



SPECIAL MEETING
IMPORTED WATER COMMITTEE

Board Room

AUGUST 8, 2013

1:30 p.m.

Elsa Saxod – Chair
Mark Muir – Vice Chair
Ken Williams – Vice Chair
Gary Arant
Gary Croucher
Betty Evans
Michael Hogan

Keith Lewinger
John Linden
Ken Olson
Bud Pocklington
Fern Steiner
Ronald Watkins
Doug Wilson
Tom Wornham

1. Call to order.
2. Roll call – determination of quorum.
3. Public comment – opportunities for members of the public to address the Committee on matters within the Committee’s jurisdiction.
4. Chair’s report.

I. CONSENT CALENDAR

II. ACTION/DISCUSSION

1. Bay Delta.

1-A Bay-Delta Historical Context and Outline of Bay-Delta
Conservation Plan and Alternatives for Water Authority
Evaluation and Analysis. (Information/Discussion)

Dennis Cushman

III. INFORMATION

IV. CLOSED SESSION



V. ADJOURNMENT

Doria F. Lore
Clerk of the Board

NOTE: This meeting is also called and noticed as a meeting of the Board, but will be conducted as a meeting of the Imported Water Committee. Members of the Board who are not members of the Committee may participate in the meeting pursuant to Section 2.00.060(g) of the Water Authority Administrative Code. All items on the agenda, including information items, may be deliberated and become subject to Committee action. All public documents provided to the committee or Board for this meeting including materials related to an item on this agenda and submitted to the Board of Directors within 72 hours prior to this meeting may be reviewed at the San Diego County Water Authority headquarters located at 4677 Overland Avenue, San Diego, CA 92123 at the reception desk during normal business hours.



August 1, 2013

Attention: Imported Water Committee

Bay-Delta Historical Context and Outline of BDCP and Alternatives for Water Authority Evaluation and Analysis. (Information)

Background

The 1,300-square-mile Sacramento-San Joaquin Bay-Delta provides a significant portion of the water supply to an estimated 25 million Californians, including the 3.1 million residents of San Diego County. While amounts vary from year to year, the Delta was the source of approximately 22 percent of San Diego County's water supply over the past five years.

The Delta is also the largest west coast estuary in North and South America, supporting as many as 130 fish and 750 wildlife and plant species, and is one of four major North America paths for migratory birds.

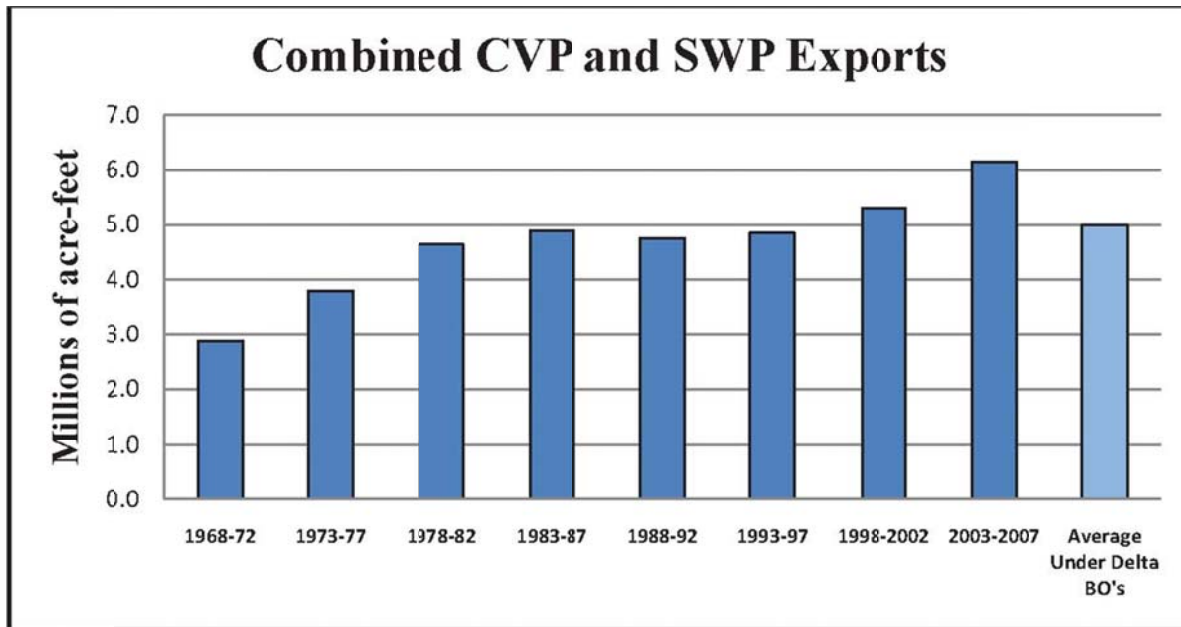
Over the years, human activities like water development, land use, wastewater discharges, introduced species and harvesting have degraded the Delta habitat, increasing concerns over ecosystem viability. Today, the Delta is no longer a reliable water supply system or a healthy habitat for fish and other wildlife. Its aging levee system, built a century ago for flood control and irrigation, is also vulnerable to failure, and the estuary and the state's water supply are at risk from floods and earthquakes.

