

From: Atta Stevenson <atta.mlpa@gmail.com>
Sent: Monday, July 28, 2014 4:33 PM
To: BDCP.COMMENTS@NOAA.GOV
Subject: Sacramento-San Joaquin Delta

The California Indian Water Commission hereby submits its position in regards to Sacramento - San Joaquin Delta.

"We Support the NO ACTION ALTERNATIVE".

Thank you.

Atta P. Stevenson

California Indian Water Commission

From: Rodriguez, Dennis <dennis.rodriguez@siemens.com>
Sent: Friday, July 25, 2014 11:22 PM
To: BDCP.comments@noaa.gov
Subject: Bay Delta Conservation Plan, Need for Solutions

July 25, 2014

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

Re: Bay Delta Conservation Plan, Need for Solutions

Dear Mr. Wulff,

I am a Southern California resident who realizes the importance of a reliable water supply from Northern California. Over the past 40 years, we have invested billions in the State Water Project to capture and deliver this essential supply, which makes up more than 30 percent of Southern California's water resource mix. I understand that conflicts in the Sacramento-San Joaquin Delta have steadily reduced water deliveries and that our supply from Northern California is at risk long-term because of seismic threats and other vulnerabilities. I am supportive of the efforts by state and federal agencies to find a long-term solution in the Delta that works for both California's environment and economy through the process known as the Bay Delta Conservation Plan.

I wanted to relay my support for this effort now that a draft solution is on the table and your agency is seeking comments from members of the public. Southern California is faring better than much of the state during this drought because of our investments in regional storage and conveyance that allowed us in the past to capture adequate supplies in wet years and store that supply for dry years. The supply from Northern California is critical for this system to work. Unfortunately, that supply is at risk until we modernize the Delta portion of the statewide water delivery system so that it reduces conflicts with Delta fish species and protects this supply in the event of natural disasters such as earthquakes.

Water from Northern California is vital to the entire state, supporting our \$2 trillion urban and agricultural economy and sustaining the Delta environment. We need a solution that works for all stakeholders and we need every region of the state doing its part including increasing conservation and expanding local supplies. Please continue your important efforts on the Bay Delta Conservation Plan so that California can modernize this crucial link in our water system, restore the Delta ecosystem and put the state on a path to a more reliable water future.

Sincerely,

Dennis Rodriguez
Chief City Executive – LA/SF/SD
Siemens Industry, Inc.

Dennis.Rodriguez@Siemens.com
(310) 403-4192 mobile

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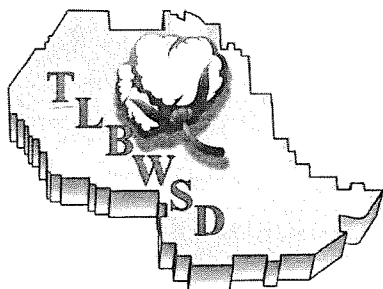
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From: Mark Gilkey <MGilkey@tlbwsd.com>
Sent: Tuesday, July 29, 2014 9:54 AM
To: BDCP.Comments@noaa.gov
Cc: terlewine@swc.org; thurlbutt@jgboswell.com; Nordstrom, Michael (nordlaw@nordstrom5.com); DMelville@ppeng.com; wbricker@jgboswell.com; Jacob Westra
Subject: BDCP Comment Letter from TLBWSD
Attachments: 2014 0729 TLBWSD BDCP Comment Letter.pdf

Attached is a letter from the District regarding BDCP comments. A hard copy will be provided upon request.

Mark Gilkey, General Manager
Tulare Lake Basin Water Storage District
Office (559) 992-4127
Mobile (559) 816-0386
mgilkey@tlbwsd.com



TULARE LAKE BASIN WATER STORAGE DISTRICT

ESTABLISHED SEPTEMBER 1926

1001 CHASE AVENUE, CORCORAN, CALIFORNIA 93212

PHONE (559) 992-4127 • FAX (559) 992-3891

July 29, 2014

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

Transmitted Via Email: BDCP.Comments@noaa.gov

Dear Mr. Wulff:

The Tulare Lake Basin Water Storage District (District) is an agricultural district that delivers surface waters from multiple sources to its landowners. The District contracted for State Water Project (SWP) water to provide a more dependable surface water supply for lands within the District and reduce groundwater pumping. We have reviewed portions of the draft Bay Delta Conservation Plan ("BDCP") and its draft environmental impact report/environmental impact statement (DEIR/DEIS) released on December 13, 2013.

As a State Water Project Contractor, we appreciate the opportunity to provide comments. The State Water Project (SWP) is a critical part of our conjunctive use and groundwater management programs. The current trend of reduced and interrupted SWP supplies and increasing costs has had significant impacts on the District and surrounding area. SWP deliveries have been repeatedly interrupted and reduced due to operational conflicts with threatened and endangered species in the Delta. The reduced reliability of the SWP supplies, coupled with the increased costs of these supplies, has resulted in a significant amount of land going out of production. To avoid further lands from being forced out of production and the corresponding local economic losses, restoration of the SWP reliability is critical.

The District has been supportive of the proposed BDCP process to address chronic reduced reliability of the SWP in a manner that protects the Delta's environment. We understand that key issues remain relating to assurances and specifics on cost allocations, operations, outflow range, financing and other issues. The District remains concerned on costs and the affordability of the BDCP for its agricultural landowners.

BDCP Comments

July 29, 2014

Page 2

The District supports comments provided by the State Water Contractors (SWC), Inc., in their letter dated July 28, 2014.

The District looks forward to evaluating the benefits and costs of the BDCP once the assurances and other remaining issues are resolved.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Gilkey", written in a cursive style.

Mark A. Gilkey
General Manager

From: hotmail_574e4b1a61e8d669@live.com on behalf of Reuben Childress
<reuben@foothillconservancy.org>
Sent: Monday, July 28, 2014 2:24 PM
To: BDCP.comments@noaa.gov
Subject: BDCP EIR/EIS comments
Attachments: BDCP Comments_FC.docx

Please find attached comments on behalf of the Foothill Conservancy.

Reuben Childress
Watershed Conservation Associate

Foothill Conservancy
35 Court Street, Suite 1
Jackson CA. 95642
209.223.3508
www.foothillconservancy.org



To protect, restore, and sustain the natural and human environment
in Amador and Calaveras counties for the benefit of current and future
generations

22540 Highway 88, 2nd Floor, Pioneer, CA 95665
Phone: (209) 295-4900
www.foothillconservancy.org

February 14, 2014

**Re: Foothill Conservancy Comments on the BDCP Plan and Draft EIR/EIS:
Concerns of delta tributary upper watershed.**

Dear Federal and California agencies, officers, and staff members carrying out the
BDCP:

My name is Reuben Childress, and I am submitting these comments on behalf of the
Foothill Conservancy.

Introduction

The Foothill Conservancy is a nonprofit organization with members who live and work in the Mokelumne River watershed. The Foothill Conservancy seeks to restore, protect, and sustain the natural and human environment in and around Amador and Calaveras Counties. The Foothill Conservancy believes that through community collaboration and smart land and water planning, we can solve our resource woes. We do not believe in transferring environmental problems from one region to another. We believe in regional self-sustainability and aim to prevent the needless waste and destruction of the resources that make our foothill region so unique.

We are concerned that the state is examining a project that will not solve the state's water supply or ecosystem challenges.

As the amount of water diverted from the Delta increases, we are concerned that the state will be looking for additional water supplies from the already over-allocated tributaries and upper watersheds of the San Joaquin and Sacramento Rivers.

Comments:

Chapter 5 – Water Supply:

- 1.) “The study area for the water supply analysis includes the Delta region, areas upstream of the Delta region that may experience changes in operations as a result of implementation of the BDCP alternatives, and the SWP and CVP Service Areas. The Delta watershed includes the tributary rivers that flow into the Delta from the Sacramento River and the San Joaquin River basins.”¹

What is unknown is where additional sources of water will come from to restore the Delta when enough water to fill the pipes is diverted from the Sacramento River instead of being allowed to flow through the Delta. The DEIR does not fully cover the areas that could be threatened as future water sources for the tunnels.

The environmental effects that must be considered in an EIR include, direct and indirect effects, short and long-term effects, physical changes in an area, potential health and safety problems, changes in ecological systems, changes in population distribution and concentration, changes in land use, effects on public services, and effects on natural resources including water, scenic beauty, etc. (CEQA Guidelines, sec. 15126.2, subd. (a).) As the California Supreme Court has noted, a project description should account for reasonably foreseeable future phases of proposed projects if they may change the scope of the initial project or its environmental impacts. (*Laurel Heights Improvement Association of San Francisco v. Regents of the University of California*, (1988) 47 Cal.3d 376, 393-399 [253 Cal.Rptr. 426].)

It is particularly true for infrastructure projects, that an EIR must evaluate the impacts of not only the construction of the infrastructure (in this case the tunnels), but also the impacts of their use (in this case, filling them with water). "Construction of the road way and utilities cannot be considered in isolation from the development it presages." (*City of Antioch v. City Council of Pittsburgh* (1st Dist. 1986) 187 Cal.App.3d 1325 [232 Cal.Rptr. 507].) "It is obvious that constructing a large interchange on a major interstate highway in an agricultural area where no connecting road currently exists will have substantial impact on a number of environmental factors." (*City of Davis v. Coleman* (9th Cir. 1975) 521 F.2d 661, 674-675.)

Furthermore, the EIR must also identify mitigation measures to address these impacts. In this case, the EIR must identify the origin of Delta mitigation flows. CEQA requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant environmental effects. (Pub. Resources Code, secs. 21002, 21081, subd. (a); CEQA Guidelines, secs. 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a)(1).)

¹ Ch: 5, sec. 5.1, pg. 5-1

Finally, the EIR must disclose any secondary impacts resulting from the mitigation. (CEQA Guidelines, sec. 15126.4, subd. (d).) In this case, there will be impacts to the natural and the human environment associated with taking water from existing uses to secure mitigation flows for the Delta. In fact, these impacts are likely to be among the most significant impacts of the project. This is because it is in these river and lake locations where the impact will hit the ground and not be further reduced. It is in these locations where the chain of cause and effect ends. It is in these locations, where the shell game of water transfers tries to hide the impacts. To the people who currently use those waters to live, to work, and to recreate; and to the fish, the wildlife and the ecosystems those waters sustain; these are the project impacts that count. In short, to avoiding impacts to the Delta, harm will be done to other places from which water will be taken.

Because these ultimate impacts are so serious, it is highly prejudicial to truncate the impact analysis without a commitment to specific mitigation measures, and a disclosure of the associated secondary impacts to the areas of origin from whence will come the mitigation flows for the Delta. Remember, "A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process." (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692, 712 [270 Cal.Rptr. 650].)

In the Final EIR, please identify where additional sources of water will come from to restore the Delta. Please identify the secondary impacts of the mitigation.

- 2.) "Variability and uncertainty are the dominant characteristics of California's water resources."²

This is a conclusory statement unsupported by citation to substantial evidence in the record. If you retain this statement in the Final EIR, please explain the statement. Please provide examples of the alleged "dominant uncertainty" to support the assertion. Please provide specific references to substantial evidence in the record to support the assertion. "The EIR shall cite all documents used in its preparation including, where possible, the page and section number." (CEQA Guidelines, sec. 15148.)

A better approach would be to remove this assertion from the Final EIR. Such a loaded statement seems inappropriate for an objective and interdisciplinary impact analysis. EIR's are not supposed to spout hyperbole that advocate for a particular project or alternative.

² Ch: 5, sec. 5.1.1, pg. 5-1

- 3.) "Local surface storage and deliveries, together with reuse, account for about 40% of the state's developed water supplies. Groundwater is also a significant resource, supplying about 35% of the state's water needs, and during droughts, 40% or more. Imported water from the Colorado River provides 10% of the state's developed water supply, serving communities in Southern California. A small amount is attributed to recycled water and other local reuse projects (California Department of Water Resources 2009)."³

Please note that some water supply components are missing from the analysis, since $40\% + 35\% + 10\% \neq 100\%$. This statement does not adequately report what is currently being supplied from recycled water and reuse projects.

EIRs should "emphasize feasible mitigation measures and alternatives to projects." (Pub. Resources Code, sec. 21003, subd. (c).) An EIR must evaluate a range of reasonable alternatives to the project capable of eliminating any significant adverse environmental effects of the project, or reducing them to a level of insignificance, even though the alternatives may somewhat impede attainment of project objectives, or may be more costly. (Pub. Resources Code, sec. 21002; CEQA Guidelines, sec. 15126, subd. (d); *Citizens for Quality Growth v. City of Mount Shasta* (3d Dist. 1988) 198 Cal.App.3d 433, 443-445 [243 Cal.Rptr. 727].) "The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making." (CEQA Guidelines, sec. 15126.6 subd. (f).)

The Final EIR should cover all viable alternatives and assess conservation/reclamation options for sources of water as in depth as all other alternatives.

- 4.) "efficient groundwater basin management will be necessary to avoid additional overdraft and to take advantage of opportunities to store water underground and eliminate existing overdraft."⁴

Yes, fund this type of project. In the Final EIR, please identify which alternatives would include projects that will look at opportunities to store water underground and eliminate existing overdraft. The BDCP does not create any new water. It simply moves it from one location where it is already in short demand to another area where it will be used much less efficiently.

- 5.) "Retrofitting is expensive, can conflict with existing infrastructure and may cause a disruption for the public. For new developments, dual plumbing of homes and facilities makes implementing recycled water use more cost-effective. Another

³ Ch: 5, sec. 5.1.1.2, pg. 5-2-3

⁴ Ch: 5, sec. 5.1.1.2, pg. 5-4

area of emerging water reclamation is agricultural drain water.”⁵

This is part of the short and conclusory paragraph dedicated to Water Reuse. This really doesn't give this information in a detailed, documented, and un-biased way.

CEQA requires a "quantitative, comparative analysis" of the relative environmental impacts and feasibility of project alternatives. (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692, 730-737 [270 Cal.Rptr. 650].)

"Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process." (*Laurel Heights Improvement Association of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 404 [253 Cal.Rptr. 426].) "A conclusory statement 'unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind' not only fails to crystallize issues [citation] but 'affords no basis for a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives.'" (*People v. County of Kern* (5th Dist 1974) 39 Cal.App.3d 830, 841-842 [115 Cal.Rptr. 67], quoting *Silva v. Lynn* (1st Cir. 1973) 482 F.2d 1282, 1285.)

