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July 25, 2014

BDCP Comments
Ryan Wulff
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Subject: CCWD Comments on the Bay Delta Conservation Plan and Associated Draft Environmental Impact Report / Environmental Impact Statement

Dear Mr. Wulff:

Enclosed are the comments of Contra Costa Water District (CCWD) regarding the public draft Bay Delta Conservation Plan and associated Draft Environmental Impact Report/Environmental Impact Statement.

Sincerely,

Leah Orloff
Water Resources Manager

LO/DS:jc

cc: Laura King Moon, DWR
Michelle Banonis, Reclamation
Barbara Schussman, Perkins Coie, LLP

Enclosures

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July 25, 2014

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National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
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Re: Contra Costa Water District Comments on Bay Delta Conservation Plan and Draft EIR/EIS

Dear Mr. Wulff:

Thank you for the opportunity to provide our comments under the California Environmental Quality Act, the National Environmental Policy Act, and other statutes on the Bay Delta Conservation Plan and associated Draft Environmental Impact Report/Environmental Impact Statement (BDCP Draft EIR/EIS). Contra Costa Water District has a vital interest in the environmental effects of the BDCP, as it serves water from its intakes in the Sacramento-San Joaquin Delta for residential, commercial, and industrial uses to the Cities of Brentwood, Antioch, Martinez and Pittsburg; to the Golden State Water Company in Bay Point and the Diablo Water District in Oakley; and to customers in Clayton, Clyde, Concord, Pacheco, Port Costa, Martinez, Pleasant Hill, and Walnut Creek.

Enclosed are the full comments prepared by the staff of the Contra Costa Water District (CCWD). This letter provides a brief overview of the legal defects found in the BDCP Draft EIR/EIS, the BDCP itself, and the Draft Implementing Agreement for the BDCP. These defects are substantial and require that both the BDCP Draft EIR/EIS and the BDCP be revised and recirculated for public comment and agency response.

The BDCP proponents have elected to style the BDCP as a Habitat Conservation Plan under the federal Endangered Species Act and a Natural Community Conservation Plan under the California Natural Community Conservation Planning Act. But even a brief review of the BDCP Draft EIR/EIS reveals that the proposed project is not about conservation of habitat and natural communities. This project is about moving water from north of the Delta to south of the Delta "to meet the demands of certain south-of-Delta SWP and CVP water contractors." BDCP Draft EIR/EIS Executive Summary p. ES-10. The water conveyance component of the BDCP, labelled "Conservation Measure 1" (CM1), is designed for this water supply purpose, not for a

conservation purpose. The BDCP acknowledges that CM1 provides only minor benefit to species. BDCP, Chap. 5 at p. 5.5.1-42. The effort to portray a massive, multi-billion dollar water conveyance project as a habitat conservation project is the source of many of the defects evident in the BDCP and accompanying BDCP Draft EIR/EIS.

As described below, and in far greater detail in CCWD's full comments, the BDCP Draft EIR/EIS is fatally undermined by an inadequate project description. The document does not disclose how the existing state and federal water supply facilities would operate before the new CM1 water conveyance is constructed, after the conveyance is constructed, or even at the 2060 date the authors have selected as their only impact assessment date. The BDCP project proponents themselves do not yet know how or when key project components would be constructed, where some of the water would come from, what operational parameters would be used, or even how most of the conservation measures would be funded.

The resulting environmental analysis, while voluminous, contains enormous gaps. Because the project description is not yet known, it is impossible to tell the full extent to which the project would affect water quality and water supplies in the San Francisco Bay Delta - the sole source of drinking water for the 500,000 people and major industries who rely on CCWD as their retail or wholesale water service provider. To make matters worse, the BDCP Draft EIR/EIS masks the project's effects by combining impacts of the project with impacts of climate change and other potential future activities. And the BDCP Draft EIR/EIS focuses its analysis on the year 2060, leaving readers in the dark as to how the fragile Delta environment would function over the preceding 46 years.

Having failed to adequately reveal impacts of the project, the BDCP Draft EIR/EIS impermissibly defers mitigation to future studies with no performance standards and no commitment to actual mitigation. Some potentially feasible environmental mitigation measures are not even labeled as mitigation, but rather are treated as "non-environmental" "other commitments" to which the BDCP proponents do not actually commit. And where significant impacts have been omitted, of course no mitigation is identified.

