

# The Board of Supervisors

County Administration Building  
651 Pine Street, Room 107  
Martinez, California 94553-1293

**John M. Gioia**, 1st District  
**Candace Andersen**, 2nd District  
**Mary N. Piepho**, 3rd District  
**Karen Mitchoff**, 4th District  
**Federal D. Glover**, 5th District

# Contra Costa County



**David J. Twa**  
Clerk of the Board  
and  
County Administrator  
(925) 335-1900

October 30, 2015

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

David Murillo  
Regional Director, Mid-Pacific Region  
U.S. Bureau of Reclamation  
Federal Office Building  
2800 Cottage Way  
Sacramento CA 95825-1898

BDCP/WaterFix Comments  
P.O. Box 1919  
Sacramento, CA 95812  
Email: [BDCPComments@icfi.com](mailto:BDCPComments@icfi.com)

## **Re: Proposed Changes to the Bay Delta Conservation Plan/California WaterFix Continue to Threaten the Delta, Time for Plan "B"**

Dear Secretary Laird and Director Murillo:

Attached to this letter are Contra Costa County's comments on the Draft Bay Delta Conservation Plan ("BDCP")/California WaterFix ("CWF") and associated partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement ("RDEIR/SDEIS"). As further explained in this letter and its attachments, the RDEIR/SDEIS fails to consider a reasonable range of viable project alternatives, fails to model and disclose the full adverse environmental impacts of the project, and assumes away what were previously considered significant adverse, but unavoidable, water quality impacts of the project without any actual detailed water quality modeling being done. The RDEIR/SDEIS is therefore totally inadequate under CEQA and NEPA, and not responsive to state policies (2009 Delta Reform Act), and should be withdrawn.

A great deal of information is circulating on the release of the BDCP/CWF and its recirculated environmental documents. The California WaterFix has been portrayed positively and unduly optimistically by the project proponents, but there are a host of major problems with the project. We request your personal review of the issues with the proposed project and urgent consideration of an alternative approach outlined herein.

## **Proposed Changes to BDCP/Cal. WaterFix Continue to Threaten Delta, Time for Plan “B”**

October 30, 2015

Page 2

The current proposal by the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) to build new intakes in the north of the Sacramento-San Joaquin Delta (Delta) and export a significant percentage of Delta inflow will be a disaster for the Delta ecosystem, threatened and endangered fish species, the already degraded Delta water quality, and those living in or near the Delta that rely on the Delta for their water supply. The availability of good quality water in the Delta is essential for municipal drinking water for the residents of Contra Costa County as well as agriculture, recreation, and industry in this region.

Contra Costa County asks you both to undertake a serious review and reconsideration of this deeply flawed RDEIR/SDEIS and work with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) fisheries to develop a new approach (including the ability to capture and store “new” water during periods of high flow) that will actually restore and sustain the Delta ecosystem and address California’s water supply needs. This would greatly benefit not only California, but also the nation. The time to consider a Plan “B” is long overdue.

Despite what is stated by the project proponents in their press releases, the current project as proposed by DWR and, apparently, as supported by Reclamation, continues to have serious flaws and will harm, rather than improve the Delta ecosystem. Equally serious, it fails to produce any real increase in water supply reliability for California – something that is even more important in view of our current drought emergency.

The following are examples of the major problems with the current BDCP/CWF proposal:

- The preferred alternative in the current RDEIR/SDEIS fails to achieve either of the two co-equal goals of “providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.” (See Wat. Code, §§ 85054; 85301(a).) This renders the RDEIR/SDEIS noncompliant with the requirements of the state Sacramento-San Joaquin Delta Reform Act of 2009 (Wat. Code, §§ 85000-85350) and Division B, Title 2, Section 205 of the federal Consolidated Appropriations Act of 2012 (Pub. L. 112-74 (Dec. 23, 2011) 125 Stat. 786).
- The DWR and the California Natural Resource Agency (CNRA) and Reclamation have allowed the export water contractors to develop a flawed project and valuable input from Delta interests and environmental organizations and even other State Agencies (e.g. Delta Stewardship Council Independent Science Board) have gone unanswered. The Delta Independent Science Board’s September 30, 2015 letter indicates in no uncertain terms that the BDCP/CWF is “*sufficiently incomplete and opaque to deter its evaluation and use by decision makers, resource managers, scientists and the broader public.*”
- DWR, CNRA, Reclamation and Interior have failed to consider or analyze a reasonable range of alternatives. Fourteen (14) of the 15 alternatives in the draft RDEIR/SDEIS involve an isolated facility and north Delta intakes, with no new storage or actions to reduce demand on the Delta and increase local sources of water. The three new alternatives in the RDEIR/SDEIS have the same basic configuration as those 14, meaning 17 out of 18 project alternatives are essentially the same project alternative. These project alternatives do not foster informed decision-making, and do not permit a reasoned choice.