We hope that before spending what could be \$67 billion, options such as reuse and conservation will be evaluated as even-handedly and with as much detail as other alternatives.

- 6.) "East Side Division"⁶ What does this heading mean? The section goes on to discuss west-slope rivers. This is unclear. On page 5-14 the DEIR states that the "2009 NMFS BiOp Action III.1.3 requires Reclamation to make releases from the East Side Division reservoirs to achieve minimum flows below Goodwin Dam." –

Is this referring to the east side of the Central Valley? Please clarify this in the Final EIR. Please provide a map indicating the location of relevant reservoirs and rivers. The description of the local and regional environmental setting must be sufficient to provide an understanding of the significant effects of the proposed project and its alternatives. (CEQA Guidelines, sec. 15125.) In addition, "EIRs shall be written in plain language and may use appropriate graphics so that decision makers and the public can rapidly understand the documents." (CEQA Guidelines, sec. 15140.)

- 7.) "CVP operations reflect provisions of the CVPIA. CVPIA provisions relate in part to environmental uses of water including dedication of [_____] af of CVP yield annually to fish, wildlife, and habitat restoration under Section 3406(b)(2) of the CVPIA issued by the Department of the Interior."⁷

There is a blank in this section of the DEIR. The Final EIR should report the number. Otherwise the sentence has no meaning. "A prejudicial abuse of discretion occurs if the

⁵ Ch: 5, sec. 5.1.1.2, pg. 5-4

⁶ Ch: 5, sec. 5.1.2, pg. 5-12-14

⁷ Ch: 5, sec. 5.2.1.1, pg. 5-32, line 35-36

failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process." (Kings County Farm Bureau et al. v. City of Hanford (5th Dist. 1990) 221 Cal.App.3d 692, 712 [270 Cal.Rptr. 650].)

- 8.) "This plan consists of many activities including storage, conveyance, ecosystem restoration, levee integrity, watersheds, water supply reliability, water use efficiency, water quality, water transfers, and science."⁸

How are watersheds, water supply reliability, water use efficiency, water quality, and science activities? Listing science or watersheds as an activity is a bit broad and unclear. What activities will be going on in the watersheds? Please provide more specificity regarding these activities in the Final EIR. "The courts have favored specificity and use of detail in EIRs." (Whitman v. Board of Supervisors (2d Dist. 1979) 88 Cal.App.3d 397, 411 [151 Cal.Rptr. 866].)

Chapter 11 – Fish

- 9.) "Workplan activities include a suite of actions and are divided into nine broad elements that address:(4) the BDCP, water rights, and other requirements to protect fish and wildlife beneficial uses;"⁹

What workplan activities are planned for water rights? Will the project be seeking additional sources of water from upstream tributaries of the Sacramento and San Joaquin Rivers? In the Final EIR, please provide more detail regarding this aspect of the project description. "An accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR." (County of Inyo v. City of Los Angeles (3d Dist. 1977) 71 Cal.App.3d 185, 193, [139 Cal.Rptr. 396].) "A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decisionmakers balance the proposal's benefit against its environmental costs, consider mitigation measures, assess the advantage of terminating the proposal (i.e. the 'no project' alternative) and weigh other alternatives in the balance." (*Id.* at pp. 192-193.)

Chapter 13 – Land Use

- 10.) "Alternative 1A – Dual Conveyance with pipeline/tunnel and Intakes 1-5 (15,000 cfs; Operational scenario A)"¹⁰

⁸ Ch: 5, sec. 5.2.1.1, pg. 5-33-34

⁹ Ch: 11, sec. 13.2.3.11, pg 11-175, line 3

¹⁰ Ch: 13, sec. 13.3.3.2 pg 13-54, line 26

If this tunnel takes 15,000 cfs from the Delta, where is the water to restore the Delta going to come from? The time for identifying mitigation measures is now. "The CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena." (*Oro Fino Gold Mining Corporation v. County of El Dorado* (3d Dist. 1990) 225 Cal.App.3d 872, 884-885 [274 Cal.Rptr. 720].)

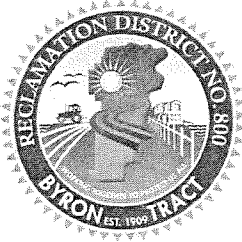
In the Final EIR, please identify the potential source of the mitigation flows, and any secondary impacts associated with this mitigation. "If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed." (CEQA Guidelines, sec. 15126.4, subd. (d); *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)

11.) "Such effects are discussed in other chapters throughout this EIR/EIS."

This statement is needlessly vague. In the Final EIR, please follow this statement with a listing of the potential physical effects of the tunnels on the environment, and with specific references to the chapters where such effects are discussed in detail. An EIR must be "organized and written in a manner that will be meaningful and useful to decisionmakers and to the public." (Pub. Resources Code, sec. 21003, sub. (b).)

If this EIR has shown any significant results it makes clear that California's water system's that deliver water from areas that produce it to areas that do not, are already heavily redundant. Spending billions of dollars on a project that cannot show how much water would actually be available to the tunnels in the DEIR shows that the BDCP is not a viable option for the state both financially or strategically. Planning and policy that involves new sources of water through conservation or reclamation and ensuring that our limited "variable and uncertain"¹¹ water supply is only put to beneficial and efficient, not greedy use, would accomplish much more good for the people and future of the state for remarkably less money.

¹¹ Ch: 5, sec. 5.1.1, pg. 5-1



P.O. Box 262
1540 Discovery Bay Blvd., Ste. "A"
Discovery Bay, CA 94514

Office: 925-634-2351
Fax: 925-634-2089
Web: www.rd800.org

July 29, 2014

Via U.S. Mail and E-mail (BDCP.Comments@noaa.gov)

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

Subject: Comments of Reclamation District No. 800 (Byron Tract) on the Draft Bay-Delta Conservation Plan and EIR/EIS

Dear Mr. Wulff:

Reclamation District No. 800 (Byron Tract) has reviewed the Draft Bay Delta Conservation Plan ("BDCP" or "Plan") and the accompanying Draft Environmental Impact Report/Environmental Impact Statement ("EIR/EIS") that were released for public review last December. Because the BDCP states that the Plan and supporting documents are incorporated into the EIR/EIS, our comments on the BDCP should also be considered comments on the EIR/EIS.

The District hereby incorporates by reference and joins the comments on the Plan and EIR/EIS submitted by the North State Water Alliance, the North Delta Water Agency, the California Central Valley Flood Control Association and Contra Costa Water District (including all attachments to those comments) as though fully stated herein.

Thank you for your attention to these comments. As a responsible agency under the provisions of the California Environmental Quality Act, the District expects that the Department of Water Resources will provide us with a specific response to all of our comments at least ten days' prior to the Department taking any action on the Plan or the EIR/EIS.

Very truly yours,

Jeffrey D. Conway
District Manager

cc: Board of Trustees
Chris Neudeck, District Engineer
David Aladjem, District Counsel

From: Sonnet Rodrigues <sonnet@RD800.ORG>
Sent: Tuesday, July 29, 2014 9:34 AM
To: BDCP.Comments@noaa.gov
Subject: BDCP Comment Letter
Attachments: RD800 BDCP Comment letter.pdf

Please see the attached comment letter from Reclamation District 800.

Thank you,

Sonnet Rodrigues
Reclamation District 800
925/ 634-2351

From: Tammy Hierlihy <tammyh@centralbasin.org>
Sent: Tuesday, July 29, 2014 9:06 AM
To: BDCP.comments@noaa.gov
Subject: Resolution in support of the BDCP
Attachments: Certification of Resolution No. 7-14-850.pdf

Hello,

Please find attached a Resolution in support of the Bay Delta Conservation Plan, which was approved by the Central Basin Municipal Water District's Board of Directors.

Thank you.

Tammy Hierlihy

Public Affairs and Water Resources Analyst

Direct: 323.201.5510 Fax: 323.201.5555

Central Basin

Municipal Water District

6252 Telegraph Road, Commerce, CA 90040-2512

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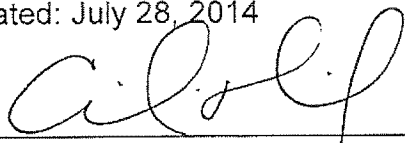
CERTIFICATION

State of California)
County of Los Angeles)
Central Basin Municipal)
Water District)

SS

I, Cecilia Pulido, Deputy Board Secretary of Central Basin Municipal Water District and of the Board of Directors thereof, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 7-14-850, "RESOLUTION OF THE BOARD OF DIRECTORS OF CENTRAL BASIN MUNICIPAL WATER DISTRICT EXPRESSING SUPPORT FOR THE BAY DELTA CONSERVATION PLAN, RELIABLE WATER SUPPLIES AND ENVIRONMENTAL RESTORATION" which was passed, approved and adopted at a regular Board meeting, held on July 28, 2014 by the Board of Directors of the Central Basin Municipal Water District.

Dated: July 28, 2014



Cecilia Pulido
Deputy Board Secretary, Central Basin
Municipal Water District and to
the Board of Directors thereof

Y:\bdmisc.doc\certifications\certifycbresolutions

RESOLUTION NO. 7-14-850**RESOLUTION OF THE BOARD OF DIRECTORS OF CENTRAL BASIN MUNICIPAL
WATER DISTRICT EXPRESSING SUPPORT FOR
THE BAY DELTA CONSERVATION PLAN, RELIABLE WATER SUPPLIES AND
ENVIRONMENTAL RESTORATION**

WHEREAS, water supplies from Northern California that move across the Sacramento-San Joaquin Delta are vital to the economy of California, serving 25 million people from the Bay Area to the Mexican border and agriculture throughout the Central Valley; and

WHEREAS, the Delta is the 550,000-acre estuary where the rivers of the Sierra Nevada merge before heading west to San Francisco Bay; and

WHEREAS, the Delta is in a state of environmental stress due to the loss of wetlands habitat, invasive species, pesticide runoff, a depletion of native food supplies, pumping operations and other factors; and

WHEREAS, the decline in the Delta's health threatens this unique environment and water supplies that are key to the California economy; and

WHEREAS, the Delta's levees are not engineered to protect the state's water supply distribution system from a major earthquake and multiple levee failures could disrupt water deliveries and the state economy for up to three years; and

WHEREAS, state and federal agencies, via the Bay Delta Conservation Plan (BDCP) process, have worked for years towards developing a comprehensive package of ecosystem and water system improvements to address both current conflicts in the Delta, and long-term threats to the state's water supplies; and

WHEREAS, BDCP represents an effort to comply with state and federal environmental laws for 50 years through cooperative effort to reverse the Delta's decline; and

WHEREAS, the failure to take decisive actions would be an unacceptable risk to the environment of the Delta and the economy of California; and

WHEREAS, on December 13, 2013, the state released a public draft BDCP and its environmental, impact statement/report; and

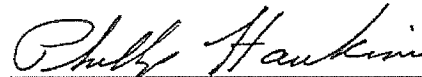
WHEREAS, out of all the proposed BDCP alternative plans examined by the state, Alternative Number 4 was designated as the state's preferred alternative for the BDCP; and

WHEREAS, the state's preferred alternative is the most promising plan developed to date to solve Delta challenges and resolve decades of conflicts between agricultural, urban and environmental water users with a comprehensive solution that achieves California's Co-Equal goals of reliable water supply and a restored Delta ecosystem, and

WHEREAS, Central Basin is supportive of the proposed twin-tunnel conveyance system that isolates and protects drinking water supplies and helps restore natural flow patterns in the Delta for the benefit of native species as well as the complimentary habitat restoration, water quality and predator control measures outlined in the BDCP;

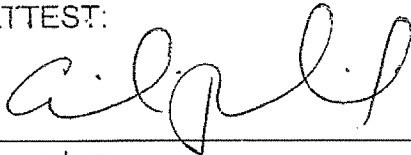
NOW, THEREFORE, be it resolved, that the Central Basin Board of Directors supports that the state move forward with the draft BDCP and focus efforts on resolving those remaining issues needed to provide assurances that the plan will achieve California's co-equal goals of water supply reliability and ecosystem restoration in a cost-effective manner.

PASSED, APPROVED AND ADOPTED on this 28th day of July, 2014.



President

ATTEST:



Secretary

(SEAL)

Y:\centralbasinboard\cbresos\cb850

Deputy



July 29, 2014

BDCP Comments

Ryan Wulff, NMFS

650 Capitol Mall, Suite 5-100

Sacramento, CA 95814

Dear Mr. Wulff,

We are writing to express support for California's proposed Bay Delta Conservation Plan (BDCP) and specifically Alternative 4 as outlined in the Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS). The economic survival of thousands of California's farms and the many businesses tied to our agriculture sector is directly related to improving our state's water infrastructure and providing the certainty that is necessary for investment in future development.

California currently faces many challenges with our water supply system and major environmental problems within the Sacramento-San Joaquin Delta. It is clear that Alternative 4 of the BDCP represents the best plan to address these issues in a comprehensive way that balances multiple priorities and modernizes the state's outdated water infrastructure. Alternative 4 includes Dual Conveyance with Modified Pipeline/Tunnel and Intakes 2, 3, and 5 (9,000 cfs; Operational Scenario H).

California cannot afford to ignore the ongoing crisis in the Delta. We fully support the state's co-equal goals of water supply reliability and ecosystem restoration for the Delta. The "Preferred Alternative" as outlined in the EIR/EIS is critically important to protecting the California economy and will help meet future demands on water supply as California's population grows. Additionally, the actual construction and environmental restoration activities of the BDCP are estimated to create and protect more than 1 million jobs.

The federal Central Valley Project and the California State Water Project are located in the Delta and bring water to 25 million people throughout the Bay Area, Central Valley, and Southern California, and irrigation water to three million acres of the world's most productive farmland. Despite the importance of these systems to these diverse regions, our state's current infrastructure is outdated and inadequate to handle risks and meet future needs. Without action, the Delta is susceptible to grave threats including seismic risk to levees and many stressors facing key fish species such as salmon. Potential earthquakes, natural disasters, and climate change impacts mean that the status quo is not an option. The time to act is now. Without the system improvements outlined in the BDCP Alternative 4, not only will the Delta fail to receive needed environmental restoration, but farms and farm communities in the San Joaquin Valley and elsewhere will continue to suffer devastating water supply reductions driven by environmental mandates imposed on an inadequate system.



Fresh produce from our families to yours

The BDCP is the outcome of years of research, analysis and planning. There has been much debate through hundreds of public meetings and a robust review process. We urge you to move forward with Alternative 4 of the BDCP as quickly as possible for the benefit of farms, businesses, families, and communities across the state. It is the most responsible plan to meet California's environmental and economic objectives, while ensuring safe and reliable water for our state's residents.

