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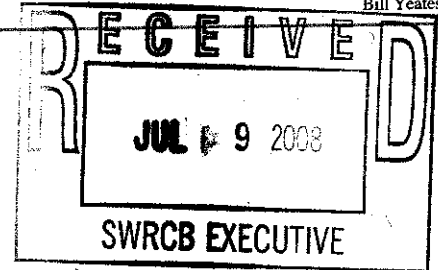
PLANNING AND CONSERVATION LEAGUE

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July 9, 2008

Tam M. Doduc, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Public Comment
Bay-Delta Strategic Workplan
Deadline: 7/9/08 by 12 p.m.



Via e-mail: driddle@waterboards.ca.gov and commentletters@waterboards.ca.gov

Via hand delivery to: Jeanine Townsend, Clerk to the Board

Dear Chairwoman Doduc and Members:

The Planning and Conservation League appreciates the opportunity to comment on the Draft Strategic Workplan for Activities in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Draft Workplan) released by the State Water Resources Control Board (Board) in June. The Draft Workplan outlines some priority activities that the Board will undertake over the next five years, with the specific direction of some activities being guided by the progress (or lack thereof) of other processes such as the planning being conducted as part of the Bay Delta Conservation Plan (BDCP). We offer some initial comments on the priorities identified in the Draft Workplan and will continue to engage with the Board, Board staff, and other stakeholders as the workplan (as modified by the Board in July) is implemented.

Comments on the proposed integration of Board activities (particularly Elements 5 and 6 of the Draft Workplan) with the Bay Delta Conservation Plan process

Element 5 *Comprehensive Review of the Bay-Delta Plan, Water Rights, and Other Requirements to Protect Fish and Wildlife Beneficial Uses and the Public Trust*

Element 6 *Activities to Ensure that the State Water Project's (SWP) and Central Valley Project's (CVP) Methods of Diversion in the Delta are Reasonable, Beneficial, and Protect the Public Trust*

We recommend that the Board develop specific guidelines for "adequate analysis" of alternatives within the BDCP process, and establish independent standards for sufficient analyses in a timely manner in the event that the BDCP analyses are not adequate

The Draft Workplan notes on p. 13 that the Board will "monitor the BDCP process and use information developed through that process to decide whether to take any action regarding the reasonableness" of current diversions from the Delta by the federal and state water projects. On p. 14, the Draft Workplan goes on to explain that a fully independent reasonableness review will be undertaken by the Board if "new information supports immediate action" or "if DWR



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and USBR fail to develop or implement a plan satisfactory to the State Water Board to address concerns with the methods of diversion.”

Consistent with the Board’s responsibility to protect the public trust resources of the Delta, the Board must provide direction to the BDCP, in addition to monitoring the BDCP’s progress.

We therefore urge the Board to actively engage in shaping and directing Delta management plans, including the BDCP. The BDCP is an applicant driven process that is voluntary in nature. Thus, the BDCP cannot be expected to fully protect the State’s interest or the public trust. The Board cannot rely on the BDCP to define standards of significance or appropriate restoration actions. Nor should the Board wait for “new information” to trigger immediate actions in regard to stopping the decline in the Delta.

We urge the Board to independently determine the appropriate water flows, including flow amounts, flow directions, temperatures, quality, turbidity, etc, necessary both seasonally and inter-annually to restore the Delta ecosystem consistent with appropriate ecosystem performance goals, such as the ecosystem performance goals set forth in the Staff Draft Delta Vision .

We further recommend that the Board give clear and specific guidelines to the BDCP Steering Committee as to the standards for a “satisfactory” plan. We urge the Board to consider the type and extent of scientific analysis it considers “adequate” and the type and extent of project alternatives it considers to constitute a “reasonable range,” rather than waiting for such terms to be defined in the BDCP.