All of these failings, as well as the myriad others described in CCWD's full comments, must be corrected:

- The key aspects of the project that influence the environmental analysis must be described. Necessary elements include:
    - How the BDCP proponents plan to operate their existing water supply facilities before and after CM1 operations begin;
    - What actions are contemplated, and what rules would apply, as part of the "adaptive management" of CM1;

  - What water storage, water transfer activities and/or other measures are necessary to achieve the key project objective to increase water supply reliability for south-of-Delta water contractors; and

  - Where, when and how—or at least under what rules—the BDCP's 80,000-plus acres of habitat restoration projects would be constructed, so that the resulting impacts on water quality and water supply can be analyzed and minimized.

- Project impacts must be disaggregated from other effects, such as the effects of climate change and the effects of other future projects that might be completed. Moreover, near-term, mid-term, and long-term project effects must be revealed. That certain impacts might be offset at full project implementation in 2060 tells the reader nothing about water quality and water supplies in 2020 or any other year during the decades prior to 2060.

- The water quality, water supply and fisheries impact modeling for the impacts analysis must be corrected as recommended by the report on the independent analysis of the BDCP Draft EIR/EIS modeling performed by MBK Engineers for a consortium of water agencies, which concluded that the modeling of CM1 operations used for the BDCP Draft EIR/EIS analysis was fundamentally flawed and underestimated water quality impacts in the Delta.

- The impact analysis must be expanded to include water quality impacts from increased disinfection byproducts that would result from the BDCP's changes in Delta water quality and from increased aquatic algae whose byproducts can both be toxic and cause noxious tastes and odors.

- The analysis of water quality and water supply impacts must include all - not half - of CCWD's Delta water intakes, and the 160-thousand-acre-foot Los Vaqueros Reservoir.

- Once impacts are revealed, effective mitigation measures must be identified. Where mitigation cannot be precisely defined, objective performance standards must be presented, along with a menu of feasible measures that would be capable of achieving those standards. The project proponents must commit to implementing all feasible mitigation to substantially reduce the project's adverse effects.

- Real alternatives, including an alternative similar to the Portfolio Alternative suggested by the Natural Resources Defense Council and other organizations, must be identified and analyzed. Alternatives must be designed to reduce project impacts, and not be burdened with outdated parameters and assumptions that cause impacts of the alternatives to appear worse than those of the proposed project. The Portfolio Alternative concept describes a feasible project, which may be more realistic than DWR's Preferred Alternative.

- The CEQA lead agency must be the California Department of Fish and Wildlife (CDFW), and not one of the proponents of the alternative conveyance system. The entire analysis has been skewed by the fact that it was prepared by the chief advocate for the conveyance system - and not the agency with responsibility to approve and ensure implementation of the entire Natural Community Conservation Plan.

- CCWD's facilities, operations and permits must be correctly described so that impacts to CCWD's ability to provide quality water are correctly analyzed.

In sum, the BDCP Draft EIR/EIS does not fulfill the most basic requirements of CEQA and NEPA to inform the decision-makers and the public about the environmental consequences of approving the BDCP, and to consider meaningful alternatives and mitigation measures to reduce the effects of the project. The document must undergo substantial revision and be recirculated for public review and agency response.

Finally, the BDCP itself does not meet the requirements of the federal Endangered Species Act and California Natural Community Conservation Planning Act, and its implementation would violate numerous other statutes, policies and contracts that protect water quality and water rights. The BDCP proponents must fundamentally rethink the project to correct these legal defects.

OVERVIEW OF COMMENTS

Project Description

The most basic flaw in the BDCP Draft EIR/EIS, from which most of the Draft's other defects flow, is its project description.

Water Supply Facilities. As explained in detail in Section 1.1 of CCWD's comments, although the BDCP is first and foremost a water supply project, the BDCP Draft EIR/EIS does not adequately describe how water supply facilities would operate under the BDCP.

First, the BDCP Draft EIR/EIS fails to describe how the BDCP proponents' existing water supply facilities would function during the first 11 years of BDCP operations, when CM1 would not yet be complete but numerous other BDCP elements – including habitat restoration projects and Delta "research studies" – would be implemented. Although significant impacts to water quality, water supply and other environmental resources could result, the BDCP Draft EIR/EIS provides no information that would allow the public and the decision-makers to assess the environmental impacts of this 11-year experiment on the Delta.