Thank you for your consideration.

Sincerely,

Tom Nassif
President and CEO

From: Jennifer Krebs <jkrebs@WGA.COM>
Sent: Tuesday, July 29, 2014 8:47 AM
To: BDCP.comments@noaa.gov
Subject: BDCP Comments from Western Growers
Attachments: WG BCDP Comments 7-29-14.pdf

Good morning,

Attached are our comments on the Draft BDCP, associated Draft EIR/EIS, and draft IA. Could you please email me back as confirmation that you've received them?

Thank you,

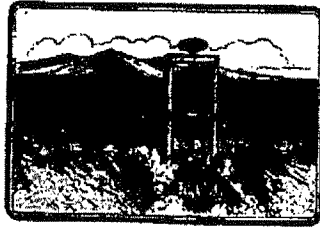
Jennifer Krebs

Executive Assistant, CA Government Affairs
Western Growers Association
1415 L St, Suite 1060
Sacramento, CA 95814
(916) 446-1435
jkrebs@wga.com



[Learn more about Western Growers](#)

Reclamation District No. 1004



July 28th, 2014

BDCP Comments
Attn: Ryan Wulff
NMFS
650 Capitol Mall
Suite 5-100
Sacramento, Ca. 95814

Dear Mr. Wulff;

Reclamation District 1004 supports the comment letter dated July 28th, submitted on behalf of the North State Water Alliance, which contains comments on the Bay Delta Conservation Plan, and its associated Implementation Agreement and draft Environmental Impact Statement and Environmental Impact Report. By and through this letter, Reclamation District 1004 adopts each comment and objection in the July 28th letter as its own, along with all exhibits and attachments to that letter, and incorporates herein by this reference all such comments, objections, and documents.

Regards,

Ed Hulbert
Chairman of the Board of Trustees

cc:files

From: Reclamation District 1004 <rd1004@comcast.net>
Sent: Tuesday, July 29, 2014 8:39 AM
To: BDCP.Comments@noaa.gov
Cc: Ed Hulbert; Dustin Cooper; Jack Baber; Roger Borrell; farfarming@yahoo.com; Jeff Moresco; hay_bres@yahoo.com
Subject: Comments on the Bay Delta Plan
Attachments: KMBT20020140729082122.pdf

Dear Mr. Wulff;

Attached please find Reclamation District No. 1004 letter in support of the July 28th North State Water Alliance letter. Thank you.

Barbara J. Sachs
Secretary to the Board of Trustees
317 4th Street
Colusa, Ca. 95932
Phone #530-458-7459
Fax #530-458-4276

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LEGAL COUNSEL

GARY W. SAWYERS

July 29, 2014

Bay Delta Conservation Plan Comments
Ryan Wulff, National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Dear Mr. Wulff:

Related to the draft Bay Delta Conservation Plan ("BDCP") and its draft environmental impact statement/environmental impact report ("DEIR/DEIS") released on December 13, 2013, Dudley Ridge Water District ("DRWD") has reviewed portions of those reports and the enclosed July 28 letter from the State Water Contractors ("SWC").

DRWD is an agricultural water user with a contract for State Water Project water that has been highly dependent on a reliable water supply. The trend of reduced and interrupted SWP supplies (due to Delta water quality and threatened-endangered species issues) and resultant increasing costs has significantly impacted DRWD growers and the regional economy. A no-project alternative is not a viable approach.

As with the SWC, DRWD considers BDCP Preferred Alternative (Alternative No. 4) and implementation of the Preferred Alternative in accordance with the BDCP schedule as the most viable alternative for improving the Delta. Specifically, the proposed twin-tunnel conveyance system, habitat restoration, and predator control measures outlined in the BDCP represent the most positive direction for the State. Saying that, DRWD remains concerned on costs and the affordability of the BDCP for its agricultural landowners. Cost allocations, financing, and assurances will be critical in determining our final support for the preferred alternative.

DRWD hereby incorporates into this letter the comments provided in the enclosed SWC letter of July 28, 2014. Thank you for registering this letter as DRWD's review comments on the draft BDCP and draft DEIR/DEIS.

Respectfully,



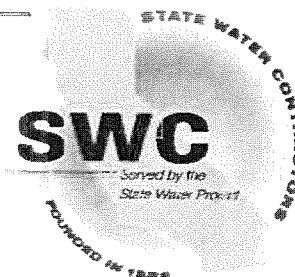
Dale K. Melville
Manager-Engineer

cc: Terry Erlewine, SWC
Gary Sawyers, Esq.
DRWD Board of Directors

Encl: as stated

July 28, 2014

Bay Delta Conservation Plan Comments
Ryan Wulff, National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814



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Tulare Lake Basin Water
Storage District

Joan Maher
Santa Clara Valley Water
District

Dan Masnada
Castaic Lake Water Agency

David Okita
Solano County Water Agency

General Manager
Terry Erlewine

Dear Mr. Wulff:

The State Water Contractors ("SWC"), on its own behalf and on behalf of its member agencies¹, provides the following comments on the draft Bay Delta Conservation Plan ("BDCP") and its draft environmental impact report/environmental impact statement ("DEIR/DEIS") released on December 13, 2013. In addition, we request copies of all subsequent documents and notices, including the Notice of Determination ("NOD").

SWC'S INTEREST IN THE STATE WATER PROJECT

As contractors with rights to receive State Water Project ("SWP") supplies, we appreciate the opportunity to provide comments. Collectively, the SWC member agencies serve water to more than 26 million people—roughly two-thirds of California's population—over a geographic area that extends from Butte County in the Sacramento Valley, through the San Francisco Bay area and San Joaquin Valley to the California Central Coast and Southern California. The SWC member agencies also serve water to over 750,000 irrigated farmland acres. SWP supplies are critical to California's economy and ability to manage statewide water supplies.

We are proud to have invested billions of dollars in the last 20 years to improve SWP reliability by using smart planning and implementing water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, new storage, and improved regional coordination. To date, we have also invested over \$100 million in the eight-year BDCP planning and stakeholder effort to secure long-term SWP reliability. The State Water Contractors have been investing in the SWP for more than four decades, and have additionally invested in regional storage and conveyance to allow our service areas to capture water when it is plentiful and reduce demands on imported supplies during dry and critically dry years. These investments will effectively become stranded if water deliveries from the project continue to degrade.

¹ Alameda County Flood Control and Water Conservation District Zone 7, Alameda County Water District, Antelope Valley-East Kern Water Agency, Casitas Municipal Water District, Castaic Lake Water Agency, Central Coast Water Authority, City of Yuba City, Coachella Valley Water District, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire-West Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, Metropolitan Water District of Southern California, Mojave Water Agency, Napa County Flood Control and Water Conservation District, Oak Flat Water District, Palmdale Water District, San Bernardino Valley Municipal Water District, San Gabriel Valley Municipal Water District, San Geronimo Pass Water Agency, San Luis Obispo County Flood Control and Water Conservation District, Santa Clara Valley Water District, Solano County Water Agency, and Tulare Lake Basin Water Storage District.

Ryan Wulff
National Marine Fisheries Service
Page 2

In recent years, SWP deliveries have been repeatedly interrupted and reduced due to operational conflicts with threatened and endangered Delta species. Additionally, the SWP risks complete failure given the vulnerability of the Delta levee system to catastrophic earthquake and flood events. Such an event could threaten water supplies for Southern California, the Bay Area, the Central Coast and the Central Valley for several years. These risks are unacceptable, and conditions are expected to worsen with climate change unless steps are taken now to mitigate these concerns. The proposed BDCP has been developed as provided for in both state and federal endangered species protection laws. Alternative No. 4 of the Draft BDCP DEIR/DEIS is the most promising plan developed to date to solve environmental challenges and resolve decades of conflicts between agricultural, urban and environmental water uses with a comprehensive solution that supports California's co-equal goals of a reliable water supply and a restored Delta ecosystem to benefit all water users.

SWC SUPPORT FOR BDCP PREFERRED ALTERNATIVE

SWC strongly supports the CEQA BDCP Preferred Alternative No. 4 with the expectation that the state and federal governments will move steadily forward with its adoption by issuing the NOD and Record of Decision ("ROD") by the end of this year, and by implementing the Alternative No. 4 in accordance with the BDCP schedule.

We support Alternative No. 4's proposed twin-tunnel conveyance system that would isolate and protect drinking water supplies in the event of catastrophic levee failure and help restore natural Delta flow patterns to benefit native species, as well as implementing habitat restoration, water quality and predator control measures set forth in the BDCP. We also support the Alternative No. 4's recognition that changing conditions in the Delta will require ongoing scientific review and monitoring so the plan can effectively adapt over time to emerging science and the evolving ecosystem. The draft plan additionally provides an important framework to address a range of operational outcomes and levels of certainty necessary for a final plan to merit investment by participating public water agencies and by the state and federal governments.

The BDCP process has been transparent and open to the public. Over the last eight years, the BDCP was developed with input from state and federal agencies and independent scientists with more than 600 public meetings and stakeholder briefings. All the documents, over 3,000, are posted online in a commitment to public access and government transparency. Although not required by law, in 2011, a working draft BDCP was released. Next, in 2012 and 2013, administrative drafts of the BDCP and DEIR/EIS were released for additional public and agency comment. Public input was used to significantly revise the proposed project to further minimize environmental impacts before the public draft BDCP and DEIR/DEIS were released for comment on December 13, 2013.

Numerous economic studies conducted for the BDCP demonstrate the financial benefits in securing a reliable water supply from the SWP for the state, as well as the potential hardships caused by inaction and a deteriorating existing water delivery system. Alternative No. 4's improved water supply reliability, according to a study by the University of California at Berkeley's David Sunding, will protect more than a million jobs throughout California. Without the BDCP, the statewide economic hardship caused by the prolonged loss of SWP water supply due to a seismic event could result in more than \$40 billion in economic damage statewide. BDCP offers the potential for economic benefits by protecting the state's most important water supply from natural disasters, climate change and further environmental restrictions.

Ryan Wulff
National Marine Fisheries Service
Page 3

In addition to the economic studies supporting Alternative No. 4, in the 2009 Legislature enacted the Delta Reform Act, which recognizes BDCP's central role in achieving the coequal goals of reliable water supplies from the Delta and Delta ecosystem restoration, and the Governor's recently released California Water Action Plan promotes increasing self-reliance through several measures, including providing a more reliable water supply that protects export supplies from catastrophic outages from earthquakes, major floods and rising sea levels. The Delta Reform Act and the California Water Action Plan highlight the BDCP's importance to the State to improve operational flexibility, protect water supplies and water quality, and restore the Delta ecosystem within a stable regulatory framework. The California Water Action Plan also states that as the Delta ecosystem improves in response to BDCP's implementing conservation measures, water operations will become more reliable, offering more secure water supplies. Beyond these laudable goals, the BDCP aims to restore export water supplies to levels that were realized before the 2008-2009 biological opinions.

CONCLUSION

The proposed BDCP Alternative No. 4 is the most comprehensive effort ever undertaken to address the chronic water challenges facing the state and federal water projects in a manner that protects the Delta environment. Delay is no longer a possibility. It is now time for the state and federal governments to approve and implement the BDCP, which was envisioned as part of the 2009 legislation in order to improve supply reliability and ecosystem function.

Key decisions remain relating to specifics on cost allocations, operations, outflow range, financing and other issues. However, the current Alternative No. 4 draft details a workable solution to the challenges facing the Delta and California's water resources. The SWC believes that implementation of Alternative No. 4 is a key part of improvements in water supply, along with new local resource developments and other longer-term federal/multi-state supply and conservation projects, that will be necessary if we are to secure and improve water supplies and economic future for California's growing population.

We urge the state and federal governments to quickly resolve the remaining issues to provide assurances that the BDCP will achieve California's coequal goals of water supply reliability and ecosystem restoration in a cost-effective manner and move forward with Alternative No. 4.

If you have any questions please do not hesitate to contact me at (916) 447-7357 ext. 203.

Sincerely,



Terry Erlewine,
General Manager

From: Dale Melville <dmelville@ppeng.com>
Sent: Tuesday, July 29, 2014 8:24 AM
To: bdcg comments - NOAA Service Account
Cc: Terry Erlewine; bernardp@paramountfarming.com; Gary Sawyers; Jackson1565@sbglobal.net; joemac@paramountfarming.com; JTVidovich@aol.com; LRSandridge@aol.com
Subject: comments on draft BDCP and DEIR/DEIS
Attachments: BDCP comment letter 7-2014.pdf

Please accept the attached comment letter from Dudley Ridge Water District.
A hard copy will be provided if requested.

Dale K. Melville, PE
Manager-Engineer
Dudley Ridge Water District
286 W. Cromwell Ave.
Fresno, CA 93711-6162
559-449-2700 x102
559-449-2715 fax
559-355-5880 cell

From: john@goldengatesalmon.org
Sent: Tuesday, July 29, 2014 7:08 AM
To: BDCP.Comments@noaa.gov
Cc: Ryan Wulff
Subject: Golden Gate Salmon Association Comments on Draft BDCP
Attachments: GGSA EIR EIS comments.docx

Please accept the attached as the comments of the Golden Gate Salmon Association on the draft BDCP.

John McManus
Executive Director
Golden Gate Salmon Association
650-218-8650

July 29, 2014

**Comments on the Public Draft Bay-Delta Conservation Plan (BDCP) and
Draft BDCP Environmental Impact Report/Environmental Impact Statement
Golden Gate Salmon Association**

Sent via email to BDCP.Comments@noaa.gov

What follows are the comments of the Golden Gate Salmon Association regarding the proposed Bay Delta Conservation Plan, or BDCP. GGSA is opposed to the BDCP in its current form because in short, as currently planned, it will eventually wipe out our salmon fishery. It is also premature pending a State Water board determination on Delta outflow requirements.

The Golden Gate Salmon Association is a coalition representing sport and commercial salmon fishermen as well as related businesses and an American Indian tribe.

The BDCP purports to improve conditions for Central Valley salmon by shifting the majority of water diversion in wet years from the existing south Delta pumps to the new intakes in the north Delta. While it is true that the existing water diversions in the south Delta are deadly to salmon and many other species, the BDCP plan calls for continued use of these pumps in addition to the new north Delta intakes. Existing controls on south Delta pumping are likely to be weakened under the BDCP which is sure to cause even more damage to salmon.

