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**OFFICE OF THE CITY MANAGER**

July 18, 2014

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

VIA U.S. MAIL AND EMAIL

Email: [BDCP.Comments@noaa.gov](mailto:BDCP.Comments@noaa.gov)

RE: City of Brentwood Comments to the Bay Delta Conservation Plan Draft EIR/EIS

Dear Mr. Wulff,

The City of Brentwood ("City") appreciates this opportunity to review the Bay Delta Conservation Plan ("BDCP") Draft EIR/EIS. As one of the oldest and largest Delta communities, the City relies on the Delta for its high quality of life, recreation and economy. In addition, the City has a diverse water portfolio that utilizes both treated and untreated water from the Delta, groundwater and tertiary-treated recycled water. The City has reviewed the BDCP and associated EIR/EIS and has found significant legal and scientific flaws in the documents that cannot be corrected by responses to comments. The BDCP Draft EIR/EIS needs to be withdrawn, reworked and recirculated to address these fundamental deficiencies.

The City has the following serious concerns about the BDCP Draft EIR/EIS:

- *The BDCP Draft EIR/EIS does not meet the fundamental requirements of CEQA or NEPA for defining a project, thoroughly analyzing the project impacts, and providing adequate mitigation for those impacts.*
- *The technical analysis, specifically, the modeling used in the documents is fundamentally flawed and underestimates the impacts of the project.*
- *The BDCP Draft EIR/EIS identifies significant impacts to the City's drinking water supply, quality and cost of service that negatively impacts our economy, recreational opportunities, and quality of life for our residents and businesses, yet fails to provide adequate mitigation for these impacts.*
- *The BDCP Draft EIR/EIS needs to be withdrawn, rewritten and recirculated to address the identified deficiencies.*

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- *The BDCP Draft EIR/EIS does not provide mitigation for significant impacts identified at Brentwood.*
- *The City purchases and uses Delta water from both Contra Costa Water District (“CCWD”) and East Contra Costa Irrigation District (“ECCID”). ECCID is party to a contract with the State of California (acting by and through the Department of Water Resources) dated January 7, 1981 (the “Contract”). Section 6 (a) (ii) of that existing Contract provides:*

*The State recognizes a pre-1914 appropriative right of the District to divert from the Delta at Indian Slough for use within the District. The State shall furnish such water as may be required within the District, up to 50,000 acre-feet per year at a rate of 200 cubic feet per second, to the extent not otherwise available under the water rights of the District.*

*The existing Contract, as amended April 11, 1991 and February 7, 2000, between the State and ECCID defines the minimum water quality that the State must provide at ECCID’s Point of Diversion. The BDCP Draft EIR/EIS fails to provide a detailed analysis of the impacts and associated mitigations to water quality and quantity as they relate to impacts to ECCID, CCWD and the City at all intake diversion locations. In addition, the BDCP Draft EIR/EIS should provide an explanation and plan on how DWR will guarantee the minimum water quality and quantity at all intake diversion locations, especially during periods of low flow with diminished Delta water quality.*

- *The City utilizes multiple diversion locations for both potable and non-potable water. The operations that govern which diversion or combination of diversion points of water the City uses is highly dependent on a variety of factors, including Delta water supply, Delta water quality, and associated water treatment costs. The BDCP Draft EIR/EIS does not adequately analyze nor provide adequate mitigation for these operational and associated economic impacts to the City’s Water Treatment Plant as well as the City’s use of untreated Delta water based on anticipated periods of detrimental changes to the Delta water supply and quality.*
- *The City’s Wastewater Treatment Plant (“WWTP”) discharges tertiary treated wastewater into Marsh Creek under the California Regional Water Quality Control Board (“CRWQCB”), Central Valley Region NPDES Permit CA0082660 (“NPDES Permit”), Order R5-2013-0106 (see the following link of the NPDES Permit included as part of our comments:*

*[http://www.swrcb.ca.gov/rwqcb5/board\\_decisions/adopted\\_orders/contra\\_costa/r5-2013-0106.pdf](http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/contra_costa/r5-2013-0106.pdf) ). The NPDES Permit imposes stringent effluent limitations necessary to meet applicable water quality standards. Failure to meet the limitations and other provisions in the Order may subject the City to administrative or civil liabilities and/or other enforcement remedies to ensure compliance. The chloride effluent limitation in the NPDES Permit is 344 mg/L effective January 1, 2018, with an interim limit of 517 mg/L. One source of the wastewater chloride comes from our Delta drinking water supplies from CCWD’s intake locations at Rock Slough and Old River. The BDCP Draft EIR/EIS modeling indicates increase in chloride during certain months of the year. The WWTP discharge currently exceeds the 344 mg/L limit, so ANY increase in chloride levels in any month in our drinking water sources imposes a significant and detrimental impact to the City and its ability to meet the state-mandated chloride effluent limitations. The City is currently exploring alternatives*

to achieve the chloride limits, but has yet to identify any feasible means of mitigating increases to the chloride levels due to the BDCP. In addition to effluent chloride limits, the NPDES Permit also imposes stringent limits on temperature, copper, dibromochloromethane, mercury, and other factors/constituents that detrimentally increase as the Delta water quality decreases. The BDCP Draft EIR/EIS fails to adequately analyze or identify any feasible mitigation for the potential impacts from increases in these constituent levels and the associated impacts on the City's WWTP state-mandated effluent limitations.