Second, once CM1 is constructed and north Delta diversions begin, the BDCP Draft EIR/EIS does not describe how existing State Water Project and Central Valley Project facilities outside the Delta – particularly upstream reservoirs – would be managed, or how DWR and Reclamation would share the capacity and yield of the new water supply facilities. The failure to answer these

questions creates flaws in the BDCP Draft EIR/EIS's analyses of water supply, surface water, water quality, and fisheries impacts. These flaws are so severe that the U.S. Department of the Interior, Bureau of Reclamation has stated "the whole of its action" has not been analyzed in the BDCP Draft EIR/EIS, and impacts from changes in the operation of upstream reservoirs must be evaluated before it will accept or implement the BDCP Biological Opinion. (Reclamation, 2013a at p.1)

Third, although the BDCP states that CM1 operations would be subject to adaptive management, the project description does not identify either the pieces of the adaptive management toolkit or the range of acceptable outcomes. Without these, the range of potential impacts of CM1 cannot be adequately analyzed or mitigated.

Fourth, the BDCP Draft EIR/EIS fails to identify the source of water needed to meet proposed operational criteria under Alternative 4, DWR's Preferred Alternative for the purposes of CEQA. The BDCP Draft EIR/EIS assumes that water for additional Delta outflow would come, in part, from a "water transfer," but does not identify the source of such a transfer and, therefore, makes no effort to analyze the environmental impacts of the transfer. It further assumes, in contradiction to existing laws and policies, that water for additional required Delta outflow could come from the State Water Project but not from the Central Valley Project. This unfounded assumption distorts the water supply, water quality, and fisheries analysis such that the impacts of operating the planned conveyance facilities cannot be properly assessed in the BDCP Draft EIR/EIS.

Finally, the BDCP project description has been segmented (or "piecemealed") to avoid addressing water storage, water transfers, or other activities essential to the accomplishment of project objectives. A fundamental objective of the BDCP is to "restore water supplies of the SWP and CVP south-of-Delta." BDCP Draft EIR/EIS p. ES-8. CM1, the water conveyance facility designed to achieve this objective, would cost the proponents of the BDCP at least $16.3 billion. BDCP Executive Summary p. 26. Yet the BDCP Draft EIR/EIS's analysis shows that under the most likely operating scenario, Alternative 4 is anticipated to *reduce* State Water Project and Central Valley Project water exports. The only way the BDCP can ensure improvements in water supply reliability south of the Delta is to include other elements such as water storage and water transfers. Yet the BDCP Draft EIR/EIS steadfastly refuses to address these elements. "An EIR may not define a purpose for a project and then remove from consideration those matters necessary to the assessment whether the purpose can be achieved." *County of Inyo v. City of Los Angeles*, 124 Cal. App. 3d 1, 9 (1981).

Habitat Restoration Projects. The BDCP Draft EIR/EIS purports to analyze at a generalized "program" level all 21 of the BDCP's conservation measures other than CM1 – many of which would cause their own environmental impacts, and some of which will precede completion of CM1. As explained in Section 1.2 of CCWD's comments, however, the BDCP Draft EIR/EIS fails to meet the legal requirements for a program analysis of these BDCP elements. To take the

most striking example, the BDCP's non-CM1 conservation measures include more than 80,000 acres of habitat restoration. It is very well understood that habitat restoration projects within the waters of the Delta or upstream rivers and floodplains can affect the movement of water, the extent of salinity intrusion, and the quality of water in Delta channels. Nevertheless, the BDCP Draft EIR/EIS provides very limited information about the small number of habitat restoration projects that have been identified, and provides no information whatever about the range of impacts that could be caused by the 80% of habitat restoration projects that remain unidentified. If specific information is not available about these projects, then the BDCP must set rules for their location, sequence and design, and the BDCP Draft EIR/EIS must analyze the impacts of habitat restoration projects that operate within those rules.

Impacts Analysis

As described in Section 2 of CCWD's comments, the BDCP Draft EIR/EIS analysis of the BDCP's environmental impacts is doomed by the project description defects enumerated above; by improperly defined baselines and with-project scenarios (Section 2.1), by errors and gaps in methodology for the analysis of water quality impacts (Section 2.2) and water supply impacts (Section 2.3), and by failure to analyze all of the impacts of CM1's construction (Section 2.4).

The comparison of project impacts to baseline conditions is flawed in four ways. First, the BDCP Draft EIR/EIS purports to use conditions as of February 2009, the date the Notice of Preparation for the EIR/EIS was issued, as its baseline date for CEQA analysis. This baseline is plainly outdated; important Delta water infrastructure projects and operations became part of the physical environment before the BDCP Draft EIR/EIS was issued and in some cases before the impact analysis was even started. In addition, the "February 2009" baseline conditions described in the BDCP Draft EIR/EIS do not even include all of the regulatory programs and requirements that were in place as of that date, thus making "existing" conditions appear worse than they are and falsely minimizing the BDCP's impacts.