In addition, the Board should provide guidance to the BDCP plan on the level and standard of scientific review that must accompany BDCP plan elements that must be approved by the Board. Our own repeated suggestions for greater independent scientific review of the BDCP planning elements have been met with considerable resistance. Unfortunately, neither the federal or state guidelines for Habitat Conservation Plans or Natural Communities Conservation Plans require independent scientific *review* of the final plan elements, but rather require only scientific *input* on general conservation principles. Thus, the level of analyses and the protections included in the BDCP may not be sufficient for the Board’s purposes. To avoid inconsistencies, we urge, the Board to begin **conducting its own scientific review of plan elements in parallel with the BDCP process** in order to (a) allow the Board to re-direct the developing plan in a timely fashion (if the analysis suggests that the element has little chance of contributing to restoration of covered species) or (b) allow the Board to justify acceptance of the element (if the analysis supports the inclusion of the element in the restoration plan).

Comments on the proposed activities (Element 8 of the Draft Workplan) to improve water use efficiency

Element 8 *Water Use Efficiency*

We recommend that the Board develop incentives and requirements that allow for improvements in water use efficiencies in all sectors, particularly in residential housing in disadvantaged communities

We applaud the Board's intention to improve water use efficiency throughout the state, since improved efficiency is an important tool to continue to meet the needs of California's residents without further degrading the environment for California's native wildlife. As the Board considers regulations to incentivize improved urban water efficiency, we suggest that in addition to the clear need for the installation of water efficient technology in *new* construction, the Board consider ways to accelerate improvements in water efficiency in *existing* buildings and landscaping, particularly in housing in low-income communities.

One mechanism for spurring "water-smart" construction in conjunction with "water-smart" retrofitting is provided in Assembly Bill 2153 – The Water Efficiency and Security Act (See Attachment A for a factsheet on AB 2153). Introduced by Assembly Members Paul Krekorian and Loni Hancock, co-sponsored by the Planning and Conservation League and the Environmental Justice Coalition for Water, and supported by a coalition of environmental organizations, community groups, and progressive water agencies and cities (see Attachment A for the full list of supporting organizations), AB 2153 would have established a means for "water-neutral" development by first, minimizing the new demand for water by requiring highly water-efficient construction, and second, by requiring developers to mitigate 100% of that new demand through improvements in existing water infrastructure (with 40% of the improvements being directed to disadvantaged communities).

We urge the Board can begin incorporating similar measures as well as requirements for other water efficiency measures such as tiered water rates (accompanied by life-line rates), as conditions for all new and existing municipal and industrial water rights applications.

We further applaud the Board for establishing a new goal for recycled water use throughout the state. However, past goals for recycled water use have not been met. If the recycled water use goal is to be attained, the Board must also incorporate enforcement measures to accompany such broad goals. As a start the Board should adopt enforcement measures to ensure that all recycled water that is currently generated is put to beneficial use. Enforcement measures could include provisions on water rights or penalties for waste of water.

Comments on additional proposed activities (Element 9 of the Draft Workplan)

Element 9 *Other Activities*

We recommend that the Board immediately ask the Department of Fish and Game for recommendations on minimum in-stream flow standards for Delta tributaries.

Understanding the hydrodynamic conditions necessary for all components of the Delta ecosystem (including its tributaries) is a crucial component of a successful Delta restoration. Our understanding is that the BDCP process is unlikely to consider many restoration actions outside of the statutory Delta (other than habitat restoration in Suisun Marsh) which highlights the need for the Board to quickly seek recommendations from the Department of Fish and Game on tributary streamflows needed for fish and wildlife in the Delta watershed.

The limited discussion given this issue in the Draft Workplan (p. 91-92) and the scant or to-be-determined resources allocated to this activity (see Tables 1 and 2 on pages 18 and 19, respectively) cause us concern that important near-term improvements in tributary flows and habitat may be unduly delayed, to the further detriment of Delta populations already in decline.

We urge the Board to initiate a waste and unreasonable use investigation against USBR/Westlands Water district for irrigation of drainage impaired lands.

Continued delivery of water and irrigation of drainage-impaired agricultural land in the western-San Joaquin Valley is a contributing factor to the Delta decline and degraded water quality in the Delta and San Joaquin River water quality.

Just last month, the United States Geological Survey released an updated technical analysis of the contamination condition in this region, *Technical Analysis of In-Valley Drainage Management Strategies for the Western San Joaquin Valley, California*. It reported contamination build-up within the Westlands Water District will result in unusable soils and groundwater in as little as 25 years. The USGS further found that taking 300,000 acres of land within the Westlands Water District out of production would eliminate the drainage and contamination problem altogether.

