

**Department of
Conservation and
Development**

**Contra
Costa
County**

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December 13, 2013

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

The Honorable Matthew Rodriquez, Secretary
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

The Honorable Karen Ross, Secretary
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Re: Contra Costa County Water Agency Comments on the Draft California Water Action Plan

Dear Secretaries Laird, Rodriquez and Ross:

Contra Costa County appreciates this opportunity to comment on the Draft California Water Action Plan. As outlined in the Draft Action Plan, California faces many major issues regarding water supply reliability, water quality and ecosystem sustainability. Contra Costa County commends you for recognizing the State needs to show leadership in addressing these critical issues and developing a detailed framework of actions.

Contra Costa County has the following detailed comments regarding the Water Action Plan.

The Water Action Plan has a better chance of achieving the co-equal goals of the 2009 Delta Reform Act than the Bay Delta Conservation Plan.

The Water Action Plan provides a more reliable water supply by creating more water (thru storage, conservation and recycled water) and by upgrading Delta levees. It protects, restores and enhances the Delta ecosystem by completing the Bay Delta Water Quality Control Plan, eliminating barriers to fish migration, enhancing water flows, improving operational efficiency of the state and federal water projects, and improving coordination of State Bay Delta actions. In our prior comments on the BDCP we have asked that such actions be included as an alternative to the BDCP and evaluated in its Environmental Impact Report. We have more confidence in such measures from the Water Action Plan than anything offered by the BDCP to date to achieve the co-equal goals.

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Completing Comprehensive Plans to Recover Populations of Threatened and Endangered Species in the Delta and Improve Water Supply Reliability for Users of Delta Water should not include the BDCP.

The BDCP by its own admission (2nd Admin draft EIR/EIS) will adversely impact water quality in the Delta. The draft EIR/EIS states these impacts are “unavoidable” and fails to consider alternatives and mitigation measures that would avoid degrading Delta water quality, such as additional storage and reducing diversions in drier months. The BDCP’s effects analysis shows it harming rather than protecting key fish species. The comprehensive planning underway should replace the project as currently envisioned with a reasonable range of conservation strategies, include a reasonable range of flow criteria, rates of diversion and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries.

Streamline the Delta Levees Subvention and Special Projects Programs.

The state’s pace at funding Delta levee improvements does not appear to match the state’s concern over the risk of levee failure in the Delta. Hundreds of millions of state bonds were passed in 2006 for Delta levee upgrades. Seven years later hundreds of millions of state bonds remain to be spent. The state should evaluate the Levee Subvention and Special Projects Programs to determine if there is an opportunity to streamline their operation and expedite these important projects.

Bay Delta Water Quality Control Plan should focus on improving Delta flows.

The SWRCB should implement increased Delta flows necessary to restore and sustain fish populations, including more stringent limits on reverse flows in the central Delta (OMR limits) and then work with the SWP and CVP to enable them to maintain and increase water supply reliability by capturing more water during wetter months. This will likely require three types of additional storage: new upstream storage to offset the loss of snow pack due to climate change; south-of-the-Delta storage to receive and store increased diversions when Delta flows are very high (and water is truly surplus to the needs of the Delta); and new storage in- or immediately adjacent to the Delta to allow increased diversions during wetter months.

The SWRCB should proactively encourage necessary change in how the Delta is operated to actually protect Delta ecosystem and in-Delta water needs. A win-win solution involving additional storage will achieve both co-equal goals whereas the current lose-lose solutions failed to achieve either.

Actions to Protect and Restore Important Ecosystems and Bring Back Salmon to the San Joaquin River need to have broader scope.

The Draft Action Plan states: “*The Department of Fish and Wildlife and the Department of Water Resources will lead the effort to achieve the state goal of restoring flows to the San Joaquin River from Friant Dam to the confluence of the Merced River, and bringing back a naturally-reproducing, self-sustaining Chinook salmon fishery while reducing or avoiding adverse water supply impacts.*”

The State should be more proactive in restoring the San Joaquin River, especially the section below Friant Dam. Consistent with California Fish and Game Code § 5937 and the Stipulation of Settlement (Settlement) dated September 13, 2006, in *Natural Resources Defense Council, et al. v. Kirk Rodgers, et al.*, the goal should be to restore instream flows below Friant Dam sufficient to restore and sustain Chinook salmon populations and other public trust values. The SWRCB should ensure that its increased flow criteria for the Merced, Tuolumne and Stanislaus Rivers are also applied to the upper San Joaquin River.

The continuing failure to require sufficient water to flow through or around Friant Dam in order to keep the downstream fishery in “good condition” is not acceptable. The State must of course address the issues that will arise once the river flows are restored, such as water supply losses, degraded levee systems and seepage into neighboring lands, and illegal diversions. However, this should not be used as an excuse to delay righting the wrong that was perpetrated when Friant Dam was constructed.

Manage and Prepare for Dry Periods.

