

RIVER CHARTER SCHOOLS
dba Delta Elementary Charter School

P.O. Box 303
Clarksburg, CA 95612

June 16, 2016

e-mailed to: deltaactioncommittee@gmail.com on June 16, 2016

State Water Resources Control Board

Re: Comments to the State Water Resources Control Board related to proposed issuance of permits for diversions related to the Bay Delta Conservation Plan Draft RDEIR/SDEIS and

State Water Resources Control Board:

This letter constitutes the formal comments to the State Water Resources Control Board related to the request for diversion permits for tunnels and new intakes with a focus on comments and concerns to be addressed related to the Revised Draft Environmental Impact Report and Draft Environmental Impact Statement (the “**Draft RDEIR/SDEIS**”).

Throughout all of these comments, when impacts and/or effects are described or identified in any way, such impacts are to be deemed significant impacts for purposes of CEQA analysis, and such effects are deemed adverse effects for purposes of NEPA analysis. Also, throughout all of these comments the consideration needs to be given for the item to the extent it is still present in the proposed project.

Comments Regarding

**Background and Environmental Justice of the RDEIR/SDEIS
Impact on the Learning of Children in Meaningfully Greater Minority and
Low Income Communities such as Clarksburg**

The Bay Delta Conservation Plan (“**BDCP**”) proposes to dramatically alter the way in which the Delta Elementary Charter School (“**DECS**”) meets its mission of delivering the finest education possible for its students meeting all state standards with a special emphasis on agriculture, music, art and project based learning. Its agricultural program in particular relies on the health of the local Clarksburg Ag community which is an integral part of making the Ag education happen at DECS. DECS provides this education to the 411 students it serves. (BDCP contains an erroneous enrollment figure which should be corrected.) DECS is located in Clarksburg in the Delta. Clarksburg, Hood and Courtland are three Delta communities that are “the small towns along the Sacramento River” where “meaningfully greater proportions of Hispanic residents are present”. DECS is a Clarksburg “Public School” funded almost exclusively with public funds. It educates all its students tuition free.

The noise during construction is a very serious issue for DECS this impact represents a disproportionate effect and is adverse. This is due to many years of enormous amount of pile driving strikes each day at each intake facility. DECS is 1/2 mile from Intake #2. This is a very significant impact and should not be neglected in the RDEIR/SDEIS. The pulsating noise from pile driving during the construction of Intake #2 will have a significant negative impact on the educational environment for students at DECS. The incessant pulsating noise to unacceptable levels during the school day will drastically impact their ability to attend to instruction and make academic progress. The distraction that this level of noise will cause will require constant teacher redirection which will decrease both time on task and instructional time overall. In addition to impeding the learning of typically developing students, the noise caused by the pile driving will have a profound effect on students with disabilities. At our school we have students with Autism Spectrum Disorders, Attention Deficit Disorders as well as students with other learning disabilities. Often, these students have sensory processing disorders and have difficulty being able to regulate their senses in the face of drastic change such as the spiking of noise levels with each pile driving strike. In addition, it is often difficult for students with these disabilities to attend to and focus on instruction in optimal environments, let alone when their senses are being overloaded by the proposed level of pulsating noise from seven plus years of pile driving 1/2 mile from the school. It should also be known that there are two other public schools in Clarksburg (Clarksburg Middle School & Delta High School) that will be similarly impacted. While we do not speak for these schools, the impact on the learning of the children in these schools should be analyzed as well. It is our professional opinion that pile driving 1/2 mile and more from DECS will significantly reduce the ability of our students to concentrate on their studies and progress in their learning and even more adversely impact those students in our population who have learning disabilities that make concentration a real challenge without multiple years of pile driving 1/2 mile away! We believe that it may be so adverse as to make functioning as a school impossible during the multi-year construction period.

We contend that the conclusion in the BDCP underlined above related to “feasibility” of mitigations is completely unacceptable. It indicates that mitigating for these impacts won’t be done as they are not feasible. It should be noted that the costs for BDCP have been estimated from a low of \$16 billion in the document to other estimates of over \$40 billion from various sources. That is a very broad cost range as well as being huge at either end. All elements necessary to achieving the goals of BDCP are accommodated even if it adds a few more billion dollars to the cost. However, a completely different standard is utilized when considering the mitigation of BDCP impacts (indicating that solving a large number of the problems BDCP causes isn’t feasible and therefore won’t be done). While those putting forth the BDCP, continue to contend that the residents and businesses in the Delta will benefit from BDCP, local residents and farmers many of whose families have made the Delta what it is today over as many as seven generations

who have spoken at the vast majority of public hearings conducted over the last 5 or so years indicate quite the opposite. Accordingly, if the vast majority of the benefit from the BDCP will be outside of the Delta in the southern part of the state, and if it is so critical to be done for the good of those in the south, then the least that can be done is to make sure that citizens, businesses and farmers in the Delta are made whole from ALL the negative impacts of the project. And further, actually indicating in BDCP that it is assumed that many of the residents in Hood and other places close to facilities to be built may simply have to abandon their homes and not be compensated is not acceptable either. To do this is to deprive one group of people their property without compensation for others who then don't have to pay their fair share of the true cost of the BDCP.

