

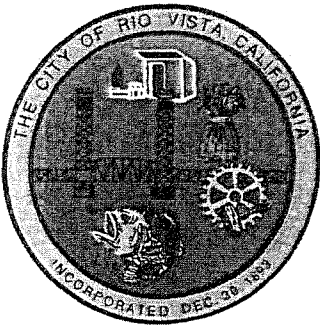
From: Robert Franklin <fishwater@hoopa-nsn.gov>
Sent: Tuesday, June 17, 2014 8:19 AM
To: BDCP.comments@noaa.gov
Subject: request for DVD Draft BDCP and EIS/EIR

To Whom it May Concern:

I hereby request a DVD copy of the Draft BDCP and Draft EIR/EIS for use by the Hoopa Valley Tribe in its review. Please ship to address as shown below.

Thank you,

Robert Franklin, M.S.
Water Division Lead
Hoopa Tribal Fisheries
PO 417 Hoopa, CA 95546
(530) 784-7636 cell



BDCP780.

CITY OF RIO VISTA

One Main Street, Rio Vista, California 94571
Phone (707) 374-6451 Fax (707) 374-6763

June 4, 2014

BDCP Comments
Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

RECEIVED

JUN - 9 2014

**NATL MARINE FISHERIES SVS
SACRAMENTO, CA**

RE: COMMENTS AND QUESTIONS ON THE BAY DELTA CONSERVATION PLAN (BDCP) AND RELATED EIR/S

The City of Rio Vista occupies a pivotal place in terms of the California Delta. It is the western transportation gateway to the Delta and serves as an important access portal and regional economic and infrastructure support center for western Delta agriculture, the gas well and mining industry there, and recreation and boating enterprises in the Delta. Furthermore portions of the City and its population are vulnerable to flooding by the Sacramento River.

In light of these conditions, the City and its citizenry and its regional population have a long history of involvement in planning and governance of the Delta including membership and participation in: the Delta Protection Commission; the earlier CalFed program; the Delta Vision program; among others. Thus the following City comments about the proposed Bay Delta Conservation Plan (BDCP) and its associated Environmental Impact Report are of necessity regional as well as local in character and based on long experience and understanding of Delta economic circumstances as well as environmental concerns.

Goals

A primary goal of the BDCP is to ensure a reliable water supply "for people, communities, agriculture, and industry" (draft BDCP EIR/S, p.2-1). We are impelled to ask "Reliable water for whom?" The plan calls for removal of large amounts of water from the Sacramento River north of Rio Vista. Setting aside provisions to modify habitat for fish and other organisms to adapt to changes in river flow and water quality, the Plan and its EIR/S do not provide information from which the City of Rio Vista can infer a more reliable future water supply for itself and the surrounding region of human activity. Comments below indicate local water quality may decline with the implementation of the plan. What modifications to the plan does DWR intend to develop to ensure a long-term reliable water supply for Rio Vista and Agriculture in the region?

Salinity Impacts

The Plan's proposed preferred alternative of Twin Tunnels would remove large amounts of fresh water up-river from Rio Vista and transport it to intakes of the State Water Project and Central Valley project for export south. This proposed system would facilitate the greater intrusion of salt water into the Delta than is currently the case. The increase in salinity in the Delta in general, and near Rio Vista in particular, is of great concern to our community. Figure 8-5 of the BDCP EIR/S clearly indicates that higher salinity level (lines of 1000 parts of chloride per million parts

of water) has been increasingly moving approximately 3-15 miles farther east into the Delta to approximately Rio Vista (from the 1950's to 1990). It will intrude further still under the proposed preferred alternative.

East and north of Rio Vista many new vineyards have been planted. The region south and west of Rio Vista is experiencing a growth of new high value agriculture including new development of high quality wine vineyards. There is also promise of olive orchards, almonds, and other tree crops. Under existing current drought conditions increased salinity is already threatening this emerging agricultural economy. Salinity levels in the Sacramento River are now several orders of magnitude above the 1,000 micro-siemans/centimeter threshold for irrigating grapes and will increase throughout the summer.

It is very worthwhile noting that BDCP impacts on Sacramento River water quality will affect the regions west of the Delta and not only in the statutory Delta. The Plan and its EIR/S do not address these impacts.

The BDCP is clear on the impending impacts of climate change. The interaction of climate change with the proposed export system will greatly increase salinity concentrations during future droughts. However, the plan and its EIR/S do not address how balancing local reliable water quality with environmental constraints and water exports will be achieved.

Although the report offers an illustration of the salinity levels into Delta from 1991-2010, a serious lack of the BDCP and its EIR/S are figures showing projected future salinity levels and how they will vary under projected future climate scenarios and project alternatives. Of particular importance are illustrations of future salinity under drought conditions. For example, an illustration showing projected "Salinity Intrusion into the Delta", with the preferred water conveyance facility for the BDCP (Alternative 4 – Twin Tunnels Modified) from 2010 through 2060 vs. the proposed alternative Sacramento Deep Water Channel enhancements and shorter tunnel), particularly near ranches and farms immediately south and north of Rio Vista.

Furthermore, the plan fails to project the increased regional reliance on ground water as local river water supply decreases in its reliability (contrary to the stated goal of the plan). In the long term, implementation of the plan threatens a repeat in the Delta the problems of ground water extraction in the southern San Joaquin Valley.

Budgetary, Financial and Administrative Impacts

The massive environmental changes proposed by the BDCP will impose huge planning and infrastructure development and modification burdens on Rio Vista and other Delta Communities. Adjusting to the changes in local and regional economic activity, modifying existing and developing new infrastructure to cope with changes in transportation and flood protection while at the same time likely reducing local tax revenues will impose significant and possibly irreversible financial burdens on the city and its region. The Plan and its EIR/S are woefully inadequate in describing these impacts and the solution to avoiding or mitigating them.

This silence about local fiscal impact is made more serious by the great deal of uncertainty inherent in the budget for the BDCP. Out of the estimated \$24.7 billion of funding (in 2012 dollars) to implement the BDCP, the funding structure includes at least \$16 billion from the State Water Contractors and about \$6.5 billion from a proposed bond issue to be considered on the November 2014 ballot. The BDCP proposes that all of the State Water Contractors funds would be used entirely for the conveyance system and that the state bond issue would be used not for construction but for mitigation purposes.

Many reports, committees, and organizations such as: the Legislative Analyst's Office report entitled "Governance and Financing of the Bay Delta Conservation Plan," dated August 13, 2013; the testimony presented at the recent State Assembly Accountability and Administrative Review Committee on February 12, 2014; and non-profit organizations such as Restore the Delta believe that the total project cost would be more in the range of about \$50 - \$60 billion when all project costs, enhancements, mitigation and bond financing is factored into the BDCP budget.

The City of Rio Vista believes the Plan cannot be valid with uncertain costs and funding stream. The BDCP is not a valid plan with high levels of budget uncertainty. It will not be valid without a budget that removes uncertainties and adequately addresses and resolves the differences in estimated cost with a mechanism that ensures that such estimates should be kept up-to-date before implementing any project activities.

Even if the budget were more reliable, the plan does not make explicit contingencies if one of the proposed state bonds does not pass. Contingencies and alternatives are simply not provided for providing funds for required mitigation measures like flood protection in the case that proposed and iffy bond measures do not pass

In large scale, long term projects mitigation and enhancement costs often prove much more costly than current estimates. If this were to be the case with the proposed conveyance system (i.e. for the Preferred Alternative 4 – the twin tunnels concept), how would the BDCP proceed without sufficient funds?

Flooding Potential Caused by Modification to Yolo Bypass

Because of its vulnerable location immediately south of the Mellin Levee and in the proximity of the Yolo Bypass and the Sacramento River, and because of a combination of daily tidal action from the San Francisco Bay and winds from the southeast, the City of Rio Vista is very concerned about its potential for significant flooding during high water events with additional risks caused by the BDCP and the proposed Yolo Bypass Fisheries Enhancements. The City also believes that the Plan and associated EIR/S will cause an economic impact on the local economy from agricultural land being converted to habitat in the Yolo Bypass area.

Besides providing approximately 55,000 to 65,000 acres of additional tidal restoration and habitat opportunities for endangered fish, we believe the other main purpose of the Yolo Bypass expansion is to relieve pressure on upper Sacramento River levees (near West Sacramento) and causing some of those high event flood waters to enter the southerly Sacramento River and Delta areas immediately adjacent to Rio Vista.

It is our understanding that the BDCP and all of its proposals are based on an out-of-date 2010 flood model. Also, the draft "Lower Sacramento River/ Delta North Region" maps developed by the California Flood Safe program in 2013, provide minimal information on the flood potential and improvements needed to protect the levees and waterfront areas in Rio Vista.

Particular levees and locations that the City is concerned could be impacted by increased flooding potential as a result of the BDCP include:

Mellin Levee

In March 2013, the Mellin Levee located immediately north of the City of Rio Vista was inspected by the U.S. Corps of Engineers and was rated as "minimally acceptable." It is our understanding that this levee needs to have a major expansion to provide the City of Rio Vista

adequate flood protection, particularly from the proposed Yolo Bypass Fisheries Enhancements and improvements to Cache Slough (Conservation Zone 2).

The draft Plan and EIR/S are silent on the need for such protection should the plan be implemented. Below are specific flood threats posed by proposed modification put forth in the BDCP and not addressed in the EIR/S.

Army Base Site

The former Rio Vista Army Reserve Center site contains 28.16 acres, has two-tiers that rise from the Sacramento River to about 30 feet above sea level. It is located in the southeast portion of the City of Rio Vista, between Beach Drive and the Sacramento River (A.P.N. 0049-320-060). The Federal Emergency Management Agency (FEMA) 100 - year Flood Hazard Zone maps indicate that the southeasterly edge of the lower tiered portion of the site is partially located in an "Area of Special Flood Hazard" at about the 10-11 foot elevation above sea level.

This site is an important resource for future economic development in Rio Vista. The Plan does not provide flood protection for this site.

Downtown and Residential areas

In 1986, the easterly portion of downtown Rio Vista (near the Helen Madere or Rio Vista Bridge and Front Street properties) as well as residential areas along Edgewater drive were flooded from an approximately 65 or 70-year flood event. Projected sea level rise along with levee modifications of river drastically increase flood risks in and near Rio Vista. It is a serious oversight of the plan that these risks are not described and considered.

Highway 84

Highway 84 north of Rio Vista is an important local thoroughfare for local industry and provides access to Ryer Island a local agricultural prosperous region. Serious flooding will be exaggerated by proposed modifications to Yolo bypass. The Plan and its EIR/S are silent in addressing this impact.

Highway 12 Traffic Impacts

Highway 12 from Lodi-Rio Vista-Suisun City remains one of the most heavily congested and dangerous state highways in the Delta, with the existing Highway 12/Front Street underpass also very vulnerable to a 100+ year flood event. The recent State Route 12 Corridor Study (completed by Solano Transportation Authority and Caltrans in 2012) recommended the long-term need to improve this key highway from I-5 to I-80 to a 4-lane divided highway to meet projected regional traffic demand, including a new high level Rio Vista Bridge as well as the widening or replacement of the other two bridges along Highway 12 from Rio Vista to I-5 (i.e. the Mokelumne and the Potato Slough bridges).

Highway 12 is also the only east-west corridor providing access to the proposed Delta Research Station proposed at the former Army Base site. About 160 state and federal research scientists and staff would be relying on improved, safer and reliable access to this project site as well as visitors to a proposed Delta Interpretive Center, commencing as soon as 2017-18.

Table 19-9 of the Transportation Chapter of the BDCP identified SR 12 (Rio Vista Bridge) segment as being mitigated with TRANS 1-a and TRANS 1-c mitigation measures. TRANS 1-c requires that "Prior to commencement of construction activities affecting transportation facilities, the BDCP proponents will make a good faith effort to enter into mitigation agreements with affected state, regional, or local agencies ("affected agencies") to verify the location, extent,

timing, and fair share cost to be paid for capacity enhancements to the identified roadway segments specified in Table 19-9.

Table 19-25 of the BDCP identified SR 12 (Rio Vista Bridge) as currently having a "LOS C" threshold (970 vehicles per hour). In fact the SR-12 Realignment/Rio Vista Bridge Preliminary Study, completed by the Solano Transportation Authority in September 2010, determined that the bridge, a key east-west Delta bridge, is currently a Level of Service "F" (excessive delays) (Pg. 16) and that only with a new 4-lane high level bridge would it operate at LOS "D" (tolerable delays) by 2030. The serious problems along Highway 12 that will develop because of the BDCP need to be understood and addressed before the proposed implementation. Vague assurances of "good faith efforts" are not sufficient, especially under vague and uncertain budget conditions.

Because of new traffic impacts resulting in unacceptable level of service from the construction and operation of the proposed conveyance systems (and related activities), the BDCP Mitigation Plan must be regarded as inadequate without appropriate agreements and committed funding with Caltrans, the City of Rio Vista and the three adjoining Highway 12 transportation authorities (i.e. Solano, Sacramento and San Joaquin) to develop and implement a mitigation plan before the proposed project implementation.

Also, the Plan and its EIR/S must address how the export of the substantial amount of soil from the excavation of the twin tunnels, particularly from trucks using the Highway 12 Corridor between Lodi and Suisun City would be accommodated. Those impacts must be more fully addressed and viable proposals for mitigation developed before in the Final Plan and its EIR/S can be considered adequate.

Alternatives

Rio Vista's comments on assessments of BDCP alternative project plans may be broken down into comments on local and statewide alternatives. First, we will mention specific local concerns.

It does not appear that the Plan and its EIR/S authors considered alternatives to the Yolo Bypass Fisheries Enhancement to reduce the potential for flooding in the lower Delta near Rio Vista as well as providing improved habitat for endangered fish. Available options are: not flooding additional Yolo and Solano County agricultural land, but providing new fish screens; operating a new Fremont Weir gate more frequently; and providing enhancements to the Sacramento Deep Water Channel are there other options available that could provide increased enhancement for covered species?

On a more general level, our observations are that the Bay Delta Conservation Plan is the result of a proposal to facilitate enhanced water exports from the Delta while attempting to mitigate very serious and complicated environmental problems caused by the operation of the current water export system. The focus of the Plan is based on the continuing operation, as *they now exist*, of the State Water Project (SWP) and Central Valley Project (CVP) and the water districts and users they supply. The two explicit goals of the proposal are: (1) to create a water supply for these two great water transfer systems unencumbered by problems resulting from legal and legislative responses to the environmental damage caused by their current operation and to make them more secure from threats of levee failure and the effects of climate change; and, (2) to correct environmental conditions that threaten vulnerable species in the Delta and protect them from future damage from system operations. In short, the goals are to create a more reliable water supply for the CVP and SWP and protect and enhance the Delta environment.

The proposal is based on the assumption that reliability in California's water supply is only to be achieved by modifying the existing conveyance system to remove large amounts of fresh water from the Sacramento River in the northern reaches of Delta, allowing greater intrusion of seawater into the Delta, modifying selected levees, and removing affected farmland from production, and establishing environmental reserves. Thus the conveyance systems would be accompanied by massive environmental changes in the region presumed to be consistent with protecting and enhancing the situation of selected species but also wreaking massive havoc on local economies and human activities. In a sense, it is a proposal to modify the existing design principles for the SWP and CVP: to reinstate the equivalent of a peripheral canal considered and defeated by the voters in 1982. In the proposed BDCP, the preferred alternative would not be a canal, but very large underground tunnels. The only other alternatives considered are variations on a through Delta conveyance system of tunnels or surface water canals.

The *a priori* assumption of the alternative selection process was, and is, that reliability in water supply for the users of the SWP and CVP could only be cost effectively achieved by their continuing operation even though a major factor in the environmental degradation of the Delta has been and would continue to be the continuing export of water on the order of 50% to 60% of the inflow to the system. It appears that this assumption has not been thoroughly and systematically examined in the draft BDCP or its Draft EIR/S, nor have reasonable alternatives based the viability of non-conveyance investment been considered.

Thus, at the outset, alternatives were excluded from consideration that would have immediate second goal impacts of improving water flow through the Delta and holding off salinity intrusions and reducing takes of endangered species by reducing flow through pumps. This is a serious oversight and creates a *de facto* inadequacy of the BDCP EIR/S.

Since the BDCP process began, almost a decade ago, great progress has been made in technology and systems for the local capture, storage, recycling and distribution of water in urban settings. For example, Andy Lipkis, founder and president of Tree People, an urban forestry and water conservation NGO in Los Angeles, pointed out at the 2010 meeting of the American Association for the Advancement of Science in San Diego that with massive investment in prototype technology and systems his organization was designing and operating with the support of the Metropolitan Water District, Los Angeles could be entirely self-reliant in water on its 10 inches of annual rainfall.

Investing in new technologies for local capture and supply while also investing in new statewide large scale storage could drastically increase the reliability of statewide water supply and reduce the impetus for massive untested environmental modification of the Delta. Alternatives based on this sort of approach which do not rely on through Delta conveyance were not considered.

Other alternatives to be included in the draft BDCP must also include investment strategies such as those proposed by U.S. Representative John Garamendi's "Comprehensive Water Plan for All of California" released March 28, 2013. His proposals epitomize what is known as a "portfolio approach" encompassing a coherent set of diverse actions that lead to distributed and reliable statewide water system with much reduced dependency on Delta water. In his white paper, Congressman Garamendi states that the BDCP "... does not create any new water nor does it provide the water and the ecological protection that the Golden State must have."

In his plan he proposes:

- Providing more upstream storage facilities such as the 1.9 million acre- foot Sites Reservoir in Colusa County as proposed jointly by U.S. Representative Garamendi D-Fairfield and Doug LaMalfa, R-Richvale;
- Raising Shasta Dam to provide more fresh water in the Delta later in the season;
- Including an additional alternative conveyance system providing enhancements to the 25-mile long Sacramento Deep Water Channel with improvements such as intakes and fish screens. This could allow an additional 3000 cfs of Sacramento River water to flow south to a 12-mile long pipe beneath the Sacramento and San Joaquin Rivers into the existing Delta Channels that lead to the Tracy pumps. The threatened Delta fish could be protected by sealing the channel from the Delta. This alternative conveyance system would also substantially reduce the approximately 22 million cubic yards of tunnel muck that would have to be stored, barged or trucked to appropriate locations; and
- New desalination plants to convert irrigation run-off and ocean saltwater into fresh water using the latest technology to lower costs. [For instance, recent news articles have suggested the use of solar to recirculate and desalinate irrigation run-off into reusable farmland water at a quarter of prior costs by using a "solar thermal desalination" process invented by the WaterFX Company, as well as the use of new desalination filter material called "Perforene" that was just patented in 2013 by Lockheed Martin and is also expected to substantially reduce the cost of desalination to a fraction of prior such technology].

It may well be that the \$25 to \$50 billion estimated BDCP investment distributed statewide in local capture, storage and recycling technologies would preclude even the desirability of the construction of a smaller 3000 cfs conveyance and might lead to reductions in water flows to the Tracy pumps. Such an approach of reducing or even eliminating Delta exports in the long term (50 years or more) and implementing proposed bond funding for large scale storage, environmental restoration, levee strengthening, and better management of Delta resources would enhance, and put on a truly equal footing, efforts to achieve the second goal of the BDCP. It would create a truly resilient statewide water system. Not incidentally, such an approach would free up the enormous energy consumption now used by the SWP and CVP and make great contributions to the availability of "green" energy for other uses. The energy savings must be included in any assessment of non- or reduced-conveyance alternatives in the BDCP.

As the BDCP process continues, it is understood that before the federal EIS document can be fully completed, NEPA requires that a Section 7 Biological Opinion be conducted separately by the USFWS and that a "Least Environmentally Damaging Preferred Alternative" (LEDPA) be conducted and approved by the federal agencies.

We believe this requires that an alternative conveyance system such as described above in U.S. Representative Garamendi's comprehensive water plan and described as "enhancements to the 25-mile long Sacramento Deep Water Channel with improvements such as intakes and fish screens ...and a 12-mile long pipe beneath the Sacramento and San Joaquin Rivers into the existing Delta Channels that lead to the Tracy pumps," be included as an additional alternative for analysis in the LEDPA analysis (plus adding this alternative into a supplemental EIR that should be prepared before the CEQA document is certified).

Furthermore other approaches that would increase state water reliability by investing in local technologies and systems statewide and which would increase flows through the Delta and not decrease them as the current alternatives would, must be considered.

Governance

The above comments, especially those on alternatives, reflect a continuing concern of Rio Vista of the City's relative lack of voice in the governance of the BDCP process. If implemented, the BDCP proposals clearly would have enormous impacts on Rio Vista and its region. Yet the structure of the governance of BDCP and its proposed implementation structure are based on overwhelming control by agencies with interests outside the region. Indeed these are the funders of the project and the lead agencies that administer the export of water. Not only is Rio Vista excluded from governance but also many other local agencies in the region are also excluded. The project is being developed and funded outside the legislative budget process and many Delta local agencies and their legislative representatives have been given minor voice in the development of the current plan and in the proposed future governance structure.

The opportunity for Rio Vista to comment on decisions reached by others is not sufficient or appropriate participation in project of this magnitude of local importance. As a local entity Rio Vista and its citizens have special unique knowledge and concerns of the Delta and the people and communities in it. The plan and its EIR/S must provide assessment of alternative governance structures to ensure local concerns and knowledge are included in substantive ways. The EIR/S is inadequate in considering these alternatives.

Summary and Conclusion

We support the need to develop a comprehensive water program for California to achieve greater reliability in water availability. We also believe strongly in the second goal of the BDCP and that protecting and enhancing the Delta be truly on an equal footing with the first goal of a reliable water supply. We believe the inclusion of an additional alternative conveyance system proposal such as that recommended by U.S. Representative Garamendi in his "Comprehensive Water Plan for All Californians" must be included in the development of the Final Plan and Final EIR/S. Consideration of widespread distributed investment in local capture, storage, reuse, and distribution is also warranted along with programs to correct past practices, which have damaged the Delta ecology.

We also support an appropriate governance structure for the BDCP that provides Rio Vista and other local agencies a rightful significant place in the decision making structure.

On a more detailed level, alternatives to the Yolo Bypass Fisheries Enhancement and Cache Slough improvements need to be included in the plan to reduce flooding potential on Rio Vista.

The plan needs to include more detailed and reliable strategies and planned actions to ensure that communities like Rio Vista have reliable access to clean and sufficient water from wells and groundwater and that local farms, even those not in the Delta but adjacent to it, do not suffer from BDCP actions.

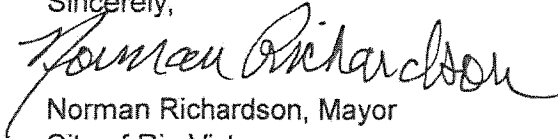
The Plan also needs to provide assurance that water quality and salinity levels, in particular, do not impede the development of the local farm economy of high value crops both in the statutory Delta and for non-Delta farms dependent on the Sacramento River.

A greater recognition of the current condition and importance of improving Highway 12 through Rio Vista and the entire Delta contribution should be addressed in the Plan.

The recreational and agricultural communities need to be protected. Salinity levels in the Delta should be decreased. Science that measures and informs decision-makers must govern the process.

If you have any questions, please contact me at (707) 374-6451 Ext. 1105, or Dan Christians, Adjunct Staff Member at (707) 580-0905 (cell phone).

Sincerely,

A handwritten signature in cursive script that reads "Norman Richardson".

Norman Richardson, Mayor
City of Rio Vista

Cc: U.S. Representative Garamendi
State Senator Lois Wolk
State Assembly Member Frazier
City Council
City Clerk
City Manager
Army Base Steering Committee

BDCP780

From: Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>
Sent: Monday, June 16, 2014 2:46 PM
To: bdcpc comments - NOAA Service Account
Subject: Fwd: BDCP COMMENTS | 06.09.2014
Attachments: 20140606 - Brutoco Engineering & Construction.pdf; 20140606 - Kenneth B. King, P.E. Consulting Civil Engineer.pdf; 20140606 - Orange County Business Council.pdf; 20140606 - The Kahlen Group.pdf; 20140606 - Valley Industry Association.pdf; 20140609 - City of Redding.pdf; 20140609 - City of Rio Vista.pdf; 20140609 - Irvine Chamber.pdf; 20140609 - Mary Ann Reynolds - Member of Sierra Club of CA.pdf; 20140609 - P. Holmes.pdf; 20140609 - Santa Clara Chamber of Commerce.pdf

----- Forwarded message -----

From: Anita Deguzman - NOAA Affiliate <anita.deguzman@noaa.gov>
Date: Mon, Jun 16, 2014 at 1:54 PM
Subject: BDCP COMMENTS | 06.09.2014
To: Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>

I have attached the following eleven (11) comments for your review.