While it's true that the primary problem for Central Valley salmon primarily stem from water diversion and other manmade habitat modifications throughout the Sacramento River and Delta, the BDCP plans to take as much or more of the currently over allocated water desperately needed by salmon. Taking even more water out of the system under the BDCP will insure water is not there for salmon when needed. No matter what possible improvements to wetland or flood plain habitat might be made, they won't compensate for the basic river flows needed to flush juvenile salmon out of the Central Valley in the winter and spring, nor for the water needed for successful spawning in the fall.

BDCP is Premature Pending State Water Board Delta Flow Needs

GGSA believes that the BDCP cannot be accurately planned, sized or designed until the State Water Board first concludes its Delta outflow determination. Only then will we all know what water may or may not be surplus to basic environmental needs and potentially available for export in a new conveyance. Planning a new conveyance based on delivering a target volume of water far greater than what the environment can withstand is not an approach GGSA supports.

GGSA agrees with the comment from Friends of the River regarding this issue made in a letter sent June 4, 2013:

The Delta Reform Act requires in pertinent part that "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." California Water Code § 85086 (c)(1)(emphasis added).

The determination of flow criteria by the SWRCB has *not* been done. The federal agencies participate in the SWRCB processes. The SWRCB process is the correct one to set flow objectives as opposed to the BDCP Delta Water Tunnels process. Moreover, SWRCB determined water quality standards are then subject to EPA review for approval or disapproval under section 309 of the Clean Water Act. The BDCP process is simply a Department of Water Resources 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. Selection of the Tunnels alternative is a planning decision. By law, BDCP planning decisions must be informed by SWRCB determinations. The most important BDCP planning decision to ever be made--whether or not to construct new upstream conveyance--cannot be made lawfully until the SWRCB determinations have been made.

BDCP Increases Threats to Upstream Spawning Habitat

The draft BDCP document acknowledges fundamental threats to winter run salmon.

"In the Sacramento River spawning reaches, modeled water temperatures at Bend Bridge were higher (Figure 5.G-3) and minimum flow rate were lower (Figure 5.G-4) under the ESO compared to EBC2 scenarios, particularly during the ELT. These differences in Sacramento River conditions cause lower survival in ESO scenarios relative to EBC2 scenarios in the alevin and fry stages and are ultimately reflected in lower escapement under ESO." (BDCP Page 5.G-54)

And

"The number of years with poor redd dewatering conditions would be 11% and 8% higher under ESO_ELT and ESO_LLTT relative to EBC2_ELT and EBC2_LLTT, respectively." (BDCP Page 5C.5.2-67)

GGSA agrees with concerns pointed out in earlier feedback from the National Marine Fisheries Service in their so-called red flag comments. Although these comments responded to the administrative draft, the issues they address remain problematic.

The NMFS red flag comments warn that the BDCP is expected to cause the extinction of winter and spring run salmon in the main stem Sacramento River. This appears to be a continuing valid concern as evidenced by the BDCP statements above. GGSA believes threats to winter run are likely to also have a deadly effect on the commercially valuable fall run our industry relies on.

...the fact that the cumulative effects of the project when combined with effects of climate change and other baseline conditions is showing the potential extirpation of mainstem Sacramento River populations of winter-run and spring-run Chinook salmon over the term of the permit remains as a serious concern.

BDCP's own internal analysis show multiple problems including high winter and spring-run salmon egg mortality below Keswick dam in the summer and fall during dry and critically dry years because reservoirs could be drained by exports early in the year.

The modeling clearly shows higher river temperatures are expected in many years in the upriver sections critical to spawning and egg incubation. Temperatures exceeding 56 degrees for more than three days are deadly to incubating salmon eggs. Fish may return to spawn, but their eggs will die from the heat. It only takes a few years of conditions like this to wipe out the runs. We already suffer egg loss in the upper river due to excessive water temperatures extending much higher downriver than those targeted in the 2009 salmon biological opinion. BDCP promises to make this situation worse.

If BDCP conditions extirpate winter and spring run in the main stem, the fall run will certainly also suffer. Many of the same upstream conditions needed by winter run are needed by fall run.

Replacement of the existing salmon biological opinion with a 50 year BDCP Habitat Conservation Plan could eventually lead to an ESA listing of the fall run which in turn will end salmon fishing. The best advocates for salmon and their freshwater needs, salmon fishermen, would disappear.

In many recent years, water managers have been unable to attain the preferred 56 degree requirement called for in the 2009 salmon OCAP biological opinion at Bend Bridge, Jelly's Ferry or even Ball's Ferry (which is supposed to be attained 85 percent of the time). Taking even more water out of the system, and taking it earlier in the year, as envisioned under BDCP, will make this bad situation considerably worse.

The Fish Screens Will Be Highly Damaging to Juvenile Salmon

GGSA incorporates by reference the comments of Dave Vogel, Senior Scientist, Natural Resources Scientists Inc. on the problems posed by the fish screens in his comments titled:

June 6, 2014

Comments on the Public Draft Bay-Delta Conservation Plan (BDCP) and Draft BDCP Environmental Impact Report/Environmental Impact Statement

In short, the sweeping and bypass velocities are insufficient, siting of the screens insures this can't be fixed, the length of the screens are too long and they are sited too close to avoid serious damage to juvenile salmon. Estimation of juvenile salmon losses fail to account for predation when the intakes are not diverting. They also fail to adequately assess the cumulative damage juvenile salmon will experience when impinged on all three intake screens.

The BDCP admits the fish screens are likely to provide predator habitat but fails to adequately account for the true losses likely to occur.

Too Little Water Will Remain Below the BDCP Intakes For Salmon Outmigration

Presuming juvenile salmon survive passage by the diversion intakes, survivors will be more likely to get drawn off course into the deep delta through Georgiana Slough or other avenues than under current conditions, which are already very bad. Flows needed to carry them through the Delta would be reduced or absent or dependent on a water users dominated adaptive management panel. BDCP acknowledges the likelihood of increased reverse flows at Georgiana Slough but promises to address the problem by adjusting operations, something GGSA doesn't find credible.

"Operations will be managed at all times to avoid increasing the magnitude or frequency of flow reversals in Georgiana Slough." (BDCP Page 4-18)

"At this point, implement Level III post-pulse bypass rule (BDCP Table 3.4.1-2) so that bypass flows are sufficient to prevent any increase in duration, magnitude, or frequency of reverse flows at two points of control: Sacramento River upstream of Sutter Slough and Sacramento River downstream of Georgiana Slough. These points of control are used to prevent upstream transport toward the proposed intakes and to prevent any more upstream transport into Georgiana Slough than under existing conditions." (BDCP Page 3.4-17)

NMFS commented on this in its red flag comments:

The modeling analysis in the Admin Draft indicates that the Evaluated Starting Operations (ESO) will generally result in a reduction in flows below the north Delta diversions, but that those reductions will not result in increased duration or magnitude of reverse flows at the Georgiana Slough junction. This conclusion is relatively counter-intuitive....

GGSA agrees that this is not only counter intuitive, it's wrong. Reduced flows downstream of the proposed intakes will undoubtedly result in greater duration and magnitude of reverse flows at Georgiana Slough. These are deadly to out-migrating juvenile salmon. Georgiana Slough is a one way trip to death for juvenile salmon. After being sucked in by reverse flows, the best a juvenile salmon can hope for is to survive to the Delta pumps and be salvaged there. NMFS estimates the vast majority of juvenile salmon sucked into Georgiana perish.

The BDCP models clearly show taking much more water from January through June leaves a relative trickle downstream of the new planned diversion intakes. The BDCP presumes this relative trickle will be enough to aid out migration of juvenile salmon downstream of the intakes, through the bay, and safely out to sea.

BDCP's own internal analysis shows reduced flows downstream of the North Delta intakes creating a problem in the lower Sacramento River. Flow between Rio Vista and Chipps Island is known to be strong correlate of salmon survival and these flows will be reduced at critical times of the year from January to June, during peak juvenile salmon out migration when more water, not less, is needed in the river.

The ESO operations under BDCP consistently worsen flow conditions, and therefore decrease the survival probability compared to EBC2 (existing biological conditions). Flows at Rio Vista during the critical winter and spring out migration under BDCP proposed operations are worse than current conditions, meeting needed flows in less than 40 percent of years in March, versus less than 50 percent of years currently.

GGSA believes minimum flows at Rio Vista, needed to aid juvenile salmon outmigration are at least 25,000 cfs during spring migration and these won't be met under most BDCP scenarios.

Size matters

Even with three 3,000 cfs intakes, instead of the five originally planned, the two 40 foot diameter pipes are big enough to divert the entire Sacramento River at most times of the year. GGSA believes it likely that two additional intakes could be added at a future date. The best environmental insurance against this would be to downsize the twin tunnels before they're built. The size of the tunnels currently invites adding intakes to eventually take more water. Why do we need 15,000 cfs tunnels to move a maximum of 9,000 cfs of water from the three intakes?

Indeed, On BDCP Page 5.B-7, the BDCP points at this, saying: "The 15,000 cfs-capacity tunnels would allow gravity-driven transport of water from the three new 3,000 cfs intakes on the left bank of the Sacramento River ...".

Again, we hearken back to our original position that the size can't be determined in advance of the State Water Board's delta outflow determination. BDCP planners have yet to provide a credible reason for proceeding with twin 40 foot tunnels. Only a physical size restriction on the structures, tied to results of the State Water Board Delta outflow decision, will work to protect environmental concerns.

Reliance on Yolo Bypass Already Required

BDCP planners acknowledge the danger to juvenile salmon poised by the proposed intakes and counter with a plan to shunt juvenile salmon into the Yolo Bypass. Doing so would deliver these fish safely from the intakes.

Currently the Yolo Bypass only receives flood waters in years when flows are high enough to overtop the Fremont Weir. The BDCP envisions modifying the weir to flood the bypass in more water year types than is currently the case. Even if the weir is so modified, GGSA is skeptical water will be found in dry and critically dry years to flood the bypass and make it work. If it is, even less water will be available as Delta outflow below the intakes and reverse flows will be exacerbated. In addition, the 2009 salmon biological opinion already requires steps be taken to bring the Yolo Bypass online as a rearing ground for salmon, regardless of whether the BDCP is built or not. BDCP's baseline description fails to acknowledge this and other environmental improvements required by the salmon and smelt biological opinions.

The 2009 salmon biological opinion also requires the restoration of thousands of acres of wetland habitat in the Delta to aid salmon recovery. No one should mistake promises from BDCP proponents of wetland restoration as being tied to construction of the BDCP since this is

required regardless of whether the BDCP is ever built or not. Again, these required improvements are illegally omitted from BDCP's baseline description.

Much of the Habitat BDCP Proposes to Restore Outside Areas Used by Salmon

A considerable percentage of the wetland habitat BDCP proposes to restore in the Delta is not useful to juvenile salmon. Much of it is located in the interior or south Delta which is off the natural migration corridor of most juvenile salmon and therefore would not likely be used as rearing or migratory habitat. BDCP fails to acknowledge this, instead positing that all restored wetland habitat around the delta will aid listed salmon and other species.

Adaptive Management and Governance Dominated by Water Users Are Non Starters

BDCP is full of promises to adaptively manage in order to address yet to be known problems or known problems for which the answers are currently not clear. To do this, BDCP propose to vest far too much control in the hands of south of Delta water users over adaptive management decisions affecting listed species.

In a study conducted for American Rivers and the Nature Conservancy, study authors found:

.. when examined in detail, the draft BDCP blurs the lines between implementation and regulation and grants the permittees unusual decision authority.

It's not credible to argue that salmon-friendly decisions will be made in times of drought when water users, representing agricultural interests are the dominant decision making group. Pressure from water users and agricultural interests during the drought of 2014 to waive or weaken salmon protections demonstrates exactly what to expect next time the interests of water users is positioned opposite the interests of salmon advocates.

The drought response of 2014 saw the water users succeed in getting the federal Endangered Species Act waived when the OMR pumping restrictions were exceeded and again when the I/E ratio pumping restriction was waived in the spring of 2014.

These experiences in 2014 undermine the idea that adaptive management in BDCP can and will work on behalf of listed species. The salmon fishing community has zero belief that when push comes to shove, adaptive management decisions will be made that favor salmon. We challenge BDCP supporters to point to a single instance where this has occurred with any HCP.

The American Rivers/Nature Conservancy study also found:

Additionally, the regulatory assurances in the Plan, especially the "no--surprises" policy, place undue financial responsibilities on the state and federal governments if certain modifications to the Plan become necessary during its 50-year term."

GGSA agrees. Relative to "no surprises", BDCP seeks a 50 year permit to operate a facility for which there's no good analogue.

Proponents of BDCP are seeking a promise that a permit will shield them from unpleasant surprises at some future date if it's discovered the project is illegally taking listed species. Instead, damage to listed species and the environment would more likely be mitigated by taxpayers through state and federal offices, something GGSA disagrees with. At a minimum, a more responsible approach would be to require testing of simulated pieces of BDCP to help answer the many unanswered questions before any permit is awarded.

South Delta Pumps Controls Likely to Weaken

The current proposal calls for dual conveyance under various scenarios which would use existing south Delta water intakes in addition to the new proposed intakes, during wet years. Existing weak controls on south Delta diversions would be replaced by a new set of even weaker operational criteria that would leave salmon even more exposed to death associated with south delta pumping operations than currently.

The BDCP Fails to Recover Listed Species

The BDCP purports to at best, avoid take and jeopardy to listed species. This is a threshold lower than the recovery standard GGSA believes any project should be held to. The existing state and federal water projects have been primary reasons two salmon runs are ESA listed in California now. Any project that replaces the existing highly flawed system should provide conditions that will recover these listed runs, something BDCP fails utterly at.

In short, the current plan to build the BDCP represents a big over reach by those south of the Delta coveting salmon water. These entities make no secret of their disdain for current salmon protections embodied in the 2009 salmon biological opinion and have worked tirelessly to get these protections weakened and removed so they can take more water. Northern California's ecosystem needs more of this water, not less, something the BDCP will never provide. Neither Delta smelt, green sturgeon, steelhead, nor winter and spring run salmon will ever recover if more water is taken as envisioned by the BDCP.

Contact:

John McManus
Executive director
Golden Gate Salmon Association



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July 24, 2014

BDCP Comments

Attention: Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, California 95814

Dear Mr. Wulff:

I trust this correspondence finds you and your staff well.