Consideration should be given to fund land retirement in the western San Joaquin Valley which has soil that should have never been farmed (i.e. selenium runoff) and has junior (i.e. unreliable) water rights. Additionally, another action would be to discourage agriculture users with junior water rights from planting permanent crops (e.g. orchards) which cannot go fallow during dry periods.

We Support Expanded Water Storage Capacity.

Contra Costa County agrees that additional storage, “*whether surface or groundwater, whether big or small,*” is needed to meet California’s environmental and water supply reliability needs. Additional storage is needed (a) upstream of the Delta, and elsewhere, to compensate for the loss of snow pack due to global climate change, (b) south of the Delta to store additional water during wet months for use during drought periods, and (c) in or near the Delta to allow surplus water to be captured during very wet periods at diversion rates.

The Draft Water Action Plan also states that: “*The new conveyance system proposed in the Bay Delta Conservation Plan would provide more water project operational flexibility, which in turn*

would eventually eliminate some of that uncertainty and increase the feasibility of additional water storage. Partnerships to build additional water storage presumably would follow.”

If the BDCP facilitates but does not analyze the environmental impacts of additional storage, then the BDCP will be piecemealing its environmental review under CEQA. Contra Costa County also believes that the BDCP will be unable to actually achieve the co-equal goals of restoring and sustaining fish populations, while improving water supply reliability, improving Delta water quality and protecting and enhancing the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place, without incorporating new storage.

If the BDCP proponents are unwilling to incorporate additional storage and some version of the SWRCB Delta Flow Criteria into their preferred project, then permitting of the BDCP should be delayed until the SWRCB has completed its revision of the Bay-Delta Water Quality Control Plan and key elements of the California Water Action Plan are implemented.

The California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture have a duty of stewards of the water resources for all Californians, and as protectors of the public trust, to require that BDCP analyze alternatives that can achieve, rather than merely balance, the co-equal goals and that requires additional storage.

Groundwater Management Strategies need to be coordinated with Streamlining Water Transfers.

Contra Costa County agrees that the State must take steps to give local agencies the authority necessary to manage groundwater sustainably and ensure no groundwater basin is in danger of being permanently damaged by over drafting. The recent USGS report on subsidence in the Central Valley clearly shows the damage that has resulted from unregulated groundwater pumping. The pressure to further extract groundwater from already severely over-drafted basins will continue until California's water supply issues are resolved.

The State must also ensure any streamlining of water transfers does not create incentives for groundwater overdrafting. A large body of evidence exists showing that water transfers have encouraged excessive groundwater use as sellers of water rights in the San Joaquin Valley have increased their reliance on groundwater use.

Identify State Funding Priorities for Delta Levees.

Contra Costa County agrees that the Delta Stewardship Council, in consultation with the Department of Water Resources, the Central Valley Flood Protection Board, the Delta Protection Commission, local agencies, and the California Water Commission, should develop funding priorities for state investments in Delta levees as soon as possible.

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Preparing for 2014 and beyond through better technology and improved procedures.

The models used in the current feasibility studies being conducted by the State do not adequately demonstrate whether these projects will provide the intended improvements to operations, ecosystems and water quality. The effects analysis of the BDCP and other feasibility studies reveal that the current CALSIM operations model and DSM2 water quality models have significant limitations. The water bond should fund improvements to water operations models to improve their ability to accurately forecast the effects of water system operations improvements in the Delta. We support the need to better model water deliveries and storage rather than water demands.

Conclusion

The Water Action Plan is correct in acknowledging that “*All Californians have a stake in our water future.*” It is important that the Natural Resources Agency work on behalf of all Californians and the fish and wildlife of California, and not absolve itself of these responsibilities by allowing the export water contractors dictate the direction of the BDCP.

The mission statement of the Natural Resources Agency is: “To restore, protect and manage the state's natural, historical and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration and respect for all the communities and interests involved.” The State should indeed spend the time to develop creative alternatives and solutions to the problems caused by exports from the Delta, rather than simply supporting a variant of the 1982 Peripheral Canal that harms key fish species, degrades Delta water quality, and adversely impacts the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

Fundamental changes in our approach to water resource management are needed now. It is no longer sustainable or in the interests of California to maintain the current high levels of exports from the Delta during drier months, while failing to develop the facilities needed to capture water when it is surplus to the needs of the Delta including the Delta ecosystem.

If you have any questions regarding Contra Costa County's comments, please contact me at (925) 674-7879.

Sincerely,



Ryan Hernandez
Contra Costa County Water Agency

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cc: The Honorable Edmund G. Brown Jr., Governor, State of California
Charlton H. Bonham, Director, California Department of Fish and Wildlife
Mark Cowin, Director, California Department of Water Resources
Phil Isenberg, Chair, Delta Stewardship Council
Felicia Marcus, Chair, State Water Resources Control Board
Contra Costa County Board of Supervisors
John Kopchik, Deputy Director Department of Conservation and Development