Copies have been made and are in your mailbox - original letters are up front at the reception desk.

--

~~~~~  
Anita deGuzman  
*Administrative Assistant*  
NOAA Fisheries \* West Coast Region  
U.S. Department of Commerce  
650 Capitol Mall, Suite 5-100  
Sacramento, CA 95814  
[916-930-3600](tel:916-930-3600) - main  
[916-930-3629](tel:916-930-3629) - fax  
[Anita.deGuzman@noaa.gov](mailto:Anita.deGuzman@noaa.gov)

## CITY OF REDDING



RICK BOSETTI, MAYOR

777 Cypress Avenue, Redding, CA 96001

P.O. Box 496071, Redding, CA 96049-6071

530.225.4447 FAX 530.225.4463

RECEIVED

JUN - 9 2014

NATL MARINE FISHERIES SVS  
SACRAMENTO, CAJune 5, 2014  
A-050-060-450

Mr. Ryan Wulff  
National Marine Fisheries Services  
650 Capitol Mall, Suite 5-100  
Sacramento, CA 95814

Subject: Draft Bay Delta Conservation Plan and Draft Environmental Impact Report/Environmental Impact Statement for the Bay Delta Conservation Plan

Dear Mr. Wulff:

The City of Redding (Redding) appreciates the opportunity to provide comments on the Draft Bay Delta Conservation Plan (BDCP) and associated Draft Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS). Redding is located in the northern end of the Sacramento Valley, just below Shasta Dam, and enjoys many benefits from the Sacramento River. As a Settlement Contractor, nearly half of Redding's domestic water supply comes from the Sacramento River through its municipally owned Water Utility. Additionally, Redding's municipally owned Electric Utility receives nearly 8 percent of the hydroelectric output from the Central Valley Project (CVP). This equals approximately 30 percent of Redding's yearly power supply. Federal hydropower from the CVP is the most cost-effective, renewable, and carbon-free resource currently in Redding's power-supply portfolio. Any efforts that may affect Redding's water-supply reliability or hydroelectric supply are of significant concern to the City and its residents.

After reviewing the BDCP and DEIR/DEIS, we have the following concerns:

- ▶ Direct and indirect impacts to upstream water rights have not been evaluated.
- ▶ The costs and cost allocations to CVP contractors have not been adequately addressed.
- ▶ The cumulative impacts of the BDCP and other proposed projects (such as the raising of Shasta Dam or the State Water Resources Control Board's proposed Flow Criteria) have not been contemplated.
- ▶ Other alternatives, such as smaller conveyance systems and additional storage, are not fully considered.

Redding supports further exploration of these issues in the development of a Final BDCP and associated Final EIR/EIS and requests that other conveyance alternatives and additional storage be given significant consideration as part of a comprehensive BDCP assessment.



Redding supports efforts to stabilize the ecological habitat in the Delta, secure water rights, and improve water-supply reliability throughout the state. Redding is appreciative of the opportunity to be involved in this process, given the significant impact the BDCP could have on our community, and looks forward to continued involvement in this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Bosetti". The signature is fluid and cursive, with the first name "Rick" and last name "Bosetti" clearly distinguishable.

Rick Bosetti  
Mayor

RB:amf

StaffReports\Auth-BDCP-Letter-CC.wpd

**From:** Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>  
**Sent:** Monday, June 16, 2014 2:46 PM  
**To:** bdcpr comments - NOAA Service Account  
**Subject:** Fwd: BDCP COMMENTS | 06.09.2014  
**Attachments:** 20140606 - Brutoco Engineering & Construction.pdf; 20140606 - Kenneth B. King, P.E. Consulting Civil Engineer.pdf; 20140606 - Orange County Business Council.pdf; 20140606 - The Kahlen Group.pdf; 20140606 - Valley Industry Association.pdf; 20140609 - City of Redding.pdf; 20140609 - City of Rio Vista.pdf; 20140609 - Irvine Chamber.pdf; 20140609 - Mary Ann Reynolds - Member of Sierra Club of CA.pdf; 20140609 - P. Holmes.pdf; 20140609 - Santa Clara Chamber of Commerce.pdf

----- Forwarded message -----

**From:** Anita Deguzman - NOAA Affiliate <[anita.deguzman@noaa.gov](mailto:anita.deguzman@noaa.gov)>  
**Date:** Mon, Jun 16, 2014 at 1:54 PM  
**Subject:** BDCP COMMENTS | 06.09.2014  
**To:** Ryan Wulff - NOAA Federal <[ryan.wulff@noaa.gov](mailto:ryan.wulff@noaa.gov)>

I have attached the following eleven (11) comments for your review.

Copies have been made and are in your mailbox - original letters are up front at the reception desk.

--

~~~~~

Anita deGuzman
Administrative Assistant
NOAA Fisheries * West Coast Region
U.S. Department of Commerce
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814
[916-930-3600](tel:916-930-3600) - main
[916-930-3629](tel:916-930-3629) - fax
Anita.deGuzman@noaa.gov

From: JA Edwards <jed_0707@hotmail.com>
Sent: Thursday, June 12, 2014 3:57 PM
To: BDCP.comments@noaa.gov
Cc: Jeroen Vanderlinden; craig HOB; Alvin Huey; Bill O'Reilly; Chris Capel; Chuck Wilton; Lannie Malfar; neil cavuto; peter amoroso; Ralph Aguirre; Russ Lund
Subject: Northern California Delta Tunnel Project

BDCP Comments
Ryan Wulff, National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Dear Mr. Wulff,

As a 56 year resident of the sacramento area, and long time user of the Northern California delta area, I am appalled at any suggestion that will endanger this long standing region and ancient ecological system by the implementation of any tunnel system or any related construction therein. I find that the added burden placed on Northern Californians support of a water transmission system for the southern end of California is not only irresponsible but criminal in it's concept and to say in the least irresponsible and unfitting to the preservation of this long standing ecological system which is a benchmark to our region and life long establishment of this delta water system...

Any public official associated with this transgression, should be singled out for criminal intent and dismissed from public office as a result of this suggestion alone, more so for any endangerment to our water system, the loss of wild life WHICH this area is touted as one of our nations oldest fly by regions (water fowl) or for any misconduct resulting from the biased unsupported documentation that this project is founded upon being filled with bogus reports and unmitigated studies! I for one will not tolerate any political meandering or the fraudulent findings being submitted to the general public that will endanger our delta system, all adjacent water ways and the Heritage of our delta system and it's future preservation!

Respectfully yours,

James A. Edwards
Elk Grove CA

From: Jim Jorgensen <jim.jorgensen@wavecable.com>
Sent: Friday, June 13, 2014 10:38 AM
To: BDCP.comments@noaa.gov
Subject: twin tunnels

We are partners in the Jorgensen Ranch in Gustine, CA. I have attended two informative sessions about the proposed twin tunnels.

This project will be very costly with the likelihood of huge cost overruns. This tunnel project will not provide any water for our use in our ranching/farming operation. Already we have numerous restrictions from the Del Puerto Water District- 0 - 10% allocation for irrigation use through the pipeline from the Delta Mendota Canal.

We are also concerned about the damage to wildlife(birds, fish, insects, etc.) with this proposed tunnels. The work will affect this Delta area enormously. We also have deep sympathy to the many family farms, ranches that will be removed if the project is approved.

Please do not build these tunnels. Even the well educated presenters on the panels at the sessions were not certain the tunnels will accomplish the goals set forth for the project.

Thank you. Any questions, let us know.

Jim Jorgensen
Jorgensen Ranch
30416 West Jorgensen Road
Gustine, CA 95322
Ph: 209 854 6566

From: Friends of the River <info@friendsoftheriver.org> on behalf of Lucetta Swift
<info@friendsoftheriver.org>
Sent: Friday, June 13, 2014 4:39 PM
To: BDCP.Comments@noaa.gov
Subject: I oppose all alternatives in the BDCP that propose construction of new diversions and tunnels under the Delta

Jun 13, 2014

Mr. Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Dear Mr. Wulff, NMFS,

Thank you for receiving public comments in response to the Draft BDCP Plan and Draft EIR/EIS.

I oppose all alternatives in the BDCP that propose construction of new diversions and tunnels under the Delta. I oppose the project because:

It is too costly (up to \$54 billion with interest and other hidden costs) and the general public should not have to cover any of this outrageous, including habitat restoration costs. These should be paid by those who receive the water (since the Delta diversions degraded the habitat in the first place).

Operation of the diversions and tunnels threaten to dewater major upstream reservoirs in northern California and reduce downstream river flows, to the detriment of fish, wildlife, recreation, and other public trust values.

Diversion and tunnel facilities would adversely impact too much Delta farmland and habitat, harm Brannan Island State Park, infringe on the Stone Lakes National Wildlife Refuge, and degrade other essential conservation lands.

You cannot restore Delta habitat without first determining how much fresh water the Delta needs to survive and thrive. Restoration of fresh water flows from the San Joaquin River in the south Delta are particularly important.

The tunnels will need more upstream storage facilities to feed fresh water into them. These include raising Shasta Dam, building the Sites Reservoir, and possibly reviving the Auburn Dam on the American River and the Dos Rios Dam on the Eel. The environmental, cultural, and financial impacts of these controversial projects are a significant foreseeable but ignored impact of the BDCP.

[On a human level, saving the Delta is not about "fish vs people" as some proponents of the tunnels suggest. Protecting our water supply is about preserving natural resources for all living things. If our groundwater, creeks and rivers are contaminated and dry up, everything and everyone will be on an accelerated downward spiral toward extinction, not just the fish.]

Our lives are interdependent. Strict water conservation measures, habitat restoration and protection and sustainable land use practices are the only long term solutions to ever increasing consumer populations. Everyone must use less of everything.]

I believe that the BDCP should include, and I would support, an alternative that significantly reduces Delta exports and focuses instead on restoring habitat and threatened and endangered species in the Delta, improves Delta water quality by providing sufficient fresh water inflow from both the Sacramento and San Joaquin Rivers, and that includes a pragmatic plan to sustainably meeting California's water needs. This can be done by increasing agricultural and urban

BDCP 784

water use efficiency, capturing and treating storm water, recycling urban waste water, cleaning up polluted groundwater, and reducing irrigation of desert lands in the southern Central Valley with severe drainage problems. We don't need to build more dams or tunnels.

Thank you for considering my comments.

Sincerely,

Ms. Lucetta Swift
PO Box 837
Grass Valley, CA 95945-0837
(530) 272-8025

From: Bruce Bolin <mylarpud@gmail.com>
Sent: Friday, June 13, 2014 1:25 PM
To: BDCP.comments@noaa.gov
Subject: I oppose the water tunnels

To whom it may concern.

As a California tax payer and a concerned citizen, I strongly oppose the purposed water tunnels.

I wish to add my voice to those who feel like me that these tunnels pose a threat to northern California's environment and to our delta and to our water supply.

Please add my name to the opposition list.

Thank You
Bruce Bolin
2937 Chiplay St.
Sacramento, Ca 95826

From: Greta Lacin <gretal@lacin.com>
Sent: Friday, June 13, 2014 9:40 AM
To: bdcg comments - NOAA Service Account
Subject: Delta Island

To Whom It May Concern,

I am writing to express concerns I have regarding the Bay Delta Conservation Plan. I have written another letter, but this particular letter expresses another concern.

I am a longtime supporter of The Nature Conservancy. In the past year or so, I have followed with dismay plans to tunnel under an island owned by that group, in order to install the massive water tunnels. Sacramento Bee articles discussed this area as habitat, an important one for a population of endangered Sandhill cranes. These birds are particularly sensitive to disruptions of their environment, which tunneling would surely disturb in a major way. I beg you to reconsider the decision that made this island ground zero for disruption and destruction. I recall that this alternative was chosen to spare human interests from being disturbed by the tunnels. But surely there are other alternatives, and I ask that they be thoroughly explored and weighed in your documents, and that another alternative be chosen. I have encouraged the Nature Conservancy to raise their voice in opposition, and it is my hope that this plan will not move forward.

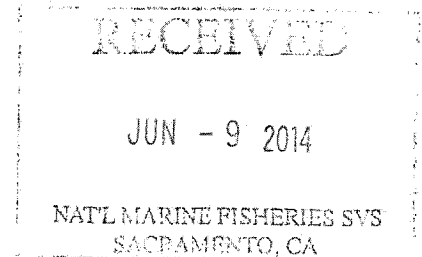
Sincerely,

Greta Lacin
5340 Monalee Avenue
Sacramento, California
95819

BDCP787.

Mary Ann Reynolds
3051 Silver Elm Ct.
Merced, CA 95340

BDCP
Ryan Wulff
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 9581



Dear Mr. Wulff,

Re: BDCP Draft EIR/EIS

Before I make specific comments on the Draft EIR/EIS, I want to make several general comments on the BDCP project.

Firstly, I object to the BDCP's presenting the habitat restoration of the Delta with the building of the twin tunnels. I see the two projects as totally separate and by bundling them together the impression is given that one can not be done without the other. In my opinion the Delta can be restored without building the tunnels. The proposed twin tunnels project should have been separated from the Habitat Conservation Plan (HCP).

In addition I object to the way the twin tunnels are referred to in the EIR/EIS as the "BDCP proposed action" or "#4 CEQA preferred alternative". This seemed unnecessarily confusing to me and I expect to many others.

I also find the BDCP weak in several critical areas: (1) impact, (2) funding (3) fish and (4) implementation.

My specific comments will, however, be limited to the number of impacts listed in Tables 31-1 on pages 31-9 to pages 31-13 of Chapter 31 of the Draft EIR/EIS. With over 50 significant and unavoidable adverse impacts, the BDCP violates the intent of the 2009 Delta Reform legislation to protect the Delta's environment.

Yours truly,

Mary Ann Reynolds
Mary Ann Reynolds

Member of the Sierra Club of California

BDCP 787

From: Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>
Sent: Monday, June 16, 2014 2:46 PM
To: bdcg comments - NOAA Service Account
Subject: Fwd: BDCP COMMENTS | 06.09.2014
Attachments: 20140606 - Brutoco Engineering & Construction.pdf; 20140606 - Kenneth B. King, P.E. Consulting Civil Engineer.pdf; 20140606 - Orange County Business Council.pdf; 20140606 - The Kahlen Group.pdf; 20140606 - Valley Industry Association.pdf; 20140609 - City of Redding.pdf; 20140609 - City of Rio Vista.pdf; 20140609 - Irvine Chamber.pdf; 20140609 - Mary Ann Reynolds - Member of Sierra Club of CA.pdf; 20140609 - P. Holmes.pdf; 20140609 - Santa Clara Chamber of Commerce.pdf

----- Forwarded message -----

From: Anita Deguzman - NOAA Affiliate <anita.deguzman@noaa.gov>
Date: Mon, Jun 16, 2014 at 1:54 PM
Subject: BDCP COMMENTS | 06.09.2014
To: Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>

I have attached the following eleven (11) comments for your review.

Copies have been made and are in your mailbox - original letters are up front at the reception desk.

--

~~~~~  
Anita deGuzman  
*Administrative Assistant*  
NOAA Fisheries \* West Coast Region  
U.S. Department of Commerce  
650 Capitol Mall, Suite 5-100  
Sacramento, CA 95814  
916-930-3600 - main  
916-930-3629 - fax  
[Anita.deGuzman@noaa.gov](mailto:Anita.deGuzman@noaa.gov)

6/6/14

To whom it may concern;  
What ever affect Sacramento  
will sooner or later affect all  
surrounding communities.

Our previous disicion makers  
said because there were two rivers  
running through Sacramento we would  
never have to pay for water to our  
homes, well that fell through.  
we are already diverting water all  
over and the people not having  
a say about it. Now twin tunnel  
to send even more water? Sacramento  
is in a water shortage of its own.  
maybe some one will send us  
some water!

RECEIVED

JUN - 9 2014

NATL MARINE FISHERIES SVS  
SACRAMENTO, CA

Brincy Holmes

**From:** Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>  
**Sent:** Monday, June 16, 2014 2:46 PM  
**To:** bdcpl comments - NOAA Service Account  
**Subject:** Fwd: BDCP COMMENTS | 06.09.2014  
**Attachments:** 20140606 - Brutoco Engineering & Construction.pdf; 20140606 - Kenneth B. King, P.E. Consulting Civil Engineer.pdf; 20140606 - Orange County Business Council.pdf; 20140606 - The Kahlen Group.pdf; 20140606 - Valley Industry Association.pdf; 20140609 - City of Redding.pdf; 20140609 - City of Rio Vista.pdf; 20140609 - Irvine Chamber.pdf; 20140609 - Mary Ann Reynolds - Member of Sierra Club of CA.pdf; 20140609 - P. Holmes.pdf; 20140609 - Santa Clara Chamber of Commerce.pdf

----- Forwarded message -----

**From:** Anita Deguzman - NOAA Affiliate <[anita.deguzman@noaa.gov](mailto:anita.deguzman@noaa.gov)>  
**Date:** Mon, Jun 16, 2014 at 1:54 PM  
**Subject:** BDCP COMMENTS | 06.09.2014  
**To:** Ryan Wulff - NOAA Federal <[ryan.wulff@noaa.gov](mailto:ryan.wulff@noaa.gov)>

I have attached the following eleven (11) comments for your review.

Copies have been made and are in your mailbox - original letters are up front at the reception desk.

--

~~~~~  
Anita deGuzman
Administrative Assistant
NOAA Fisheries * West Coast Region
U.S. Department of Commerce
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814
[916-930-3600](tel:916-930-3600) - main
[916-930-3629](tel:916-930-3629) - fax
Anita.deGuzman@noaa.gov

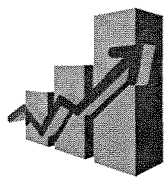
From: Michael Suydam <mike@21strat.com>
Sent: Friday, June 13, 2014 8:43 AM
To: BDCP.comments@noaa.gov
Subject: South Orange County Economic Coalition urges support for Alternative 4 of BDCP
Attachments: SOCEC Support Alternative 4 BDCP.docx

Dear Mr. Wulff,

Attached please find the letter from the South Orange County Economic Coalition urging support for Alternative 4 of the Bay Delta Conservation Plan and include in the official record.

Thank you for your consideration and please let me know if you have any questions.

Michael W. Suydam
21st Century Communications Strategies, LLC
www.21strat.com
mike@21strat.com
(949) 981-5008



South Orange County Economic Coalition

a Division of the South Orange County Regional Chamber of Commerce

BDCP 789

May 1, 2014

Mr. Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

RE: Support for Alternative 4 of the Bay Delta Conservation Plan

Dear Mr. Wulff,

On behalf of the Corporate Board of Directors and the hundreds of members of the South Orange County Regional Chamber of Commerce, we are proud to submit this letter of support for the Bay Delta Conservation Plan and Alternative 4 contemplated in its associated environmental documents.

As advocates for business throughout the region, South County Chamber and its partners in the South Orange County Economic Coalition are committed to working with our members, the broader business community and local governments to promote federal, state and local policies that support the long-term economic and business health of our region. Key to this end is the safe, reliable supply of water. In a region completely dependent upon imported water, this is an even more vital issue.

We believe the project outlined in Alternative 4 – twin tunnels at 9,000 CFS – is required at a statewide level to secure California's water and economic futures. This alternative provides for the maximum balance of secure water supplies, environmental restoration, economic gain and cost-efficiency.

Importantly, we believe that this Plan should be funded through equitable user fees, with costs fairly distributed amongst the beneficiaries of its development. And its ultimate governance must reflect our region's leadership and innovation with regards to water resource management.

SOCEC is proud to do its part to support both long- and short-term strategies to ensure a safe, secure and reliable water supply for our future generations. As such, on behalf of the south Orange County business community, we enthusiastically support the Bay Delta Conservation Plan as outlined in Alternative 4.

Sincerely,

Jim Leach
Chair, South Orange County
Economic Coalition

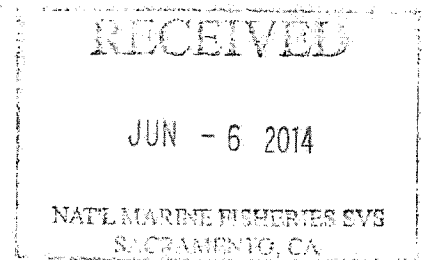
Wendy Bucknum
Chair, South Orange County
Regional Chamber of Commerce

KENNETH B. KING, P. E.
Consulting Civil Engineer
870 Terra California Dr., #5,
Walnut Creek, CA, 94595, USA
Tel 925.464.7188
Cell 925.984.7598

June 4, 2014

BDCP Comments

Mr. Ryan Wulff, National Marine Fisheries Services
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814



Subject: Comments on BDCP

Dear Mr. Wulff:

Portions of the following two documents were reviewed: (1) CD Dec 2013 Bay Delta Conservation Plan (BDCP) and (2) BDCP Highlights (Highlights). The BDCP is a document composed of approximately 9,000 pages of detailed information, and Highlights has 115 pages. Due to the large volume of data and text, it was not possible to completely review the documents. The following comments are made after a brief review.

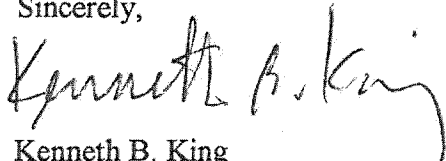
1. A brief description of BDCP water facilities was provided on Pages 25-29 of the Highlights. Additional information was not found in BDCP. Sketches in the Highlights had few details, such as number of gates, number of vent/access shafts, gates at the ends of the tunnels, location and volume of tunnel spoil areas, thickness of the tunnel lining, and spillways (if any) at the Clifton Court Forebay and the Intermediate Forebay. Cost estimates in the Highlights and BDCP had no details and only lump sum line items. Could not review what was included in the cost estimates. Actually there was more description of the facilities found in the Highlights than in the BDCP.
2. Could not find a description of the operation and maintenance (O & M) of the facilities. In particular how the tunnels (CM1 single and dual bore tunnels) would be maintained, unwatered, and operated. The assurance of a high reliability of the 40ft. diameter tunnels (including the numerous vertical and horizontal precast concrete joints) will require considerable construction effort and monitoring during and after construction and between inspections. Any repair of the 40ft. diameter tunnels would be formidable. No discussion was found concerning the number of segments the tunnels would be divided during unwatering. At some time in the future (say 50 to 75 years) the tunnels may have to be unwatered to allow for repair, relining, and/or replacement of the lining; need discussion of how this construction work is expected to be performed considering the age of the lining.
3. A schematic of the intakes is shown on Page 31 of the Highlights. The "state-of-the-art" screens are a key element of the BDCP. Discussion of the basis of the screen openings and velocities through the screens was not found. It would be helpful to include a discussion and source(s) of previous studies.