Second, rather than comparing the BDCP alone to a February 2009 CEQA baseline, the BDCP Draft EIR/EIS conceals the BDCP's impacts by comparing presumed 2060 *cumulative* conditions – including BDCP operations, operations of other possible future projects, the possible effects of global climate change, and other presumed changes in background conditions, all mixed together – to the baseline. This plainly unlawful approach masks, rather than reveals, BDCP impacts and renders the BDCP Draft EIR/EIS's "CEQA" analyses useless.

Third, perhaps recognizing this fatal flaw in the CEQA analysis, the BDCP Draft EIR/EIS also presents a NEPA-based comparison of future no-project conditions to future with-project conditions. Although this analysis at least attempts to compare apples to apples, its fatal flaw is that the only future-year comparison conducted is for the year *2060*. This means not only that the first 46 years of BDCP impacts receive no environmental analysis whatsoever, but that the entire analysis depends on guesses about far-distant environmental conditions. The California

Supreme Court warned of just this problem in *Neighbors for Smart Rail v. Exposition Metro Rail Line Construction Authority*, 57 Cal. 4th 439, 447 (2013). Compounding these errors, the 2060 no-project scenario improperly excludes the implementation of habitat restoration actions that are *required* under the current Biological Opinions that govern the coordinated operations of the Central Valley Project and the State Water Project.

Fourth, the BDCP Draft EIR/EIS masks the impacts on water quality of CM1, on the one hand, and habitat restoration projects CM2 and CM4, on the other hand, by lumping them together for analysis. This makes it difficult to identify and evaluate mitigation measures to address the differing effects of the various conservation measures. Moreover, given that the project proponents have not committed to implement any conservation measure other than CM1, it is incorrect to assume implementation of those measures. The impact of each conservation measure must be revealed, in addition to the impacts of the combination of all of the measures.

The BDCP Draft EIR/EIS's technical analysis of the BDCP's water quality impacts is also plagued by errors and gaps. The BDCP Draft EIR/EIS fails to analyze the potential increase in carcinogens that form during the treatment of raw water to produce drinking water. Increases in bromide, dissolved organic carbon and organic nitrogen near drinking water intakes would increase the formation of disinfection byproducts that cause cancer and other serious health effects. With respect to bromide, for example, the BDCP Draft EIR/EIS:

- Fails to analyze the magnitude of change in bromide concentrations, which is necessary to analyze human health impacts;

- Asserts that large increases in bromide concentrations at two drinking water intakes are less than significant on the illogical basis that the intakes are "infrequently used"; and

- Fails to analyze bromide concentration changes in conjunction with changes in organic carbon concentrations, so that potential changes to disinfection byproduct formation, and impacts to all municipal users reliant on the Delta, are significantly understated.

The BDCP Draft EIR/EIS also fails to analyze the potential for the BDCP to impact water quality in the south Delta through increased concentrations of aquatic algae, whose byproducts can both be toxic to humans and animals and have noxious tastes and odors. Increases in these byproducts require increased physical removal and chemical treatment by water suppliers. The new south Delta marsh habitat and changes in water operations would create ideal conditions for cyanobacteria; nevertheless, the BDCP Draft EIR/EIS neglects these impacts and does not provide mitigation for them.

The BDCP Draft EIR/EIS's failures of analysis on these water quality issues are all the more striking given that the Department of Water Resources, which purports to be the CEQA lead

agency for the BDCP EIR/EIS, has repeatedly demanded that the EIRs for *other* parties' projects in the Delta analyze these very impacts.

Furthermore, the BDCP Draft EIR/EIS does not adequately analyze the temporary construction water quality impacts, and does not analyze at all the potential permanent water quality impacts, of the relocation of agricultural drains that would result from construction of conveyance facilities and habitat restoration, and which could occur at CCWD's drinking water intakes. DWR is well aware that agricultural drainage locations can significantly affect drinking water quality; it has funded two projects to reconfigure drainages near CCWD's intakes for precisely this reason. The project proponents cannot now ignore the effects that another relocation of drainages might cause.