## **Proposed Changes to BDCP/Cal. WaterFix Continue to Threaten Delta, Time for Plan “B”**

October 30, 2015

Page 3

- The current RDEIR/SDEIS preferred alternative still relies on exports from the existing south Delta export locations (especially in dry years when the Delta is most stressed) and often would result in worse reverse flows in Old and Middle Rivers. The new North Delta intakes also adversely impact listed fish species (*i.e.*, species listed as threatened and endangered under the state and federal Endangered Species Acts) by reducing flows through the Delta to San Francisco Bay, reducing the percentage of flow through Sutter and Steamboat Sloughs, and increasing predation. Therefore, the project’s net benefits to listed fish species are minimal, if any.
- Astonishingly, the RDEIR/SDEIS’s preferred alternative would increase exports in dry periods and would only infrequently capture additional surplus water in wet periods. This is completely contrary to the original BDCP planning principles and the “Big Gulp, Little Sip” concept touted in the BDCP “An Overview and Update” dated March 2009. Specifically, principle #2 states “Divert more water in the wetter periods and less in the drier periods.” Moreover, the preferred alternative is in direct conflict with State policies of reducing reliance on the Delta in meeting California’s future water supply needs. (See Wat. Code, §§ 10608(c) & 85021.)
- The Operations and Water Quality modeling for the November, 2013 BDCP Draft EIR/EIS contained major errors and the computer models needed to be revised. However, no new modeling was done for the new RDEIR/SDEIS project or project alternatives. Instead DWR and Reclamation have based their RDEIR/SDEIS analyses on the original flawed modeling studies from three and a half years ago, and on water quality sensitivity analyses performed for completely different future demand, climate change scenarios, and habitat restoration conditions, *i.e.*, late-long-term rather than early-long-term.
- The estimated \$15 billion cost for construction of the tunnels does not represent the total cost of the whole project, estimated upwards of \$50 billion, and would most likely be rendered obsolete once the State Water Resources Control Board (SWRCB) adopts long-overdue, more-stringent, Delta flow requirements to protect fish and other beneficial uses.

These major issues are discussed in more detail in the attachments to this letter.

### **Time for a Fresh Approach - Plan “B”**

The Bay Delta Conservation Plan/California WaterFix proponents have done very little to develop a holistic and sustainable solution. The Delta is in serious decline and there are major water shortages in California, even in non-drought years. Fish populations are plummeting. DWR and Reclamation should fully embrace the responsibility and complexity of solving the problems of fish decline, degraded Delta water quality, the increasing demands for water in California, and the impacts of climate change.

It is unfortunate that due to state and federal budget constraints, this responsibility has been ceded to a special interest group, the export water contractors, who do not have the interests of the environment or the rest of California at heart. Because of the control exerted by the export contractors over the BDCP planning budget, the BDCP/CWF RDEIR/SDEIS was rushed into

## **Proposed Changes to BDCP/Cal. WaterFix Continue to Threaten Delta, Time for Plan “B”**

October 30, 2015

Page 4

print without any new modeling, and no new viable project alternatives. This seriously flawed document is not worthy of DWR or Reclamation, and has further delayed addressing the urgent needs of the Delta and California’s water supply.

A sustainable solution to California’s Bay-Delta fish and water supply problems can be achieved using the following approach. These are not new ideas. They have been provided by numerous Bay-Delta stakeholders to DWR and Reclamation as part of the BDCP process, and they were addressed in large part in the January 2014 California Water Action Plan. They have mainly been ignored or prematurely rejected by the single-focused BDCP/CWF proponents.