4. As shown in the Summary of BDCP Benefits on Page 103 of the Highlights, Alternative B Tunnels 6,000cfs delivery is 4.487MAF (6,197cfs), and Alt. D Tunnel 3,000cfs delivery is 4.188MAF (5,784cfs). [1.0MAF annually = 1,381cfs] Both deliveries exceed the designated conveyance capacities of the tunnels. Also the delivery of the BDCP proposed action low-outflow scenario, 5.591MAF (7,721cfs) is near the 9,000cfs capacity of the tunnels. The cfs values are average flows. Possibly some water would still flow through the Delta to Clifton Court, but this flow condition was not described.
5. The capacity of CM1 Conveyance is 9,000cfs. Power failures or equipment outage could cause overtopping of forebays. Consideration should be given to providing spillways at Clifton Court Forebay and Intermediate Forebay in accordance with DSOD guidelines.
6. Appendix 5C provides a discussion of dissolved oxygen, salinity, temperature, turbidity, and passage (five items). Could not locate in the BDCP how the benefits (if any) for the five items were developed and compared to the existing condition. For example, for various flows a comparison of salinity between the existing condition and the conveyance alternatives at various monitoring points should be shown. Particularly for salinity in the Delta the improvement in salinity, the data point locations and the benefit dollar amounts should be described and summarized for the BDCP Proposed Action, B Tunnels 6,000 cfs, and D Tunnel 3,000 cfs.
7. The BDCP proposed action allowed more annual deliveries than the existing conveyance, and the additional deliveries were completed without any new storage projects. It is not known if additional storage projects were considered. No reference was found in the Highlights or BDCP. A discussion should be provided explaining why no storage projects were considered in the alternatives. Possibly other alternatives were developed by previous studies and eliminated.
8. In addition as part of background information a brief discussion and data should be provided concerning how much water has been delivered annually (provide annual listing of Ag, M & I, & other) by the California Water Project since delivery began about 1970. Data would include inflow, outflow (ocean), Delta use and use south of the Delta, and estimated BDCP proposed action flows in the next 50 to 75 years. The background information should be compared to BDCP Operational Criteria (as shown in Highlights, Pg.33). Figures showing the existing flow system and how the BDCP proposed action flows in the delta (particularly how Old River flows around Clifton Court Forebay) would be useful.
9. Total benefits are shown on Page 103 (Highlights). It has not been shown why the BDCP Proposed Action was selected over the B Tunnels 6,000 cfs or the D Tunnels 3,000 cfs. If B Tunnels 6,000 cfs alternative was selected, what detrimental conditions and positive conditions would occur? Same question for D Tunnel 3,000 cfs. Essentially, what is the downside and upside to each of these three alternatives?
10. The estimated cost of the BDCP is approximately \$25 billion. This amount is a significant expenditure. Suggest that a review of the BDCP be made by an independent consulting firm. Review items would include: (1) BDCP Operational Criteria, (2) BDCP Proposed Action (Water Facilities and Protection and Restoration Projects), (3) the selection of the BDCP Proposed

Action, (4) costs, (5) benefits, (6) flow information (Item 8), (7) O & M of the BDCP Proposed Action, and (8) other items deemed necessary to complete the review.

The development of the BDCP is a large task, and a considerable effort has been given to preparation of the existing December 2013 Plan. The above comments should be considered prior to beginning final design of the facilities and restoration project. Many of the comments were made because of inability to locate information in the BDCP 9,000 page text, and it is possible some of the information is present in the text. Hopefully these comments will assist the State of California in the next level of the BDCP studies.

Sincerely,



Kenneth B. King

cc:

Leslie Katz (email)

Paul (Doug) Carlson (email)

John Cassidy (email)

Joan Buchanan, Assembly

Mark DeSaulnier, Senate

From: Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>
Sent: Monday, June 16, 2014 2:46 PM
To: bdcpc comments - NOAA Service Account
Subject: Fwd: BDCP COMMENTS | 06.09.2014
Attachments: 20140606 - Brutoco Engineering & Construction.pdf; 20140606 - Kenneth B. King, P.E. Consulting Civil Engineer.pdf; 20140606 - Orange County Business Council.pdf; 20140606 - The Kahlen Group.pdf; 20140606 - Valley Industry Association.pdf; 20140609 - City of Redding.pdf; 20140609 - City of Rio Vista.pdf; 20140609 - Irvine Chamber.pdf; 20140609 - Mary Ann Reynolds - Member of Sierra Club of CA.pdf; 20140609 - P. Holmes.pdf; 20140609 - Santa Clara Chamber of Commerce.pdf

----- Forwarded message -----

From: Anita Deguzman - NOAA Affiliate <anita.deguzman@noaa.gov>
Date: Mon, Jun 16, 2014 at 1:54 PM
Subject: BDCP COMMENTS | 06.09.2014
To: Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>

I have attached the following eleven (11) comments for your review.

Copies have been made and are in your mailbox - original letters are up front at the reception desk.

--

~~~~~  
Anita deGuzman  
*Administrative Assistant*  
NOAA Fisheries \* West Coast Region  
U.S. Department of Commerce  
650 Capitol Mall, Suite 5-100  
Sacramento, CA 95814  
[916-930-3600](tel:916-930-3600) - main  
[916-930-3629](tel:916-930-3629) - fax  
[Anita.deGuzman@noaa.gov](mailto:Anita.deGuzman@noaa.gov)



Santa Clarita Valley  
Chamber of Commerce

**BDCP791.**

27451 Tournay Rd. Ste 160  
Santa Clarita CA 91355

June 2, 2014

Mr. Ryan Wulff, NMFS  
650 Capitol Mall, Suite 5-100  
Sacramento, CA 95814

RECEIVED

JUN - 9 2014

NATL MARINE FISHERIES SVS  
SACRAMENTO, CA

**Re: Support BDCP EIR/EIS Alternative #4**

Dear Mr. Wulff:

On behalf of the Santa Clarita Valley Chamber of Commerce, which was first incorporated in 1923, I am writing to express our support for the Bay Delta Conservation Plan (BDCP) and specifically Alternative #4 as outlined in the Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS).

[In our representation of 1,200 businesses in our Southern California community, we are very attuned to water policy and its effects on our community. Castaic Lake Water Agency has worked to protect our current residents and prepare for our future growth, but uncertainty is the best word we can use to describe the current challenges with the State Water Project.] We have closely monitored the BDCP process since the passage of California's comprehensive water package in 2009 and we are encouraged by the release of the public draft of the plan and environmental documents. The outcome of this multi-year effort reflects collaboration of numerous stakeholders consisting of public water agencies, state and federal fish and wildlife agencies, business and agricultural stakeholders, local governments and the public.

The draft plan and accompanying environmental documents identify several options for addressing the current challenges with California's water supply delivery system and the Delta ecosystem. We believe that Alternative #4, which provides for three new intakes on the Sacramento River in the northern Delta and a 9,000 cfs tunnel system to convey that water to the existing aqueduct system, coupled with a comprehensive habitat conservation plan for the Delta, is the best alternative to meet California's co-equal goals of water supply reliability and Delta ecosystem restoration.

The construction of new water intakes and related conveyance is the key element of the BDCP. The proposed twin tunnel system will protect public water supplies if a seismic event were to trigger levee breaks and cause saltwater to intrude from San Francisco Bay. The new intakes in the northern Delta will reduce conflicts between water systems and migrating fish species such as salmon. Habitat improvements will provide native species such as Delta smelt with the healthy ecosystems they need to survive.



Santa Clarita Valley  
Chamber of Commerce

BDCP 791  
27451 Tournay Rd. Ste 160  
Santa Clarita CA 91355

Fifty years of regulatory stability will protect an estimated 1.1 million jobs throughout the state and create more than 177,000 jobs from construction projects and environmental restoration.

Southern California is rebuilding its aging infrastructure to ensure its water supplies are reliable. We need the same kind of investment in the State Water Project to safeguard our imported supplies. A project of such magnitude will require difficult decisions and compromise between stakeholders with varying priorities. However, California cannot sit idly by and wait for disaster—as we essentially have done for the past decades as we have watched our infrastructure grow older..

We support the BDCP, and specifically Alternative #4, as a workable draft proposal that can lead to a final successful plan of action because it offers the best solution to minimize seismic risk to our state's water supply infrastructure while restoring the Delta's ecosystem. Plus, we believe the cost impacts, while they add up, are reasonable and can be absorbed better than if we wait for a disaster or continued decline of the system.

Please feel free to contact me with any questions or if we can help in any way in the future. Thank you for your consideration.

Very truly yours,

James S. Backer  
Chairman of the Board of Directors

cc: Hon. Howard P. "Buck" McKeon – California 25<sup>th</sup> Congressional District  
Hon. Steve Knight – California 21<sup>st</sup> Senate District  
Hon. Fran Pavley – California 27<sup>th</sup> Senate District  
Hon. Scott Wilk – California 38<sup>th</sup> Assembly District  
Hon. Steve Fox – California 36<sup>th</sup> Assembly District  
Hon. Jeff Gorell – California 44<sup>th</sup> Asse

BDCP 791

**From:** Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>  
**Sent:** Monday, June 16, 2014 2:46 PM  
**To:** bdcpr comments - NOAA Service Account  
**Subject:** Fwd: BDCP COMMENTS | 06.09.2014  
**Attachments:** 20140606 - Brutoco Engineering & Construction.pdf; 20140606 - Kenneth B. King, P.E. Consulting Civil Engineer.pdf; 20140606 - Orange County Business Council.pdf; 20140606 - The Kahlen Group.pdf; 20140606 - Valley Industry Association.pdf; 20140609 - City of Redding.pdf; 20140609 - City of Rio Vista.pdf; 20140609 - Irvine Chamber.pdf; 20140609 - Mary Ann Reynolds - Member of Sierra Club of CA.pdf; 20140609 - P. Holmes.pdf; 20140609 - Santa Clara Chamber of Commerce.pdf

----- Forwarded message -----

**From:** Anita Deguzman - NOAA Affiliate <[anita.deguzman@noaa.gov](mailto:anita.deguzman@noaa.gov)>  
**Date:** Mon, Jun 16, 2014 at 1:54 PM  
**Subject:** BDCP COMMENTS | 06.09.2014  
**To:** Ryan Wulff - NOAA Federal <[ryan.wulff@noaa.gov](mailto:ryan.wulff@noaa.gov)>

I have attached the following eleven (11) comments for your review.

Copies have been made and are in your mailbox - original letters are up front at the reception desk.

--

~~~~~  
Anita deGuzman
Administrative Assistant
NOAA Fisheries * West Coast Region
U.S. Department of Commerce
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814
[916-930-3600](tel:916-930-3600) - main
[916-930-3629](tel:916-930-3629) - fax
Anita.deGuzman@noaa.gov

From: Donald Christensen <atuharpa@yahoo.com>
Sent: Friday, June 20, 2014 6:16 PM
To: BDCP.comments@noaa.gov
Subject: Lies, Damn Lies, and Statistics.

I am so fucking livid over this BDCP lie that it will be hard to write this email without dropping the F bomb every other word or sound threatening, but I will try. STOP! Stop the bullshit people, the delta doesn't need more of human intervention or modification, it needs less. Intertidal wetlands don't need to be farmed, they need to be INTERTIDAL WETLANDS you fucking educated idiots! I could give a fuck about the godamn economy when it depends on stupid fucking crops and farmers that have no business farming where they're farming. As far as I am concerned if people are so fucking stupid that they build cities without enough water to support them then let the fucking people move and the cities die. Fuck agribusiness and fuck golf courses and fuck rice farming and fuck gated communities in godamn semiarid terrain. And while I am at it FUCK all of you useless pieces of bureaucratic detritus, get a real job and produce something useful. I swear to you on a stack of fucking useless laws and projects that you all have promulgated, if this BDCP happens there will be blood and it won't be mine.

From: Scott D. Miller <miller.scott.biochem@gene.com>
Sent: Friday, June 20, 2014 10:51 AM
To: BDCP.comments@noaa.gov
Subject: Reject the twin tunnels!!!!

I have gone to the BDCP road shows and I have listened to the various options and asked many questions.

I am resolutely NOT in favor of spending Billions of dollars to build the twin tunnels or to promote any further diversions from the Sacramento River for Corporate profit.

The farmers have right to make a living but if they can't do it with out causing a negative environmental impact to the public environmental domain then they need to adjust to that reality.

We could probably subsidise the lumber industry by clear cutting all the remaining old growth forest but when those profit and plunder is spent the public inheritance is greatly degraded.

I say NO TUNNELS for me

I say NO TUNNELS for my children and their grandchildren

I say NO TUNNELS for the environmental inheritance of all future Californians.

Rebuild the levies, build more dams, develop desalination, subsidise improvements in irrigation efficiency
BUT NO FURTHER WATER DIVERSIONS!!

Sincerely Scott D. Miller
153 Jamaica St
Tiburon Ca.

From: Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>
Sent: Monday, June 23, 2014 8:01 AM
To: bdcg comments - NOAA Service Account
Subject: Fwd: Letter from Fairfield-Suisun Chamber of Commerce - Comments on BDCP and EIR/EIS
Attachments: 6.19.14 Fairfield-Suisun Chamber of Commerce BDCP EIR EIS.pdf

----- Forwarded message -----

From: **Joan R Langhans - NOAA Federal** <joan.r.langhans@noaa.gov>
Date: Fri, Jun 20, 2014 at 3:31 PM
Subject: Letter from Fairfield-Suisun Chamber of Commerce - Comments on BDCP and EIR/EIS
To: Aimee Moore - NOAA Federal <Aimee.Moore@noaa.gov>
Cc: Will Stelle - NOAA Federal <will.stelle@noaa.gov>, Barry Thom - NOAA Federal <barry.thom@noaa.gov>, Ryan Wulff - NOAA Federal <ryan.wulff@noaa.gov>

Hi Aimee,

On June 19, 2014, Will Stelle received a copy of the subject letter attached, addressed to Ryan Wulff. Please distribute further as necessary.

Thanks,
Joan

--

Joan Langhans

*Assistant to the Regional Administrator
NOAA Fisheries West Coast Region
7600 Sand Point Way NE, Bldg. 1
Seattle, WA 98115
206-526-6150/4530
Joan.R.Langhans@noaa.gov*



Find us online

www.westcoast.fisheries.noaa.gov





BDCP794

June 9, 2014

BDCP Comments
Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814



SUBJECT: Comments on the Bay Delta Conservation Plan and Environmental Impact Report/Environmental Impact Statement

Dear Mr. Wulff:

The Fairfield-Suisun Chamber of Commerce ("FSCC") appreciates this opportunity to provide our comments on the public draft Bay Delta Conservation Plan (BDCP) and the draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) that were circulated in December 2013 for public review and comment.

The BDCP is intended to provide a comprehensive conservation strategy for the Sacramento-San Joaquin Delta. The Plan purports to restore and protect ecosystem health, water supply, and water quality within a stable regulatory framework. What it will do is take water from the Sacramento River at Clarksburg and send it through tunnels to Clifton Court Forebay for transfer south. This latest iteration of the Peripheral canal (rejected by the voters in 1982) would merely transfer the clean water from Northern California under the Delta, to the California Aqueduct and Delta-Mendota Canal. By circumventing flow through the Delta, the BDCP will cause Delta and other waterways to stagnate, significantly degrading water quality. The proposed mitigation, flooding of currently productive farmland, would seriously impact the economy of Solano County, and itself degrade water quality in the Solano County area. Our organization is adamantly opposed to the Bay Delta Conservation Plan ("BDCP") as currently conceived. The effects on water quality are insufficiently studied, disproportionately affecting Solano County. The aforementioned mitigation measures essentially transfers water from senior water rights holders in private sector farming and the resulting economic benefits to the community, to the "beneficiaries" of the project. Simply put Solano County would lose water quality, suffer deleterious effects to its environment, lose significant economic activity, as well as absorb unmitigated impact costs of the project. The EIR/EIS does not meet the threshold to allow approval by State & Federal environmental regulators due to its insufficient study of these effects.

The Plan would cause several major and adverse impacts to Solano County:

- Without mitigation, the State Water Project (SWP)'s North Bay Aqueduct municipal water intake would become useless.
- Without mitigation, the BDCP would significantly increase water costs to Solano and Napa Counties while removing millions of dollars of economic activity from the County.

- The project will significantly alter the environmentally sensitive Eastern Solano County Delta area, as well as the Suisun Marsh, which encompasses more than 10% of California's remaining natural wetlands.
 - The Marsh supports 80% of the state's commercial salmon fishery by providing important tidal rearing areas for juvenile fish.
- BDCP would alter the largest, fresh water estuary on the west coast without sufficient study, or mitigation in place, with no discernible benefit – and obvious unmitigated economic harm - to Solano County.
- The economy of Solano County depends on reasonably priced and available municipal water supply. Several of the larger private sector employers, such as Anheuser-Busch, Genentech, and numerous other food and clean manufacturing employers, depend on the current reliable clean water supply in which the County municipalities have been investing (both in infrastructure and by securing and defending water rights) for seven to ten decades.
- Additionally as a consequence of the proposed mitigation, tens of thousands of acres of productive farm land would be lost causing harm to the regional economy (and the tax revenue to Counties, Schools, and Special Districts).

Calling this a "Conservation Plan" is a misnomer at best.

Once approved, the BDCP is intended to serve as "a comprehensive conservation strategy for the Sacramento–San Joaquin River Delta (Delta) designed to restore and protect ecosystem health, water supply, and water quality within a stable regulatory framework" (BDCP 1-1).

- The draft BDCP explains that the process of developing these species-level biological goals "did not assume that the BDCP would be solely responsible for recovery of these species, and so the designated biological goals and objectives do not necessarily match the recovery goals, but instead represented the BDCP's potential to contribute to recovery within the Plan Area". (BDCP3.A-14).

It purports to be Habitat Conservation Plan (HCP) that may be authorized pursuant to Section 10(a) of the federal Endangered Species Act (ESA), 16 U.S.C. §1539(a), and a Natural Community Conservation Plan (NCCP) authorized by the California Natural Community Conservation Planning Act (NCCPA), California Fish and Game Code §§2800-2835.

- Section 10(a) of the federal ESA allows the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to issue permits that authorize the taking of endangered or threatened species "if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity" and the proposed activity is governed by an approved HCP. Id. §1539(a)(1)(B) &(2).
- Similarly, under the NCCPA, the California Department of Fish and Wildlife (CDFW) may "authorize by permit the taking of any covered species ... whose conservation and management is provided for in a natural community conservation plan approved by the department." California Fish & Game Code §2835.
 - California Fish & Game Code §2820(a)(3) makes clear that such plans require coordinated, ecosystem-level planning to improve the condition of covered

species and their habitat; they are not simply a means to authorize the permitted activities while maintaining the status quo.

The federal statute provides that the fish and wildlife agencies may not approve the BDCP unless they determine that the incidental take, authorized by the permit and HCP, "will not appreciably reduce the likelihood of the survival and recovery of the species in the wild."

16U.S.C. §1539(a)(2)(B)(iv).

- The Endangered Species Act (ESA) obligates federal agencies "to afford first priority to the declared national policy of saving endangered species." *Tennessee Valley Authority v. Hill*, 437 U.S. 153, 185 (1978); see also, *Pacific Coast Federation of Fishermen's Associations v. U.S. Bureau of Reclamation*, 426 F.3d 1082, 1084-5 (9th Cir. 2005).

The BDCP appears to ignore the dire Bay-Delta ecosystem challenges by building water conveyance around it rather than improving flows for the benefit of species of concern.

- This is a rerun of the old "peripheral canal" that was blocked in June 1982 by a referendum vote of about 63% to 37%.

This entire process has been predicated on the untenable underlying assumption that taking more fresh water away from the Sacramento River upstream from the Delta, and thus reducing fresh water flows within the Bay-Delta, would somehow be good for the endangered aquatic, terrestrial and avian species whose catastrophic decline in Northern California has been well documented.

- The USFWS, National Marine Fisheries Service (NMFS), Environmental Protection Agency (EPA) and California Department of Fish and Wildlife (DFW) last year submitted comments (also known as the "Red Flag" comments) on the Administrative Drafts of the BDCP.
- The National Marine Fisheries Service (NMFS) also reiterated its previous "Red Flag" comment expressing concerns that "Sacramento River flow reductions will impact the reproductive success of white and green sturgeon" and that the Delta Water Tunnels threaten the "potential extirpation of main stem Sacramento River populations of winter-run and spring-run Chinook salmon over the term of the permit...." (*NMFS Progress Assessment and Remaining Issues Regarding the Administrative Draft BDCP Document, Section 1.17, 12, April 4, 2013*).
 - These are just examples of the many critical issues that have been flagged by NMFS and USFWS as to how the Delta Water Tunnels would threaten endangered fish species.

The ESA does not allow such easy avoidance of its mandates: "[A]n agency may not take action that will tip a species from a state of precarious survival into a state of likely extinction. Likewise, even where baseline conditions already jeopardize a species, an agency may not take action, that deepens the jeopardy by causing additional harm...." (*National Wildlife Federation v. National Marine Fisheries Service*, 524 F.3d 917, 930 (9th Cir. 2007).

ESA Section 7 consultation procedures are mandatory because the Bureau of Reclamation is a federal agency taking action with respect to the Delta Water Tunnels. The USFWS and NMFS **must** issue a Biological Opinion finding that the HCP does not jeopardize the continued existence of any endangered or threatened species – **this has not been accomplished.**

- The cart has unlawfully been placed before the horse. The Plan recites that it will “provide the basis for a biological assessment (BA) that supports new ESA Section 7 consultations between the U.S. Department of the Interior, Bureau of Reclamation (Reclamation), USFWS and NMFS. The parties seeking take authorizations pursuant to the BDCP and the associated biological assessments are referred to as the Authorized Entities.” In addition to including seven federal and state water contractors such as Westlands Water District, the authorized entities also include the Bureau of Reclamation and DWR.
- The consultations need to go before, not after, the BDCP process.
 - The ESA Section 7(a)(2) prohibitions against jeopardy of continued existence of any endangered species and against “destruction or adverse modification of habitat of such species” is effectuated by consultation and assistance by the NMFS and USFWS with the subject federal action agency. 16 U.S.C. § 1536(a)(2). Here, the federal action agency is the Bureau of Reclamation.
 - Additionally, in fulfilling the requirements of Section 7(a)(2) “each agency shall use the best scientific and commercial data available.” 16 U.S.C. § 1536(a)(2). Biological assessments are required under 16 U.S.C. § 1536(c)(1). It is improper to rely entirely on the BDCP documents to fulfill your discrete and independent obligations to conduct a Biological Assessment, a Section 7 consultation, a Biological Opinion (including a Reasonable Prudent Alternatives Analysis), and an HCP.
 - The joint NMFS and USFWS Regulations provide that “Section 7 and the requirements of this part apply to all actions in which there is discretionary Federal involvement or control.” 50 C.F.R. § 402.03
 - “Each Federal agency shall review its actions at the earliest possible time to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required” (*Karuk Tribe of California v. U.S. Forest Service*, 681 F.3d. 1006, 1020 (9th Cir. 2012)(en banc))
- The BDCP process inappropriately and unlawfully mixes, piecemeals, and segments the mandatory Section 7 consultation process with and from other Authorized Entities, such as Westlands Water District, and ESA Section 10 processes. (Plan, 1-1).
- Because the areas that will be affected by the BDCP involve designated critical habitat for several species, the Services must not only reach a “no jeopardy” conclusion, but must also find that the action does not adversely modify these critical habitat areas. “[I]f the areas ... [are] designated as critical habitat, any future section 7 consultation would be required to also determine whether the proposed action would destroy or adversely modify the critical habitat, an inquiry that is broader than the jeopardy analysis.” (*Center for Biological Diversity v. Bureau of Land Management*, 422, F.Supp.2d 1115, 1144-45 (N.D. Cal. 2006))
- Removing freshwater deliveries from critical habitat areas and replacing them with dubious mitigation measures elsewhere will surely not satisfy ESA’s mandates to refrain

from adversely modifying critical habitat and avoiding jeopardy to the continued existence of endangered species.

Given that the BDCP is intended to serve as the basis for the issuance of Incidental Take Permits, the fish and wildlife agencies must demonstrate additional, more rigorous analysis in fulfilling their ESA duties.

- The "take" of endangered species, which is prohibited by the ESA, includes "harm" as action constituting a "take." 16 U.S.C. § 1532(19). "Harm" includes "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or shelter." 50 C.F.R. § 17.3 (USFWS ESA Regulations). The NMFS ESA Regulations add "spawning, rearing, migrating" to the means by which habitat modification or degradation kills or injures wildlife. 50 C.F.R. § 222.102.
 - The draft EIR/EIS for the BDCP identifies 750 adverse impacts, including: 48 Significant & Unavoidable Adverse Impacts, 218 aquatic impacts – 0 beneficial, 186 wildlife impacts – 2 beneficial.
 - Alternative 4 increases take of 24 wildlife species compared to 3,000 cfs options [Plan Table 9-7].

In addition to prohibiting federal agency actions - unless determined not likely to jeopardize the continued existence of any endangered species - Section 7 of the ESA also prohibits actions unless determined to not likely "result in the destruction or adverse modification of [critical] habitat of such species...." (16 U.S.C. § 1536 (a)(2)). "Actions" include "actions directly or indirectly causing modification to the land, water, or air." (50 C.F.R. 402.02)

- The tidal restoration acreage in Alternative 4 increases take of 26 wildlife species [Table 9-7].