This memo highlights the recent history of conflict within the Delta and the various efforts to resolve those challenges, leading up to the Bay-Delta Conservation Plan (BDCP) process that is well under way today. Additionally, staff will provide information regarding the BDCP permitting and environmental review process, to offer context for the Board of Directors' evaluation of the BDCP and alternatives in the coming months. Finally, staff will outline the four alternatives that will be the subject of more in-depth and detailed evaluation and analysis for the Board.

Discussion

Construction of the federal Central Valley Project (CVP) began in 1937. The purposes of this massive irrigation project, operated by the U.S. Bureau of Reclamation, were to address California's needs for flood control, navigation, water supply for agriculture and urban uses, and hydroelectric power. Principle features of the CVP include Shasta Dam, Friant Dam, Folsom Reservoir, the Delta-Mendota Canal, the Contra Costa Canal, and the Delta Cross Channel. In 1951, the Feather River Project was enacted and was eventually ratified by voters in 1960. This project was the genesis of the eventual State Water Project (SWP), which is owned and operated by the California Department of Water Resources. It began delivering water in 1967 within the north and south Bay Area, the San Joaquin Valley, and southern California. Key features of the SWP include Oroville Dam, the California Aqueduct, power generation facilities, and pumping plants. The CVP and SWP use a common water supply path through the Delta. DWR and the Bureau coordinate and operate the CVP and SWP to meet the joint water right requirement in the Delta. Together, both projects have an ultimate south of Delta contractual delivery obligation of

7.3 million acre-feet (maf). However, the projects never delivered at that level. Between the late-1970s and early 2000s, the combined projects exports averaged around 5 maf. This changed in 2003, when MWD lost access to surplus Colorado River supplies, and began to increase deliveries of its State Water Project entitlement. Between 2003 and 2007, the combined CVP and SWP exports averaged just a little bit more than 6 maf.



Peripheral Canal

As early as the initial approval of the SWP in 1960, there was an identified need for implementation of a plan to convey water supplies across the Delta while protecting the fragile Delta ecosystem. The Burns-Porter Act, approved by voters in 1960 to provide a \$1.75 billion water bond to assist in financing the SWP, authorized Delta facilities for “water conservation, water supply in the Delta, *transfer of water across the Delta*, flood and salinity control, and related functions” (emphasis added). In 1965, the Interagency Delta Commission recommended the peripheral canal as the proposed plan to facilitate the “transfer of water across the Delta.” The peripheral canal was proposed to convey water from the Sacramento River at Hood to the state and federal pumping plants in the south Delta and was intended to provide sufficient water supply while maintaining water quality and mitigating impacts to fish.

Through the late 1960s and into the late 1970s, the peripheral canal proposal was subjected to debate and study, but conclusions were reached in 1969 and again in 1978 that a federal-state peripheral canal was necessary to protect the Delta.

In 1980, the State Legislature passed, and the Governor signed Senate Bill 200, which authorized the peripheral canal and provided specific guarantees to protect the Delta and to meet the water needs of the SWP through the year 2000. However, in 1982, California voters defeated Proposition 9 – a veto referendum – which included the SB 200 package of statewide water facilities, including the peripheral canal, by 63-37 percent.