In summary for this section, I ask that the standards used to determine what mitigations "are not feasible" be revisited and ensure that there is appropriate and adequate budget in BDCP to compensate ALL of those who will be deprived of the use of their property not just those that experience the legal "taking" of their property (being under a physical Intake Station that has to be taken under eminent domain.) More specifically an approach that should be considered follows: if the impacts of BDCP are not feasible to be mitigated for in a certain area and are within an area of unacceptable impact that would reasonably cause someone to leave their homes just to be able to live during the multi-year pile driving construction period or period of unacceptable impact, then they should be able to opt into having their property taken by eminent domain specified proximity outright or rendering it unusable. If this means compensation for "takes" outside of the normal standards for eminent domain then that must be done to not deprive property owners of the enjoyment of their property rights.

As it relates to DECS, we propose a solution to the sound problems caused by BDCP over a large number of years which is to build another school for use during the multi-year pile driving construction period close by that would be sound proof to the extent of not having the pile driving increase the sound in the class room or equivalent measures.

The mission and purpose of DECS is to provide a quality education to its students. In order to meet this mission and purpose DECS relies upon a number of existing physical and economic facts, including:

1. A system of roads and travel routes for bringing students to DECS as well as suppliers to bring purchased materials to the school;
2. The maintenance of existing levees and flood protection to reduce the risk of floods and the damage to DECS cause by inundation by water.

A number of State and federal entities are discussing formulating various devices, strategies, policies, habitat conservation plans, reports and other procedures (together, “**Plans**”) which appear to have the potential to significantly and seriously disrupt or even prevent the DECS from accomplishing its mission and purpose by alteration of the physical and economic facts listed above. The BDCP is one example of one of these Plans currently under consideration.

This letter constitutes the formal comments to the Revised Draft Environmental Impact Report and Draft Environmental Impact Statement (the “**Draft RDEIR/SDEIS**”) for public comment.

Throughout all of these comments, when impacts and/or effects are described or identified in any way, such impacts are to be deemed significant impacts for purposes of CEQA analysis, and such effects are deemed adverse effects for purposes of NEPA analysis.

Comments Regarding Groundwater

BDCP does not appear to address changes in water quality upon DECS operations. Poor water quality in groundwater, is believed to significantly and seriously deteriorate and negatively affect the efficiency of water use most importantly as drinking water in the school. The RDEIR/SDEIS must fully analyze serious and significant impacts and effects arising from changes in water quality upon DECS operations in order to be complete.

DECS relies to a great degree on groundwater through an existing well located on school property. The well supplying DECS water is within one-half mile of the project’s #2 water intake pumping station. BDCP needs to analyze and deal with the quality or quantity of ground water available or used by existing groundwater users as either impacts or effects as a result of any of the project alternatives. Further, it needs to provide a mechanism for an unbiased testing of water quality before the project commences so there will be a benchmark against which to measure the ultimate impact.

Specific to DECS, various project alternatives, must analyze the significant and substantial impacts or effects of lowered groundwater tables, and thus failures or significant or substantial loss of access to water.

Comments Regarding Socioeconomics

The Socioeconomics of the Delta is founded on the belief that the “rural communities” of the Delta are the towns of the Delta, the collection of improvements lying within the historic townships in the Delta.

In truth, the Delta communities are composed of both the townships *together with* their surrounding agricultural lands, each in symbiotic relationship with the other. In the Clarksburg area this truth is illustrated by the almost weekly meetings, gatherings, two annual district parades, three annual community dinners at the district firehouse, two garden clubs, a boy scout troop that has consistently produced for many years one of the greatest number of Eagle Scouts on an annual basis in the United States of America, together with innumerable events at the schools, church, library, and with other community groups, all bringing together residents of both the town area of Clarksburg with the residents outside the town area, into one cohesive single community unit bound together with unified and common values, united traditions, and family histories going back on the same land as far as seven generations (“**Community Cohesion**”).

