

**From:** Kris Octabiano <koctabiano@pecg.org>  
**Sent:** Tuesday, July 29, 2014 4:33 PM  
**To:** BDCP.Comments@noaa.gov  
**Cc:** 'Ted Toppin'  
**Subject:** PECG BDCP Comment Letter  
**Attachments:** PECG BDCP Comment Letter 072914.pdf

Dear Mr. Wulff:

Attached, please find the comments of the Professional Engineers in California Government's (PECG) comments on the Draft Bay Delta Conservation Plan and the associated Draft Environmental Impact Report/Environmental Impact Statement. If you have any questions or require additional information, please let me know. Thanks!

Regards,  
Kris Octabiano  
Political and Legislative Consultant  
Professional Engineers in California Government  
916/446-0400



PROFESSIONAL ENGINEERS

BDCP 1720



IN CALIFORNIA GOVERNMENT

July 29, 2014

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

Dear Secretary Laird:

The Professional Engineers in California Government (PECG) welcomes and appreciates the opportunity to comment on the Draft Bay Delta Conservation Plan (BDCP) and the associated Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS).

PECG represents the engineers and related professionals working at the Department of Water Resources (DWR), the State Water Resources Control Board (SWRCB), the Department of Fish and Wildlife (DFW), and other state agencies and departments responsible for the successful delivery of the Bay Delta Conservation Plan.

In the interests of public safety and ensuring that the BDCP most efficiently and effectively meets the coequal goals of water supply reliability and Delta ecosystem restoration, we offer the following comments.

BDCP/SWP Facilities Must be Owned and Operated by the State

PECG appreciates the provisions in the BDCP requiring that “the State of California, through DWR, will construct, own, and operate any new diversion and conveyance facilities described in this plan.”<sup>1</sup> and “the operation of the SWP will remain under the control and responsibility solely of DWR.”<sup>2</sup> This is critically important. Given that BDCP facilities will be financed by multiple public revenue sources, including monies supplied by taxpayers and ratepayers, it is essential that that the conveyance (Conservation Measure 1/CM 1) and any other BDCP-related facility be built and owned by the State and be managed by the State in the best interest of all Californians. PECG would strongly oppose any effort to outsource BDCP facilities and management – just as it has long opposed efforts to outsource SWP operations, convert them to a public-private partnership, or turn them over to be operated by other public or private entities.

Ensuring that SWP/BDCP facilities remain under State control and that operations are performed by DWR and its staff will ensure the safe, cost-effective and transparent delivery of CM 1 and any other BDCP-related facility. Just as importantly, it will ensure that the facilities and California’s water resources are managed in the public interest.

HEADQUARTERS: 455 Capitol Mall, Suite 501, Sacramento, CA 95814 • (916) 446-0400  
LOS ANGELES: 215 N. Marengo Avenue, Suite 185, Pasadena, CA 91101 • (818) 500-9941  
SAN FRANCISCO: 1 Sutter Street, Suite 800, San Francisco, CA 94104 • (415) 861-5720  
TELEFAX: Headquarters (916) 446-0489; Los Angeles (818) 247-2348; San Francisco (415) 861-5360

This principle was best summarized by David M. Walker, former Comptroller of the United States (1998-2008) when he said: “There is something civil servants have that the private sector doesn’t, and that is the duty of loyalty to the greater good – the duty of loyalty to the collective best interest of all rather than the interests of a few.”

In fact, “duty of loyalty to the greater good” should be the guiding principle for all BDCP activities. And this will be particularly important when it comes to the design, construction and inspection of the conveyance facility.

#### Reconsider Design Construction Enterprise Structure

PECG understands and appreciates that the timely and cost-effective delivery of the CM 1 will require the collaboration and expertise of state and federal agencies, water contractors, countless other stakeholders and in certain circumstances the expertise of the private sector. However, PECG would caution that the Design and Construction Enterprise as currently envisioned to deliver the conveyance facility has the potential to be manipulated to put the interests of water contractors and private interests ahead of the greater good. PECG is particularly concerned by reports that suggest the DCE will create a nine-member board of directors to oversee construction that includes the DWR director and the regional director of the federal Bureau of Reclamation, but provides that the seven other members would represent water contractors and agencies.

Given their financial participation, it is certainly appropriate to provide water contractors with a voice in the design and construction activities related to the conveyance. It does not seem appropriate, however, to provide them with seven seats on a nine-member board in which final decisions about design, facility location, land acquisition, budget, staffing, outsourcing and scheduling will be made by majority vote.

While the DWR Director would chair the nine-member panel, that would not prevent the water contractors from seeking to implement decisions that are in their own best interest at the expense of responsible design, construction and inspection, landowners in the region, or the environment. It would also not prevent them from seeking to outsource engineering, environmental, planning and other work more appropriately performed by the public sector.

We urge that the DCE structure be reconsidered and that DWR retain ultimate control over decisions related to implementation of CM 1.

#### Minimize Outsourcing to Protect Safety, Conserve Resources

PECG would also urge that the BDCP minimize the outsourcing of engineering and related activities. Such contracting should only be considered when it is absolutely necessary to provide expertise that is not available at DWR, SWRCB, DFW or in other public agencies.

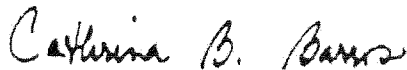
This is particularly imperative when it comes to the construction inspection of the CM 1 and other BDCP public works. Historically and appropriately, the construction inspector is the eyes, ears and voice of the public on any construction site. Inspectors ensure that construction and seismic standards are met, that projects meet safety requirements and that the materials used will stand the test of time. In short, they are there to ensure that the public gets what they pay for and that the public interest is protected. To protect the public and ensure worker safety, construction inspection on BDCP-related infrastructure should be considered an inherently governmental function that should not be outsourced.

Limiting outsourcing will also help to reduce the total cost of the conveyance and other BDCP projects. California state agencies and departments currently utilize no-bid contracts to outsource thousands of engineering jobs at two or three times the cost of having qualified public servants perform the same functions. In implementing the BDCP, the state would be wise to rely on existing or obtainable staff to perform critical design, project management and inspection functions. Doing so will result in hundreds of millions of dollars of savings over the next two decades that would be better invested in the actual construction of the CM 1 and other facilities.

In conclusion, PECG believes experience tells us that the public interest is best served when public agencies and servants responsible and loyal to taxpayers and ratepayers are responsible for the delivery and operations of public works projects like CM 1 and the other Delta improvement projects outlined in the BDCP.

Thank you for this opportunity to comment on the draft BDCP and the EIR/EIS. PECG appreciates the hard work and dedication that has led us to this moment and looks forward to working with state and federal agencies, local governments, water contractors, environmental groups, and other stakeholders on the BDCP in the years ahead. If PECG can provide any additional information or background, please call Ted Toppin at 916/446-0400.

Sincerely,



Cathrina Barros  
PECG President