Another significant gap in the BDCP Draft EIR/EIS analysis is its failure to discuss how the proposed project and alternatives would operate in the event of levee failures due to an earthquake. One of the BDCP's stated project objectives is to minimize the potential for public health and safety impacts that would accompany seismically induced levee failures. The BDCP presumably would benefit the exporters by enabling them to pump fresh water from north of the Delta in the event of a levee failure that brings salt water into the Delta. But nowhere does the BDCP Draft EIR/EIS reveal that doing so would make conditions far *worse* for those who rely on the Delta for their drinking water. Studies presented outside of the BDCP Draft EIR/EIS reveal that if fresh water were exported during a levee failure rather than flowing down into the Delta, it would take much longer for fresh water to flush out the Delta. The BDCP Draft EIR/EIS must be revised to explain how the BDCP proponents intend to operate the proposed project, and each project alternative, in the event of predictable earthquake scenarios, so that the public can review and comment on the environmental impacts of those plans.

The BDCP Draft EIR/EIS makes other fundamental errors in water quality analysis. The document fails to analyze impacts at two of CCWD's four drinking water intakes. The BDCP Draft EIR/EIS compounds this error by improperly treating water quality as a long-term average, rather than a daily, issue. But CCWD's and other diverters' ability to take acceptable water from Delta intakes is decided on a daily basis; improvements during periods when water quality is high do not offset degradation of water quality during periods when the quality is low.

With respect to water supply, even though modeling performed for the BDCP Draft EIR/EIS showed that the BDCP would cause significant impacts to CCWD's water supply, the BDCP Draft EIR/EIS does not reveal these results and does not disclose this significant impact. The proposed project would inhibit CCWD's ability to store high-quality water in Los Vaqueros Reservoir for blending with poor-quality source water, and for use in droughts and emergencies, but the BDCP Draft EIR/EIS never grapples with this issue. See Section 2.3.1 of CCWD's comments. Further, the BDCP Draft EIR/EIS assumes operation of the proposed project would reduce Central Valley Project storage in Shasta Lake and San Luis Reservoir to levels that are unlikely to occur in practice, and the document fails to disclose how these shortfalls would be

addressed and what the resulting impacts would be. The BDCP Draft EIR/EIS must be revised to take account of these water supply impacts.

Finally, the BDCP Draft EIR/EIS does not identify or evaluate the impacts of construction activities on access to drinking water supply infrastructure, including infrastructure owned and operated by CCWD. The impacts of constructing CM1 – and, indeed, CM2 through CM22 – must be fully analyzed in a revised BDCP Draft EIR/EIS.

Mitigation

Despite all of the errors that result in understatement of the BDCP's impacts, the BDCP Draft EIR/EIS identifies significant water quality impacts to CCWD facilities from increases in chloride, electrical conductivity (EC) and dissolved organic carbon (DOC). The document fails, however, to identify mitigation for these significant impacts that complies with CEQA and NEPA requirements. Instead, the text of the BDCP Draft EIR/EIS defers identification of mitigation measures to the distant future without explaining why such deferral is necessary and without specifying performance standards, identifying a menu of potential measures that would reduce the impact, or describing how the BDCP proponents would select among the measures. The only measures identified in the BDCP Draft EIR/EIS that might, if expanded and supplemented, form the basis for legally adequate mitigation measures are, paradoxically, carefully labeled not as mitigation, but as "non-environmental" "other commitments" in an Appendix. Moreover, the BDCP proponents do not even commit to these "commitments," incorrectly claiming that they are not required to contribute to the solution of any BDCP-caused significant water quality problems that are also caused "substantially" by climate change.

In addition, where, as described above, the BDCP Draft EIR/EIS entirely fails to analyze a potential environmental impact or incorrectly labels a significant environmental impact as less than significant, the BDCP Draft EIR/EIS also improperly fails to identify legally adequate mitigation.

CCWD Comment 3 describes in detail all of these defects in the BDCP Draft EIR/EIS. As the comment also explains, legally adequate mitigation measures for all of these impacts must be identified and analyzed.

Alternatives

The BDCP proponents' focus on CM1 has unreasonably restricted the range of alternatives analyzed in the BDCP Draft EIR/EIS. Alternatives that would reduce the significant impacts of CM1, including the "Portfolio Alternative" – or, indeed, any alternative that would substitute adjustments to existing water reservoir and system operations to improve water supply reliability in place of all or part of CM1 – are not considered despite the high environmental cost of CM1. Moreover, although the BDCP Draft EIR/EIS acknowledges that CM2 through 22 are likely to

cause significant environmental impacts, the BDCP proponents do not consider any meaningful changes to those BDCP components. Finally, the BDCP Draft EIR/EIS discussion of the alternatives the BDCP proponents are willing to consider is so unclear that neither the public nor the decision-makers will be able to discern, for example, whether a particular alternative would cause a particular impact due to its facility configuration or its operating scenario.