In a number of critical aspects, the BDCP relies on optimal conditions and outcomes to achieve its goals.

- In its draft report released in May, the Delta Independent Science Board states that "Expectations for the effectiveness of conservation actions are too optimistic" for the purposes of counterbalancing any negative impacts of water diversions and changes in flow. In other words, there is well-grounded doubt that the proposed ecosystem measures will be able to contribute to the recovery of the listed species.
- As noted by the Independent Review Panel, the BDCP and EIR/EIS authors used "professional judgment" rather than scientific data to understate or ignore uncertainties and arrive at conclusions that are more positive than the science supports.

Given that the BDCP's adverse modification to critical habitat will jeopardize the continued existence of various endangered and threatened species and the lack of effective mitigation or alternatives analysis for such adverse modification, the BDCP cannot serve as the legitimate basis for any Section 7 analysis or Section 10 permits.

To proceed in a manner required by law, Reclamation, NMFS and USFWS need to withdraw from or suspend participation in the BDCP process. The next step would be to carry out the ESA Section 7 process including consultation, biological assessment, formal consultation and a Biological Opinion by NMFS and USFWS.

- This process should, at the very least, include a new alternatives analysis that evaluates options that would actually help sustain and recover endangered species. Then, and only then, would there be an adequate informational and analytical basis for a BDCP evaluation of which alternative to choose.

Approving the BDCP, before the California State Water Resources Control Board (SWRCB) has set enforceable Bay-Delta flow objectives, is also putting the State's "Cart before the Horse"

A key issue regarding the Plan is its failure to determine how much water the Delta ecosystem and area of origin, appropriative and riparian senior water rights holders need and to commit to meet those needs.

The California State Water Resources Control Board (SWRCB)'s Clean Water Act and public trust doctrine analysis, including the setting of flow objectives necessary to preserve the Delta, the rivers, and the endangered fish species, needs to be done before, not after, a tragic, foundational decision is made choosing among alternatives for developing new upstream conveyance intakes and conveyance options.

- EPA indicated to the SWRCB, "The State Board... has recognized that increasing freshwater flows is essential for protecting resident and migratory fish populations." (*EPA letter to SWRCB re: EPA's comments on the Bay-Delta Water Quality Control Plan; Phase 1; SED, pp. 1-2, March 28, 2013*)
- California Water Code § 85086 (c)(1) requires: "For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board [SWRCB] shall, pursuant to its public trust obligations, develop flow criteria for the Delta ecosystem necessary to protect public trust resources. In carrying out this section, the board shall review existing water quality objectives and use the best available scientific information. The flow criteria for the Delta ecosystem shall include the volume, quality, and timing of water necessary for the Delta ecosystem under different conditions."

The SWRCB's resulting report on flow criteria, adopted in compliance with § 80586 in 2010, "suggests the flows that would be needed in the Delta ecosystem if fishery protection was the sole purpose for which its waters were put to beneficial use." This narrow focus is a useful exercise for a limited purpose but falls far short of the comprehensive planning necessary to support broad-based decision-making such as that which the BDCP purports to represent.

This backwards sequence of approvals ensures that, if approved, the BDCP will not include adequate information about the requisite amount of flows needed by endangered species and Bay-Delta water right holders. For even an adequate analysis of environmental impacts, comprehensive flow criteria must be developed for all beneficial uses. The fact that the

SWRCB's report limits even the species studied and protected by the suggested flows to: longfin smelt, delta smelt, starry flounder, bay shrimp, American shad, zooplankton, bay shrimp, American shad, Sacramento splittail, and Chinook salmon, ignoring largemouth bass, sturgeon, and other recreationally and economically important species, emphasis the need for more study to protect recreational fishing and other beneficial uses. The emphasis of the SWRB's report on anadromous and other "salt tolerant" species will tend to underemphasize the impact any increases in salinity will have on the many freshwater species in the Delta. (See later comments regarding the economic importance of bass tournaments.) The BDCP will significantly alter the flow levels throughout the Delta, as well as the flow patterns and mechanisms, without sufficient study of such effect on all beneficial uses.

Water Quality Impacts 5, 7, 11, 14, 18, are identified as significant and unavoidable.

- The increases in salinity, bromide, chloride, organic carbon, mercury and methylmercury would affect endangered species, farmers, and wells throughout the area; degrade the water quality in the Yolo Bypass and Cache Slough area and the Suisun Marsh; as well as increase municipal water treatment costs.
- The Barker Slough intake, the location of State Water Project's North Bay Aqueduct facility (a drinking water source for Napa and Solano Counties' municipalities) will experience substantial degradation due to increased bromide concentrations by as much as 40-98% during modeled drought period and the frequency would increase between 20-47% under Alt. 4. Mitigation of these adverse impacts is necessary to prevent saddling Solano County with a huge increase in water treatment costs – beneficiaries should pay the cost and environmental approvals must be secured – along with the BDCP - for relocation of impacted upstream intakes, and to provide the funds for necessary water treatment plant upgrades:
 - Municipal water treatment plant upgrades would be required in order to meet drinking water health standards at these urban intake locations (*EIR/EIS pages 8-402 to 8-407*).
 - Alternative 4 also poses risk to Dixon, Rio Vista municipal and rural residential and agricultural well water supplies
- The impact to SWP's North bay Aqueduct intake at Barker Sough, as mentioned above, could be mitigated significantly, as recommended by the Solano County Water Agency by a 50% financial contribution by the beneficiary proponents of BDCP to either:
 - Relocate the intake up stream, to just downstream from Clarksburg on the Sacramento River, as is being studied by Solano County Water Agency;
 - Connect to the Tehama-Colusa Canal at Dunnigan, or
 - Install a water treatment system at the current intake location.
- The establishment of water quality goals that include comprehensive flow criteria at key locations with several fixed location monitoring stations, then creating legally enforceable standards limiting diversions to that which can demonstrably preserve water quality, is a feasible mitigation measure and necessary to protect water quality.
- These impacts could be mitigated by proper monitoring of water flows and quality, including groundwater, at several key locations (such as Collinsville) and requiring that

diversion by the project begin in increments or stages, requiring strict adherence to water quality standards for any increases in, or continuation of, diversion.

- The establishment of several key monitoring stations (well before diversion is started), establishment of base line for the various water quality indicators, and increasing diversion only when such monitoring demonstrates no impact to water quality, especially no increase in salinity or organic carbon, is a necessary and feasible water quality protection mitigation measure. This is a logical mitigation plan which should be a component of any BDCD alternative.
- Although the addition of environmental approvals required by these mitigation measures may trigger recirculation of the EIR/EIS, such hurdles should not prevent the implementation of this necessary component required to mitigate the effect of the BDCD on critical Solano County water supplies.
- The water quality impacts of currently-proposed mitigation measures, including the flooding of current and past agricultural land, have not been sufficiently studied. The tidal action in the "new" wetlands will add turbidity, organic carbon, and nitrogen and other known components of agricultural run-off, to the adjacent waterways. Since these "to be arranged" new wetlands have not been identified, the soils and other aspects of the land to be converted have not been studied, which will affect future water quality within the future wetland areas, and in the adjacent sloughs and other waterways.

The BDCP process is simply a DWR effort to make a premature and unlawful decision to develop the massive Delta Water Tunnels before rather than after determining whether updated flow objectives would even allow such quantities of water to be diverted upstream away from the Delta.

- By law, BDCP planning decisions must be informed by SWRCB determinations. The most important BDCP planning decision ever to be made--whether or not to construct new upstream conveyance--cannot be made lawfully until the SWRCB determinations have been made.

"No Harm" Assurances are not justified given significant uncertainties

A key component of the BDCP is the assurances that will be granted to the project proponents in the form of long-term operating permits. The BDCP will include "regulatory assurances" (AKA "no surprises" – under 50 C.F.R. §17.22(b)(5) & (6) and 50C.F.R. §222.307(g) and California Fish & Game Code §2820(b)(3)) that protect the permittees from the financial cost of changes to the BDCP or other regulatory changes needed to protect the species or their habitat – these regulatory assurances provide that, if changed circumstances arise that are either unforeseen or not provided for in the Plan, then the fish and wildlife agencies will not require the permittees to devote additional land, water, or financial resources beyond the levels set forth in the BDCP without the consent of the plan participants. Nor will the federal and state regulators impose additional restrictions on project operations without compensating the permittees for the lost water or additional costs

- As described in Chapter 6 in the BDCP, under the No Surprises rule, "[i]f the status of a species addressed under an HCP unexpectedly worsens because of unforeseen circumstances, the primary obligation for implementing additional conservation

measures would be the responsibility of the Federal government, other government agencies, or other non-Federal landowners who have not yet developed an HCP." (*BDCP at 6-29 through 30 [citing 63 Fed. Reg. 8867].*)

The BDCP plans many significant and unavoidable impacts, with mitigations (mostly paid for by the public, rather than the beneficiaries of the construction of this new diversion structure) based on speculative and experimental science. Most of the science and research which would provide specificity to these impacts is deferred to the future - therefore the actual impacts could be far greater.

- The BDCP relies heavily on the concept of adaptive management - defined as a structured, iterative process of decision-making in the face of uncertainty, with an aim to reducing uncertainty over time via system monitoring.
- Critical to adaptive management is effective system monitoring that provides accurate, timely, and useful information for iterative decision making. Unfortunately, the BDCP does not fund the active ecological monitoring, independent scientific review, and robust feedback systems required.
 - In Appendix 8A, costs associated with monitoring actions for many of the conservation measures have been subsumed under administrative costs. Such an approach heightens the risk of underfunding a critical element of adaptive management. A comprehensive budget must be developed that covers all the adaptive management costs.
 - Not only does the BDCP fail to insure proper funding for effective monitoring, it fails to mandate the necessary monitoring in the first place. Monitoring prior to any changes in diversion and pre-established water quality guidelines would seem to be critical to any adaptive management approach, yet both components are conspicuously absent.

Unfortunately, the BDCP is pervaded by uncertainties regarding costs, funding, operations, conservation measure implementation, conservation measure outcomes, and the "silver bullet" of adaptive management. As the Independent Review Panel (Panel) noted in its March 2014 review of the draft EIR/EIS, "many of the critical justifications behind the supposed benefits of the conservation measures are highly uncertain."

A poorly conceived and underfunded adaptive management program is more likely to result in poor performance that will negatively affect covered species and produce unexpected or "unforeseen" circumstances. Such an outcome increases the risk that government agencies and others will be forced to fund additional measures for protecting the species.

- In the Conservation Strategy chapter (3.4.23.4), there is a reference to "voluntary sellers [of] long-term access to water for the purposes of, among other things, enhancing environmental conditions in the Delta." However, the existence of such voluntary sellers is speculative. Therefore, a zero-sum situation will probably ensue in which CVP/SWP contractual obligations are directly in conflict with assurances for yield under the BDCP.

Despite a commitment from the current Governor that other water users will not be harmed by the BDCP, it can be expected that the BDCP permittees would exert great effort to ensure that their investment "paid off". Once the BDCP has been permitted, the federal and state agencies will be under increased obligation to implement the conservation measures in all circumstances, foreseeable and otherwise. Water right holders could be subject to increased flow releases to meet water quality standards, or to address adverse changes in the status of covered species, as a "backstop" for the assurances granted to BDCP permittees.

- If Reclamation or DWR provides water from federal / state storage facilities as an element of "additional measures" it undertakes pursuant to the BDCP, it is reasonable to expect that such action would reduce the water supplies available to CVP/SWP contractors that are not BDCP permittees.
- The BDCP does not address how such a situation would be managed or resolved.

The core concern for the Solano County business community is how the assurances provided to BDCP permittees might affect we non-permittees; specifically, where will the water and funding come from to implement additional measures that may be required? The BDCP leaves these questions unanswered.

Given the numerous uncertainties, it is difficult to imagine how any long-term assurances could be granted to the permittees.

- Assurances must be proportional to the certainty that the BDCP will be effective. (*CA Fish and Game Code § 2820(f)(1)*).

Fundamentally flawed modeling

The climate change scenario violates CEQA and NEPA because the No Action Alternative (NAA) assumes certain changes as the result of climate change, and that the export projects' water operations would continue as if the climate changes were not taking place. As a result, under the NAA, major California reservoirs are projected to operate to dead pool conditions in approximately 10% of all years. Such operations do not reflect what "would reasonably be expected to occur" and do not include "predictable actions" (as required by CEQA and NEPA) that would likely be taken by water managers to avoid such conditions.

- This years' experience at Folsom Reservoir demonstrates the lengths to which water managers will go to avoid depleting water levels approaching the dead pool.

The NAA is unrealistic and no confidence can be placed in the EIR/EIS comparisons between the NAA and the project alternatives.

Unrealistic cost estimates and speculative funding sources

BDCP, Chapter 8 provides inadequate information for a reasoned assessment of how the BDCP will be paid for, and by whom.

- At a threshold level, Chapter 8 (Implementation Costs and Funding Sources) does not meet the requirements of the NCCP Act, which requires an Implementation Agreement detailing, among other things:

- Provisions "specifying the actions [CDFW] shall take... if the plan participant fails to provide adequate funding"; and 2) "mechanisms to ensure adequate funding to carry out the conservation actions identified in the plan" (Fish and Game Code Section 2820(b)(3)(A),(8)).
- Similarly, the federal ESA requires that HCPs specify "the applicant will ensure that adequate funding for the plan will be provided" for conservation actions that minimize and mitigate impacts on covered species.
- The case law (*16 USC 1539(a)(2)(B)(iii); National Wildlife Federation v. Babbitt, 128 F.Supp.2d 1274, 1294-95 (E.D.Cal., 2000); Southwest Center for Biological Diversity v. Bartel, 470 F.Supp.2d 1118, 1155 (S.D. Cal., 2006); HCP Handbook, pp. 3-33 to 3-34*) under ESA provides that the BDCP:
 - Must "ensure" funding over the lifetime of the permit;
 - Cannot rely on federal funding to "ensure" funding of the plan in light of the "Anti-Deficiency Act and the availability of appropriated funds";
 - Must provide "remedies for failure to meet funding obligations by signatory measures";
 - "Cannot rely on speculative future actions of others" for funding; and
 - Must be backed by a guarantee by the applicant to ensure funding for all plan elements.

The BDCP meets none of these conditions, and in fact relies on arguments that are expressly in contradiction to the statutory requirements.

In essence, the BDCP will rely on funding from three primary sources: state and federal water contractors, two state water bonds, and continuing and expanded federal appropriations. Each of these three sources is fraught with uncertainties that pose fundamental challenges to the financial viability of the Plan.

Critical information is lacking on:

- The respective financial obligation of urban and agricultural contractors;
- The willingness – and indeed the ability -- to pay on the part of the agricultural contractors, who will use approximately 70% of the yield;
- How the \$2 billion obligation previously assigned to the Friant Water Users will be paid;
- The financial obligation, if any, of the CVP contractors who are not BDCP permittees regarding Level 2 refuge supplies; and
- The respective financial obligation of the CVP and SWP contractors.
 - The BDCP states that "The actual funding share that is provided by the state versus federal water contractors for CM1 will be determined near the time that permits are issued for the BDCP."
 - Delaying important financing decisions to the end of the permitting process effectively precludes the opportunity for the public to identify and communicate any concerns. This is particularly relevant given the possibility that the state (and therefore its taxpayers) might have to be the guarantor of any default by

the Plan permittees, or that a statewide water use surcharge might be enacted to cover unmet costs.

The BDCP assumes that two State water bonds, totaling more than \$3.7 billion and 91% of the state share of the non-conveyance BDCP costs, will be approved by the voters.

- Case law (*Southwest Ctr. for Biological Diversity v. Bartel*, 470 F.Supp.2d 1118 (S.D. Cal. 2006)) directly addresses reliance on funding from a future bond requiring voter approval. The Court noted that "the uncertainty of these ideas is readily apparent," that such funding is speculative in light of future voter approval requirements, and that relying on future bonds does not meet the requirement to ensure funding of an HCP under the ESA. (*See id.* at 1156).
- While there is no case law addressing the "ensured funding" requirement under the NCCP Act, the reliance on speculative future funding from state water bonds gives no reasonable assurance of maintaining "rough proportionality between impacts on habitat or covered species and conservation measures" (*Fish and Game Code Section 2820(b)(3)(B)*)
- Also, at the time of this writing, none of the water bond bills introduced in the Legislature has funding explicitly dedicated to the BDCP, and there is no guarantee that any funding in a "Delta Sustainability" chapter would necessarily be dedicated to BDCP projects.

Several very optimistic assumptions are required to accept the Plan's projections of future federal funding. The discussion begins with a description of the CVPIA Restoration Fund, and an expectation that this oversubscribed source could be used to fund several conservation measures in the BDCP. In an equally hopeful manner, the Plan projects future federal funding based on past appropriations to a wide variety of existing programs that are already committed to supporting other actions. However, the evidence is entirely in support of the opposite trend: federal funding for a huge array of discretionary programs has been declining for years, with no sign that a reversal can be expected.

In Chapter 8 the BDCP asserts that "The potential funding sources described in this chapter have been made conservatively. That is, costs may be lower than estimated, or actual funding from state and federal sources may exceed these projections." This claim is unsubstantiated, and does not acknowledge the distinct possibility that costs may be higher than expected, and that actual funding from state and federal sources may be substantially less than the projections.

Plan poses significant threat to public safety in the Delta Region

The restoration plans propose the largest alteration/modification of State Plan of Flood Control (SPFC) ever proposed (10 out of 22 CMs impact or alter SPFC facilities (move, breach, remove, build on, plant vegetation, or inundate), but impacts not modeled or analyzed.

- These "Project Levees" are State Facilities per a 1953 Memorandum of Understanding with US Army Corps of Engineers (USACE) committing the State to maintain to the 1957 design.
- They must maintain an agreed-upon standard (PL 84-99) for areas protected by the levees to maintain eligibility for Federal Emergency Management Agency (FEMA) recovery funding

The Surface Water Chapter failed to analyze or mitigate SPFC or general flood control impacts:

- Impact SW-2 failed to analyze modification of SPFC facilities or system
 - Impact SW-2 failed to analyze the surface water elevations altered (both raised and lowered) in an unspecified number of locations, according to Plan's Effects Analysis Chapter (modeling results), but those hydrodynamic modeling results were not analyzed for impacts to flood protection nor mitigated in EIR/EIS
 - Impact SW-2 fails to justify the conclusion of no impacts to Yolo Bypass (CM2), fails to identify specific baseline flood capacity of Bypass or quantify the changes in flood capacity (good or bad) the project expects
 - Impact SW-3 fails to identify what kind of environmental impacts (for fish, for local diversions, for levee erosion, etc.) were analyzed to reach the BDCP's beneficial conclusion
- Impact SW-4 focused on minor drainage flooding, but failed to show work/analysis done on hydraulic effects or quantify the loss of flood flow capacity during construction of:
 - 9 in-water cofferdams restrict flood flows exacerbating current flood flow deficiencies
 - Increased flow capacity (river/channels) needed for discharge of dewatering volumes
 - Impact SW-4 and SW-5 mitigation is inadequate and focuses on minor impacts of runoff and sedimentation, but ignores more significant flood impacts mentioned, including cofferdams, raised river surface elevations, and erosion from altered velocities and trajectories
 - Impact SW-6 fails to provide baseline data or specific information on volume, locations, timing of drainage to be exceeded or identify Reclamation District pumping issues
 - Impacts SW-7 and SW-8 fail to acknowledge certainty of flood events during CM1 construction or to identify the impacts in other chapters on transportation, soils (subsidence), noise (pile driving), etc., These flood events could result in levee failure cumulative impacts to levees in other chapters could also result in Significant Impact that should be addressed in the Surface Water Chapter
 - Impacts SW-7 and SW-8 fail to mention alteration of SPFC or to identify impacts to local maintaining agency's (RDs) ability to conduct routine levee O&M or improvements
 - O&M performance – Fails to recognize or analyze if local RDs can perform regular O&M or identify what standards have to be maintained during construction and operation

- O&M responsibility – Fails to analyze possibility of local RD refusing responsibility for SPFC facilities during construction
- Levee Inspections – Fails to identify plan for conducting levee inspections during construction
- Fails to recognize or analyze USACE's annual PL 84-99 inspection criteria and consequences for not complying
- ESA mitigation – Fails to analyze impacts of claiming 140,000 acres for habitat on the ability of local RDs to mitigate future levee improvements
- Drainage – Scope of nature and extent of impacts, particularly cumulative effects (disconnect infrastructure, seepage, dewatering discharges), to existing drainage infrastructure fails to properly identify all impacts
 - Dewatering pumps placed every 50-75 feet, but fails to provide exact number, size, or location of pumps or where and how much water will be discharged by each
- ESA protection – Fails to acknowledge or analyze impacts to local O&M activities created by new habitat and species location
- Sediment Loading – More than a million acre feet at Fremont Weir projected to build up and maybe other places like intakes, but no analysis of how that affects maintaining 1957 Design Flows on annual basis or if dredging removal doesn't occur
- Impacts SW-7 and SW-8 fail to address Flood Emergency Response & Recovery
 - Historical Flooding - Failed to recognize or analyze frequency or magnitude of flood events in Plan Area
 - Flood fighting - Failed to recognize or analyze roles and responsibilities during a flood event
 - Evacuation – Failed to recognize or analyze possibility of evacuation with re-routed local transportation resulting in blocked egress and placement of evacuation roads in floodplain (currently top of levee – high ground)
 - Recovery Funding – Failed to recognize or analyze locations in Plan Area already ineligible or whether proposed projects eliminate eligibility for federal recovery money (expired FEMA MOU, inactive PL 84-99 status)
- Impacts SW-7 and SW-8 failed to acknowledge most significant increased flood risks created by project
 - New Risk – Failed to acknowledge or analyze any changes in existing level of flood risk in Plan Area, let alone specific locations where projects and actions will occur
 - Devalue Prior Flood Reduction Investments - Failed to recognize or analyze how the changes in SPFC facilities proposed in 10 of the CMs will impact recent (paid for by Prop. 1E/84 and local assessments/tax increases) or future (CVFPP regional and system wide) levee projects to reduce flood risk – could have Prop. 218 or other legal consequences if locals have to again to reduce risk -- expectation of locals for BDCP to assure same level of protection/risk during and after construction

- Liability – Failed to acknowledge or analyze costs associated with inverse condemnation claims stemming from projects reducing level of existing protection/risk, particularly if recently achieved from construction of local levee/flood project
 - Levee Stability
 - Collapse of Local Infrastructure – Soils and Geology chapter describe dewatering and pile driving causing land subsidence/sink holes but didn't identify impact to levees or mitigate if local flood control infrastructure (levees, canals, pumps) are damaged or destroyed
 - Transportation Degradation - Failed to analyze or mitigate effects from 10-year truck traffic (number of daily trucks on levee, number of daily trips of all trucks, weight and size of trucks) on roads with underlying levees
 - Impact SW-8 fails to address Encroachment Enforcement
 - CVFPB permit conditions – maintenance and removal of habitat
 - Governance – Fails to identify entity in charge of ensuring conservation easement and CVFPB permit conditions
 - Impact SW-9 fails to describe impacts of large 25 ft. high building pads on seepage or 9 in-river cofferdams impeding flows in rivers/channels
 - Impact SW-9 mitigation (runoff and sediment) is irrelevant and unrelated to impacts
- Soils Chapter failed to analyze or mitigate SPFC or general flood control impacts
 - Impact SOILS-3, subsidence discussion only focuses on BDCP facilities and fails to acknowledge or analyze impacts to levees (sinking/moving/cracking) caused by dewatering and pile driving or evacuation plans needed
 - Levee stability - construction dewatering and pile driving could result in levees sinking/moving/crack
 - Drainage infrastructure – damaged by subsidence and levee failure, NPDES discharge requirements
 - Impact SOILS-1 – levee impacts not discussed, including PL 84-99 vegetation management criteria
 - Impact SOILS-4, need to evaluate timeline intakes built on levees and raise City of Stockton levee movement problem and subsequent lawsuit/countersuit
 - Impact SOILS-5 failed to show work in terms of modeling or even identify Effects Analysis results to justify CEQA conclusion
 - Impact SOILS-6, PL 84-99 criteria and eligibility not discussed. Recirculation of EIR/EIS is required due to failure to acknowledge, analyze, or mitigate the numerous changes to SPFC infrastructure system or directly affected facilities, for example:
- Alteration of Flows/Hydrodynamics – changes in water surface elevations and velocities, reverse/unnatural flows, erosion, seepage, wave fetch without analysis
 - Impacts to flood control system from modification of levee system location and configuration (SPFC)

- Impact on SPFC facility purpose (i.e.: CM2 utilizing Yolo Bypass, the largest flood control facility in the Sacramento River system, as fish farm)
 - Existing SPFC facilities (project levees, bypasses, pumps and drainage systems) proposed for modification (build intakes/fish screens on, plant vegetation on, setback, inundate, or disconnect)
 - Impact on flood capacity in individual reaches from modification (move, breach, remove, inundate, etc.)
- Hydrologic Modeling - Operations - only modeled fish impacts, not flood impacts
- Plan Effects Analysis results showing altered flows, elevations, velocities were not used in EIR/EIS Surface Water Chapter to analyze flood impacts
 - Construction – no modeling of impacts to flood flow capacity changes during CM1 construction or during 50-year implementation
 - Flawed model (Walter's report) – possible underestimation of impacts
- Mitigation Certainty
 - Funding sources amounts associated with Mitigation Measures for impacts in EIR/EIS is not identified; no guarantees SPFC mitigation will be funded
 - Funding amounts for individual EIR/EIS Mitigation Measures is not identified; true costs for SPFC mitigation is not disclosed
 - Fails to identify governance for oversight of implementation/effectiveness of the suite of Mitigation Measures during 50-year HCP
- Funding Voids
 - SPFC system impacts and mitigation
 - Legal costs - Inverse condemnation damage lawsuits (i.e.: Paterno liability from third party flood damage resulting from alteration of configuration and purpose of SPFC facilities)
 - Assessments – payment to RDs for 140,000 acres into habitat in levee protected floodplains (DRA statute only requires payments of lands converted into conveyance facilities)
- Soils Chapter failed to analyze or mitigate SPFC or general flood control impacts
 - Impact SOILS-3, subsidence discussion only focuses on BDCP facilities and fails to acknowledge or analyze impacts to levees (sinking/moving/cracking) caused by dewatering and pile driving or evacuation plans needed
 - Levee stability - construction dewatering and pile driving could result in levees sinking/moving/crack
 - Drainage infrastructure – damaged by subsidence and levee failure, NPDES discharge requirements
 - Impact SOILS-1 – levee impacts not discussed, including PL 84-99 vegetation management criteria
 - Impact SOILS-4, need to evaluate timeline intakes built on levees and raise City of Stockton levee movement problem and subsequent lawsuit/countersuit
 - Impact SOILS-5 failed to show work in terms of modeling or even identify Effects Analysis results to justify CEQA conclusion
 - Impact SOILS-6, PL 84-99 criteria and eligibility not discussed
- Seismic Chapter failed to analyze or mitigate SPFC or general flood control impacts

- Impact GEO-2 and GEO-3, the pile driving associated with dewatering as described for construction of CM1 is not acknowledged as creating seismic level ground shaking capable of causing subsidence, liquefaction, and other general levee, pumps, and dewatering facility failure

State approval of this plan should require (under the *Paterno v. State of California* precedent) the erection of replacement levees to mitigate the impact on neighboring landowners and municipalities.