The Board has statutory authority to initiate hearings and act on petitions to determine whether it is appropriate, under the Water Code Section 275, to irrigate those lands given that state and federal agencies have demonstrated the ongoing contamination impacts associated with this use of state and federal water. In 1985, the State Board issued Order 85-01, resolving that in the absence of a drainage solution for these lands the Board would initiate a hearing under Section 275. As of 2008, no solution to this on-going problem has been initiated. Consistent with the 1985 Board action, the Board should initiate a Section 275 hearing and incorporate such a hearing into the Strategic Plan.

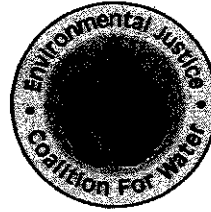
Thank you for considering our comments. We appreciate the board's heightened interest in the problems of the Sacramento-San Joaquin Delta and look forward to future interaction with Board members and staff as the activities identified in the Draft Workplan are further refined and implemented.

Sincerely,

A handwritten signature in black ink, appearing to read "Barb Byrne". The signature is fluid and cursive, with a long horizontal stroke at the end.

Barb Byrne
Water Policy Analyst
bbyrne@pcl.org
916-313-4524

cc:
Karen Scarborough, Undersecretary for Resources
Assembly Member Paul Krekorian
Assembly Member Loni Hancock



AB 2153 (Krekorian)

California Water Efficiency & Security Act of 2008

Background:

California requires a reliable water supply to sustain our population, accommodate our economic growth, and maintain our unique environment.

Regions throughout the state are learning that their water supply reliability is threatened as climate change exacerbates the already critical problems affecting the Colorado River, the Bay Delta Estuary, groundwater and other important water resources. For instance, by 2050 California's Sierra snowpack is estimated to decrease by 4.5 million acre-feet (maf) – enough for 9 million households a year.

Yet, while California must address lost water supply reliability associated with climate change, the state must also accommodate millions more residents. Our population is expected to nearly double - reaching nearly 60 million by 2050. In short, we will need to serve more people with less supply from traditional water sources.

As we adapt to California's new water future we cannot afford to leave disadvantaged communities behind. Disadvantaged communities already struggle with failing water systems that lose water through leaking pipes and require wasteful and frequent pipe flushing to rid pipes of contaminants. Many communities, suffering from historical infrastructure neglect, do not have the resources to make water-saving repairs. Many disadvantaged communities do not have funds to install water meters, a useful tool to promote water conservation.

California must minimize new demands & aggressively develop climate resilient water supplies for all communities. Immediate action is necessary to provide for residents, accommodate new residents & support economic growth.

California must aggressively develop climate resistant water supplies to sustain our people, economy & environment.

The Solution: Accommodating Growth and Securing Water Reliability:

The Water Efficiency & Security Act will ensure that California can meet water demands of existing and new residents while adapting to climate change. Specifically, AB 2153 requires new development to incorporate water efficiency measures as well as to mitigate new demands on existing water supplies. The water mitigation will be accomplished through efficiency measures within existing communities and the development of regional water supplies. **AB 2153 specifically limits mitigation requirement to mitigation that can be achieved for less than 1% of the price of the new development.** By having new development invest a maximum of 1% toward maintaining water supply reliability, regions can accommodate growth while securing water reliability for the people, economy and environment.

For More Information Contact:

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Debbie Davis, debbie@ejcw.org, (510) 286-8400

The Water Efficiency & Security Act will:

1. Requires new residential & commercial developments that are subject to CEQA to incorporate cost-effective water efficiency measures.
2. Requires that any water use in the new development be fully mitigated through water efficiency measures in existing communities or by developing local water supplies. **Limits the mitigation requirements to a maximum of 1% of the price of the development.**
3. A portion of the benefits from mitigation projects will be directed to disadvantaged communities that otherwise would not be able to afford efficiency and adaptation measures.

Supporters of AB 2153 (Krekorian & Hancock) The Water Efficiency and Security Act



Citizens for a Better Alpaugh
City of Burbank
City of San Francisco
East Bay Municipal Utility District*
East Bay Watershed Center
San Francisco Public Utilities Commission*
Southern California Watershed Alliance
Residents of Pico Rivera for Environmental Justice

* if amended