Following the voters' defeat of Proposition 9, DWR published "Alternatives for Delta Water Transfer" in 1983. The report examined alternatives for improving the water transfer system across the Delta, including:

- Isolated conveyance system (similar to the peripheral canal)
- Improvements to channel conveyance capacities in the north and south Delta (dual conveyance)

The examination of alternative conveyance projects eventually lost momentum over the next decade. Then, a six-year drought during the years of 1987-1992 disrupted water deliveries, deteriorated water quality, and pushed fish species to the brink of extinction. As a result of ongoing water conflicts and hydrology, the Delta smelt were listed as a threatened species in 1993. At that time, a number of actions were implemented to protect Delta smelt, including pulse flows on the Sacramento River and limitations on certain flows within the Delta, to improve conditions for the smelt. Following the Endangered Species Act (ESA) listing for Delta smelt came the endangered species listings for winter-run Chinook salmon in 1995 and spring-run Chinook salmon in 1999. The actions implemented to protect these species once again highlighted the conflicts and challenges facing the dual objectives of water supply reliability and ecosystem protection in the Delta.

CalFed

There were many problems associated with the actions that were being implemented to protect fish species since the failed passage of peripheral canal referendum. Water quality was still an issue and water supply impacts were significantly affecting urban and agricultural water users. Potential climate change impact to the operations of CVP and SWP as well as how the existing system may fare under a large seismic event in the Delta were issues still to be addressed. However, a cornerstone for future cooperation was established when long-time water stakeholder adversaries – urban water users, agriculture, and environmentalists – agreed to work together to find common ground. Those stakeholders began to collaborate on Delta issues with four federal agencies – the Environmental Protection Agency, U.S. Bureau of Reclamation, National Marine Fisheries Service, and Fish and Wildlife Service – which became known as "Club Fed."

Soon, the state also joined the collaborative effort when Governor Pete Wilson joined forces with Interior Secretary Bruce Babbitt to propose a program for Delta restoration. In June 1994, "Club Fed" and California signed an agreement to coordinate activities in the Delta; this was the creation of CalFed. This process led to the signing of a document titled, "Principles for Agreement on Bay-Delta Standards between the State of California and the Federal Government." This agreement – known as the Bay-Delta Accord – initiated a long-term planning process to improve the Delta and increase the reliability of its water supply.

The signing of the Bay-Delta Accord began a 10-year period in which the CalFed Framework, Record of Decision, final Programmatic EIS/EIR, and California Bay-Delta Act were adopted; the Bay-Delta Public Advisory Committee was formed; and Congress authorized federal CalFed participation. The CalFed Framework document formalized cooperation among state and federal agencies with management and regulatory responsibility in the Delta. Signatories to the CalFed Framework agreed to work together to formulate water quality standards, coordinate operations of the SWP and CVP, and work toward long-term solutions to problems in the estuary.

In August 2000, the CalFed Record of Decision, and an accompanying memorandum of understanding executed by the then 13 state and federal implementing agencies, was finalized. Later, 12 more state and federal agencies signed onto the Record of Decision, for a total of 25 state and federal implementing agencies.

The primary objectives established by the CalFed Record of Decision were resource management objectives, including supply reliability, water quality, ecosystem restoration and levee system integrity that were interrelated and interdependent, and intended to be carried out and implemented concurrently.

Principles were also established through the Record of Decision on how program objectives would be implemented to ensure fairness to all parties. These fundamental guiding values were called “CalFed Solution Principles” in that they were intended to guide development and evaluation of the program. These principles state that the solution must be: affordable, equitable, implementable, durable, able to reduce conflicts in the system, and should cause no significant redirected impacts.

While the CalFed Record of Decision outlined key components for governance, it would be another two years before the State Legislature would enact the California Bay-Delta Act (2003), establishing the California Bay-Delta Authority as the governing oversight body of CalFed. It would be another two years after that until Congress authorized federal participation in the Bay Delta Authority.

The California Bay-Delta Authority was comprised of 24 members, including representatives from state and federal agencies, public members, Bay-Delta Public Advisory Committee and non-voting ex officio members.

The Authority was responsible for developing policies and making decisions at program milestones and providing direction to achieve balanced implementation, integration, and continuous improvements across program objectives. Another key responsibility of the Authority was to track progress of all program projects and activities, and assess overall achievements toward fulfillment of program goals and objectives.