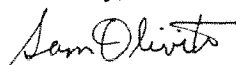
Following the passage of California's comprehensive water package in 2009, our organization has closely watched the BDCP process. We are encouraged by the release of the public draft of the plan and environmental documents. The outcome of this multi-year effort reflects collaboration of public water agencies, state and federal fish and wildlife agencies, business and agriculture stakeholders, local governments and the public.

However the Legislature and the Governor have not yet completed their "negotiations" regarding the November 2014 Water Bond ballot measure. Therefore, the California Contract Cities Association's supports a continued Legislative and Executive emphasis on water conservation, necessary infrastructure improvements, the need for shared water resources throughout the State, a focus on innovative solutions to the water crisis as well as the challenge to take important steps to plan for drought and emergency conditions that may arise in the future.

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 some difficult decisions and compromise between stakeholders with varying priorities. However, California cannot sit idly by and wait for disaster. We support the BDCP as a workable draft proposal that can lead to a final successful plan of action because it offers the best solution to enhance our state's water supply infrastructure while restoring the Delta's ecosystem.

Thank you for your continued work on this and other important issues facing our State.

Sincerely,


Sam Olivito
Executive Director

Cc: CCCA Executive Board
League of California Cities
Metropolitan Water District

From: Kelli Lofing <kelli@contractcities.org>
Sent: Monday, July 28, 2014 4:40 PM
To: BDCP.comments@noaa.gov
Subject: BDCP Letter
Attachments: Water Conservation Efforts.pdf

Good Afternoon,

Please see attached for California Contract Cities Association's letter regarding the BDCP.

Kindly,
Kelli

Kelli Lofing
Executive Assistant
California Contract Cities Association
Office: 562.622.5533 X6
www.facebook.com/contractcities



July 28, 2014

BDCP Comments

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

RE: Comments on the BDCP and Associated Draft EIR/EIS

Dear Mr. Wulff:

The Bay Area Council has a long history of advocacy on California's critical water issues that is independent, fact-based and committed to the public interest. As an organization that represents the largest Bay Area companies with hundreds of thousands of employees, and no direct interest in any particular solution to the problem, we also bring a level of perspective unique to many interest groups that will undoubtedly comment on the BDCP initiative.

From Silicon Valley to San Diego, 25 million Californians receive all or part of their fresh water from supplies pumped through the Delta. But the current pumping system has two critical weaknesses: extreme vulnerability to seismic collapse, which presents an intolerable risk to Californians and the regional economy, and the lack of flexibility and structural insensitivity to the ongoing decline of the fragile delta ecosystem. It is the unique combination of economic strength and opportunity, and an independent-minded people, amidst what is the most environmentally rich location on earth, which makes California so special. Susceptibility to seismic collapse and/or ecosystem collapse not only threatens our ability to meet California's water needs, it threatens California's future as the Golden State.

The Bay Area Council has participated in the ongoing technical and policy discussions about BDCP for several years, and there is no question that the status quo in the Delta is unsustainable. During the Stakeholder discussions that led to the Blue Ribbon Task Force's adoption of the co-equal goals of water system reliability and ecosystem health and recovery, there was broad consensus that a dual conveyance system, both through and around the Delta, was the best way of achieving these goals. We support that position as the cornerstone of our support of the BDCP process.

We have not completed an exhaustive review of the BDCP draft EIR, and we are sure that there will be revisions to some of the mitigation strategies once all of the technical comments have been digested. At the same time, we have observed that the BDCP draft EIR is perhaps the most thorough and readable digest of the major water supply, water quality and environmental issues facing California. We commend the Resources Agency for its leadership of this effort, and its attention to the many complicated details that must be analyzed to arrive at an implementable solution. We support the major findings of the EIR, and believe that we should continue down the BDCP path to arrive at an implementable solution with continued due speed and process.

Of course, the major concern that people have expressed, and that we share, relates to how the dual conveyance system would be operated, and what effects taking water from the proposed Sacramento River inlets would have on water quality and fish species. A tremendous amount of work was done in the EIR to address this, and while we reserve judgment on the specific modelling results until other more technical reviewers have completed their work, we support the initiative to develop and

implement revised water quality goals for the key waterways, and the proposed restoration of thousands of acres for the recovery of important fish species.

At the same time, the BDCP is not the complete answer to California's water problems. Without additional storage we will not be prepared to implement the "big gulp – little sip" approach (taking lots of water in wet years for use in dry and critically dry years), particularly in light of the hydrologic changes and loss of snowpack associated with climate change. Without additional investments in regional initiatives for integrated water management, recycling, conservation, and ground water management, the state will not be able to support its growth over coming years. As such, the Bay Area Council is very supportive of the "BDCP-plus" ideas that have been discussed by Sunne McPeak and others at the Delta Vision Foundation.

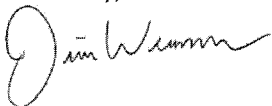
As such, we believe BDCP is an important piece of the solution, but needs to be complemented by actions in other areas.

Two major concerns we have relate to financing and governance. We question the ability (and perhaps willingness) of some of the water districts—whose financial participation will be required to finance BDCP—to pay their fair share. There are also certain elements of the plan, including habitat restoration, which may be extremely difficult to fund at anticipated levels with general obligation funds, and as the restoration efforts are key component of the environmental recovery plan, those financial requirements need to be included in the overall financing plan.

On governance, there is concern that construction of a large new conveyance system will become a "field of dreams"... (build it and they will pump it), even in dry years when withdrawals need to be moderated. While we understand the BDCP is the basis for regulatory permits from federal and state wildlife agencies whose regulations are there to prevent overpumping, we believe the state needs its own internal controls and governance system to maintain the co-equal goals on which this program is built. Environmental laws and regulatory systems can be changed, and we are looking for some additional work on the governance of the new system before it is built.

To paraphrase Governor Brown, BDCP is a big solution for a big problem. We still have some important questions about BDCP, but we believe it is part of the best available option for addressing the critical issues at hand.

Sincerely,



Jim Wunderman
President & CEO
Bay Area Council

From: Brianne Riley <briley@bayareacouncil.org>
Sent: Monday, July 28, 2014 5:06 PM
To: BDCP.comments@noaa.gov
Cc: Jim Wunderman; John Grubb; Andrew Ball; Nisha, Jairun; James Levine; Adrian Covert
Subject: Bay Area Council BDCP Comments
Attachments: Bay Area Council BDCP Comment Letter.pdf

Dear Mr. Wulff:

Attached please find the Bay Area Council's comments on the BDCP and Associated Draft EIR/EIS. I will be submitting them by mail as well. Please let me know if there is any additional information that we can provide.

Thank you,
Brianne

Brianne Riley, JD | Policy Associate | **BAYAREA COUNCIL**
353 Sacramento Street, 10th Floor | San Francisco, CA 94111
Direct: 415-946-8747 | Cell: 510-545-3552 | briley@bayareacouncil.org

July 28, 2014

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

Subject: Castaic Lake Water Agency Comments on the Bay Delta Conservation Plan and its Associated National Environmental Policy Act and California Environmental Quality Act Document

Dear Mr. Wulff:

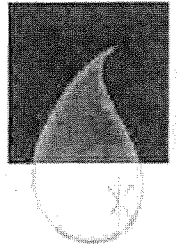
The Castaic Lake Water Agency (CLWA) is a State Water Project (SWP) contractor that serves the 270,000 residents and businesses of the Santa Clarita Valley with imported water. Imported water primarily from the SWP provides about half of our service area's water demand in normal years. We appreciate the opportunity to provide the following comments on the draft Bay Delta Conservation Plan (BDCP) and its draft environmental impact report/environmental impact statement (DEIR/DEIS) released on December 13, 2013. In addition, we request copies of all subsequent documents and notices, including the Record of Decision (ROD).

In recent years, SWP deliveries have been repeatedly interrupted and reduced due to operational conflicts with threatened and endangered Delta species. Additionally, the SWP risks complete failure given the vulnerability of the Delta levee system to catastrophic earthquake and flood events. Such an event could threaten water supplies for Southern California, the Bay Area, the Central Coast and the Central Valley for several years. These risks are unacceptable, and conditions are expected to worsen with climate change unless steps are taken now to mitigate these concerns. The proposed BDCP includes protection and habitat enhancement for special status species in both state and federal endangered species protection laws. Alternative No. 4 of the Draft BDCP DEIR/EIS is the most promising plan developed to date to solve environmental challenges and resolve decades of conflicts between agricultural, urban and environmental water uses with a comprehensive solution that supports California's co-equal goals of a reliable water supply and a restored Delta ecosystem to benefit all water users.

CLWA SUPPORT FOR BDCP AND DEIR/DEIS PREFERRED ALTERNATIVE

CLWA strongly supports the DEIR/DEIS Preferred Alternative No. 4 with the expectation that the state and federal governments will move steadily forward with its adoption by issuing the ROD and Notice of Determination (NOD) by the end of this year, and by implementing the Alternative No. 4 in accordance with the BDCP schedule.

**CASTAIC
LAKE**



**WATER
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GENERAL COUNSEL

BEST BEST & KRIEGER, LL

SECRETARY

APRIL JACOBS

We support Alternative No. 4's proposed twin-tunnel conveyance system that would isolate and protect drinking water supplies in the event of catastrophic levee failure and help restore natural Delta flow patterns to benefit native species, as well as implementing habitat restoration, water quality and predator control measures set forth in the BDCP. We also support the Alternative No. 4's recognition that changing conditions in the Delta requires ongoing scientific review and monitoring so the plan can effectively adapt over time to emerging science and the evolving ecosystem. The draft plan additionally provides an important framework to address a range of operational outcomes and levels of certainty necessary for a final plan to merit investment by participating public water agencies and by the state and federal governments.

The BDCP process has been transparent and open to the public. Over the last eight years, the BDCP was developed with input from state and federal agencies and independent scientists with more than 600 public meetings and stakeholder briefings. All the documents, over 3,000, are posted online in a commitment to public access and government transparency. Although not required by law a working draft BDCP was released in 2011. In 2012 and 2013, administrative drafts of the BDCP and DEIR/DEIS were released for additional public and agency comment. Public input was used to significantly revise the proposed project to further minimize environmental impacts before the public draft BDCP and DEIR/DEIS were released for comment on December 13, 2013.

Numerous economic studies conducted for the BDCP demonstrate the financial benefits in securing a reliable water supply from the SWP for the state, as well as the potential hardships caused by inaction and a deteriorating existing water delivery system. Alternative No. 4's improved water supply reliability, according to a study by the University of California at Berkeley's David Sunding, will protect more than a million jobs throughout California. Without the BDCP, the statewide economic hardship caused by the prolonged loss of SWP water supply due to a seismic event could result in more than \$40 billion in economic damage statewide. BDCP offers the potential for economic benefits by protecting the state's most important water supply from natural disasters, climate change and further environmental restrictions.

In addition to the economic studies supporting Alternative No. 4, in the 2009 Legislature enacted the Delta Reform Act, which recognizes BDCP's central role in achieving the coequal goals of reliable water supplies from the Delta and Delta ecosystem restoration. Also, the Governor's recently released California Water Action Plan promotes increasing self-reliance through several measures, including providing a more reliable water supply that protects export supplies from catastrophic outages from earthquakes, major floods and rising sea levels. The Delta Reform Act and the California Water Action Plan highlight the BDCP's importance to the State to improve operational flexibility, protect water supplies and water quality, and restore the Delta ecosystem within a stable regulatory framework. The California Water Action Plan also states that as the Delta ecosystem improves in response to BDCP's implementing conservation measures, water operations will become more reliable, offering more secure water supplies. Beyond these laudable goals, the BDCP aims to restore export water supplies to levels that were realized before the 2008-2009 U.S. Fish and Wildlife Service issued biological opinions setting requirements for Federal Endangered Species Act compliance.

CONCLUSION

The proposed BDCP Alternative No. 4 is the most comprehensive effort ever undertaken to address the chronic water challenges facing the state and federal water projects in a manner that protects the Delta environment. Delay is no longer an option. It is now time for the state and federal governments to approve and implement the BDCP, which was envisioned as part of the 2009 legislation to improve supply reliability and ecosystem function.

Key decisions remain relating to specifics on cost allocations, operations, outflow range, financing and other issues. However, the current Alternative No. 4 draft details a workable solution to the challenges facing the Delta and California's water resources. CLWA believes that implementation of Alternative No. 4 is a key part of improvements in water supply, along with new local resource developments and other longer-term federal/multi-state supply and conservation projects, that will be necessary if we are to secure and improve water supplies and economic future for California's growing population.

We urge the state and federal governments to quickly resolve the remaining issues to provide assurances that the BDCP will achieve California's coequal goals of water supply reliability and ecosystem restoration in a cost-effective manner and move forward with Alternative No. 4.

Sincerely,



Dan Masnada
General Manager

cc: State Water Contractors
CLWA Board of Directors
Hon. Barbara Boxer, United States Senate
Hon. Dianne Feinstein, United State Senate
Hon. Howard P. "Buck" McKeon, California 25th Congressional District
Hon. Stephen T. Knight, California 21st Senate District
Hon. Fran Pavley, California 27th Senate District
Hon. Scott T. Wilk, California 38th Assembly District
Hon. Steve Fox, California 36th Assembly District
Hon. Jeff Gorell, California 44th Assembly District

From: Jeff Ford <jford@clwa.org>
Sent: Monday, July 28, 2014 3:54 PM
To: 'BDCP.comments@noaa.gov'
Subject: Castaic Lake Water Agency Comments on the BDCP DEIR/DEIS
Attachments: BDCP DEIR_DEIS Comment Letter 7_14.pdf

Hello,

A copy of the comments is attached for your consideration.

Regards,

Jeff Ford
Principal Water Resources Planner
Castaic Lake Water Agency
(661) 513-1281

Privileged and Confidential Communication

This electronic transmission, and any documents attached hereto, (a) are privileged under the attorney-client privilege and are attorney work product. They are not to be disclosed under the Public Records Act, Govt. Code Section 6252(b). They are further protected by the Electronic Communications Privacy Act (18 USC §§ 2510-2521), (b) may contain confidential and/or legally privileged information, and (c) are for the sole use of the intended recipient named above. If you have received this electronic message in error, please notify the sender and delete the electronic message. Any disclosure, copying, distribution, or use of the contents of the information received in error is strictly prohibited.

