

The Board of Supervisors

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Contra Costa County



David Twa
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and
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(925) 335-1900

July 29, 2014

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

Re: The Draft Bay Delta Conservation Plan (BDCP) Threatens the Delta

Dear Secretary Laird and Director Murillo:

The future of Contra Costa County is closely linked to the health of the Sacramento-San Joaquin Delta and we are writing to express our grave concerns with the threat posed by the Bay Delta Conservation Plan (BDCP) as it has been drafted. We are concerned that the BDCP threatens to take more water from the Delta than ever before, will have significant adverse impacts to water quality, and assumes that new habitat creation will be enough to provide a net improvement in the health of the ecosystem and to protect fish. The lack of meaningful stakeholder participation in the process has led to a draft project that is inadequate and deficient, fails to provide a more reliable water supply for California while concurrently failing to protect, restore, and enhance the Delta ecosystem. We respectfully request that State and Federal water leaders withdraw and revise the Draft BDCP to address these concerns.

Contra Costa County is bounded on its western, northern and eastern sides by the San Francisco Bay and the Sacramento-San Joaquin Delta, and these natural features are the basis for not only the County's identity and quality of life but also our economic vitality. 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. As a local agency responsible for land use, flood protection, and other services vital for protecting the Delta, Contra Costa County must have a key, decision-making role in governing any proposed solution to the current problems afflicting the Delta.

The 2009 Delta Reform Act requires the achievement of two coequal goals: to provide a more reliable water supply for California and to protect, restore, and enhance the Delta ecosystem. Additionally the Delta Reform Act requires the protection of the unique cultural, recreational, natural resource, and agricultural values of Delta as an evolving place. From our perspective, the BDCP is written to secure the permitting of the twin tunnels estimated at a cost of up to \$65 billion dollars, and treats the health of the Delta as an afterthought. The basis for improvement of the Delta is founded on incomplete information, heroic assumptions, and inconsistent base lines. The Draft BDCP project fails to achieve the coequal goals by harming fish, degrading the Delta's water quality and failing to include actions to expand statewide water storage or reduce reliance on the Delta.

When the BDCP planning began, the State required an agency or County to first agree not to oppose the project in order to secure a seat at the Steering Committee table. This was not a reasonable precondition. In addition, all physical impacts of the BDCP are within the Delta while the benefits are realized by water contractors located outside the Delta, yet another reason why the County should have been included in the planning of this project. During implementation, the BDCP proposes to relegate the Counties to a "Stakeholder Council" that has no ability to make decisions on behalf of the health and welfare of the Delta and the communities surrounding it. Any successful management of Delta ecosystem restoration and new Delta conveyance requires a robust Governance structure that includes the locally affected Counties. Each Delta County should have a voting seat on an entity that sits atop the BDCP governance body that oversees the development, approval and implementation of the BDCP. The entity itself should be constituted in a balanced manner with participation by agencies that sell water and control water-related infrastructure, agencies that buy water and the local governments directly impacted. The State cannot claim transparency when people who live, work, recreate, and govern in the Delta are excluded from a meaningful role in the development and implementation of a massive and expensive project like the BDCP.

Contra Costa County has experienced successful implementation of a Habitat Conservation Plan that includes federal, state and local governments working together. Our implementation structure is benefited with local governance and project impacts and mitigation are realized equally. We know it works because we have seen it work.

Taking more water from the Delta, when it is dearly needed to support beneficial uses in the Delta, creates the significant and unavoidable impacts to water quality as described in the BDCP. Water quality impacts to the Delta can be avoided by increasing the amount of water flowing out of the Delta to the San Francisco Bay. The corresponding impact of export water supply can be offset by capturing more water during high flow periods and storing it for use when exports are reduced. The proposed mitigation measure below is not mitigation; rather it is a blank check.

"Following initial operations of Conservation Measure 1 (twin tunnels), conduct additional evaluation and modeling of chloride levels to determine feasibility of mitigation to reduce chloride levels (see Mitigation Measure WQ-7)"

Real mitigation would involve binding agreements for additional flows in the Delta to reduce seawater intrusion and improve Delta water quality. There also needs to be minimum flow and water quality standards for the summer months to ensure fish protection actions in the spring and fall do not redirect impacts to the currently poorly protected summer months.

It is unfortunate that for budgetary reasons, the state and federal administrations appear to be ceding responsibility in addressing the longstanding problems with the current export and storage system to the export water contractors. It is not surprising that the product of this exporter-led process fails to provide the flows necessary to restore the Delta ecosystem, preferring instead to promote habitat restoration (to be paid primarily out of public funds). The BDCP proponents have done very little to develop a holistic and sustainable solution. They have not embraced the full responsibility and complexity of solving the problems of fish decline, degraded Delta water quality, the increasing demands of water, and the impacts of climate change.

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The State of California through its Water Action Plan and recent efforts to finally manage California's depleted groundwater basins has made a welcome step in the right direction. The current Drought Emergency Declaration has drawn attention to the need for increased storage upstream and south of the Delta so that standards established to protect fish do not need to be further relaxed during drier periods. The State response to the current emergency has also raised questions as to whether the new BDCP facilities would be operated as promised or whether the BDCP proponents would seek relaxations of the operating rules whenever dry years occur or they deem necessary.

Contra Costa County again requests that the lead agencies withdraw this flawed and inadequate Draft BDCP and establish an inclusive approach to development with involvement of local agencies and other indispensable parties that will provide a comprehensive approach to solving the problems of the Delta and sustaining a healthy ecosystem and reliable water supply.

It is unfortunate that after expenditure of more than \$200 million on planning studies and tying up the staff resources of state and federal agencies and stakeholders for more than seven years, the BDCP has failed to produce a viable or legally permissible solution to the water and ecosystem problems facing California. As such, the proposed BDCP and its associated Draft EIR/EIS should not be approved. In order to efficiently and successfully provide water for all of California, continuous collaboration and consultation on developing a suite of actions must take place based on water system operational improvements, creating water storage, levee improvements, regional self-reliance and lasting and meaningful protection of the Delta.

Attached to this letter are Contra Costa County's detailed comments on the Draft Bay Delta Conservation Plan and associated Draft Environmental Impact Report and Environmental Impact Statement. If you have any questions regarding Contra Costa County's comments, please contact me at (925) 521-7100 or Ryan Hernandez at (925) 674-7824.

Sincerely,



Karen Mitchoff
Chair
Contra Costa County Board of Supervisors

Attachments:

- A: Summary Outline of CEQA/NEPA Comments
- B: Comments on the Draft Bay Delta Conservation Plan
- C: Comments on BDCP Draft EIR/EIS
- D: Comments on the Draft Implementing Agreement
- E: Analysis of BDCP Project Changes to Delta Exports
- F: Analysis of other BDCP Project Impacts based on BDCP Modeling Data
- G: Previous County Comments on BDCP

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Cc: Governor Jerry Brown
U.S. Secretary of Commerce, Jenny Pritzker
U.S. Secretary of Interior, Sally Jewell
Senator Diane Feinstein
Senator Barbara Boxer
Congressman George Miller
Congressman Mike Thompson
Congressman Eric Swalwell
Congressman John Garamendi
Congressman Jerry McNerney
Congressman Jared Huffman
Michael Boots, Acting Chair, Council on Environmental Quality
Will Stelle, Regional Administrator, NOAA Fisheries, West Coast Regional Office
Ren Lohofener, Regional Director, USFWS, Pacific Southwest Region
Jared Blumenfeld, Region 9 Administrator, U.S. Environmental Protection Agency
Brigadier General C. David Turner, 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

BDCP Comments
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