CalFed’s early years were fraught with complaints that the program was not accomplishing what it was created to do. Complaints from stakeholders regarding CalFed included:

- Lack of leadership
- Inability to advance the CalFed program agenda
- Unable to demonstrate results
- Unable to measure achievements
- Lack of real “authority” to direct the 24 other CalFed implementing agencies

In May 2005, in his May Budget revision, Governor Schwarzenegger called for an independent review to help CalFed refocus and revitalize to deal with issues regarding its operation and emerging ecological and hydrological crises in the Delta. An independent review by the Little

Hoover Commission, the Department of Finance, and management consultant KPMG followed. The independent review report issued by the Little Hoover Commission found CalFed's plan to be "costly, underperforming, unfocused, and unaccountable."

In February 2006, the California Legislative Analyst's Office (LAO) published criticisms of the CalFed program during its annual State Budget review. The LAO report criticized the CalFed program for failure "*to develop a viable long-term finance plan,*" as well as its "*lack of focus and priorities*" and "*lack of a performance orientation.*" The LAO also declared that the CalFed program had "*strayed from its original focus of resolving conflicts among water-related interests in the Delta, by expanding into what looked like a statewide water management program, resulting in substantial overlap with the mission and responsibilities of [the] California Department of Water Resources.*"

Shortly after these criticism surfaced, and coupled with a lack of confidence by stakeholders in the CalFed leadership, direction, and prospects for resolving Delta conflicts, the State Legislature dissolved the Bay-Delta Authority and moved all Delta-related funding to the Office of the Secretary of Resources (now the California Natural Resources Agency). This essentially ended the CalFed program and led to the current efforts under way today in the BDCP effort. While the CalFed program was fraught with problems in governance and implementation, some of the program results were positive, including the identification of the dual conveyance option, work done to identify off-stream storage, habitat restoration, water quality and bringing water use efficiency into the discussion about fixing the Delta. Lessons learned from these past experiences can be instructive in helping to ensure BDCP does not suffer a similar fate.

Bay-Delta Conservation Plan

During the entire CalFed and post-CalFed period of time, the population of sensitive species in the Delta continued to decline. The species decline led to more aggressive restrictions on water pumping from the Delta. Exacerbating the challenges, U.S. District Court Judge Oliver Wanger issued a series of decisions from 2007 through 2011, relating to the operations of the SWP and CVP. Judge Wanger's decisions related to the integrity of Biological Opinions intended to protect threatened and endangered species, and resulted in restricting exports from the Delta to protect those species. The judge's decisions led to a loss of about half a million acre-feet of SWP and CVP water supply in an average water year, and those decisions, coupled with poor hydrologic conditions in 2008-2010, led to extensive water shortages for urban and agricultural water users.

In the highly altered environment of the Delta, several fish species have declined to the lowest population numbers in their recorded histories. In response, federal regulatory actions to protect threatened and endangered fish species have limited through-Delta conveyance, and have made water supplies increasingly unreliable. The proposed BDCP is a 50-year plan that would address these issues with an ecosystem-based approach. The BDCP is intended to help restore fish and wildlife species in the Delta in a way that also would provide for the protection and restoration of water supplies, while minimizing impacts to Delta communities and farms.

In 2006, stakeholders commenced discussions related to addressing Delta conflicts through alternative water conveyance, and in 2008, the California Natural Resources Agency initiated preparation of the BDCP as a collaboration of: state, federal, and local water agencies; state and

federal fish and wildlife agencies; environmental organizations; agricultural organizations; and other entities. The BDCP is being developed as a multi-species Habitat Conservation Plan (HCP) and a Natural Communities Conservation Plan (NCCP) under the federal and state Endangered Species acts, respectively. By providing a plan that seeks to recover and protect listed species, state and federal water management agencies would be able to obtain the permits necessary to build and operate infrastructure in the Delta, including the construction and operation of a new water conveyance system over a 50-year timeframe.

The BDCP is being developed in compliance with the federal ESA, the California ESA, and the California Natural Community Conservation Planning Act, and will be subject to environmental review under the National Environmental Policy Act and the California Environmental Quality Act. The BDCP is also being developed with the guidance of a Steering Committee, which is comprised of state, federal, and local water agencies, state and federal fish and wildlife agencies, environmental organizations, agricultural organizations, and other interested parties. These entities are assisting DWR in the development of an application for incidental take under the state and federal endangered species laws.