The Clarksburg community is also characterized by an important multi-cultural history. Whether it is the example of farmers who during the Second World War paid the taxes on the lands and building of their fellow Japanese farmers so they would not lose their land during internment, protection of the historic Japanese School, or the example of German POWs choosing to remain in the Delta upon their release in 1945, the Portuguese social hall (in the Lisbon District), the residents from Holland, in the area with the same name, or the large Hispanic population which participates in the life of the Delta, these facts and more demonstrate that the Delta community and its social fabric is not divided along the lines of township vs. non-township.

In the demographics, it important to note that only a part of West Sacramento lies within the Delta. The numbers offered for West Sacramento mislead because those numbers describe the whole of West Sacramento, not the Delta portion of the city. The Draft RDEIR/SDEIS ensure that data derived from outside the Delta is not offered as analysis of the Delta. Data should be limited to in-Delta residents, population, employment, etc. This same comment applies to cities and other areas which lie partly within the Delta, but the data for which is given for the entire city or area, not just the portion of the city or area which lies within the Delta.

The Draft RDEIR/SDEIS must mention or include at all in its analysis the 2001 Clarksburg General Plan, duly passed as an integral part of the Yolo County General Plan and is a matter of public record. As Yolo County is a cooperating agency and recognized arm of local government, the portions of its General Plan, specifically the 2001 Clarksburg General Plan, must be given the respect required by both state and federal law. The failure to include and analyze the 2001 Clarksburg General Plan is a fatal flaw.

Comments Regarding Transportation

The plan must address serious and significant impacts and effects of each of the Alternatives on the transportation network and routes relied upon by DECS to perform its mission.

The pavement conditions must be analyzed and ensure that damages during the multi-year construction are repaired to impact traffic to and from DECS. When 24-hour traffic diversions, and volunteer rerouting due to extremely heavy dump truck traffic to transport tunnel spoils and construction related vehicular, light equipment and heavy equipment trips, the Draft RDEIR/SDEIS must address how inadequate roads that are damaged will be repaired so as to not further fracture and degrade Community Cohesion.

Disruption of traffic operations inclusive of the parents bringing children to school and then getting them home must be addressed. Traffic rerouting, whether directed by governmental authority, or voluntary in nature as people change their transportation routes as a result of, and to avoid construction and operation impacts, will seriously impact and effect DECS

For example and in particular, but not by limitation, the admitted time of “at least 1 hour” delay due to construction over multiple years is not acceptable and needs to be addressed.

The project must analyze the serious impacts and effects of increased traffic, and in particular the serious impacts and effects of long periods of heavy equipment traffic, on the levee roads. Observable information related to the negative impact can be provided through actual observation of impacts in a home 60 feet away from the levee and 90 feet from Highway 160. The failure and omission of analysis of these issues must not happen.

Comments Regarding Public Services and Utilities

The Draft RDEIR/SDEIS claims to describe the public services and utilities in the study area which may be affected by the construction, operations and maintenance of the action alternatives in the Plan Area.

Fire Protection and Emergency Response, must be to ensure that travel time for fire personnel is not impeded due to the reduced availability of a road network to get to the scene of an emergency. As the Clarksburg Fire Department is a volunteer fire department, the ability of the volunteers to get to the fire station over the roadway network is critical for a timely response to a fire at DECS.

Comments Regarding Public Health

The Draft RDEIR/SDEIS must take into account various flood potential, flood dangers, and flood risks. In particular, the Draft RDEIR/SDEIS in final form should include the Lower Sacramento River/Delta North Regional Flood Management Plan (July 2014), its findings, analysis, conclusions and recommendations. Flood risk, flood events, and high water events have been a significant and serious part of life at all levels in the Delta. Flood dangers and risks, and actual flood events, should be an integral part of each and every chapter of the Draft RDEIR/SDEIS. The lack of such analysis throughout and in every chapter would be a fatal flaw.

Comments Regarding Public Participation, Consultation and Coordination

The public participation, consultation and coordination activities on the part of the preparers of the Draft RDEIR/SDEIS did not include any directed or specific outreach to DECS itself.

The largest outpouring of people coming to public meetings occurred in Clarksburg.

Although DECS is a major public entity in the Clarksburg area, the lack of outreach from the preparers of the Draft RDEIR/SDEIS to DECS, is a fatal flaw. DECS requests that the final RDEIR/SDEIS presentation clearly identify and show specifically all places where each and every one of the comments above is addressed.

Please contact me if you have any questions.

Very truly yours,
DELTA ELEMENTARY CHARTER SCHOOL

By: _____
Peter Stone, Chief Business Officer