- "California Supreme Court precedent dictates that a landowner should not bear a disproportionate share of the harm directly caused by failure of a flood control project due to an unreasonable plan." (*Court of Appeal, Third District, California. (Peter PATERNO et al., Plaintiffs and Appellants, v. STATE of California et al., Defendants and Respondents. No. C040553 -- November 26, 2003)*)

BDCP does not propose mitigation of negative economic impacts on Solano County

Effect on Agriculture: Removal of 39,000 acres of Solano County farmland from production (CM1, 2, 4, 5, 7, 9, 10). The effect of said loss of production on agriculture and the cumulative economy of Solano County have been ignored.

- The Cache Slough Restoration Opportunity Area (ROA) will lose approximately 34,000 acres of land used for agricultural purposes, and the BDCP has set a general target of at least another 5,000 acres for conversion to freshwater tidal habitat in this area.
- Increasing the intensity of the remaining agriculture in Solano County appears to be the only manner in which the loss to the Solano County economy of the agricultural production can be mitigated in perpetuity.
 - The extension of irrigation to areas of the County (East of Vacaville or in the Montezuma / Kirby / Potrero Hills areas) currently unirrigated - at a ratio of new acres irrigated for every acre of land removed from production, calculated to sustainably replace the cumulative loss of agricultural farm gate - to keep Eastern Solano County agricultural production values relatively stable.
 - Such an irrigation system could efficiently be built with the necessary improvements to the North Bay Aqueduct. An agricultural intake could be constructed with the North Bay Aqueduct domestic water intake when the intake is relocated from the current Barker Slough location.
 - The formation of, or expansion of an existing irrigation district, building of the infrastructure, and allocation of water rights are necessary to mitigation mitigate the huge impact to Eastern Solano County's agricultural and economy.
- The proposed mitigation for the loss in tax revenue to Solano county is vague, and additionally fails to account for the multiplier effect where nearby business property will be devalued, and sales tax lost by the general loss of private sector economic activity, for example farm supply businesses, fuel, and groceries and other supplies purchased by farm families and farm workers.

- Assumptions regarding increased economic activity in "the Delta" do not necessarily apply to Solano County. Little or none of the project infrastructure is to be built or otherwise occur in Solano County, and none or few of the other increases in other economic activity will occur in Solano County.
- The potential loss in economic activity especially if water quality is allowed to suffer has not been sufficiently studied. The speculative increase in economic activity must be balanced against long term losses in economic activity, agricultural as addressed above and especially recreation, due to lower water quality.
 - For example, degradation in water quality will affect the Black Bass population in the entire Delta and therefore the black bass fishing in the Delta. The Delta was rated the as the thirteenth best Black Bass fishery in a May 2014 issue of Bassmaster magazine. (See page 13 of the May 11, 2014, San Francisco Chronicle Sport Section (Tom Stienstra)).
 - Bass tournaments occur on the Delta most weekends in three of the four seasons every year. Chuck Russo of Russo's Marina of Bethal Island estimates at least 100 bass tournaments are held on the Delta every year. Most of these tournaments have 30 to 100 tournament boats (with 2 people per boat). (See Department of Fish and Game website: <https://nrm.dfg.ca.gov/fishingcontests/default.aspx> for permitted tournaments, with many smaller unpermitted tournaments going "under the radar".) Russo's is the primary tournament marina, with other tournaments out of Bethal Island, B & W Resort and Ladds in Stockton, with a few tournaments out of Tracy Oasis. Many of the these participants stay overnight, with many stays of 3 to 6 nights with preparation and tournament activity, providing major support to hotels, motels and restaurants. Many bass fishermen are drawn to the Delta for, tournament and casual fishing, buying gas, food, snacks, bait, tackle, and other supplies in the Delta because of the quality of the fishery, and the heavy tournament schedule (most tournament anglers fish the Delta casually to prepare for a tournament in the future). Degradation of water quality will certainly hurt the Delta's stature as a black bass tournament location, and greatly decrease the number of anglers fishing the Delta every day.
 - The sensitivity of water skiers, wake boarders, hunters, and other recreation and pleasure uses to water quality is unknown, but these activities will also likely decrease. The cumulative effect on marinas and other boat and water recreation related business could be devastating, and lasting in perpetuity, far outweighing the temporary construction activity and limited infrastructure maintenance which are claimed to increase economic activity.
 - The above potential losses to recreational economic activity, together with loss of hunting uses, both due to degradation in water quality and loss of hunting acreage in the Cache Slough and Suisun Marsh areas due to planned flooding, should be studied and losses to the economy mitigated with non-speculative measures.
- Lowered river levels could cause agricultural irrigation intakes to be above water line at times, which may require barriers or consolidated intakes. These impacts require



mitigation by way of commitment to pay for new intakes, and any other required infrastructure.

- As stated above, the effect of these "new" wetlands on the surrounding waterways have not been appropriately addressed. The potential degradation of water quality has not been adequately studied.

Farmers who pump irrigation water directly out of the Delta could be affected by the obvious risk of a drop in water quality.

As explained above, degraded water quality will likely cause a drop in recreational users of the Delta. Such effects must be studied and mitigated.

- The Proposal for a state park on Barker Slough, underneath the flight path of Travis Air Force Base, in an area where there are very high noise and security concerns, is ill conceived as has been pointed out several times by Solano County officials during the development of the BDCP. A State park simply should not be put in a noisy flight path. Additionally, a State park with unfettered public access should not be put close to a United States Air Force Base with security concerns. It is an incompatible land use.
 - Based on sparse use of Grizzly Island, Rush Ranch and other current recreational opportunities in the area, there appears to be little or no demand for a State park in Eastern Solano County, especially one where any peace and serenity is frequently interrupted by low flying military (wide bodied KC-10, C-5, and C-17, and many other types) aircraft.

In summary, FSSC sees the BDCP as devastating to both the environment and the economy of Solano County. Adverse impacts must be avoided or must be required to be mitigated under NEPA and CEQA.

We appreciate this opportunity to provide comments on the BDCP documents. If you have any questions about these comments, please contact Debi Tavey, President and Chief Operating Officer of the Fairfield Suisun Chamber of Commerce (707) 425-4625.

Very Truly Yours,

Charles B. Wood III
Chairman, Fairfield - Suisun
Chamber of Commerce
Business Issues Committee

Steve Lessler
Chairman, Fairfield- Suisun
Chamber of Commerce
Board of Directors

CC:

The Honorable Governor Jerry Brown
State Capitol, Suite 1173
Sacramento, CA 95814

John Laird, Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Mark Cowin
Director, California Department of Water Resources
P.O. Box 942836, Room 1115-1
Sacramento, CA 94236-0001

Chuck Bonham
Director, California Department of Fish and Wildlife
1416 9th Street, 12th Floor Sacramento, CA 95814

The Honorable Sarah "Sally" Jewell
Secretary, U.S. Department of the Interior
1849 C Street, NW, Room 6156
Washington, DC 20240

Ren Lohoefer
Regional Director, U.S. Fish and Wildlife Service
2800 Cottage Way
Sacramento, CA 95825

The Honorable Penny S. Pritzker
Secretary, U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

The Honorable Regina A. "Gina" McCarthy
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3000
Washington, DC 20460

Will Stelle
Regional Director, National Marine Fisheries Service
7600 Sand Point Way, NE, Bldg. 1
Seattle, WA 98115-0070

From: Robert Smith <coat23@hotmail.com>
Sent: Monday, June 23, 2014 8:24 AM
To: BDCP.Comments@noaa.gov
Subject: Abandon the Bay Delta Conservation Plan

Form Master
7

EPIC (Environmental Protection
Information Center)

Dear Mr. Wulff,

The Draft Environmental Impact Report/Statement (DEIR/S) for the Bay Delta Conservation Plan (BDCP) uses models based on over-allocated water rights to analyze the plan's impacts, which would result in severe environmental consequences. Building more irrigation infrastructure, as the BDCP proposes, is not going to fix drought problems in California, instead these projects will exacerbate drought conditions. The proposed plan would result in impacts to endangered fish by reducing flows to impaired watersheds, draining estuaries that are essential to healthy river ecosystems, and allowing the continued operation of pumps that will kill fish that are protected under the Endangered Species Act. As proposed, the "conservation plan" is flawed and should be abandoned or revised to reduce exports that take water out of rivers, it should instead prioritize delta recovery, and improve water conservation, recycling and stormwater capture measures.

The 40,000 page BDCP document fails to disclose cumulative effects to our rivers and salmonids. The BDCP contains major flaws resulting in irreversible environmental impacts, and for the many reasons outlined below, the plan must be rejected.

1. Policy must be written into the BDCP to prevent environmental rollbacks from occurring during drought emergencies.
2. In order to mitigate impacts to protected species, delta exports must be reduced, not increased.
3. The BDCP is not consistent with its own biological objectives and the requirements of the federal and state endangered species acts because operation of the tunnels would contribute to the decline of numerous fisheries, which have already decreased by 90% or more since the inception of the State Water Project.
4. Habitat restoration project funding and success must be assured prior to construction of the twin tunnels, because of the uncertainties expressed by the scientific community. No commitment can be made to invest in tunnel costs or construction until restoration actions have demonstrated a benefit to the delta, as called for in the 2009 Delta Reform Act.
5. The BDCP fails Endangered Species Act requirements for ecological benefits to the proposed seasonal floodplain inundation of the Yolo Bypass and impacts to salmonids.
6. In order to avoid take of listed species, the BDCP must be amended to require improvements to fish screens and salvage operations to mitigate reverse flow impacts on fisheries at the existing South Delta export facilities at Jones and Banks that would continue to pump during dry years.
7. In order to comply with the Clean Water Act Section 401 and 303, the BDCP must establish science based flow criteria that restore the Delta through in-stream water rights that provide legal protection for the flow needs of sensitive waterways and the species they support.
8. The Plan's "Conservation Measures" are inadequate and must be amended to include adaptations to climate change that are supported by quantitative data. Policies must be amended to include cost effective climate change responses such as water efficiency, water conservation and demand reduction.
9. DEIR/S Chapter 11 Page 11-55 says that the flow impacts on key fish species migration cannot be determined. This is unacceptable, as the public and scientific community cannot properly assess the validity of a document addressing impacts on endangered fish species the plan is supposed to recover if the impacts to protected species are undetermined.
10. BDCP water operations modeling erroneously assumes that the High Outflow Scenario (HOS) water would all come from Oroville, which does not comply with the Coordinated Operations Agreement between DWR and Reclamation. It is likely that Shasta, Trinity and Folsom would see their cold water pools depleted by the HOS.

11. BDCP modeling assumptions that there will be no changes or impacts to the Trinity River are unsubstantiated because there are no specified limits to the amount of water that can be exported from the Trinity River Basin. To avoid significant environmental impacts, the plan must include specific limits of water that can be exported from the Trinity River Basin.
12. The information provided in Chapter 8 does not provide assurances that adequate funding will be provided to implement conservation actions to minimize effects to threatened or endangered species to satisfy the federal Endangered Species Act (USC 1539(a)(2)(A)) or the Natural Community Conservation Planning Act ([Fish & Game Code 2820(a)(10)]).
13. BDCP documents must be amended to include specified limits to the amount of water that can be exported from the Trinity River Basin in order to avoid cold water pool depletion.
14. Total consumptive water rights claims for the Sacramento and Trinity River basins exceed annual average unimpaired flows by a factor of 5.6 acre-feet of claims per acre-foot of flow. The Central Valley Project and the State Water Project have failed for decades to have enough water to fulfill the contract-based demands of their numerous contractors in the Central Valley and southern California. The proposed project uses modeling based on water rights that allocate more water than exists. If the project is carried out based on this data, it will result in significant environmental impacts to rivers and fish that have not been disclosed in the DEIR/S.
15. The absence of clearly analyzed and legally reliable water availability for aquatic resources means that the state and federal fishery agencies risk incidental take of protected species for the benefit of the Applicants.
16. The BDCP must outline how new Trinity River management approaches address over allocated water rights and water management for the benefit of fish and the Trinity River watershed communities.
17. The BDCP DEIR/S must be amended to assure that the Trinity River and its beneficial uses will be protected for existing or future CVP and SWP operations to keep viable fish populations below Trinity and Lewiston Dams.
18. Page 5-60 of the BDCP must be amended to prevent catastrophic loss of cold water storage and basic flows to keep fish in good condition below Trinity and Lewiston Dams.
19. In order to protect fish listed under the Endangered Species Act, the proposed project must be amended to include pumping constraints in the Delta that will minimize the risk of losing cold water from the Trinity and Lower Klamath rivers stored in Trinity Lake to out of basin export.
20. BDCP models must be amended to acknowledge the 50,000 acre-feet Humboldt County area of origin reservation of water.
21. Comprehensive Trinity River Basin Plan temperature objectives must be fully described, analyzed and incorporated in the BDCP environmental documentation and policy, as well as the Bureau of Reclamation's state water permits.
22. The BDCP must be amended to include policy that incorporates the NMFS 2000 Biological Opinion for the Trinity River, which includes a minimum carryover storage on September 30 of at least 600,000 AF and requires reconsultation if storage falls below that level.
23. Fracking should not be considered a reasonable use of water under the BDCP. As proposed, the BDCP considers fracking a reasonable use of water. Since the BDCP facilitates fracking, it must also disclose the environmental impacts of fracking. One hydraulic fracking well uses 3 to 8 million gallons per day. California's water is already over allocated and fracking puts water supplies at risk, especially when developers drill through aquifers en route to gas reserves in shale. Waste water from Fracking is so contaminated it cannot be recovered, and the chemicals are left in the ground.
24. The BDCP must address and mitigate impacts to listed species in the Sacramento River including winter and spring run Chinook due to habitat loss and incidental takes such as mortalities caused by pumping facilities, low water quality, and loss of habitat.

In order for the Trinity River to be protected, BDCP and its EIR/EIS must at a minimum include a recommendation that the SWRCB convene a Trinity-specific water right hearing as directed in SWRCB Water Quality Order 89-18. The water right hearing shall license Reclamation's eight Trinity River water permits as follows:

- Conformance with the in-stream fishery flows contained in the Trinity River Record of Decision.
- Provision for release of Humboldt County's 50,000 AF in addition to fishery flows per the 1955 Trinity River Act.

BDOP795

- Inclusion of permit terms and conditions to require Reclamation to comply with the Trinity River temperature objectives contained in the Water Quality Control Plan for the North Coast Region (NCRWQCB) for all relevant time periods and for all uses of Trinity water diverted to the Sacramento River.
- A requirement to maintain an adequate supply of cold water in Trinity Reservoir adequate to preserve and propagate all runs of salmon and steelhead in the Trinity River below Lewiston Dam during multi-year drought similar to 1928-1934.
- Eliminate paper water in Reclamation's Trinity River water rights.
- Require Reclamation to solve the temperature issue in Lewiston Reservoir through a feasibility study and environmental document to follow up on the 2012 preliminary technical memorandum by Reclamation.

In summary, the Bay Delta Conservation Plan is inadequate for many reasons and if implemented, it would result in major environmental impacts to rivers and estuaries that are already impaired and several fish species that are protected under the Endangered Species Act. Building two giant tunnels to transport water from the San Joaquin Delta is not going to carry out either of the plan's two main goals: to reliably transport more water to San Joaquin farms and Southern California cities, or to restore the fisheries and ecology of the delta. The risks of the proposed project are too great. Please abandon the Bay Delta Conservation Plan before irreparable damage is done.

Respectfully,

Robert Smith
Vernon Avenue
Venice, CA 90291

From: Tim Potter <TPotter@centralsan.org>
Sent: Friday, June 20, 2014 4:44 PM
To: BDCP.comments@noaa.gov
Cc: Roger Bailey; Jean-Marc Petit; Danae Gemmell; Mary Lou Esparza; Melody LaBella; Suzette Crayton
Subject: CCCSD Comments on BDCP
Attachments: CCCSD BDCP EIR-EIS Comment Letter.pdf

Attached is a pdf file with Central Contra Costa Sanitary District's comments on the BDCP and the associated EIR/EIS documents. Thank you for considering the District's comments as this important project is pursued. Please let us know if you have any questions after reviewing our comments.



Central Contra Costa Sanitary District

Protecting public health and the environment

5019 Imhoff Place, Martinez, CA 94553-4392

PHONE: (925) 228-9500

FAX: (925) 372-0192

[www.centralsan.org](http://www centralsan.org)

June 20, 2014

BDCP Comments
Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

ROGER S. BAILEY
General Manager

KENTON L. ALM
Counsel for the District
(510) 808-2000

ELAINE R. BOEHME
Secretary of the District

Sent via Email

Dear Mr. Wulff:

**SUBJECT: COMMENTS ON BAY-DELTA CONSERVATION PLAN (BDCP) AND
ASSOCIATED ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL
IMPACT STATEMENT (EIR/EIS)**

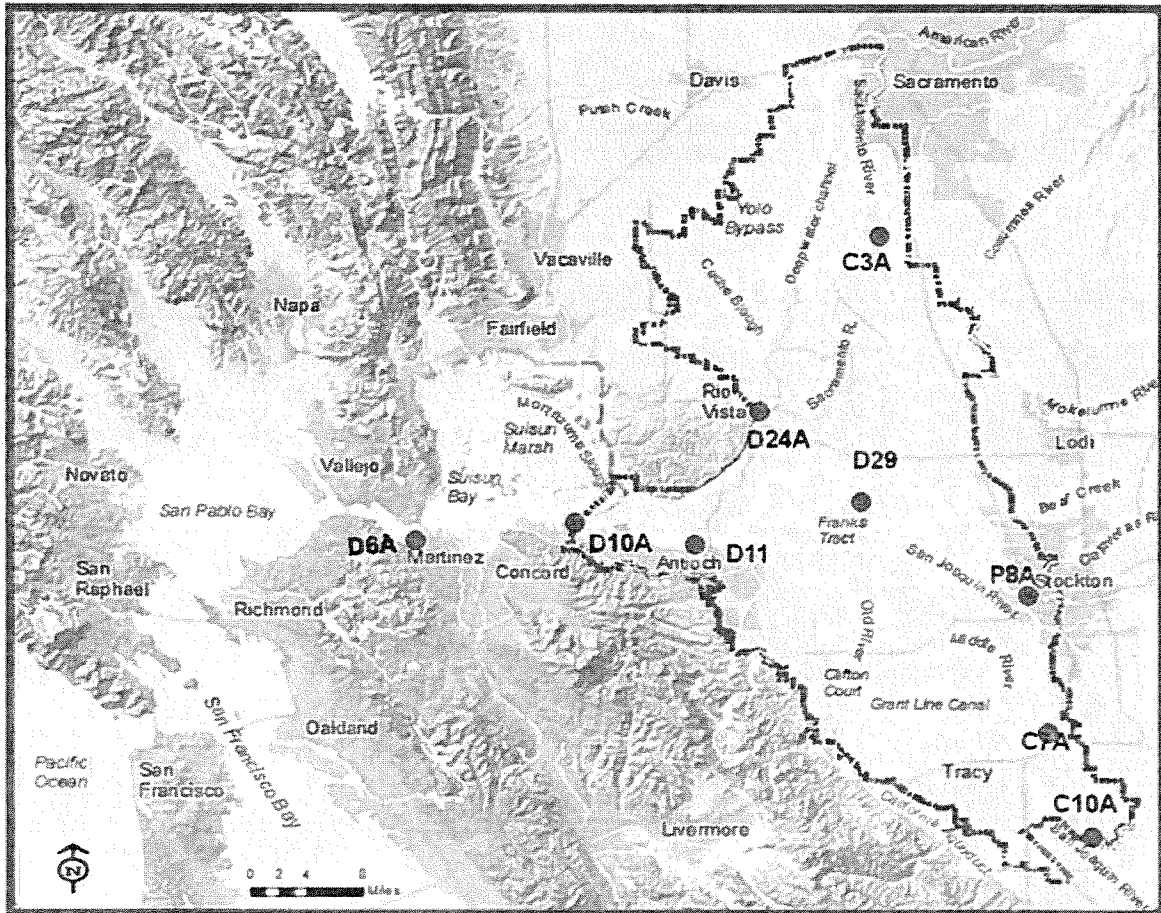
We appreciate the opportunity to provide comments on the subject documents. Central Contra Costa Sanitary District (CCCSD) provides wastewater collection and treatment for approximately 470,000 residents in central Contra Costa County. On a typical day we treat approximately 40 million gallons and discharge most of that freshwater to Suisun Bay, where it ultimately flows to the San Francisco Bay and the Pacific Ocean. CCCSD has a relatively small recycled water program that delivers 200 million gallons per year of recycled water to customers near our treatment plant primarily for landscape irrigation, but the potential exists for much more water recycling.

