacts to wildlife. However, there remain substantial gaps in the evidence offered to support the conclusions that there will not be negative impacts to wildlife.

In fact, the Staff Report acknowledges that the Rice Protocol has the potential to negatively impact wildlife. *"Because the proposed project activities would occur during the rice growing season, avian species that use the rice fields for resting, nesting, and feeding during the rice growing season have the highest potential to be affected by changes to the flooding practices."* Staff Report at 39. Furthermore, the potential wildlife impacts were found to be problematic to the extent that the Rice Protocol excludes rice farms in the critically important bird habitat in the Butte Sink Wildlife Management Area from participating in the program. *"By excluding this important and sensitive area from any proposed rice cultivation offset project activities, potential adverse effects in this area would be avoided."* Staff Report at 40.

The Rice Protocol is specifically designed to incentivize management decisions to reduce the flooding of fields in order to reduce methane emissions, which has the secondary effect of temporarily and periodically reducing the flooded field habitat critical to a great number of bird species and a vast number of individual birds. These birds include raptors, shorebirds, seabirds,

long-legged waders, geese, ducks and other waterbirds, and some special-status species, including bald eagle, Swainson's hawk, and greater sandhill crane.¹

The impacts to wildlife in California seem to be greatest with the Rice Protocol activity known as Dry Seeding, whereby Rice Protocol projects are credited for sowing seed into dry or moist fields rather than the usual practice of sowing in flooded fields. This incentivizes the management decision not to flood the field for a period of seven to ten days in spring when the field would normally be flooded, a time when flooded fields are normally utilized by late migratory bird species and other avian species that rely on flooded rice fields for nesting.

Although the Staff Report concludes that "*because variability in the timing and availability of flooded rice habitat is common, and voluntary compliance responses under the proposed Rice Cultivation Protocol would occur on a limited rather than widespread basis, implementation of these activities would be within the natural variability of rice farming and would not cause a significant effect on bird populations,*"² these conclusions are based on a number of assumptions that are not supported by any evidence presented in the Staff Report or supporting documents. Specifically, the Staff Report provides no evidence that variability in the timing and availability of rice habitat is common, and no characterization of that variability, quantitative or otherwise, that could serve a baseline comparison for the impacts of the Rice Protocol.

Nor does the Staff Report consider that the impact of the Rice Protocol--and the Dry Seeding option in particular--is likely to be more problematic in drought years when there is already a reduction in the area of flooded field habitat regionally. In fact, the Dry Seeding option may be particularly attractive to project landowners in precisely those years when water (and, thus, flooded field habitat) is scarce due to drought. In such cases, rather than being "within the natural variability," Dry Seeding would exacerbate a natural decrease in habitat availability.

In addition, the Staff Report provides no evidence that participation in the Rice Protocol will be limited, stating only that "*rice farms implementing the practices would likely constitute a small fraction of existing habitats within the region at any one time.*"³ While it may be true that the Rice Protocol is unlikely to become an industry-wide practice, wildlife impacts are more likely to occur at the local level, yet the Staff Report includes no consideration of the potential for localized impacts with respect to exceptionally large project areas or participation by multiple adjacent landowners.

In addition, the Staff Report asserts that "*Limiting the proposed project activities to the rice growing season would avoid potential impacts to wintering habitat for migratory waterbirds during the non-growing season.*"⁴ However, this conclusion seems to depend on the assumption that switching to Dry Seeding has no effect on winter flooding. Although the decision to flood

¹ Staff Report and Compliance Offset Protocol Rice Cultivation Projects at 38.

² Staff Report at 40.

³ Staff Report at 41.

⁴ Staff Report at 39.

fields in winter is quite possibly independent of participation in the Rice Protocol, the decision to use Dry Seeding could result in management decisions to end the winter flooding (i.e., to drain the field) earlier.

Given the uncertainty of these various assumptions and the possibility for negative impacts to wildlife, we strongly urge ARB to: 1) verify the various assumptions critical to the assessment of the program's impacts on wildlife and wildlife habitat, 2) put in place measures to guard against localized wildlife impacts from the participation of exceptionally large project areas or multiple adjacent landowners, and 3) make publicly available a map of the cumulative project areas and the reported data on the timing and duration of flooding for each participating project, and solicit public comments regarding the impacts to wildlife.

Thank you for your consideration of these comments. Please contact me with any questions or response.

Sincerely,

A handwritten signature in cursive script that reads "Brian Nowicki".

Brian Nowicki
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