From: Smith, Cortnie <csmith@kcwa.com>
Sent: Monday, July 28, 2014 3:40 PM
To: 'BDCP.comments@noaa.gov'
Cc: Beard, Dave
Subject: Comments on the Draft Bay Delta Conservation Plan and Environmental Impact Report/Statement
Attachments: BDCP Comment Letter 14-0726.pdf

Good Afternoon,

Attached please find comments on the draft Bay Delta Conservation Plan and Environmental Impact Report/Statement on behalf of East Niles Community Services District, Oildale Mutual Water Company and Vaughn Water Company.

Thanks,

Cortnie Smith

Management Assistant
Improvement District No. 4
Kern County Water Agency
661.634.1494
csmith@kcwa.com

July 26, 2014

Bay Delta Conservation Plan Comments
Mr. Ryan Wulff
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Dear Mr. Wulff:

Re: Draft Bay Delta Conservation Plan and Environmental Impact Report/Statement

The East Niles Community Services District, Oildale Mutual Water Company and Vaughn Water Company (Districts) would like to thank you for the opportunity to review and comment on the draft Bay Delta Conservation Plan (BDCP) as released on December 13, 2013.

For nearly five decades, the State Water Project (SWP) has provided a significant portion of Kern County's valley floor water supply, averaging roughly 23 percent of the region's water needs. Even as the County's agricultural and urban conservation efforts continue, the SWP will remain an essential source of water, including by helping to replenish the valley's groundwater basins.

In recent years, however, federal wildlife agencies have imposed restrictions on SWP and Central Valley Project (CVP) (collectively, Projects) operations in order to reduce the Projects' impacts on threatened and endangered Sacramento-San Joaquin Delta (Delta) species. As a result, water managers have been forced to significantly reduce both state and federal water deliveries. Additionally, the vulnerability of the Delta levee system to earthquake and flood events puts both Projects at risk of failure. A levee failure would threaten water supplies for the Delta, southern California, the Bay Area, the Central Coast and the Central Valley for up to three years. These risks are cause for concern, especially as conditions are expected to worsen with climate change. The proposed BDCP, being developed under provisions of the state and federal endangered species laws, is, to date, the most promising plan to solve these challenges. The draft plan proposes a comprehensive solution that achieves California's co-equal goals of a reliable water supply and restored Delta ecosystem for the benefit of all water users.

The Districts applaud the progress made on the BDCP's proposed twin-tunnel conveyance system that isolates and protects drinking water supplies, helps restore natural flow patterns in the Delta for the benefit of native species, and includes habitat restoration and water quality and predator control measures. The Districts support the plan's recognition that changing conditions in the Delta will require ongoing scientific review and real-time monitoring in order to effectively adapt over time to emerging science and the evolving ecosystem. The draft plan also provides an important

framework for developing a range of operational outcomes that will provide a level of certainty that merits investment by participating public water agencies and by the state and federal governments.

Key decisions remain relating to specifics on cost allocations, operations, outflow range, financing and other issues; however, the current draft details a workable solution to the challenges facing California's water resources and the Delta.

The Kern County Water Agency (Agency), of which the Districts are stakeholders, has identified several critical issues related to the yield, cost and assurances of the BDCP. Most notably, the yield of the completed project must not be lower than the recent historical yield of the combined SWP and CVP, and must provide a reliable water supply to all participating contractors. The costs of the project must not exceed the estimates in the draft BDCP (Chapter 8) and must be allocated following a "beneficiary pays" methodology, with Public Water Agencies (PWAs) covering the costs of the water conveyance infrastructure and public funds covering the cost of conservation measures providing public goods. Lastly, the PWAs must have assurances that the BDCP will minimize risks of additional regulatory requirements that would reduce yield from the Projects.

Yield

1. Conveyance Operations. *In order to provide water supply reliability consistent with DWR's most recent State Water Project Reliability Report (2011), the proposed conveyance must operate in such a way that additional water required for fish and wildlife will be made up with no net loss to the SWP and CVP contractors.*
 - Comment 1: The Real Time Operations proposed in the BDCP and draft Implementing Agreement (IA) are designed with the "purpose of maximizing conservation benefits to covered fish species and maximizing water supplies. (IA pg. 27)" However, it is unclear how the dual maximization will be achieved. Therefore, the BDCP and IA should include specific language stating conservation benefits cannot be increased at the expense of water supply.
 - Comment 2: The Decision Tree described in the BDCP, in addition to being based on an incomplete understanding of the connection between smelt abundance and salinity levels, has the potential to decrease water supplies from the SWP to the point where the proposed conveyance is not financially feasible. Though there are measures still under consideration that could alleviate the risk of water supplies falling below the point of affordability, no specific plan has yet been proposed. The BDCP should include a floor below which water supplies could not fall.
2. Flexible Pumping Operations in a Dynamic Fishery Environment. *Water supply conveyance options must allow the greatest flexibility in meeting water demands by allowing the diversion of water where and when it is least harmful to migrating salmon and in-Delta fish species.*

- Comment 3: The new screened intakes proposed by the draft BDCP in the northern, rather than southern, Delta would substantially reduce reverse flow conditions caused when water is pumped from the south and would lead to a more natural flow pattern in the estuary. In this respect, the draft BDCP meets the co-equal goals of improving water supply reliability and enhancing the Delta ecosystem.

3. *Climate Change Risks.* *Conveyance options must reduce long-term risks associated with rising sea levels and salinity intrusion. Intake locations should be able to withstand an estimated 1- to 3-foot sea-level rise in the next 100 years.*

- Comment 4: The proposed intakes in the northern Delta are upstream of predicted climate change driven salinity intrusion. This location will protect water supplies from the effects of levee breach, as well as sea level rise. Impacts to the Delta ecosystem from climate change-related salinity intrusion are not mitigated by moving the intakes to the northern Delta; however, other conservation measures in the draft BDCP are intended to mitigate climate change-related risks to the Delta ecosystem. In this respect, the draft BDCP meets the co-equal goals of improving water supply reliability and enhancing the Delta ecosystem.

Cost

1. *Cost Allocation.* *The "beneficiary pays" model is the most equitable way to allocate costs for the BDCP between PWAs and the state and federal governments, between the CVP and SWP contractors, and among the SWP contractors.*

- Comment 5: Costs for each portion of the BDCP must be allocated to the parties benefiting from that portion of the project. In the case of the conveyance facilities, those PWAs participating in the project should bear the full cost of those facilities. Costs for habitat restoration and other conservation measures providing public goods should be paid from public funds. Chapter 8 of the draft BDCP outlines costs for various conservation measures and allocates to PWAs costs for design, construction, maintenance and mitigation of the proposed conveyance. PWAs cannot afford to pay more than these allocated costs. The BDCP should clearly state that the project is contingent upon commitment of state and federal funding for the remaining costs.

2. *Design and Construction Oversight.* *Well managed budgets and schedules during the design and construction phases are necessary to keep the BDCP affordable.*

- Comment 6: Management of the design and construction phases of the conveyance portion of the BDCP must involve PWA oversight to ensure budgets and schedules are met. The draft BDCP outlines involvement of the Authorized Entities Group, of which some PWAs may be a part, in the Implementation Office, but lacks clear definition of the management of the design and construction phases of the proposed conveyance. The BDCP and supporting documents must clearly define involvement of the

PWAs in managing the budgets and schedules for design and construction of the proposed conveyance.

3. Public Funding Shortfall. *All funding sources should be based on firm commitments that are clearly defined in order for the BDCP to move forward.*
 - Comment 7: The draft BDCP is structured in a way that allows for cooperative funding from several agencies at various governmental levels. However, the project is contingent upon receiving funding from all of these sources in order to provide the desired results. Funding from bonds or appropriations is less certain than the funding provided by the PWAs. The BDCP should clearly state that a commitment to funding from the state and federal agencies is required for the project to move forward.

Assurances

1. Regulatory Stability. *Conveyance options should minimize risks of additional regulatory requirements that could reduce yield from the Projects.*
 - Comment 8: As a Habitat Conservation Plan under Section 10 of the federal Endangered Species Act (ESA) and a Natural Community Conservation Plan under Fish and Game Code Section 2800 et seq., the BDCP offers a path of regulatory stability for both the PWAs and wildlife agencies. The BDCP should define and describe this regulatory stability and offer a clearer explanation of how this approach differs from the current species-by-species approach to regulation and ESA enforcement.
2. Permittees. *The PWAs should be eligible for permittee status.*
 - Comment 9: The Agency must be among the project permittees in order to assure its active participation in governance of the BDCP. Some PWAs, including the Agency, have applied to become permittees and the language in the BDCP is favorable but unclear. The BDCP should clearly state that PWAs are eligible for permittee status equal to the California Department of Water Resources.
3. Rough Proportionality. *The BDCP must be implemented with "rough proportionality" in order to satisfy Natural Community Conservation Plan requirements.*
 - Comment 10: The LA states that if the BDCP is implemented as designed, the California Department of Fish and Wildlife (CDFW) will consider the project in compliance with applicable "rough proportionality" requirements. However, many of the restoration and other conservation measures are to be paid for with public funds. A shortfall of public funds could therefore put the project in jeopardy. The BDCP should include a provision stating the permits would remain in effect provided the permittees are fulfilling their obligations, even if there is a lack of public funding.

4. Biological Goals and Objectives.

- Comment 11: The biological goals and objectives of the project should be determined on the basis of the best available scientific information regarding the covered species, habitats and natural communities. Biological objective DTSM2.1 in the draft BDCP is not based on the best available scientific information and should be deleted or changed. Whereas the stated intent of DTSM2.1 is to improve delta smelt habitat, it fails to do so by defaulting to the use of salinity as a proxy for delta smelt habitat. Recent scientific information demonstrates that salinity is one characteristic element of delta smelt habitat, but that the species inhabit water with a wide range of salinity, and that other biotic and physical factors must be considered when defining delta smelt habitat.

5. Adaptive Management Plan. *The Adaptive Management Plan should be implemented in such a way that operational changes do not result in a net loss of water from the Projects.*

- Comment 12: Operational changes implemented through the Adaptive Management Plan and other adaptive measures have the ability to impact yield from the Projects. The BDCP mentions a fund through which water could be purchased to meet those operational changes. Details regarding this fund, including its sources, are not clearly defined. The BDCP should clearly state that the Adaptive Management Plan and other adaptive measures will not cause a net loss of water from the Projects. It should also define the Supplemental Adaptive Management Fund as a resource funded by the state and federal government to be used to offset any water costs resulting from implementation of the Adaptive Management Plan.

6. Permit Term. *A permit term of 50 years provides the PWAs with the assurance that water supplies from the proposed conveyance will be relatively stable into the near future.*

- Comment 13: The BDCP is intended to result in a 50-year incidental take permit that cannot be changed beyond the limits of the Adaptive Management Plan, unless the regulatory agencies determine that the species are in jeopardy. However, the permit term is not clearly defined in the draft BDCP, and will not be firm until the permits are issued. The BDCP should clearly state that it is intended to result in permits with a 50-year term.

The Agency and its member units have purchased water from the SWP for more than four decades, and have undertaken efforts to increase regional storage and conveyance to allow Kern County to capture water when it is plentiful and reduce demands on imported supplies during dry and critically dry years. These efforts, including significant financial investment, will be diminished if water deliveries from the SWP continue to degrade.

The SWP provides essential water supply benefits to Kern County and helps the County achieve other water resource development objectives. For example, the SWP facilitates

groundwater replenishment. Since the 1970s, the Agency and its member units have been involved in groundwater recharge projects, providing below surface storage of water captured in wet years and allowing that water to be drawn upon in dry years.

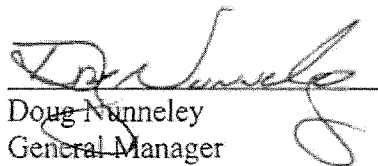
The proposed BDCP is the most comprehensive effort ever undertaken to address the chronic water challenges facing the Projects in a manner that is protective of the Delta environment. The Districts urge the state to move forward with the draft plan and focus on resolving the remaining issues, including those identified above, which are needed to provide assurances that the plan will achieve California's co-equal goals of improving water supply reliability and enhancing the Delta ecosystem in a cost-effective manner.

Thank you for the opportunity to comment on this historic draft plan.

Sincerely,



Tim Ruiz
General Manager
East Niles Community Services District



Doug Nanneley
General Manager
Oildale Mutual Water Company



Van Grayer
General Manager
Vaughn Water Company



Paradise Irrigation District

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July 28, 2014

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

RE: The Bay-Delta Conservation Plan (BDCP) and its Impacts on Regional Sustainability in the North State

Dear Secretary Laird,

The Paradise Irrigation District supports the comment letter dated July 28, 2014, submitted on behalf of the North State Water Alliance, which contains comments on the Bay Delta Conservation Plan, and its associated Implementation Agreement and draft Environmental Impact Statement and Environmental Impact Report. By and through this letter, Paradise Irrigation District adopts each comment and objection in the July 28, 2014 letter as its own, along with all exhibits and attachments to that letter, and incorporates herein by this reference all such comments, objections, and documents.

Sincerely,
Paradise Irrigation District

George Barber
General Manager

From: George Barber <gbarber@paradiseirrigation.com>
Sent: Monday, July 28, 2014 3:24 PM
To: 'BDCP.Comments@noaa.gov'
Subject: Bay-Delta Conservation Plan Comments
Attachments: BDCP july2014.pdf

Please see the attached comment letter provided by Paradise Irrigation District.

George Barber
General Manager
Paradise Irrigation District
530-876-2032

"Calm Seas Never Made A Skillful Sailor"



July 23, 2014

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

Submitted via email: BDCP.comments@noaa.gov

Re: Draft Bay Delta Conservation Plan and associated Draft Environmental Impact Report/Environmental Impact Statement (BDCP Draft EIR/EIS)

Dear Mr. Wulff:

The Delta Caucus is comprised of the five Delta County Farm Bureau's; Contra Costa, Sacramento, San Joaquin, Solano and Yolo. Since 2008, the five Delta County Farm Bureau's joined to form the Delta Caucus and has been engaged to protect and promote the viability of Delta agriculture and represent the family farmers and ranchers who live and farm in the Delta.

We appreciate the opportunity to comment on the Draft BDCP and the related EIR/EIS. Please accept our comments and related questions (Attachment A) on behalf of our combined organization and as if submitted by each of the individual County Farm Bureaus as listed above.

The proposed BDCP will have tremendous negative impacts on Delta agricultural resources. The primary negative impacts will be caused by conversion of agricultural lands to other uses, degraded water quality caused by intrusion of salt water into the Delta and negative impacts to infrastructure such as flood control and drainage. In addition, there will be severe secondary impacts to Delta agricultural resources caused by the cumulative impacts which will irreparably impair the Delta economy. Some of the negative impacts have been identified and studied in the Draft EIR/EIS, but many have not. Mitigation to diminish the severity of identified impacts has been proposed, but is inadequate to provide for a vibrant and viable Delta agricultural economy.