Recycled Water From Treated Wastewater Effluent Should Be Included In BDCP

The BDCP and the EIR/EIS should consider recycled water available from the enhanced treatment of wastewater effluent from Publicly Owned Treatment Works (POTWs) as an alternative water supply to the proposed project. Locally-available, drought-proof supplies of treated wastewater effluent represent a large, significantly underutilized source of freshwater throughout California. It is critical for California to continue developing local and regional recycled water supplies for use in landscape irrigation, industrial process water, indirect potable reuse and ultimately direct potable reuse when feasible. If fully developed, the availability of a large supply of recycled water in northern, central valley and southern regions of California could potentially mitigate the need to build such an extensive north Delta diversion facility as proposed in the BDCP. California's response to the water supply challenges posed by severe droughts, climate change impacts, and population growth requires the investment in a portfolio of options that will best serve the water demands of the state. Recycled water should be appropriately considered in long-term planning decisions to develop sustainable water supplies for California.

Limited Plan Area

The area studied for impacts by the project stops short at the western-most boundary of Delta (station D10A) in the BDCP and at the Carquinez Strait (Station D6) in the BDCP EIR/EIS (See map below). Since the San Francisco Bay is hydraulically connected to the Sacramento-San Joaquin Delta (Delta), the BDCP should evaluate impacts to the entire San Francisco Bay.



Outdated Standard Used for Ammonia

The standard used to evaluate ammonia throughout both the BDCP and EIR/EIS which were released in November 2013 was the standard established in 1999 (1999 Update of Ambient Water Quality Criteria for Ammonia, EPA 822-R-99-014). EPA published the updated ammonia standards on August 22, 2013 (EPA 822-R-13-001 Aquatic life Ambient Water quality Criteria for Ammonia – Freshwater 2013). The BDCP and EIR/EIS identified the updated ammonia standard (0.26 ppm ammonia when mussels are present and 1.8 ppm ammonia when mussels are not present) when it was in draft form but the final evaluation of these documents used the 1999 ammonia standard. The

2013 ammonia standard should be used to evaluate the project's potential impacts related to ammonia.

Studies have linked ammonia to the decline of pelagic organisms in the Delta and Suisun Bay. Based on this linkage, a quantitative assessment in both the BDCP and the EIR/EIS is warranted. Using the 2013 ammonia criteria would trigger inclusion of ammonia for quantitative analysis, which differs from the result achieved in EIR/EIS Appendix 8C Constituent Screening Analysis, page 8C-28. The qualitative assessments performed in Step 6 of the Appendix 8C Screening Analysis appears to be inadequate considering these important issues.

The Sacramento Regional wastewater treatment plant is required in its current NPDES Permit to invest significant funds to upgrade treatment processes to achieve significant reductions of effluent ammonia. These requirements are to protect water quality in the Delta and Suisun Bay downstream of the Delta. The BDCP document states on page 5.d-41, "By 2021, effluent (sac) must be below 1.5 and 2.4 ppm ammonia on a seasonal basis, an 18-fold decrease in ammonia concentrations. It would take a similar decrease in Sacramento River flow to achieve the current conditions and few to no effects are expected from covered activities on ammonia/um." The water quality improvements for the Delta and downstream water bodies achieved by Sacramento Regional's facility improvements should not be used to justify projects that may have an adverse effect on water quality downstream. In addition, this statement in the BDCP was based on application of the 1999 ammonia standard. The statement may need further modification if the 2013 ammonia standard is applied.

No Agricultural Contribution of Ammonia in the Delta

The evaluation does not include agricultural inputs of ammonia to the Sacramento River/Delta so the potential impacts may be underestimated. It is counterintuitive that a highly-agricultural area that uses urea-based fertilizers would result in no ammonia contributions to the Delta when urea undergoes hydrolysis to ammonia in the water column. BDCP Section 5.D.4.4 only evaluates ammonia/um impacts in the Sacramento River rather than considering the entire Plan Area. The low-outflow scenario (LOS) and high-outflow scenario (HOS) should be run against existing conditions with agricultural inputs to check if the current 2013 ammonia standard is met. Although there is no current accurate model for ammonia in the Delta, the BDCP should evaluate the potential impacts of ammonia from both point sources (POTWs) and non-point sources (agricultural) as they relate to the proposed project.

Insufficient Evaluation of Selenium

Water quality impairment resulting from selenium in the North San Francisco Bay has been studied for many years. The Delta contribution of selenium to Suisun Bay, in particular from the San Joaquin River, is well documented. Implementing the BDCP project would result in the contributory flow from the San Joaquin River to Suisun Bay increasing which could increase the source of selenium to Suisun Bay. A Total

Maximum Daily Load (TMDL) for selenium in North San Francisco Bay (including Suisun Bay) is being developed. The District and other dischargers to Suisun Bay could be adversely affected if the BDCP project's impact on selenium loading is not properly evaluated. CCCSD requests and recommends that the BDCP EIR/EIS be modified to consider the following:

- More current data from Tetra Tech's 2012 North San Francisco Bay Selenium Characterization Study developed to support the North San Francisco Bay TMDL should be used to evaluate modeling of Current Operations against Alternate Scenarios.
- Historical selenium measurements for the San Joaquin River are identified in EIR/EIS Chapter 8, Appendix C (Screening Analysis) Table 8C-22 to be 2.0 ppb. However, the selenium concentration used to evaluate current water operations to alternate scenarios was the modeled 0.31 ppb. This concentration results in a lower modeled fish tissue value. The historic selenium concentrations should be used in the BDCP modeling.
- The evaluation uses modeled concentrations from the San Joaquin River at Antioch station and the Sacramento River at Mallard Island station which are tidally influenced. Model stations further upstream should be used to understand the relative contribution from each river and to avoid confounding the results from tidally-influenced stations. The Tetra Tech 2012 report supports this objective, "Given the importance of the riverine sources of selenium on bioaccumulation and the potential changes in the riverine inputs associated with Delta conveyance proposals, better characterization of the magnitude of the Se sources and transformations within the Delta are warranted."

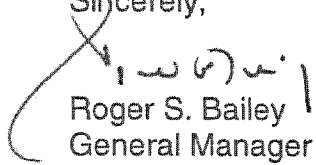
The EIR/EIS proposes on page 8M-5 Lines 19-36 that selenium in Suisun Bay will be controlled by the TMDL under development by the San Francisco Regional Water Quality Control Board in addition to the nonpoint source TMDL that the Central Valley Regional Water Quality Control Board will be putting into place. This assessment increases the burden of mitigating the environmental impacts of selenium from the proposed BDCP project to dischargers downstream from the project.

Further, implementing the North San Francisco Bay Selenium TMDL to control sources would have significant challenges using historic selenium loadings from the Delta. It seems unlikely that this selenium TMDL will be able to mitigate the impact of an additional 3-10% increase in selenium concentrations as noted in the EIR/EIS on page 8M-5 line 4-6. Additionally, the current modeled baseline conditions exceed the range for sturgeon whole-body fish tissue of 6.0–8.1 ug/g dry weight according to the 2004 Preliminary Project Report for the TMDL Selenium in North San Francisco Bay. The selenium impacts from the project should be mitigated by the project proponents and not passed on to other dischargers via other regulatory processes.

BDCP 7/6

We appreciate the opportunity to provide these comments. If you have any questions or need further clarification on the comments in this letter, please contact me at (925) 229-7386 or rbailey@centralsan.org.

Sincerely,



Roger S. Bailey
General Manager

cc: CCCSD Board of Directors
Jean-Marc Petit
Danea Gemmell
Mary Lou Esparza
Tim Potter
Melody LaBella

From: Food & Water Watch <act@fwwatch.org> on behalf of Christian Macke
<act@fwwatch.org>
Sent: Monday, June 23, 2014 8:42 AM
To: BDCP.comments@noaa.gov
Subject: I Oppose the BDCP

Form
Master
#6

Jun 23, 2014

Ryan Wulff
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Dear Wulff,

I am concerned and alarmed by the proposal for the new tunnel project to redirect water from the Sacramento River.

This project will cost billions of taxpayer dollars at a time when our state cannot afford it. An entire river should not be redirected for the sake of large-scale, unmetered agriculture and the oil industry.

The proposed tunnels have already been rejected by voters in 1982, and similar tunnel projects in places like Santa Barbara County have not been cost effective and have provided little benefit to taxpayers.

Overall, the tunnels are unnecessary and fiscally irresponsible. The existing aquaduct could be reinforced and other local water projects like rainwater collection could be implemented instead, providing a much greater benefit at a lower cost.

Sincerely,

Mr. Christian Macke
20341 SW Birch St
Newport Beach, CA 92660-1516

From: Sylvia DeRooy <oftheforest@att.net>
Sent: Friday, June 20, 2014 9:12 PM
To: BDCP.Comments@noaa.gov
Subject: Abandon the Bay Delta Conservation Plan

Dear Mr. Wulff,

The Delta Twin Tunnels are definitely not a conservation plan. The only things it preserves is Diane Feinstein job and Westlands fat pockets.

Providing water for housing for 5 million new residents in a desert area with the state facing a current and likely future droughts is hardly a conservation project.

What about the millions already dependent on the Delta for water? What happens to them when the already overburdened Delta runs dry? As for the salmon, they'll be a thing of the past, which they almost are already.

There is so much more to say but the bottom line is that this is a boondoggle and under no circumstances should this be allowed to happen.

Sylvia DeRooy
210 Pomeroy Hollow
Eureka, CA 95503

From: Gaylin Zeigler <gjz11@comcast.net>
Sent: Monday, June 23, 2014 3:07 PM
To: BDCP.comments@noaa.gov
Subject: Fwd: eNewsletter: BDCP Job Creation and Protection

This is one of the most outrageous pack of lies I've ever seen published.
A million jobs?!
A net economic benefit of \$73 Billion!?

This is blatantly forgetting all the people and businesses that this monstrosity will cause to fail due to the diversion of delta water--and the cost of reversing the destruction of the DELTA this nonsensical plan will necessitate??!!!!!!!

Gaylin Zeigler

From: "Bay Delta Conservation Plan" <info@BayDeltaConservationPlan.com>
To: "Zeigler, Gaylin" <GJZ11@COMCAST.NET>
Sent: Monday, June 23, 2014 11:31:32 AM
Subject: eNewsletter: BDCP Job Creation and Protection

BAY DELTA
CONSERVATION PLAN

eNEWSLETTER

JUNE 23, 2014



HOW MANY JOBS WILL THE BDCP CREATE?

The BDCP is estimated to result in the creation and protection of more than one million full-time equivalent jobs over the project's 50-year implementation period. (A full-time equivalent job is defined as one person working full-time for one year.) Construction and operation of the proposed water facilities and habitat restoration projects would create an estimated 155,090 jobs in the Sacramento-San Joaquin Delta region. In addition, reliable water supplies gained through BDCP implementation will protect and save an estimated 980,722 statewide jobs. [The BDCP Job Creation and Protection InfoGraphic](#) provides more information on the number and types of jobs expected as a result of construction.

BDCP LOCAL JOBS AND ECONOMIC BENEFITS

The BDCP will result in a net economic benefit to California, with business output expected to exceed \$73 billion as a result of Plan implementation. [Read more here.](#)

CONTINUE TO FULL STORY

REMINDER: PUBLIC COMMENT PERIOD EXTENSION

The Draft BDCP, Draft BDCP Implementing Agreement (IA), and Draft EIR/EIS are available for an extended review period. The public review and comment period is effective through July 29, 2014. Comments on the Draft BDCP, associated

NEED HELP NAVIGATING PUBLIC REVIEW DOCUMENTS?

[Informational Episodes](#) have been created to help the public navigate the Draft BDCP and Environmental Impact Report/ Environmental Impact Statement (EIR/EIS). These episodes are video presentations narrated by technical staff,

Draft EIR/EIS, and Draft IA must be received electronically or postmarked on or before July 29, 2014.

and are designed to help the public find information and learn more about the proposed project.

[READ MORE](#)

[READ MORE](#)

For more information, assistance in locating the documents or if you have special needs, contact 1-866-924-9955.

Para más información por favor llame al
 Để biết thêm thông tin, xin gọi số
 Para sa karagdagang impormasyon, mangyaring tumawag sa
 如欲瞭解更多資訊，請致電
 Kom tau lus qhia ntxiv, thov hu
 សំរាប់ព័ត៌មានបន្ថែម សូមទូរស័ព្ទមកលេខ

1-866-924-9955

[CLICK TO VIEW FULL NEWSLETTER](#)



BAYDELTA CONSERVATION PLAN.COM

Copyright © 2014 Bay Delta Conservation Plan. All rights reserved.

Contact Us:

bdcpccomments@noaa.gov | [866.924.9955](tel:8669249955) | baydeltaconservationplan.com

[unsubscribe from this list](#) [update subscription preferences](#)

From: Laura Shingles <lshingles@sdchamber.org>
Sent: Wednesday, June 25, 2014 12:48 PM
To: bdcg.comments@noaa.gov
Subject: EIR/EIS Comment Letters
Attachments: BDCP Comment Letter 1.pdf; BDCP Comment Letter 2.pdf

Hello:

Please see the attached letters from the San Diego Regional Chamber of Commerce regarding the Bay Delta Conservation Plan.

Thank you,

Laura Shingles, Esq. • Policy Analyst

San Diego Regional Chamber of Commerce
402 West Broadway, Ste. 1000 | San Diego, CA 92101
P: (619) 544-1378 | F: (619) 744-7478 | www.sdchamber.org

Learn more about the Chamber's outlook for 2014 as the leading, most effective advocate and voice for business policy and connections in the San Diego-Baja California region!

Follow Us:



June 25, 2014

Mr. Ryan Wulff
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Re: Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Bay Delta Conservation Plan

Dear Mr. Wulff:

On behalf of the San Diego Regional Chamber of Commerce (Chamber), I submit this letter in response to your agency's request for comments on the Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) on the Bay Delta Conservation Plan (BDCP). With more than 3,000 members representing 400,000 employees, the Chamber is the largest nonprofit advocate for regional businesses and is dedicated to growing commerce in the San Diego region. Our members offer the following comments on the EIR/EIS.

We support rehabilitating the Bay Delta and believe any fix must be undertaken with an eye toward what is appropriate for the entire state. But we are concerned with the absence of a final financing plan for the BDCP. Specifically, without a discussion of the financing mechanism and cost allocation for the proposed mitigation measures, it is impossible to determine what, if any, alternative mitigation measures should be considered if financing for the proposed mitigation measures becomes challenging. Less costly mitigation measures that could be equally or more effective should be considered in the event funding sources for the mitigation measure contemplated cannot be secured. We understand Federal and State ESA regulations require funding assurances before permit issuance. An implementation agreement and funding assurances are integral to the permitting process, though neither has been released publicly. Without them, our members are unable to assess the feasibility of the mitigation set forth in the EIR/EIS.

Our members are primarily concerned with how mitigation of the project will be implemented and what, if any, effect the project cost will have on local businesses. Water supply is critical to our region's businesses, as is cost of water supply. The financing plan serves to alert businesses to the cost consequences of the BDCP. Until a final financing plan is provided, we cannot determine how implementation will be funded, nor can we determine whether mitigation can be assured.

It is our understanding that the San Diego County Water Authority submitted a detailed technical analysis of the BDCP EIR/EIS. We share the concerns raised in that letter and look forward to the opportunity to review responses to those questions. We also look forward to a continued dialogue and the opportunity to review additional information as it becomes available. If you have any questions, please do not hesitate to contact Laura Shingles, Policy Analyst, at (619) 544-1378 or lsingles@sdchamber.org.

Sincerely,



Jerry Sanders
President & CEO
San Diego Regional Chamber of Commerce

June 25, 2014

Mr. Ryan Wulff
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Re: Bay Delta Conservation Plan

Dear Mr. Wulff:

On behalf of the San Diego Regional Chamber of Commerce (Chamber), I submit this letter in response to the significant issues that have been raised with respect to the Bay Delta Conservation Plan (BDCP). With more than 3,000 members representing 400,000 employees, the Chamber is the largest nonprofit advocate for regional businesses and is dedicated to growing commerce in the San Diego region. Our members offer the following comments on the BDCP.

While we understand and support the need to maintain and improve the state's water infrastructure to support its economic vitality, we seek resolution by the appropriate parties of funding issues that have gone unaddressed, and we are also concerned with the absence of a final financing plan for the BDCP. We worry that our region will carry a disproportionate share of the burden of funding the project. We will have no assurances the demand for Bay-Delta water is firm before the Metropolitan Water District (MWD), our imported water supplier, agrees to invest billions of dollars in new infrastructure.

Additionally, we are supportive of local supply development, particularly the City of San Diego's indirect potable water reuse (IPR) project. While we understand a Bay-Delta fix and local supply alternatives are not mutually exclusive, we simply cannot identify the right mix of water supply investments for our community without a comprehensive and thorough analysis of the cost and benefits of local supply investment and of the BDCP.

The Chamber has long advocated for a comprehensive plan for the Bay Delta that would restore the environment and provide a more reliable water supply for the state. We were part of a regional effort that led to the historic Bay-Delta legislation in November 2009, and we recognize the need is heightened during this historic drought. Any comprehensive plan will need to answer critical questions, including those set forth in great detail in the letters from the San Diego County Water Authority listed below (copies are attached for your reference). These are the same key questions, meriting response from the appropriate agencies, which the Chamber's committees and Board of Directors have asked:

- Have all local water supply development plans been evaluated and taken into account in assessing the demand for Delta exports and the size of the project (for example, the City of San Diego's IPR project)?
- What will the project cost?
- Who will pay for the project?
- Will MWD's member agencies enter into enforceable commitments to pay?
- How will the costs be allocated?

We do not believe we can conduct a cost-benefit analysis or decide whether to support the BDCP without first receiving answers to these questions. Given that San Diego regional ratepayers may be asked to pay



**SAN DIEGO™
REGIONAL
CHAMBER OF
COMMERCE**

BDCP800
Emerald Plaza
402 West Broadway, Suite 1000
San Diego, California 92101-3585
Tel 619.544.1300
www.sdchamber.org

the second largest share of the costs in the state, we strongly support the Water Authority's request to participate directly in the BDCP cost allocation discussions and negotiations process.

We look forward to a continued dialogue and the opportunity to review information as it becomes available. If there is anything the Chamber can help you with, please do not hesitate to let us know. Laura Shingles, Policy Analyst, can be reached at (619) 544-1378 or lsingles@sdchamber.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Sanders'.

Jerry Sanders
President & CEO
San Diego Regional Chamber of Commerce

Attachments:

SDCWA letter to Deputy Secretary Meral dated August 28, 2012
SDCWA letter to Deputy Secretary Meral dated July 30, 2013
SDCWA letter to Secretary John Laird dated October 7, 2013
SDCWA letter to Ryan Wulff, National Marine Fisheries Service dated February 5, 2014 with
Attachment 1: BDCP Financing and Economic Issues and Questions



San Diego County Water Authority

4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

February 5, 2014

BDCP Comments

Ryan Wulff, National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

MEMBER AGENCIES

Carlsbad
Municipal Water District
City of Del Mar
City of Escondido
City of National City
City of Oceanside
City of Poway
City of San Diego
Fallbrook
Public Utility District
Heald Water District
Lakeside Water District
Olivianham
Municipal Water District
Orry Water District
Palm Dam
Municipal Water District
Camp Pendleton
Marine Corps Base
Rainbow
Municipal Water District
Ramona
Municipal Water District
Rincon del Diablo
Municipal Water District
San Diego Water District
Santa Fe Irrigation District
South Bay Irrigation District
Vallecitos Water District
Valley Center
Municipal Water District
Vista Irrigation District
Yuima
Municipal Water District

OTHER REPRESENTATIVE

County of San Diego

Dear Mr. Wulff:

This letter raises a number of questions related to the funding and financing issues embodied within the Public Review Draft Bay-Delta Conservation Plan (BDCP). In addition to these questions, which are submitted as part of the BDCP open house in San Diego on February 6, 2014, the Water Authority intends to submit a more comprehensive comment letter on the Public Review Draft BDCP and associated Draft EIR/EIS documents prior to the April 14, 2014 comment deadline and close of public review.

As the largest member agency of the largest State Water Contractor, the Metropolitan Water District of Southern California (MWD), the Water Authority and its ratepayers are being counted upon to pay the second-largest share of BDCP costs in the state (among MWD member agencies, and second only to the Kern County Water Agency). Accordingly, we have requested – on multiple occasions – the opportunity to directly engage in the BDCP cost allocation discussions and negotiations process. Those requests have gone unanswered. We renew that request with this letter. The stakes are so high for the San Diego region that the Water Authority should clearly be afforded the opportunity to directly participate in the cost allocation negotiations and be provided the information we need to assess whether the preferred alternative advocated by the BDCP program will provide water supply benefits commensurate with the billions of dollars our ratepayers are being counted upon to pay. We also must ensure that our ratepayers are not at risk of paying costs for BDCP water supplies of other MWD member agencies or other state or federal water contractors, and that costs are allocated to the participants based on proportion of benefits received. To date, we have received no assurances to allay these concerns.

Over the past several years, I have sent several letters to officials with the California Natural Resources Agency raising a number of questions regarding the proposed project. To date, the Water Authority has received no responses to those questions. I incorporate those letters, attached, and the questions they raised, with this letter. We renew our request for answers raised in those letters with this letter.

We strongly believe that each participant in the BDCP must have clearly delineated capital and operations and maintenance cost responsibility identified, and be provided sufficiently detailed information to evaluate the cost-benefit (or feasibility) of participating in the project. The Water Authority has previously heard Dr. David Sunding report to the MWD Board of Directors that

Mr. Ryan Wulff
February 5, 2014
Page 2

cost-benefit analyses have been produced by BDCP for all urban and agricultural water contractors, and that include cost-benefit analyses for each MWD member agency, including the Water Authority. The Water Authority has made multiple requests for this information. These requests have been ignored. We renew that request with this letter.

As we have consistently stated in a variety of public venues, the Water Authority believes that any BDCP financing plan must include enforceable agreements to pay for the project, not only from state water contractors directly, but also from the member agencies or units that provide revenues to their respective state water contractor. The stakes are far too high to simply rely on the hope that the contractors' variable water sales revenues will be adequate over the long-term to pay the project's costs.

Equally important, the Water Authority is also concerned that future progress of the BDCP and efforts to resolve seemingly intractable conflicts in the Delta will falter, especially if the cost allocation for those expected to be participants in the BDCP is not expected to be resolved before the BDCP environmental review process concludes. Without the cost allocation explicitly agreed upon, how does BDCP expect water agencies to evaluate the cost-benefit of the various alternatives or reasonably limit the risk that their ratepayers will be expected to assume?

The attachment to this letter outlines a series of issues and questions that the Water Authority believes should be thoroughly resolved in the context of the BDCP public review process. We are requesting formal, written responses to each of these items. We are concerned that the Public Review Draft BDCP does not comprehensively or adequately conduct due diligence on all of the facts and circumstances highlighted in the attachment. We remain concerned that a potential cascading collapse of funding could occur if information that should be included in a proper due diligence analysis is not provided, in a timely manner, to those who are expected to fund the program.

We appreciate the opportunity to provide these initial comments on the Public Review Draft BDCP. We remain committed to working with all parties to evaluate, address, and resolve these critical financing issues. We look forward to your written responses to our questions.

Sincerely,



Maureen A. Stapleton,
General Manager

Attachment 1: BDCP Financing and Economic Issues and Questions

Attachment 2: October 7, 2013 letter to California Natural Resources Secretary John Laird

Attachment 3: July 30, 2013 letter to California Natural Resources Agency Deputy Secretary
Gerald Meral

Attachment 4: August 28, 2012 letter to California Natural Resources Agency Deputy Secretary
Gerald Meral

BDCP Financing and Economic Issues and Questions

Take-Or-Pay Contracts/Enforceable Commitments

As the Water Authority has pointed out during discussions and written correspondence over the past two years, MWD – which, as the largest state water contracting agency, is the foundation for financing the BDCP project – relies on a financial rate structure that is not sustainable to pay its long-term financial obligations. While more than 80 percent of MWD’s costs are fixed, less than 20 percent of MWD’s revenues are paid from fixed charges. MWD’s heavy reliance – more than 80 percent – on variable water sales to meet its financial obligations causes its water rates to be highly volatile. Since 2007, water rates at MWD have increased by more than 86 percent while sales have declined by 31 percent.