- The City provides recycled water for use under the CRWQCB, Central Valley Region Master Reclamation Permit ("MRP"), Order R5-2004-0132 (see the following link of the MRP included as part of our comments:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/contra\\_costa/r5-2004-0132.pdf](http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/contra_costa/r5-2004-0132.pdf) ). Like the NPDES Permit, the MRP also imposes stringent requirements and limitations necessary to meet applicable required water quality standards, and also includes provisions for administrative or civil liabilities and/or other enforcement remedies for failure to comply with these requirements. These requirements include limits to total dissolved solids, boron, chloride and sodium. A significant source of these constituents comes from the City's surface drinking water supply from the Delta. The BDCP Draft EIR/EIS fails to adequately analyze or identify feasible mitigation for the potential impacts from increases in these constituent levels and the associated impacts on the City's use of recycled water, including potential impact to groundwater and irrigated landscaping.

- The City is permitted for storm water discharges under the CRWQCB, Central Valley Region NPDES Permit CAS083313 ("Storm Permit"), Order R5-2010-0102 (see the following link of the Storm Permit included as part of our comments:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/contra\\_costa/r5-2010-0102\\_npdes.pdf](http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/contra_costa/r5-2010-0102_npdes.pdf) ). The Storm Permit imposes receiving water limitations for Delta waterways for dissolved oxygen, turbidity, pH, degradation of aquatic communities and population, and other applicable water quality standards. The BDCP Draft EIR/EIS fails to adequately analyze or identify feasible mitigation for the potential impacts on the City's ability to meet these water standards within the Delta waterways as they relate to the requirements in the Storm Permit.

- In addition to treated surface water supplies from the Delta, the City also relies on groundwater for our potable water supply. The BDCP Draft EIR/EIS concludes that many of the alternatives will not alter regional patterns of groundwater flow or quality during construction or operation of BDCP conveyance facilities. The BDCP Draft EIR/EIS does not provide adequate justification for this conclusion nor does it provide any analysis of or identify any feasible mitigation for the detrimental localized effects, such as in our City, to groundwater flow or quality. In addition, the Draft EIR/EIS fails to adequately analyze or identify any feasible mitigation for the anticipated seasonal effects to groundwater flow or quality.
- The BDCP Draft EIR/EIS does not adequately consider alternatives or hybrid alternatives with significantly reduced environmental impacts such as increase in recycled water storage

*and supply. Recycled water is a reasonable and more sustainable, environmentally sound, economical, drought-proof, usable water source whose use is consistent with State policy and does not rely on nor depend on uncertain hydrologic conditions or effects of long-term climate change.*

- *The current drought conditions and actions by the State are reminders that current rules and regulations can be amended in an emergency condition. The BDCP Draft EIR/EIS fails to analyze or identify feasible mitigation for the potential impacts from future drought conditions, or discuss or analyze how future rule changes to undertaken to address drought conditions may impact the City's water supply and quality.*

The City is also carefully reviewing comments on the BDCP Draft EIR/EIS submitted by other agencies and interested members of the public, including but not limited to the CCWD, the ECCID, City of Antioch, Contra Costa County, and concurs with many of those comments. The City, therefore, reserves the right to rely on all other submitted comments on the BDCP Draft EIR/EIS.

The City looks forward to working with the various involved agencies on the BDCP to find meaningful resolutions to our concerns.

Sincerely,



Paul R. Eldredge, P.E.  
City Manager

cc: Congressman John Garamendi  
Congressman George Miller  
Congressman Jerry McNerney  
California Resources Agency/Secretary John Laird  
Dept. of Water Resources, Director Mark Cowin  
Senator Mark DeSaulnier  
Senator Lois Wolk  
Assemblyman Jim Frazier  
Contra Costa County Board of Supervisors  
Brentwood City Council  
Brentwood Department Directors  
ECCID, General Manager Pat Corey  
Contra Costa Water District, General Manager Jerry Brown  
Diablo Water District, General Manager Mike Yeraka  
Oakley City Manager Bryan Montgomery  
SWRCB, Board Chair Felicia Marcus