1. Capture water when there is high flow in the Delta and its upstream tributaries. This will require additional storage in or close to the Delta and south of the Delta. Additional storage located north of the Delta is needed, but it will not address the current problems of increasing water availability south of the Delta.
2. Storing captured water in wet periods will reduce the pressure to rely on the Delta for exports in drier periods. This will reduce resistance to adoption by the SWRCB and fishery agencies of necessary increased protections for fish in drier periods in the form of increased flows, and more stringent reverse flow limits and export restrictions. Only after the flows needed to sustain fish species are established will it be possible to determine how much water is available for export by the BDCP/CWF proponents.
3. If increases in Delta exports are focused on periods of high Delta outflow, water quality will be good enough in the western Delta to meet export needs. DWR and Reclamation should analyze alternatives involving new intakes in the western Delta in the vicinity of Sherman Island. Such an alternative would maintain flows for the fish through the Delta and eliminate the problems of reverse flows caused by both the south and north Delta intakes. During high flow periods, key pelagic fish species will be located west of Sherman Island. This alternative will also eliminate the need to construct lengthy expensive tunnels all the way under the Delta.
4. Increasing flows in the Delta during drier months will also help restore and maintain good water quality in the interior Delta.
5. Exports from the south Delta could still continue but only under “safe” conditions for fish. Reverse flows in Old and Middle Rivers would need to be highly constrained, *e.g.*, Old and Middle River flows that are never less than, say, -2,000 cfs, as a monthly average, in all months.
6. Implement a portfolio of other actions to reduce demand on the Delta, strengthen Delta levees, address other fish stressors, and restore habitat in the Delta and in its upstream tributaries.

If done right, this approach will result in a win-win-win solution that achieves both coequal goals and the inherent goals of improving water quality in the Delta and protecting the Delta as an evolving place (see Wat. Code, § 85020). The current Bay Delta Conservation Plan/California WaterFix maintains the existing “lose-lose” situation that pits water users against the environment and forces the SWRCB to balance rather than enhance beneficial uses. Indeed, it is

**Proposed Changes to BDCP/Cal. WaterFix Continue to Threaten Delta, Time for Plan “B”**

October 30, 2015

Page 5

telling that despite the court decisions upholding the Fall X2 limits, the export contractors still included an analysis of the proposed project without Fall X2 in the RDEIR/SDEIS (Appendix F).

It is unfortunate not to mention tragic for Delta smelt and other declining fish populations that after the expenditure of more than \$250 million on planning studies, and after tying up the staff resources of state and federal agencies and interested stakeholders for more than nine years, the BDCP/CWF proponents have failed to produce a viable or legally-permissible solution to the water and ecosystem problems facing California, and have failed to produce a legally adequate environmental document.

Once again, Contra Costa County respectfully asks that you both take a hard look at the current flawed BDCP/CWF process (and the legally inadequate RDEIR/SDEIS).

As discussed earlier, what is needed is an inclusive process – one that involves local agencies and other Bay-Delta stakeholders –to seriously consider new project alternatives that will actually solve rather than exacerbate the problems of the Delta, and that will sustain a healthy Delta ecosystem and a reliable water supply.

If you have any questions regarding Contra Costa County’s comments, please contact me at (510) 231-8686 or Ryan Hernandez at (925) 674-7824.

Sincerely,

John Gioia, Chair  
Contra Costa County Board of Supervisors

Attachments

A – Summary of CEQA/NEPA Comments

B – Detailed Comments on BDCP/CWF RDEIR/SDEIS

C – Detailed Analysis Of WaterFix Project Impacts based on Water Fix Modeling and Sensitivity Analysis Data

D – Recent Contra Costa County correspondence regarding BDCP and WaterFix

Cc: Governor Jerry Brown  
U.S. Secretary of Commerce, Jenny Pritzker  
U.S. Secretary of Interior, Sally Jewell  
U.S. Deputy Secretary of Interior, Michael Connor  
Senator Diane Feinstein  
Senator Barbara Boxer  
Congressman Mark DeSaulnier  
Congressman Mike Thompson  
Congressman Eric Swalwell

**Proposed Changes to BDCP/Cal. WaterFix Continue to Threaten Delta, Time for Plan “B”**

October 30, 2015

Page 6

Congressman John Garamendi

Congressman Jerry McNerney

Congressman Jared Huffman

Congresswoman Nancy Pelosi

Christy Goldfuss, Managing Director, Council on Environmental Quality

Will Stelle, Regional Administrator, NOAA Fisheries, West Coast Regional Office

Ren Lohoefer, Regional Director, USFWS, Pacific Southwest Region

Jared Blumenfeld, Region 9 Administrator, U.S. Environmental Protection Agency

Brigadier General Mark Toy, South Pacific Region, U.S. Army Corps of Engineers

Charlton H. Bonham, Director, California Department of Fish and Wildlife

Mark W. Cowin, Director, California Department of Water Resources

Felicia Marcus, Chair, State Water Resources Control Board

Contra Costa County Board of Supervisors