Lead Agency

CEQA defines the "lead agency" as "the public agency which has the principal responsibility for carrying out or approving a project." Pub. Res. Code § 21067. The overriding interest of the BDCP proponents in constructing the CM1 water conveyance facilities led them to select the Department of Water Resources (DWR) as lead agency; DWR has authority over the State Water Project, one of the primary beneficiaries of CM1. However, the BDCP purports to be a Natural Community Conservation Plan (NCCP) under California law; implementation of the NCCP is the proposed project for CEQA purposes. DWR has no responsibility for approving the NCCP; that responsibility belongs to the California Department of Fish and Wildlife. As for carrying out the NCCP, DWR would have significant responsibility for carrying out CM1, but may carry out few of the BDCP's other 21 "conservation measures." For the reasons described in detail in Section 5 of CCWD's comments, the BDCP proponents' selection of DWR rather than CDFW as the "CEQA lead agency" violates CEQA and has skewed the contents of the BDCP Draft EIR/EIS.

Characterization of CCWD Facilities, Operations and Permits

The BDCP Draft EIR/EIS's internally inconsistent, outdated and largely erroneous descriptions of CCWD's existing operations and facilities presage the document's failures to analyze significant environmental impacts affecting those operations and facilities. The BDCP Draft EIR/EIS repeatedly ignores two of CCWD's four Delta water intakes, the Rock Slough Fish Screen, and the Los Vaqueros Reservoir Expansion Project and incorrectly describes CCWD as an exporter of water from the Delta. The result is an "existing conditions" baseline for BDCP analysis that misstates 2013 conditions in the Delta and understates the BDCP's impacts. Section 6 of CCWD's comments explains these defects.

Habitat Conservation Plan/NCCP Comments

In addition to the CEQA and NEPA shortcomings that make its BDCP Draft EIR/EIS unlawful, the BDCP itself does not comply with the letter or spirit of the Endangered Species Act (ESA) and the Natural Community Conservation Planning Act (NCCPA), as described in Section 7 of CCWD's comments. First, although CCWD is unique as the only major municipal water supplier that relies entirely on intakes it operates in the Delta, the planned governance for the BDCP gives CCWD no effective voice in BDCP implementation. Second, the Draft Implementing Agreement for the BDCP violates the NCCPA by providing assurances to the

BDCP proponents that are not commensurate with the BDCP's underfunded and uncertain conservation assurances. Third, the Draft Implementing Agreement violates the NCCPA's requirement that the implementation of mitigation and conservation measures "is roughly proportional in time and extent to the impact on habitat." Finally, Chapter 8 of the BDCP relies on incomplete, unrealistic and speculative funding assumptions, failing to provide an adequate level of assurance that the BDCP would be funded adequately to meet NCCPA and ESA requirements.

Consistency with Other Laws, Policies and Agreements

Finally, as explained in Section 8 of CCWD's comments, the BDCP must comply with the Delta Protection Act, the Sacramento-San Joaquin Delta Reform Act of 2009, anti-degradation policy, water rights, sections 404 and 401 of the Clean Water Act, and at least three existing contracts with Delta water purveyors. As proposed and analyzed in the BDCP Draft EIR/EIS, implementation of the BDCP would violate all of these statutes, policies and agreements. These are not simply significant impacts that the agencies can override under CEQA or impacts that can be accepted in a record of decision under NEPA; these are violations of substantive law that the BDCP proponents must address and eliminate.

* * * * *

The attached set of full comments explains each of the foregoing issues in detail. In addition, technical documents referenced in CCWD's comments are attached to this comment letter as Exhibits. If you have questions about these comments, please contact Marguerite Patil at CCWD at (925) 688-8018 or mpatil@ccwater.com.

Very truly yours,

Barbara J. Schussman

Attachments

Copies to: Charles Bonham, California Department of Fish and Wildlife
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Contra Costa Water District

Comments on the December 13, 2013
Draft Bay Delta Conservation Plan and Accompanying
Draft Environmental Impact Report / Environmental Impact Statement

July 25, 2014

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Contra Costa Water District
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Sections

Tables

Figures

Detailed Contents