Key ingredients for viable and resilient Delta agriculture are land, high quality water, and infrastructure. Our comments will focus on the impact of the BDCP to these key requirements and are organized around the following:

1. Consistency of the BDCP with laws and regulations protecting Delta agricultural resources.
2. Collective negative impacts of the BDCP on Delta agriculture.
3. Unidentified impacts.
4. Analysis of proposed mitigation.
5. Inadequate study of alternatives.

The Regulatory Landscape...Land

County General Plans value and protects Delta agricultural resources and recognize that agriculture is the foundation of the Delta economy.

The Delta Protection Act of 1992 in Section 29703 (a)(c) describes the Delta as an agricultural region of great value and states that the Primary Zone should be protected from the intrusion of non-agricultural uses. This Act created the Delta Protection Commission and directed it to create the Land and Resource Management Plan, which has five land use policies that protect agricultural resources. In addition, pursuant to the Delta Reform Act, The Delta Protection Commission prepared the Delta Economic Sustainability Study, which clearly shows that agriculture is the backbone of the Delta's economy.

The Delta Reform Act established the co-equal goals of water supply reliability and ecosystem restoration and conditioned their achievement on the protection and enhancement of Delta resources to include agriculture. Section 29702 (a) states that "The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resources and agricultural values of the Delta as an evolving place." The Delta Reform act also created the Delta Stewardship Council and directed it to develop the Delta Plan. Chapter 5 of the Delta Plan establishes policies and goals to protect Delta agricultural resources (Delta Plan: Pages 183 and 192-198).

While the draft EIR/EIS mentions the applicable laws and regulations, it does not demonstrate consistency with county general plans, the Delta Protection Act or the Sacramento- San Joaquin Delta Reform Act.

The Regulatory Landscape...Water

The establishment and operation of the State Water Project (SWP) and the Central Valley Project (CVP) are based on water law that, among other things, establishes the common pool principle, area of origin priorities, and limits water exports to surplus water.

Because of the changing definition of surplus water and the need to recognize environmental needs in that equation, a series of steps has been taken over time to establish standards to protect water and Delta environmental quality.

- The 1995 Bay Delta Plan established salinity standards throughout the Delta.
- The Water Resources Control Board in Decision 1641 (D-1641) Chapter 10 assigned responsibility for achieving salinity standards to the SWP and CVP, and because salinity intrusion into the Delta is determined by outflow, Chapter 13 also assigns responsibility for achieving flow standards to the SWP and the CVP.

The BDCP Draft EIR/EIS acknowledges:

- The importance of flow to control salinity intrusion into the Delta (ES-12 line 1).
- That outflow under alternative 4 will be reduced up to 864,000AF.
- The result will be increased seawater intrusion (8-408lines 36-38).
- In addition, modeling shows increased salinity will occur in much of the Delta (8-436-438).
- The result will be regular violations of water quality standards (acknowledged as violation 8H-1 line 17).

The Delta Protection Commission recognized that water quality is a key consideration in protecting the resources of the Delta and included policies to protect Delta water in its Land and Resource Management Plan.

In 1981, the State of California and the North Delta Water Agency entered into a contract that established salinity standards in the North Delta and other terms and conditions that have not been addressed or analyzed in the Draft EIR/EIS.

The Delta Reform Act of 2009 included a mechanism for the BDCP to be included in the Delta Stewardship Council's Delta Plan. Water Code Section 85320 lists requirements that BDCP must achieve in order to be included in the Delta Plan. The Draft EIR/EIS claims consistency (Appendix 31), but does not achieve the conditions of Water Code 85320 (b)(2)(A) which requires that a series of studies be completed which "...will identify the remaining water available for export and other beneficial uses." The studies may have been performed, but the amount of water available for export has not been determined and is one of the key uncertainties of the BDCP.

In addition, the Delta Reform Act of 2009 as explained in Water Code Section 85021 requires that reliance on the Delta in meeting California's future water needs be reduced. Certainly a 50-year permit will be operating in the future, and therefore, the BDCP should demonstrate that it reduces reliance on the Delta through strategies such as regional self-reliance, local and regional water supply projects, and other strategies. On the contrary, the BDCP seems to increase rather than reduce dependence on the Delta as a source of future water.

Even though the BDCP Draft EIR/EIS recognizes and explains many of the laws, regulations, and contractual agreements controlling water exports from the Delta, it is meaningless. The document fails to address the operational concerns of those within the Delta and offers no commitment to operate the BDCP in a manner that is consistent with prevailing California water law and issues of priority. The BDCP must be consistent with California water policy, laws, and regulations.

The Regulatory Landscape...Infrastructure

The BDCP Draft EIR/EIS states that the Central Valley Flood Control Board (CVFCB) has no jurisdiction or authority over construction, operation or maintenance of CVP or SWP (6-35 lines 40-41). Flood control is a key element of the infrastructure necessary to protect agricultural values in the Delta. The BDCP and any plans which emerge regarding flood control structures such as the Yolo Bypass and Levees throughout the Delta must be analyzed and be consistent with the State Plan of Flood Control administered by the CVFCB and other state and federal agencies with jurisdiction over Delta flood control. In addition, Water Code Section 85320 (b) states, "The BDCP shall not be incorporated into the Delta Plan and the public benefits associated with the BDCP shall not be eligible for state funding, unless the BDCP does all of the following" and 85320 (b)(2)(E) requires that BDCP studies include "the potential effects on the Sacramento River and San Joaquin River flood management." This analysis has not been performed.

In addition, the BDCP has not performed the analysis to determine consistency with the State Plan of Flood Control and therefore, is not consistent with local, state, and federal regulations regarding flood control in the Delta. Until the BDCP has performed the analysis and determined that its proposed actions are consistent with the State Plan of Flood Control, there should be no State or Federal funding to support the project.

Cumulative Effect of BDCP on Delta Agricultural Resources

As stated earlier, the BDCP will have tremendous negative impacts on Delta agricultural resources. As shown in Table 3-4 in Chapter 3, page 22 of the Draft EIR/EIS, in Table 6-2 Chapter 8, page 6 of the Bay Delta Conservation Plan Public Draft, and in Table 8-1 of the Bay Delta Conservation Plan Public Draft, 150,000 acres of agricultural land will be acquired, converted, restricted or otherwise impacted by BDCP. In analyzing the BDCP's impact on agricultural resources, any action that converts agricultural land to other uses or which will negatively impact the viability and resiliency of the land in the future will negatively impact Delta agricultural resources. Certainly there are different levels of negative impacts such as conversion to marshland versus restriction to field crop, but each of these actions will negatively impact the resource as a whole.

Many of the negative impacts are recognized in the BDCP draft EIR/EIS; however, because of the way the document is organized and because of the size of the document, the total impact of the BDCP on agricultural resources is indecipherable. For example, water quality impacts will negatively impact agricultural resources, but Chapter 14 (Agricultural Resources) refers the reader to other chapters to try to figure out what the impact on agricultural resources might be (14-12 lines 24-26). Increased salinity in many Delta areas as shown by the modeling (8-437 and Appendix 8H) will have a major impact on Delta agricultural resources, yet in Chapter 14 we are again referred to other chapters (14-15, lines 14 & 15), and there is only a general discussion indicating that increased salinity will affect crop selection and production, but the real impact detailing how increased salinity caused by the BDCP will negatively impact resources of the Delta, including agriculture, is not explained in the analysis.

The Delta Protection Commission recently completed a Delta Economic Sustainability Study, which concluded that agriculture is the major economic force in the Delta and while converting thousands of acres agricultural lands to other uses will certainly negatively impact Delta agricultural resources and the Delta economy, the total impact of this is not considered in the document. A cursory review of impacts identified in the executive summary suggests that the

64 impacts listed below impact agricultural resources and that approximately 20 of them are classified as significant and unavoidable.

Surface Water: SW 4, 5, 6, 8, 9

Ground Water: GW 1, 2, 3, 4, 5, 6, 7, 8, 9

Water Quality: 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 22, 25

Soils: Soils 2, 7

Agricultural Resources: AG 1, 2, 3, 4

Socioeconomics: ECON 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 15, 17, 18

Noise: NOI 1, 2, 10

Hazards and Hazardous Materials: HAZ 1, 2

Public Health: PH 1, 2, 5

Land Use: LU 1, 2, 4, 5

Transportation: TRANS 1, 2, 3, 8, 9, 10

The EIR/EIS makes no effort to measure the cumulative effect of all of these many impacts and the devastation they will have on the agricultural resources of the Delta, its legacy communities, businesses, and residents. The effect of these 64 negative impacts must be evaluated both separately and collectively in order to insure that mitigation is adequate to fully mitigate for the negative impacts of the project in its totality. The effects of one negative impact will increase the severity of others. For example, if 50,000 acres are converted from agricultural production to other uses, 50,000 acres are subject to crop restrictions, 50,000 acres go out of production because of water quality impacts, another 20,000 acres go out of production from more frequent flooding of the Yolo bypass, 15,000 acres go out of production because of construction impacts, and another 10,000 go out of production because of traffic, noise and other construction related interference, the combined effects becomes greater than each impact considered separately. In addition, the ability to finance special district operations which provide key agricultural infrastructure such as flood control, drainage and water delivery will be impaired, and more agricultural land will be impacted, businesses that depend on agriculture will close, agricultural jobs will decrease, and the Delta economy will begin a downward spiral. The combined effects of the negative impacts will be devastating. These 64 negative impacts, 20 of which are significant and unavoidable, will destroy the viability, sustainability and resiliency of the Delta economy, its businesses, communities, and the livelihood of its residents.

Unidentified Impacts

The BDCP Draft EIR/EIS is incomplete because it has not recognized, analyzed, and mitigated for the following impacts:

1. During construction, BDCP will cause ten years of major disruptions to residents, agriculture and other businesses with noise, water supply interruption, traffic, and other negative impacts referred to as "short term impacts". Because the combined effect of these impacts could have long- term implications for Delta agricultural resources, and its residents and businesses, construction impacts must be studied as both short and long-term and appropriate mitigation needs to be developed.
2. During construction, in order to de-water construction sites, there will be large amounts of drainage water generated. According to the EIR/EIS, the drainage water will be treated if necessary and discharged into "local drainage channels or rivers" (6-58). How will drainage water be treated? Will treating drain water impact Reclamation Districts and agricultural resources? Will drainage water be discharged into Reclamation District drainage systems? How much drainage water will there be, and do

Reclamation Districts have the capacity to remove the extra drainage water? How will the impacts be mitigated?

3. There must be assurances that construction does not impact flood control infrastructure. It is acknowledged that levee roads will suffer damage from construction activities, however, damage to the levees themselves is not considered. To the extent that there is damage to underlying levees, it must be mitigated to eliminate the risk of flood to the Delta communities.
4. Because coffer dams will impede river flows and increase upstream river elevations (6-58), flood risk may be increased. This impact must be analyzed and mitigated.
5. The Yolo Bypass is a flood control structure. Because CM-2 may reduce flood-flow capacity, the CVFCB, must determine that CM-2 is consistent with the State Plan of Flood Control. Any reduction in flood-flow capacity must be identified and mitigated.
6. As reported in Bulletin 125 Studies conducted in 1967 concluded that increased river elevations will increase seepage into agricultural lands. The full effect of increased seepage caused by coffer dams (6-58) must be analyzed and mitigated.
7. Construction and operation of CM 2-22 will result in increasing populations of endangered species and other conditions which will impact neighboring agricultural resources. Farmers must be indemnified from liability for agricultural practices that are necessary to farm, such as but not limited to pumping water.
8. Water quality impacts WQ7, WQ8 and WQ11 all deal with increased salinity in Delta water downstream from the proposed northern intakes. This impact is not adequately analyzed with respect to its effect on agricultural resources. The data shows the number of days standards will be violated and the percent of days in violation (Appendix 8H). This data must be analyzed to demonstrate the magnitude of the violations and the resulting impacts on agricultural resources.
 - a. Increased EC may result in changing cropping patterns to less profitable crops or fallowing land. Corn is an important crop for agricultural viability and also for migratory waterfowl. The crop demands high quality water and may no longer be a viable crop choice if EC is too high.
 - b. It is misleading to compare Sacramento River E.C. data at Emmaton (existing conditions) to data as measured at Three Mile Slough for the BDCP alternatives (Appendix 8H-5). It would be more appropriate to compare E.C. data at the same location, and there is a high probability that the true comparison would show a greater magnitude of increased EC caused by operation of the BDCP.
 - c. We find the use of the phrase "anomaly" to also be incredibly misleading and ill-defined. Appendix 8H, page 1, line 17 indicates that there may be some modeling anomalies that have masked or distorted results. Modeling is an essential part of the EIR and if the modeling contains errors, omissions or is outdated, the EIR inaccurately describes impacts and evaluates mitigation. Because modeling is such an essential part of the project's description, there is no room for anomalies, errors, omissions or other factors which have distorted the project's description.
 - d. The BDCP EIR acknowledges that it will violate water quality and flow standards as required under D-1641. It identifies these violations as significant and unavoidable impacts. The legal questions that come with a project such as this must be addressed. The water quality and the protection of area of origin diverters are a settled matter of California law. The BDCP must demonstrate compliance with the law. To describe a

violation of the law as a significant and unavoidable impact is unacceptable.

9. The impact of the BDCP on the terms and conditions of the North Delta Water agency contract with the State of California and the subsequent effect on the agricultural resources within the boundaries of the North Delta Water Agency must be addressed in the EIR.
10. The employment of the "Decision Tree" and "Adaptive Management" results in deferring major decisions about how BDCP is built and operated. The project is not clearly defined and the employment of the "Decision Tree" and "Adaptive Management" result in failure to adequately describe the project, disclose impacts, and design proper mitigation. The public cannot adequately comment on the Draft EIR/EIS when the employment of the "Decision Tree" or "Adaptive Management" could result in major changes to the project or the operation of the project.
11. The programmatic study of CM2-22 defers comprehensive description and analysis of major components of BDCP and results in failure to adequately describe the project, disclose impacts and design proper mitigation.
12. The Implementation Agreement (IA) has not yet been released. On 5/29/14, DWR announced that a draft IA is being prepared for release, but that it does not contain operating information or financial commitments. Without that information the soon to be released IA fails to meet HCP and CEQA guidelines. A complete draft IA must be available for public review and should restart the beginning of the public comment period as it may impact the validity of previously submitted comments.