Although MWD sales have increased this year due to dry conditions, they are nowhere near the historically high water sales level. Region-wide, MWD’s per-capita water use in 2012 reduced by about 15.5 percent from its 2005 10-year average baseline. MWD’s member agencies are not required to purchase any water from MWD. The variability of water sales – and thus uncertain future water sales revenues – coupled with Southern California water agencies’ current and future planned actions to implement the State’s policy to improve water use efficiency and invest in local water resource development, raises significant question regarding MWD’s capability to provide the financial backing needed to fund long-term BDCP obligations. This should be a major concern for the State of California, whose full faith and credit will be expected to back up the financing of the project. And yet, Chapter 8 makes no mention of this material, foundational risk to BDCP financing.

The Water Authority believes that, at a minimum, state water contractors that are wholesale water agencies must demonstrate that their customers have take-or-pay contracts or other enforceable long-term financial commitments to pay the fixed costs of the BDCP program corresponding to the term of the contractor’s BDCP obligation. The Water Authority continues to be prepared to make such a commitment to MWD, as long as the Water Authority gets the water supplies in return for its payments. We also believe that the willingness to make such a firm financial commitment to a Delta solution will determine the true demand for Delta water supply, and therefore help inform the best sizing for the conveyance facility. It would not be in the state’s best interest to construct a facility only to have it stranded because no one is willing or able to pay for it, or hoped-for water sales necessary to pay for it do not materialize.

“Step-Up” Provisions

Existing State Water Project contracts contain provisions under which non-defaulting contractors can be assessed to cover payments not made by defaulting contractors, up to 25 percent of the defaulting contractors’ obligations. Additionally, the East Branch Extension of MWD’s State Water Project contract has a provision obligating MWD to cover default by any and all other participants. These State Water Project contract stipulations are known as “step-up” provisions. We are informed that bond underwriters for the BDCP project are expected to require a “step-up” provision by which each BDCP participant in BDCP-related bonds pledges to assume the obligations of defaulting participants. In fact, the Public Review Draft BDCP Chapter 8, at Section 8.3.3 (page 8-71) suggests amending the existing contracts as a potential funding source:

"Existing water contracts would need to be amended to include the new costs of the BDCP assigned to the state water contractors and the repayment schedule."

Since "step-up" provisions are already embodied within, and apply to, MWD's existing State Water Project contract, it would appear that such provisions would apply to the *"new costs of the BDCP assigned to the state water contractors."* Given those "step-up" provision obligations, we remain concerned that the Public Review Draft BDCP does not fully analyze the possible financial effects of the "step up" provisions on MWD and the other participants in the BDCP.

Property Taxes

The Public Review Draft BDCP suggests that property taxes may be used as back-up security for BDCP payment obligations of individual state water contractors. However, there are very clear and significant limitations in MWD's existing taxing authority under the provisions of the MWD Act:

- The Act limits MWD's ability to levy taxes to pay its State Water Project obligations. MWD is limited to levying taxes for *"the composite amount required to pay (1) the principal and interest on general obligation bonded indebtedness of the district and (2) that portion of the district's payment obligation under [the SWP contract] which is reasonably allocable, as determined by the district, to the repayment by the state of principal and interest on ISWP bonds] as of [January 1, 1985] and used to finance construction of facilities for the benefit of the district."*
- Although the Act contains override ability in the event of a fiscal crisis, as determined by the MWD board, the override is limited to only one year at a time. In such an event, the State of California and bondholders would be relying upon an annual vote of MWD's Board of Directors in which it *"... finds that a tax in excess of these restrictions is essential to the fiscal integrity of the district...."*
- It is unclear whether, or to what extent the MWD board would override this taxing limitation to back its BDCP obligation. The Public Review Draft BDCP should address and answer these questions.

Given these limitations and uncertainties, it is difficult to consider MWD's or other contractors' existing taxing authority as a meaningful back-up security for BDCP payment obligations. It is also highly questionable whether the financing of BDCP can be – or should be – backed by taxing authority that was authorized by voters decades ago, when the program was much different than is being discussed today. A careful legal analysis of MWD taxing authority should be included in the BDCP due diligence process if taxes are going to be relied upon as additional back-up security for BDCP project debt. The Public Review Draft BDCP is silent on this issue.

Funding Sources

Both state and federal regulations are clear in terms of their requirement for funding assurance before issuance of permit under the habitat conservation plan. The federal Endangered Species Act requires that a habitat conservation plan applicant ensure that adequate funding for the plan will be provided. The case law under ESA provides that:

- The plan must “ensure” funding over the lifetime of the permit
- The HCP cannot rely on federal funding to “ensure” funding of the plan in light of the “Anti-Deficiency Act and the availability of appropriated funds”
- The HCP must provide “remedies for failure to meet funding obligations by signatory measures”
- The HCP “cannot rely on speculative funding actions of others” for funding
- The HCP effectively must be backed by a guarantee by applicant to ensure funding for all plan element

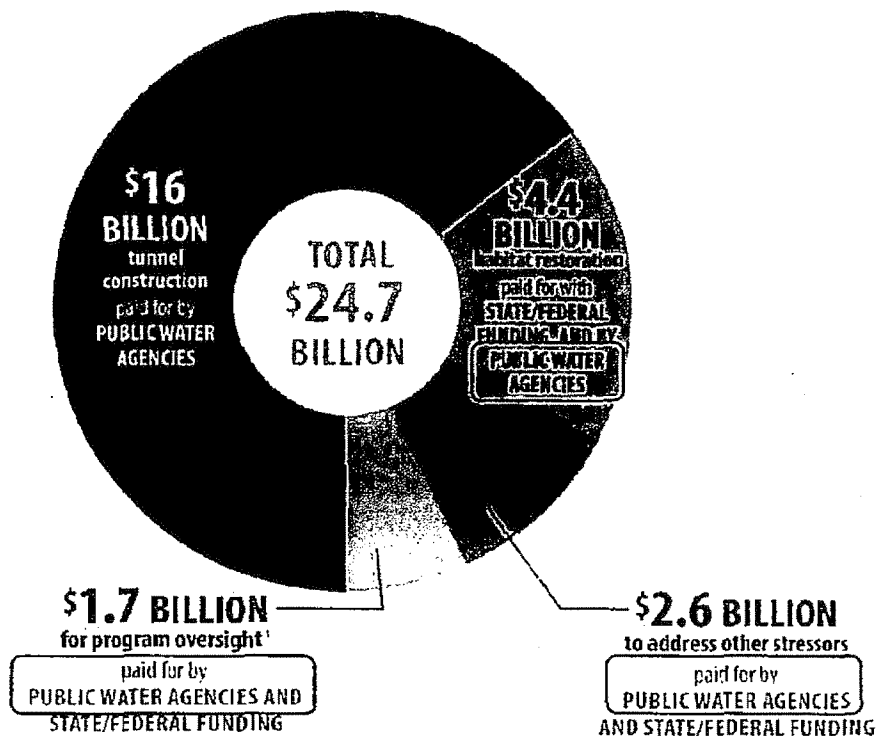
Yet, the BDCP appears to rely on federal funding that has yet to be appropriated and voter passage of future state water bonds to finance the habitat restoration costs. In fact, footnote “a” in Table 8-37 of the Public Review Draft states:

“In most cases, funding amounts are estimates only based on funding history... Funding estimates from state and federal agencies do not represent commitments and are subject to grant awards, annual appropriations from Congress, and passage of water bonds by voters of California...”

The BDCP must address whether the regulatory agencies will accept BDCP’s reliance on public funding sources yet to be approved as sufficient funding assurance before issuance of permits.

While the Public Review Draft BDCP goes to great lengths to explain the various funding sources and the responsibilities of the parties to fund components of BDCP implementation, Section 8.4.2 discusses the actions that will be taken or required in the event of a shortfall in state or federal funding. Specifically, the Public Review Draft BDCP states that: *“The Authorized Entities will not be required to provide land, water, or monetary resources beyond their commitments in this Plan in the event of a shortfall in state or federal funding.”* This statement appears to directly conflict with “step-up” provisions in existing State Water Project contracts, and which will likely be included in amended contracts.

This statement found in Section 8.4.2 also appears inconsistent with the BDCP public messaging regarding what will occur in the event of a shortfall in state or federal funding. The graphic below – taken directly from a BDCP presentation – demonstrates the reliance on water contractors to also provide some or, potentially *all* funding for BDCP program components beyond implementation of Conservation Measure 1.



Cost Allocation

Even though the bulk of the BDCP will be paid by the federal and state water contractors, we are disappointed to learn that the actual funding share between the federal and state contractors will not be determined until it is “*near the time that permits are issued for BDCP.*” If this timeline, as described in the Public Review Draft, holds true, each contractor’s share of BDCP’s cost obligation will not be known until many months after the closing of the public comment period. How would water agency policy makers be in a position to assess whether BDCP is cost effective for their own unique jurisdictions? Relying on an overarching declarative statement that “*the costs of CM1 and associated mitigation and construction are affordable by ratepayers of the urban and agricultural agencies...*” is simply insufficient, and is certainly no guarantee that funding will materialize.

Even assuming that the BDCP, as a whole, would provide a statewide net positive benefit, how the costs are allocated and benefits apportioned could impact individual water agencies differently. Without a clear description of how costs are allocated, it is simply impossible to assess the cost-benefit of BDCP to individual water agencies and their ratepayers. Without this important piece being concluded or disclosed, what is the assurance that individual contractors will all find the BDCP cost effective when it is finally disclosed? And if not all contractors sign up to pay for the BDCP, how would that impact the costs that the remaining contractors must bear?

Postponing the cost allocation discussion to *after* the public commenting period is concluded is not acceptable. The BDCP must address this issue and keep the public commenting period open until this issue is resolved to afford the public an opportunity to comment on this critically important element.



San Diego County Water Authority

4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

October 7, 2013

Secretary John Laird
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

MEMBER AGENCIES

Carlsbad
Municipal Water District
City of Del Mar
City of Escondido
City of National City
City of Oceanside
City of Poway
City of San Diego
Fallbrook
Public Utility District
Helix Water District
Lakeside Water District
Olivewood
Municipal Water District
Olay Water District
Padre Dam
Municipal Water District
Camp Pendleton
Marine Corps Base
Rainbow
Municipal Water District
Ramona
Municipal Water District
Rincon del Diablo
Municipal Water District
San Diego Water District
Santa Fe Irrigation District
South Bay Irrigation District
Vallecitos Water District
Village Center
Municipal Water District
Vista Irrigation District
Yuima
Municipal Water District

OTHER REPRESENTATIVE

County of San Diego

Dear Secretary Laird:

On behalf of the San Diego County Water Authority (Water Authority), thank you for your September 11, 2013 letter to Chair Wornham and me responding to a January 2013 multi-agency letter requesting analysis of the Natural Resources Defense Council's portfolio approach to statewide water management and the Bay-Delta Conservation Plan (BDCP).

We look forward to working with you to help develop a BDCP project that achieves the co-equal goals and is affordable. As the largest member agency of the largest State Water Contractor, the Metropolitan Water District, the Water Authority and its ratepayers are being counted upon to pay the second-largest share of BDCP costs.¹ Yet, we have been relegated to the status of an outside observer who may have no financial stake in the BDCP. Accordingly, we request the opportunity to become more directly engaged in the BDCP cost allocation discussions and negotiations process – and be part of the solution. The stakes are sufficiently high for the San Diego region to be afforded the opportunity to be at the cost allocation negotiating table.

As you know, the Water Authority has not endorsed any alternative that has been considered by the BDCP program or advanced by others, including the Natural Resources Defense Council's Portfolio Alternative and the Delta Vision Foundation's BDCP-Plus. However, we firmly believe that a thorough and comprehensive analysis of Delta fix alternatives is critical to help inform the ultimate selection of an implementable plan for achieving the co-equal goals.

The Water Authority is committed to helping find a Delta solution, and to that end, is continuing its multi-year effort to inform our Board of Directors and civic and business leaders in our region on a variety of issues associated with the Delta. In addition, over the past several months, the Water Authority Board and staff have been engaged in an intensive, comprehensive review of BDCP-related alternatives to assess how various options may improve the San Diego region's water supply reliability along with risks associated with each. This review process is ongoing, and is scheduled to continue into 2014. We were disappointed to learn from Natural Resources Agency Deputy Secretary Jerry Meral at our September 12 Board workshop that determinations regarding the cost allocation among contractors will not be concluded when the BDCP and its environmental documents are released for public review next month. Although we plan to

¹ Among MWD's member agencies, and second only to the Kern County Water Agency.

A public agency providing a safe and reliable water supply to the San Diego region

A public agency providing a safe and reliable water supply to the San Diego region

Secretary John Laird
October 7, 2013
Page 2

submit a formal comment letter during the BDCP environmental review process, the allocation of BDCP costs and the resultant rate impacts on San Diegans will remain a central element in our Board's consideration of which option to support.

While we had hoped that your Agency's evaluation of the Portfolio Alternative would be helpful to the Water Authority's ongoing review and analysis, some of the information contained in your September 11 letter raises more questions than it answers.

- The letter states that a single-tunnel, 3,000 cfs conveyance facility (which is proposed in the Portfolio Alternative) would cost \$6 billion less than the BDCP preferred alternative (9,000 cfs twin tunnels) - \$8.5 billion compared to \$14.5 billion. However, on September 16, a corrected version of the evaluation was posted on the BDCP website, which indicates that the 3,000 cfs single-tunnel conveyance facility would only cost \$3 billion less than the BDCP preferred alternative. Further, none of these numbers match Dr. David Sunding's economic benefit analysis, which he shared with us at our September 12 Board of Directors workshop, which identified the cost at \$10 billion.

Many entities that are undertaking review and analysis of the Delta fix options, like the Water Authority, would benefit from reliable cost estimates for the conveyance features of the Portfolio Alternative. The lack of clarity in the cost estimate has made it challenging to have a meaningful cost comparison of the various conveyance feature sizes. Could you please provide an apples-to-apples cost comparison of the 3,000 (single tunnel), 6,000 and 9,000 cfs conveyance project sizes?

- In terms of the benefit cost ratio of alternatives, your evaluation indicates that *"the 3,000-cfs tunnel has a negative benefit cost ratio, largely because the cost of the 3,000-cfs tunnel is approximately two thirds of building the proposed 9,000-cfs twin tunnels but the water yield is much smaller."* The evaluation may be accurate; we are not attempting to dispute or refute the calculations and findings. However, with the numerous cost estimates for the conveyance features included in your own evaluations it is difficult to definitively understand the benefit cost ratio at which the evaluation arrives. A more comprehensive evaluation and identification of the appropriate assumptions would be valuable for those seeking to undertake independent analysis of cost-related information.
- The evaluation regarding the potential water supply yield in water recycling and water use efficiency projects that could be achieved from a \$3B investment in local and regional water supply projects requires additional analysis. Your evaluation indicates, that with respect to investments in local and regional water recycling projects and water conservation projects, *"it is doubtful that a \$3 billion investment would produce even 100,000 acre-feet of reliable new water supply in urban areas, and would do nothing for agricultural users."* This evaluation appears at odds with the Department of Water Resources' California Water Plan Update, which provides an analysis from which it may be concluded that a \$3 billion investment in water recycling projects could actually

BDCP800


Secretary John Laird
October 7, 2013
Page 3

produce approximately 400,000 acre-feet of new water supplies (2009 Water Plan Update, Page 11-10). In addition, data developed by the Water Authority on local project costs and implementation also indicates that BDCP's estimate is very low. We believe this warrants additional analysis to better understand how your evaluation arrived at a potential yield of 100,000 acre-feet or less. We would be happy to share the Water Authority's data and our observations on local supply development with your staff.

- The evaluation with respect to the ability to export water from the south Delta following a significant seismic event stated that, *"It may take from one to 10 years to rebuild enough Delta levees to once again allow substantial exports from the south Delta."* While certainly more work remains to be completed in terms of the efforts that have been undertaken through the Delta Emergency Rock and Transfer Facilities Project and the Delta Emergency Response Program to secure water supply reliability following a significant seismic event, it is our understanding that significant progress has been made to reduce the worst-case export outage. A more comprehensive analysis on this issue would be beneficial.

We look forward to working with you to consider a BDCP project that is implementable, achieves the co-equal goals, and improves water supply reliability and is affordable within the San Diego region and the rest of the state. In addition, we look forward to arranging a meeting with you in the near-term to explore avenues for additional information sharing and the Water Authority's participation in the cost allocation negotiation process.

Sincerely,



Maureen A. Stapleton
General Manager

Attachments:

1. January 2013 multi-agency letter regarding NRDC Portfolio Alternative
2. September 11, 2013 correspondence and Portfolio Alternative evaluation from Secretary John Laird

4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

Dr. Gerald Meral
Deputy Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Thank you for the efforts that you, your state and federal agency colleagues, and the Administration have made to bring the BDCP to the point where it stands today. We appreciate the opportunity that the release of an administrative draft of the BDCP affords us to provide comments and questions that should be addressed in the next draft. This letter is a follow-up to the Water Authority's previous correspondence on BDCP Chapter 8, and conversations we have had with you over the past year.

Like many other stakeholders, the San Diego County Water Authority anticipated the May 29 release of the final chapters of the administrative draft of the BDCP document and believed, based upon earlier representations, it would address the questions and concerns the Water Authority has raised over the past several years over project financing. In particular, we were anxious to review the new draft of Chapter 8 in light of the correspondence we sent you 11 months ago (attached), in which we raised a series of BDCP financing issues and concerns. Our subsequent conversations led us to believe these concerns would be addressed in the most current iteration of Chapter 8. Instead, and disappointingly, Chapter 8 begins with this jarring admission:

"Details of the financing... are still being determined through on-going discussion between the state and federal governments and between the government, the state and federal water contractors and other interests."

After reviewing the newly-revised Chapter 8 of the BDCP administrative draft, seven years into the BDCP planning process, and nearly a year after commenting on the prior draft, the most critical financing issues confronting the BDCP have yet to be addressed.

As we shared with you previously, potential participants in the BDCP must have sufficiently detailed information to evaluate the cost-benefit (or feasibility) of participating in the project. We recently heard David Sunding report to the Metropolitan Water District of Southern California's (MWD) Board of Directors that a cost-benefit analysis has been produced for all urban and agricultural water contractors, and that it includes an urban cost-benefit analysis for all MWD member agencies. Would you please send a copy of the complete report to me in advance of Dr. Sunding's Sept. 12 appearance before our Board's Imported Water Committee?

A public agency providing a safe and reliable water supply to the San Diego region

PRINTED ON RECYCLED PAPER

Dr. Gerald Meral
July 30, 2013
Page 2

As we have consistently stated, the Water Authority believes that any BDCP financing plan must include enforceable agreements to pay for the project, not only from state water contractors directly, but also from the member agencies or units that provide their revenues. The costs are far too high to simply rely on the hope that the contractors' water sales will be adequate over the long-term to pay the project's costs.

As the largest customer of the largest state water contractor – MWD – the Water Authority's member agency ratepayers have a great deal at stake in the BDCP process and its financing plan, its risks and contingencies. The Water Authority must be able to assess that the preferred alternative advocated by the BDCP program will provide sufficient benefits to be affordable for our member agency ratepayers. We also must ensure that our ratepayers are not at risk of paying BDCP costs associated with the water supplies of other MWD member agencies or other state or federal water contractors. The Water Authority is already in litigation with MWD over how it allocates its *current* State Water Project costs.

The Water Authority is concerned that future progress of the BDCP and efforts to resolve seemingly intractable conflicts in the Delta will falter if those expected to be participants in the BDCP are not able to evaluate the cost-benefit of the various alternatives or reasonably limit the risk that their ratepayers will be expected to assume. In this context, we renew our request that our comments and concerns raised in our August 28, 2012 correspondence regarding Chapter 8 of the BDCP administrative draft – *Implementation Costs and Funding Sources* – be addressed in the next draft.

Comments

In our August-28, 2012 correspondence, we identified three specific issue areas as lacking necessary discussion within Chapter 8:

- State water contractors that are wholesale water agencies should demonstrate that their customers – the member agencies or units that purchase their water and provide their revenue – have take-or-pay contracts or other enforceable, long-term commitments to pay the fixed costs of the project commensurate with the term of the BDCP obligation.
- It is important to analyze the possible effects of “step up” provisions – those bond pledges that may require other BDCP participants to assume the obligations of defaulting participants – on MWD and other participants in the BDCP.
- A careful legal analysis should be undertaken of MWD taxing authority within the BDCP due diligence process, to examine the feasibility and appropriateness of relying upon property taxes as additional back-up security for project debt.

Take-Or-Pay Contracts/Enforceable Commitments

As we have previously pointed out in discussions with you, MWD – which, as the largest state water contracting agency, is the foundation for financing the BDCP project – has been struggling over the past several years to pay its current fixed costs, let alone a substantially larger new cost associated with the BDCP. More than 80 percent of MWD's costs are fixed – however, less than 20 percent of MWD's revenues are paid from fixed charges. Conversely, more than 80 percent of MWD's revenues are from water sales – a variable revenue source – and those sales have

Dr. Gerald Meral
July 30, 2013
Page 3

declined by 30 percent since 2007. Furthermore, MWD's member agencies are not required to purchase *any* water from MWD. The variability of water sales – and thus uncertain future water sales revenues – coupled with Southern California water agencies' current and future planned actions to implement the State's policy to reduce reliance on water supplies imported from the Delta, creates significant uncertainty regarding long-term financing of BDCP obligations. This should be a major concern for the State of California, whose full faith and credit will be expected to back up the financing of the project. And yet, Chapter 8 makes no mention of this material, foundational risk to BDCP financing.

The Water Authority believes that, at a minimum, state water contractors that are wholesale water agencies must demonstrate that their customers have take-or-pay contracts or other enforceable long-term commitments to pay the fixed costs of the BDCP project corresponding to the term of the BDCP obligation. The Water Authority continues to be prepared to make such a commitment to MWD as long as the Water Authority gets the water supplies in return for its payments. We also believe that the willingness to make a financial commitment to a Delta solution will largely determine the demand for Delta water supply, and therefore help inform the best sizing for the conveyance facility. It would not be in the state's best interest to construct a facility only to have it stranded because no one is willing to pay for it, or hoped-for water sales necessary to pay for it do not materialize.

"Step-Up" Provisions

Existing State Water Project contracts contain provisions under which non-defaulting contractors can be assessed to cover payments not made by defaulting contractors, up to 25 percent of the defaulting contractors' obligations. Additionally, the East Branch Extension of MWD's State Water Project contract has a provision obligating MWD to cover default by any and all other participants. These State Water Project contract stipulations are known as "step-up" provisions.

We are informed that bond underwriters for the BDCP project are expected to require a "step-up" provision by which each BDCP participant in BDCP-related bonds pledges to assume the obligations of defaulting participants. In fact, the newly-released Chapter 8, at Section 8.10.1.1.1 (page 8-81) provides that:

"Existing water contracts would need to be amended to include the new costs of the BDCP assigned to the state water contractors and the repayment schedule."

Since "step-up" provisions are already embodied within, and apply to, MWD's State Water Project contract, it would appear that such provisions would apply to the "new costs of the BDCP assigned to the state water contractors." Given those "step-up" provision obligations, we renew our request that Chapter 8 fully analyze the possible financial and economic effects of the "step-up" provisions on MWD and the other participants in the BDCP.

Property Taxes

Some have suggested that property taxes may be contemplated as back-up security for BDCP payment obligations of individual state water contractors. There are very clear and significant limitations in MWD's existing taxing authority under the provisions of the MWD Act:

- The Act limits MWD's ability to levy taxes to pay its State Water Project obligations.

Dr. Gerald Meral
July 30, 2013
Page 4

MWD is limited to levying taxes for "*the composite amount required to pay (1) the principal and interest on general obligation bonded indebtedness of the district and (2) that portion of the district's payment obligation under [the SWP contract] which is reasonably allocable, as determined by the district, to the repayment by the state of principal and interest on [SWP bonds] as of [January 1, 1985] and used to finance construction of facilities for the benefit of the district.*"

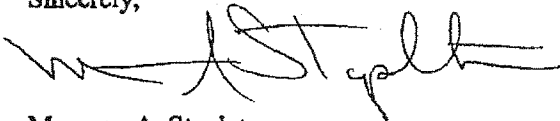
- Although the Act contains override ability in the event of a fiscal crisis, as determined by the MWD board, the override is limited to only one year at a time. In such an event, the State of California and bondholders would be relying upon an annual vote of MWD's Board of Directors in which it "...finds that a tax in excess of these restrictions is essential to the fiscal integrity of the district...."
- It is unclear whether changes to the limitations provided under the MWD Act would require voter approval and/or new legislation. Chapter 8 should address and answer these questions.