Analysis of Proposed Mitigation

The California Environmental Quality Act (CEQA) requires that mitigation be feasible (section 15126.4(a)(1) as defined (Section 21061.1), fully enforceable (section 15126.4(a)(2) and adequately financed and monitored (section 15097).

Many proposed mitigation measures in the BDCP Draft EIR/EIS are inadequate. For example WQ11 states "Avoid, minimize, or offset as feasible reduced water quality conditions." This mitigation measure is discretionary, deferred, unfunded and may not be feasible. Mitigation for WQ11 is expanded by WQ11a "Conduct additional evaluation and modeling of increased EC levels following initial operations of CM1." This mitigation measure is inadequate because it only studies the condition creating the impact and does not offer a feasible, funded, legally binding action to offset or mitigate the impact.

Another example of inadequate mitigation is the Agricultural Land Stewardship Plan (ALSP) proposed as mitigation for AG 1,2,3,4 and ECON 6,7,12,13, and 18. "Agricultural land stewardship means farm and ranch landowners—the stewards of the state's agricultural land—producing public environmental benefits in conjunction with the food and fiber they have historically provided while keeping land in private ownership (California Water Plan Update 2005, Agricultural Land RMS)." Continued agricultural production is a key element of the definition of agricultural land stewardship. In the BDCP draft EIR/EIS, BDCP proponents are tasked with developing ALSPs by choosing from a group of strategies to offset impacts. Some of the suggested strategies are:

1. Strategy A: Have farmers manage habitat land (14B-14).
2. Strategy C: Designate habitat production as agricultural production (14B-14).
3. Strategy E: Work with counties to include habitat lands in Williamson Act Preserves (14B-15).
4. Strategy Q: Consider opportunities to develop sustainable agricultural land community in the Delta Region consistent with ecosystem conservation and restoration (14B-17).

None of these strategies is consistent with the definition of agricultural land stewardship because they do not provide for production of food and fiber. The ALSP is inadequate as mitigation because it allows the project

proponents to choose from a group of strategies, some of which advance biological goals of the BDCP rather than mitigate for impacts to agricultural resources. In addition, ALSP mitigation is inadequate because it is not defined, and therefore, is not feasible. It is not enforceable nor is it funded.

Even though the BDCP will negatively impact up to 150,000 acres of Delta agricultural resources (Table 3-4, Chapter 3 page 22 Draft EIR/EIS), Appendix 8A of the Bay Delta Conservation Plan Public Draft (8.A.7.1 page 8-A-169 line 11) states, "EIR/EIS mitigation requirement would be 1,752 acres." This analysis is based upon permanent conversion of approximately 45,000 acres of important farmland inappropriately offset by 43,174 acres placed in a cultivated land reserve to benefit covered species impacted by the BDCP. Because both converting agricultural resources to other uses and restricting agricultural resources in a cultivated land reserve (BDCP chapter 3, Section 3.4.11) negatively impacts agricultural resources, concluding that 1,752 acres constitutes adequate mitigation is ludicrous. Mitigation must reduce, minimize or offset negative impacts caused by the project. Negative impacts should be cumulative, not offsetting.

Mitigation as proposed in the BDCP draft EIR/EIS that is discretionary, deferred, unfunded, not enforceable, ungoverned or where feasibility has not been determined, is inadequate. In addition, in cases where mitigation does not meet minimum CEQA guidelines, "impact after mitigation" must be reevaluated to determine significance.

Inadequate Study of Alternatives

The development of the BDCP began in 2006. Between 2006 and the release of the 2013 Draft EIR/EIS, a great deal of effort has been spent designing Alternative 4. Alternative 4 changed from a canal to tunnels, from five (5) diversion sites to three (3), from 15,000 cfs to 9,000 cfs, from tunnel muck disposal sites to treatment and reuse of excavation material to name a few of the changes. The other alternatives remained static. Alternative 4 has been pursued through the courts in an effort to gain access to private property in order to conduct onsite surveys of environmental and geophysical conditions and has been described in detail in informational material throughout the process leading up to the release of the BDCP Draft EIR/EIS. On May 12, 2014, a month before close of comments on the Draft BDCP EIR/EIS, the Department of Water Resources (DWR) announced that a new organization has been created within DWR to continue moving the twin tunnel project forward. The new entity will be responsible for designing and constructing the project. All the other alternatives presented in the Draft BDCP EIR/EIS have received very little real analysis and have been presented simply as a formality to satisfy legal requirements and will receive no consideration by the new entity created to plan and build the twin tunnel project. In addition, several alternatives suggested by the public have been dismissed with very little, if any, analysis.

Because of the preferential analysis and focus on Alternative 4, not all alternatives were studied in equal detail nor have any of the alternatives presented by the public been analyzed in equal detail. Continuing to design the twin tunnels (alternative 4) and establishing an entity to construct the project long before close of comments on the Draft EIR/EIS implies that the CEQA/NEPA process is just a formality and the process is not meant to provide meaningful public participation and input on projects that will have long-term environmental, economic and human impacts. The bottom line is that alternatives have been proposed, left unstudied and could potentially supply similar benefits without the devastation of the Delta communities, agricultural resources and local economies.

Conclusion

The more water that is taken from the Sacramento-San Joaquin River Delta, the more economic and environmental damage will occur. Over the last two decades, Delta outflow has been regulated to protect the Delta water quality and natural resources include agriculture. The BDCP will reverse the steps taken to protect the health of the Delta and its economy by providing the means to increase water exports, reduce Delta outflow, and increase saltwater intrusion. The BDCP Draft EIR/EIS confirms that the preferred alternative will devastate Delta agricultural resources, the Delta economy and Delta communities. The Delta Caucus is convinced that there are better, more affordable projects to

advance water reliability for California--projects that will impact the supply/demand equation by reducing demand and increasing supply. Regional self-reliance and increased water storage is key to reliability of water supplies in the future. Neither of these key elements is included in the Draft BDCP. The Delta Caucus remains committed to ensuring that Delta agricultural resources are protected and enhanced in accordance with the Delta Reform Act of 2009 and searching for solutions which will achieve the Delta Reform Act's co-equal goals without sacrificing Delta agricultural resources.

Attachment A provides a list of questions that should be addressed in preparing the BDCP Final EIR/EIS.

Again, we wish to express our appreciation for your consideration of our comments and concerns as they relate to the BDCP Draft EIR/EIS.

Sincerely,



Russell van Loben Sels, Chair
Delta Caucus




Wayne Reeves, President
Contra Costa County Farm Bureau



Walter Hardesty, President
Sacramento County Farm Bureau



Jack Hamm, President
San Joaquin Farm Bureau Federation



Ryan Mahony, President
Solano County Farm Bureau



Jeff Merwin, President
Yolo County Farm Bureau

Attachment A: BDCP Draft EIR/EIS Questions

cc.

U.S Senator Dianne Feinstein
U.S. Senator Barbara Boxer
Representative John Garamendi
Representative Mike Thompson
Representative Doris Matsui
Representative Ami Bera
Representative Jerry McNerney
Representative Jeff Denham
Representative George Miller
Senate President Pro tem Darrell Steinberg
State Senator Lois Wolk
State Senator Cathleen Galgiani
State Senator Tom Berryhill

State Senator Mark DeSaulnier
State Assemblymember Joan Buchanan
State Assemblymember Roger Dickinson
State Assemblymember Susan Eggman
State Assemblymember Richard Pan
State Assemblymember Jim Frazier
State Assemblymember Mariko Yamada
Contra Costa County Board of Supervisors
Sacramento County Board of Supervisors
San Joaquin County Board of Supervisors
Solano County Board of Supervisors
Yolo County Board of Supervisors

Attachment A

Bay Delta Conservation Plan Draft EIR/EIS

Questions submitted by the Delta Caucus

Draft EIR/EIS comments dated July 23, 2014

1. Is the BDCP consistent with County General Plans?
2. Is the BDCP consistent with the Delta Protection Act of 1992?
3. Is the BDCP consistent with the Sacramento-San Joaquin Delta Reform Act?
4. Is the BDCP consistent with California water law?
5. Is the BDCP consistent with rules and regulations controlling salinity in the delta?
6. Is the BDCP consistent with rules and regulations controlling water flows in the delta?
7. Is the BDCP consistent with Delta Protection commission water policies?
8. Is the BDCP consistent with the contract between the State of California and the North Delta Water Agency?
9. Does the BDCP reduce reliance on the Delta as a future water source in accordance with the Delta Reform Act?
10. If the amount of water available for export has not been determined, is the BDCP consistent with the Delta Reform Act?
11. Can the BDCP be incorporated in the Delta Plan? Is the BDCP eligible for public funding if it has not complied with the studies required in the Water Code 85320(b)(2)?
12. Why does mitigation not include a commitment to operate the BDCP in a manner that maintains flow and salinity standards as to establish by the California Water Resources Control Board as currently expressed in D-1641?
13. During construction, in order to de-water construction sites, there will be large amounts of drainage water generated. According to the EIR/EIS, the drainage water will be treated if necessary and discharged into "local drainage channels or rivers" (6-58). How will drainage water be treated? Will treating drain water impact Reclamation Districts and agricultural resources? Will drainage water be discharged into Reclamation District drainage systems? How much drainage water will there be, and do Reclamation Districts have the capacity to remove the extra drainage water? How will the impacts be mitigated?
14. Will construction activities negatively impact flood control structures? While it is acknowledged that roads will suffer damage from construction activities, damage to underlying levees is not considered. What damage will occur, how could agricultural resources be affected, and what mitigation is required?
15. Will in-stream construction activities increase the risk of flood? In-stream construction is limited to June 1 to October 1 unless otherwise authorized (Appendix 3C-4)? Will Reclamation Districts be authorizing agencies? Because coffer dams will impede river flows, and increase the upstream flood elevation (6-58) flood risk will increase. How will this increased flood risk be mitigated?
16. The Yolo Bypass is a flood control structure. Is the purpose of the Yolo Bypass

Attachment A

Bay Delta Conservation Plan Draft EIR/EIS

Questions submitted by the Delta Caucus

Draft EIR/EIS comments dated July 23, 2014

consistent with more frequent inundation? Are there any situations where the flood-flow capacity of the Yolo Bypass would be reduced by implementing CM-2? If so, what impact would reduced Yolo Bypass capacity have on Delta agricultural resources, residents and communities?

17. Studies conducted in 1967 as reported in Bulletin 125 concluded that increased river elevations will increase seepage into agricultural lands. Will increased river elevations upstream of coffer dams result in increased seepage affecting agricultural resources? How much? Where?
18. Construction and operation of CM 2-22 will result in increasing populations of endangered species and other conditions which will impact neighboring agricultural resources. How will agricultural resources be protected from limitations on activities such as but not limited to pumping water if endangered species expand due to implementation of CM2-22?
19. Water quality impacts WQ7, WQ8 and WQ11 all deal with increased salinity in Delta water downstream from the proposed northern intakes. This impact is not adequately analyzed with respect to its effect on agricultural resources. The data shows the number of days standards will be violated and the percent of days in violation (Appendix 8H). This data must be analyzed to demonstrate the magnitude of the violations and the resulting impacts on agricultural resources. How high will EC be, when, and where?
 - a. Will increased EC result in changing cropping patterns to less profitable crops or fallowing land? Will corn (an important crop for agricultural viability and migratory waterfowl) remain a profitable crop choice?
 - b. What is the effect of comparing Sacramento River E.C. data at Emmaton (existing conditions) to data as measured at Three Mile Slough for the BDCP alternatives (Appendix 8H-5)? Wouldn't it be more appropriate to compare E.C. data at the same location? Would this comparison show a greater magnitude of increased EC caused by operation of the BDCP?
 - c. Appendix 8H page 1 line 17 indicates that there may be some modeling anomalies that may have masked or distorted results. Is anomaly synonymous with error? Are modeling conclusions and results accurate? If there is one anomaly (error) could there be others? Do the project proponents know of any other anomalies? Are there errors, omissions or other factors which have distorted results from models and presented by the BDCP?
 - d. Is damage to Delta water quality consistent with California Water law, and if not, is the BDCP legal?

Attachment A

Bay Delta Conservation Plan Draft EIR/EIS

Questions submitted by the Delta Caucus

Draft EIR/EIS comments dated July 23, 2014

20. What is the impact of the BDCP on the terms and conditions of the North Delta Water agency contract with the state of California, and how will agriculture resources within the boundaries of the North Delta Water Agency be affected?
21. The employment of the “Decision Tree” and “Adaptive Management” results in deferring major decisions about how BDCP is built and operated. Is the project clearly defined or does employment of the "Decision Tree" and "Adaptive Management" result in failure to adequately describe the project, disclose impacts, and design proper mitigation? How can the public adequately comment on the Draft EIR/EIS when the employment of the “Decision Tree” or “Adaptive Management” could result in major changes to the project or the operation of the project?
22. Does a programmatic study of CM2-22 defer comprehensive description and analysis of the major components of the BDCP and does this result in failure to adequately describe the project, disclose impacts and design proper mitigation?
23. The Implementation Agreement (IA) has not yet been released. On 5/29/14, DWR announced that a draft IA is being prepared for release, but that it does not contain operating information or financial commitments. Without that information, does the soon to be released IA meet HCP and CEQA guidelines? When will a complete IA be available for review and how will it impact the validity of already submitted comments?
24. Have all alternatives been analyzed in equal detail?
25. Have all alternatives presented by the public been analyzed in equal detail?
26. Have alternatives been proposed, but not analyzed, that could supply similar benefits without devastating the Delta economy, communities and agricultural resources?
27. What is the implication of continuing to design the twin tunnels (Alternative 4) and establish an entity to construct the project long term before the close of comments on the Draft EIR/EIS? Is the CEQA/NEPA process just a formality or is the process meant to provide meaningful public participation and input on projects that will have long-term environmental, economic, and human impacts?

From: Farm Bureau <sacfarmbur@msn.com>
Sent: Monday, July 28, 2014 2:40 PM
To: BDCP.comments@noaa.gov
Subject: BDCP Draft EIR EIS comments_Delta Caucus
Attachments: Attachment A_BDCP Draft EIR EIS Comments 072314.pdf; BDCP Draft EIR EIS Comments 072314.pdf

Importance: High

Please find attached **Comments** with **Attachment A** submitted on behalf of the Delta Caucus.

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