Given these limitations and uncertainties, it is difficult to consider MWD's existing taxing authority as a meaningful back-up security for BDCP payment obligations. It is also highly questionable whether the financing of BDCP can be – or should be – backed by taxing authority that was authorized by voters decades ago, when the program was much different than is being discussed today. A careful legal analysis of MWD taxing authority should be included in the BDCP due diligence process if taxes are going to be relied upon as additional back-up security for BDCP project debt. The newly-released version of Chapter 8 is silent on this issue.

Based on the assurances that you previously provided to the Water Authority, we expected that the full consideration and analysis of the issues we have raised would be integrated in to the Chapter 8 analysis and conclusions. And yet, the current version of Chapter 8 of the BDCP administrative draft does not comprehensively or adequately conduct due diligence on all of the facts and circumstances described in this letter and our previous correspondence. We remain concerned that a potential cascading collapse of funding could occur if the proper due diligence is not undertaken in a timely manner.

We appreciate the opportunity to provide comments on the newly-released Chapter 8 of the BDCP administrative draft. We remain committed to working with you and all parties to evaluate, address, and resolve these critical financing issues.

Sincerely,



Maureen A. Stapleton
General Manager

Attachment: August 28, 2012 letter

Dr. Gerald Meral
August 28, 2012
Page 2

that provide their revenues. The costs are simply too great to rely on the hope that there will be enough water purchasers over the long-term to pay the project's costs.

As the largest customer of the largest state water contractor – the Metropolitan Water District of Southern California (MWD) – the Water Authority's ratepayers have a great deal at stake in the BDCP process and its financing plan. The Water Authority must be able to assess not only that the project will provide sufficient benefits to be affordable by our ratepayers, but also that they are not at risk of paying BDCP costs associated with the water supplies of other MWD member agencies or state contractors. The Water Authority is already in litigation with MWD over how it allocates its current State Water Project costs.

The Water Authority is concerned that all of the progress that has been made in bringing the BDCP to this point will be stymied, and that the BDCP will fail if participants are not able to evaluate the cost-benefit of the project or reasonably limit the risk their ratepayers are being asked to assume. It is in this light that we offer the following brief comments on the administrative draft of Chapter 8 – *Implementation Costs and Funding Sources*.

Comments

As the largest state water contractor, MWD is the foundation for financing the project. And yet, MWD itself has been struggling over the past several years to pay its current fixed costs – let alone a substantially larger cost associated with the BDCP. The reason is simple: more than 80 percent of MWD's costs are fixed while less than 20 percent of its revenues are paid from fixed charges. More than 80 percent of MWD's revenues come from water sales. Yet, MWD's member agencies are not required to purchase any water from MWD. With its member agencies unwilling to sign take-or-pay contracts or make any other firm financial commitments to MWD to cover its fixed obligations, the agency remains heavily dependent on revenues from variable water sales. MWD's water sales have declined approximately 30 percent since 2008, with its firm sales declining to less than 1.3 million acre-feet in fiscal year 2012. MWD's member agencies – including the Water Authority – have also experienced significant reductions in sales. A direct consequence of these declining sales is sharply higher imported water rates that have made additional local water supply investments economically competitive. As a consequence, MWD's member agencies – and their sub-agencies – are doing what they have been asked to do over the past 20 years: reducing reliance on water supplies imported from the Delta.

Dr. Gerald Meral
August 28, 2012
Page 3

We are concerned that the BDCP will become the kind of "big ticket project" that MWD board members vocally and enthusiastically support – at the same time their agencies are unwilling to make enforceable commitments to pay for the project.

A final note on the subject of risk: because the project is anticipated to be financed through project revenues, we are informed that bond underwriters are expected to require a "step up" provision by which each BDCP participant in BDCP-related bonds pledges to assume the obligations of defaulting participants.¹ The current draft of Chapter 8 is silent on this issue, yet it is conceivable that some of the BDCP participants may default, which would cause remaining participants, including MWD, to assume a greater portion of the debt. It is important that Chapter 8 analyze the possible effects of the "step up" provisions on MWD and the other participants in the BDCP.

Some have suggested that property taxes may provide the ultimate security for BDCP payment obligations of individual contractors. Putting aside the question whether property taxes levied under the authorization of the Burns-Porter Act may be used to pay for new projects contemplated by the BDCP, it is important to remember that MWD's taxing authority is further limited by the provisions of the MWD Act.² Although the Act contains override ability in the event of a fiscal crisis as determined by the MWD board (one year at a time³), it effectively limits MWD's ability to levy taxes to pay its SWP obligations. It is also unclear whether changes to this limit would require voter approval. Thus, a careful legal analysis of MWD taxing authority should be included in the BDCP due diligence process if taxes are contemplated as additional back-up security for project debt.

To effectively evaluate the finances available for the BDCP, the drafters of Chapter 8 need to conduct comprehensive due diligence on all of the facts and

¹ Under Section 50(h) of MWD's current State Water Project contract, non-defaulting contractors can be assessed to cover payments not made by defaulting contractors, up to 25 percent of the payment not made. Under Section 49(i) of its East Branch Extension of the State Water Project contract, MWD is obligated to cover a default by any and all other participants.

² Section 124.5 of the Metropolitan Water District Act limits MWD's property tax levy to "the composite amount required to pay (1) the principal and interest on general obligation bonded indebtedness of the district and (2) that portion of the district's payment obligation under [the SWP contract] which is reasonably allocable, as determined by the district, to the repayment by the state of principal and interest on [SWP bonds] as of [January 1, 1985] and used to finance construction of facilities for the benefit of the district."

³ In such an event, the State of California would be relying upon an annual vote of MWD's Board of Directors in which it "...finds that a tax in excess of these restrictions is essential to the fiscal integrity of the district...."

Dr. Gerald Meral
August 28, 2012
Page 4

circumstances described in this letter. Without such due diligence, the BDCP faces a potential cascading collapse of funding. At a minimum, state water contractors that are wholesale water agencies must demonstrate that their customers – the member agencies or units that buy their water and provide their revenues – have take-or-pay contracts or other enforceable commitments to pay the fixed costs of the project commensurate with the term of the BDCP obligation. The Water Authority continues to stand ready to make such a commitment to MWD that provides benefits commensurate with its payments.

Ultimately, the full faith and credit of the State of California will back up the bonds issued to build the conveyance project. Failure to secure enforceable financial commitments from the member agencies or units of water wholesale contractors could place all of California at significant risk of having tens of billions of dollars of new outstanding debt without sufficient water contractor payments to cover the debt service. This is why all California taxpayers have a stake in ensuring that there is a solid foundation and financing plan for the BDCP going forward.

Thank you again for providing the opportunity to comment on the administrative draft of Chapter 8 of the BDCP. We are committed to working with you and all parties to address and resolve these issues.

Sincerely,



Maureen A. Stapleton
General Manager

Enclosure: Water Authority Bay-Delta Policy Principles



BDCP800

January 18, 2012

Attention: Imported Water Committee

Draft Delta Policy Principles (Information).

Purpose

The Delta Policy Principles will guide staff in evaluating Bay-Delta planned initiatives and the cost and sources of funding to implement the projects and actions. These policy principles are presented in draft form (Attachment 1) this month with board action sought in February.

Background

The Metropolitan Water District (MWD) imports water from the Colorado River through its Colorado River Aqueduct and from northern California via the State Water Project (SWP). Because the reliability of MWD supplies is of vital importance to the Water Authority, the Water Authority has consistently been a strong proponent and leading voice advocating for a Delta fix.

Despite recently improved hydrological conditions, California continues to have long-term water supply challenges in the Sacramento-San Joaquin Bay Delta. State and federal agencies with responsibility for different aspects of California's Bay-Delta estuary along with various stakeholders seek to develop a comprehensive, long-term plan to achieve the co-equal goals of eco-system restoration and water supply reliability. Last May, as part of management actions in response to the end of the drought and termination of supply cutbacks from MWD, the Water Authority Board renewed its resolve to call upon the state of California to finalize a plan to achieve the co-equal goals, including a viable financing plan to attain them (April 28, 2011, Water Planning Committee Item #1C). More recently, in December, the Water Authority Board adopted its 2012 Legislative Policy Guidelines, which reflected Bay-Delta policy principles adopted by the Board throughout 2011 (Attachment 2).

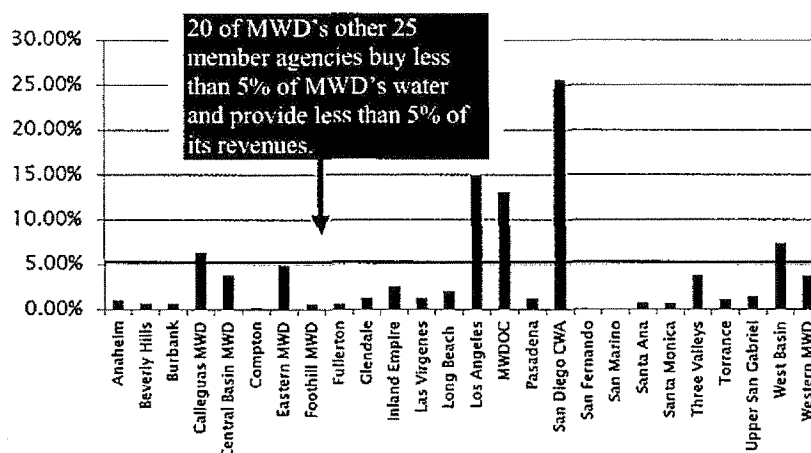
Discussion

The Water Authority has been involved in efforts to implement a long-term, comprehensive solution of the Bay-Delta estuary. The Water Authority has sought to attain a resolution to the Bay-Delta's long-standing problems that will help to provide San Diego County with a reliable, high-quality supply of water while restoring the estuary's ecosystem by actively engaging in Bay-Delta matters at MWD and other forums in support of a Bay-Delta fix. It successfully lobbied for the passage of the 2009 comprehensive Bay-Delta bill package. Most recently, the Water Authority held two Bay-Delta workshops receiving input from stakeholders on their views of a Delta solution.

Throughout this time, the Water Authority has advocated for a "right-size" fix for the Delta: that the fix must be supported by a broad range of stakeholders to ensure it is implementable; that the water contractors who finance the solution must show firm financial commitment and be capable of financing and maintaining the improvements. Of particular concern, 20 of MWD's other 25 member agencies buy less than 5 percent of MWD's water, and contribute less than 5 percent of MWD's revenues (See Figure 1). Because 80 percent of MWD's revenues come from water

sales, which have declined by one-third since 2007, this is a major vulnerability for MWD. MWD does not have assurances from its member agencies that they will provide revenues to MWD to ensure it can pay for its share of the Delta fix, which could more than double its SWP costs (approximately \$670 million annually).

Figure 1: Average MWD Water Purchases by Member Agency (2000-09)



The Water Authority has steadfastly advocated that the costs for the Delta fix be allocated among beneficiaries of the improvements, and that MWD member agencies be required to make firm long-term contractual commitments (e.g. take-or-pay contracts) to pay their share of MWD's SWP contract obligations. Currently, MWD's 26 member agencies are not required to buy *any* water from MWD. Yet, MWD says it will continue to rely upon water sales revenues to pay for the Delta fix. Further, as MWD rates continue to rise, MWD's member agencies are expanding their local water supply projects, such as recycling, Indirect Potable Reuse, groundwater and seawater desalination, which are becoming more cost-competitive and affordable. While developing local water supplies and reducing reliance on imported water is sound public policy, it is important that MWD protect its long-term fiscal sustainability and strengthen its ability to meet its financial obligations by requiring take-or-pay contracts or similar firm financial commitments from its member agencies. Requiring firm financial commitments would also provide the needed information of how much water MWD member agencies truly need (i.e., are willing to pay for) from a Delta fix. Last May, a broad-based coalition of urban water agencies and environmental organizations also expressed concerns over Delta project financing and wrote a letter to the California Natural Resources Agency Secretary urging an immediate focus on Delta financing, affordability of a Delta conveyance project, and the need for commitments to pay project costs by water end-users (Attachment 3). In spite of rising costs (and water rates) and reduced sales, in 2011 MWD continued selling water at a discount for replenishment. This had the effect of further driving up the cost of MWD's Tier 1 water.

The attached draft policy principles are divided into five decision-making guidelines – Water Supply Reliability, Ecosystem Restoration, Finance and Funding, Facilities, and Governance. The draft offers policy principles to help guide staff as they evaluate the many projects and actions that make the Bay-Delta co-equal goals of ecosystem restoration and water supply reliability a reality.

Imported Water Committee

January 18, 2012

Page 3 of 3

Because of the Water Authority's continued reliance on the SWP, the Water Authority supports an affordable, comprehensive approach that focuses on steps to ensure reliable water supplies and Delta restoration.

Prepared by: Debbie S. Discar-Espe, Senior Water Resources Specialist

Reviewed by: Jeff Volberg, Government Relations Manager

Amy I. Chen, MWD Program Chief

Approved by: Dennis A. Cushman, Assistant General Manager

Attachment 1: Draft Delta Policy Principles

Attachment 2: 2012 Legislative Policy Guidelines – Bay-Delta, December 2011

Attachment 3: Urban/Environmental Coalition Letter on BDCP, May 2011

San Diego County Water Authority Draft Delta Policy Principles

The San Diego County Water Authority Board of Directors supports a solution to the Bay-Delta's long-standing problems that will provide San Diego County with a reliable, high-quality supply of water and enhance the estuary's ecosystem in an affordable, cost-effective manner. The adopted policy principles will guide staff in evaluating projects and actions affecting the Bay-Delta.

Water Supply Reliability

- Continue to support the co-equal goals of water supply reliability and environmental restoration embodied in the 2009 Delta bill package.
- Address conflicts between water management and the Bay-Delta environment including meaningful dialogue with all stakeholders.
- Provide regulatory certainty and predictable supplies to help meet California's water needs in the long-term.
- Improve the ability of water-users to divert water from the Delta during wet periods, when impacts on fish and ecosystem are lower and water quality is higher.
- Encourage and support the development of water resources at the local level such as seawater and brackish water desalination, groundwater, storage, graywater, rainwater harvesting (e.g., cisterns and rain barrels), and recycled water (including direct and indirect potable reuse), to make water supplies more reliable, reduce demands on the Bay-Delta, and improve water quality.
- Encourage the development of a statewide water transfer market that will facilitate better water management.
- Provide better coordination of Central Valley Project and State Water Project operations.
- Encourage cost-effective water use efficiency measures.

Ecosystem Restoration

- Restore the Bay-Delta ecosystem to a point where species listed under the state and federal Endangered Species Acts are no longer threatened or endangered, taking into account all factors that have degraded Bay-Delta habitat and wildlife.
- Work with all stakeholders to ensure meaningful dialogue and that all issues are addressed in an open and transparent process.

Finance and Funding

- Encourage projects and actions that provide conveyance and storage facilities that are cost-effective when compared with other water supply development options for meeting Southern California's water needs.
- Support construction of Delta improvements only upon securing take-or-pay contracts or similar firm financial commitments by water contractors and their member agencies, as well as other entities, to pay for the fixed costs of the improvements.
- Condition financial support on allowing access to facilities to facilitate water transfers.
- Encourage the establishment of a stable funding stream and improve oversight transparency, only in support of a clearly defined project with clearly defined benefits, with clearly defined costs that are commensurate with the project's benefits to each stakeholder and that are cost-effective compared to alternative sources of supply.

BAY-DELTA

Generally, the Water Authority has supported a solution to the conflicts between water supplies and ecosystems in the Delta that have made water supply less reliable. However, the Water Authority is also concerned that the solution to Delta conflicts be cost-effective, and that the water contractors who finance the solution be capable of financing and maintaining improvements to the Delta. The Water Authority is also concerned that the costs be shared equitably among beneficiaries of the improvements, and that MWD member agencies be required to make firm commitments to pay their share of MWD's State Water Project contract obligations.

It shall be the Water Authority's policy to support legislation that:

1. Requires the Delta Stewardship Council or DWR to provide periodic analyses of the cost of proposed Delta improvements to the Legislature and the public.
2. Provides conveyance and storage facilities that are cost-effective, improve the reliability and quality of the San Diego region's water supplies and protect the Bay-Delta's ecosystem.
3. Requires water agencies and other entities that contract to pay the costs of improvements in the Delta to obtain take-or-pay contracts with their member agencies to pay the fixed costs of the improvements.
4. Implements a long-term, comprehensive solution for the Bay-Delta that:
 - a. Focuses on resolution of conflicts between water management and the environment in the Bay-Delta.
 - b. Provides reliable water supplies to meet California's short- and long-term needs.
 - c. Improves the ability to transport water to enhance State Water Project deliveries and facilitate transfers from north of the Delta to south of the Delta.
 - d. Improves the quality of water delivered by the Metropolitan Water District to San Diego County.
 - e. Enhances the Bay-Delta's ecological health, taking into account all factors that have degraded Bay-Delta habitat and wildlife.
 - f. Encourages cost-effective water use efficiency measures.
 - g. Provides a cost-effective solution when compared with other water supply development options.
 - h. Equitably allocates costs of the Bay-Delta solution to all those benefiting from improvements to the Bay-Delta system.
 - i. Provides a firm commitment that the state will pursue water supply reliability and environmental restoration as co-equal goals.
 - j. Encourages the development of local supplies such as seawater desalination, groundwater, storage, graywater, rainwater harvesting (e.g., cisterns and rain barrels), and recycled water (including indirect potable reuse), in order to make water supplies more reliable, reduce demand on the Bay-Delta, and improve water quality.
 - k. Encourages the development of water transfers that will reduce demand on the Bay-Delta.

- Allocate costs proportionally to all those benefitting from improvements to the Bay-Delta system, so that financial support for the program reflect the benefits that are received.
- Use public funds to support specific projects and actions with identified costs that protect and restore the environment and provide broad-based public benefits.
- Oppose water user fees to fund ecosystem restoration and other public purpose, non-water-supply improvements in the Delta that are the responsibility of the broader public.
- Seek and support independent financial analyses of project costs and the ability of water contractors and their agencies to pay the costs of the project.

Facilities

- Require technical analysis of proposed key elements of the Bay-Delta solution, such as forecasting future urban and agricultural demands and size and cost of a new conveyance facility, to ensure projected projects realistically match statewide needs.
- Support “right-sizing” of the facilities by requiring agencies back up their forecasted demands Delta with a firm contractual commitment to pay for improvements and facilities.
- Allow access to State Water Project facilities to facilitate water transfers.
- Require that financial support by water agencies and other entities be enforceable.
- Improve the ability to transport water by enhancing State Water Project operations and facilities.

Governance

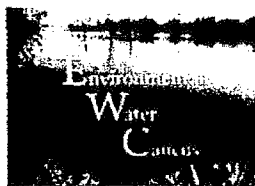
- Oppose transfer of operational control of the State Water Project or any of its facilities to MWD, the State Water Project Contractors, Central Valley Project Contractors, the State and Federal Contractors Water Agency, any entity comprised of MWD or other water project contractors, or any other special interest group.

- l. Provides better coordination of Central Valley Project and State Water Project operations.
 - m. Improves Delta levees to control flooding, maintain water supply reliability and reduce seawater intrusion to protect water quality.
 - n. Develops adequate and reliable funding for maintenance of Delta levees.
- 5. Authorizes and appropriates the federal share of funding for the long-term Bay-Delta solution.
- 6. Provides the ongoing state share of funding for the long-term Bay-Delta solution.
- 7. Provides state funding for aquatic toxicity monitoring in the Bay-Delta. Such legislation should not place a surcharge on water supply exports nor should it substantively reduce funding for other measures that protect environment and public health.

It shall be the Water Authority's policy to oppose legislation that:

- 1. Requires additional reviews or approvals of Delta conveyance options beyond those provided by SBX7-1 (2009).
- 2. Transfers ownership, operation or control of the State Water Project or any of its facilities to MWD, the State Water Project Contractors, Central Valley Project Contractors, the State and Federal Contractors Water Agency or any entity comprised of MWD or other water project contractors.

BDCP800



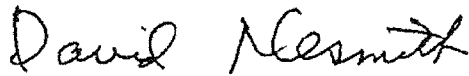
May 31, 2011

John Laird, Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

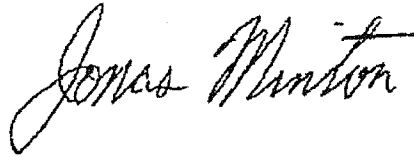
Dear Secretary Laird:

We wish to congratulate you on renewing the effort to advance the Bay Delta Conservation Plan (BDCP), with an increased emphasis on transparency and broader inclusiveness for stakeholders. Establishing workgroups for the most critical issue areas in the BDCP will provide vital input from various interests, and help develop solutions that are broadly acceptable.

In particular, focusing attention on the plan for financing the implementation of the BDCP is critical, as this issue has received inadequate attention so far. The documents released to date have offered some total cost estimates, but critical details remain to be addressed such as cost allocation, the ability and willingness of prospective end users to pay, as well as the financial commitments from the BDCP applicants to cover not only the infrastructure, but also associated mitigation costs. In addition, there is no consensus on how the ecosystem restoration element of the BDCP will be paid for.



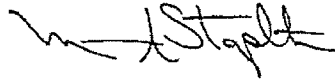
David Nesmith, Facilitator
Environmental Water Caucus



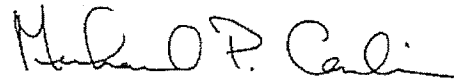
Jonas Minton, Senior Water Policy Advisor
Planning and Conservation League



Barry Nelson, Senior Policy Analyst, Western
Water Program
Natural Resources Defense Council



Maureen A. Stapleton, General Manager
San Diego County Water Authority



Michael Carlin, Deputy General Manager
San Francisco Public Utilities Commission



Mark Watton, General Manager
Otay Water District



Gary Bobker, Program Director
The Bay Institute

cc: Senators Dianne Feinstein & Barbara Boxer
Members of California Congressional delegation
Kenneth Salazar, Secretary of the Interior
David Hayes, Deputy Secretary of the Interior
Michael Connor, Commissioner, Bureau of Reclamation
Donald Glaser, Director, USBR Mid-Pacific Region
Governor Jerry Brown
Gerald Meral, Deputy Secretary, Natural Resources Agency
Mark Cowin, Acting Director, Department of Water Resources
John McCamman, Acting Director, Department of Fish and Game
Members of the California Legislature
Delta Stewardship Council
State Water Resources Control Board

The recently published National Research Council study has provided an important service in underscoring the importance of a full and thorough review of alternative water supply scenarios, including those that would lessen the pressures upon the Delta. None of us would consider signing a contract to purchase a home without first assessing whether we can afford it and determining how we would finance the purchase. Given the huge cost estimates associated with the BDCP, we must approach this program in a similar manner.

For these reasons, we support your decision to form a Financing Working Group. We respectfully recommend that you begin this important work as soon as possible and not delay until the fall as indicated in the work group announcement. The total project cost is intrinsically linked to all aspects of the planning process, and therefore this work should proceed immediately to ensure that cost considerations fully inform the BDCP process. We look forward to working with you and the other stakeholders to ensure that the BDCP has a viable financing plan before any decisions are made to select an alternative.

Thank you for your consideration of our views.



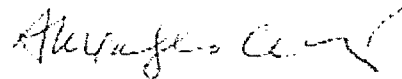
Steve Rothert, California Regional Director
American Rivers



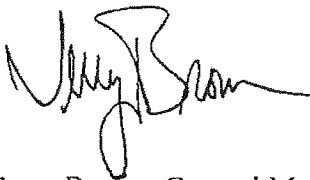
Kim Delfino, California Program Director
Defenders of Wildlife



Michael Sweeney, Mayor
City of Hayward



Alexander R. Coate, General Manager
East Bay Municipal Utility District



Jerry Brown, General Manager
Contra Costa Water District



Cynthia Koheler, California Water Legislative
Director
Environmental Defense Fund