HCPs and NCCPs are planning documents required as part of permit applications under the federal ESA and the California Natural Community Conservation Planning Act. The goal of an HCP/NCCP is to provide for the conservation of species and habitats covered by a conservation plan. A joint HCP/NCCP generally describes, among other things:

- The activities and projects to be covered by the conservation plan;
- The measures that will be implemented to appropriately minimize and mitigate for the effects of the covered activities and that will provide for the conservation of covered species and their habitats;
- The likely effect of implementing the actions described in the conservation plan on covered species and their habitats; and,
- The funding that will be available to implement the conservation plan.

Without an HCP/NCCP, the regulatory approach under the federal ESA in the Delta regulates permitting on a stressor-by-stressor basis and on a species-by-species analysis. Therefore, each individual stressor on the Delta – such as SWP and CVP operations – is singled-out and a regulatory approach for that single stressor is developed and implemented on a species-by-species basis. The BDCP was initiated in recognition that a more holistic approach is needed to look at multiple stressors on the ecosystem, the needs of multiple species, and the natural communities that support them.

The BDCP is intended to:

- Provide for the conservation and management of covered species within the plan area (the Delta);
- Preserve, restore and enhance aquatic, riparian and associated terrestrial natural communities and ecosystems that support covered species within the plan area through conservation partnerships;
- Allow for projects to proceed that restore and protect water supply, water quality, and ecosystem health within a stable regulatory framework;
- Provide a means to implement covered activities in a manner that complies with applicable state and federal fish and wildlife protection laws that include CESA and ESA, and other environmental laws, including CEQA and NEPA;
- Provide a basis for permits necessary to lawfully take covered species;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements for covered activities within the plan area;
- Provide a less costly, more efficient project review process that results in greater conservation values than a project-by-project, species-by-species review; and,
- Provide clear expectations and regulatory assurances regarding covered activities occurring within the plan area.

A combined EIR/EIS will be prepared to review the environmental effects of the proposed BDCP, and a reasonable range of alternatives, including a “no action” alternative. This evaluation will help determine the ultimate preferred alternative and final plan. The EIR/EIS will evaluate the potential impacts of the BDCP including impacts to local communities, cultural resources, and the physical and biological environment. The lead agency for the state-required EIR is DWR. The co-lead agencies for the federally-required EIS are the U.S. Bureau of Reclamation, National Marine Fisheries Service, and the U.S. Fish and Wildlife Service.

Delta Reform Act of 2009

As part of a comprehensive package of Delta-related legislation, the state Legislature created the Delta Reform Act of 2009 that established the co-equal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. Another outcome of the Act was the establishment of the Delta Stewardship Council (DSC) as an independent state agency, tasked with developing and implementing a comprehensive Delta Plan. The DSC’s mission is to help achieve the two co-equal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta’s ecosystem. Under the 2009 statute, these goals must be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

Under the Delta Reform Act (SBX7-1), the DSC is required to develop a comprehensive management plan for the Delta (Delta Plan). This long-term plan will be reviewed and possibly revised at least once every five years. Under the statute, state and local agencies proposing

actions or projects within the Delta will need to certify to the DSC that those efforts are consistent with the Delta Plan. Importantly, the statute provides a process for integrating the Delta Plan and the BDCP. To be incorporated into the Delta Plan, and for public funds to be available for public restoration benefits, the BDCP must be approved by the Department of Fish and Game (now known as the California Department of Fish and Wildlife) as an NCCP.

The DSC adopted the Delta Plan, accompanying Programmatic Environmental Impact Report, and implementing regulations in mid-May 2013. Following its approval seven lawsuits were filed challenging the Delta Plan. The complaints allege a variety of violations, such as violations to CEQA, statutory mandates of the Delta Reform Act, Public Trust obligations; area of origin laws and environmental justice principles. Three of the cases were filed in the Sacramento Superior Court, three in the San Francisco Superior Court, and one in the San Joaquin Superior Court; the cases have since been coordinated in the Sacramento Superior Court.

In 2012, Governor Jerry Brown, joined by U.S. Secretary of the Interior Ken Salazar, outlined a framework for the proposed BDCP, intended to achieve the dual goals that supports the State's economy. Rather than proposing a peripheral canal, this plan proposes the construction of two 40-foot-diameter, 35-mile-long tunnels under the Sacramento-San Joaquin Delta to augment the existing through Delta system to meet the export demand. BDCP officials have announced that the public draft BDCP and the EIR/EIS will be made available for public comment on October 1, 2013. The California Natural Resources Agency released administrative drafts of the BDCP and environmental documents in May. It has indicated that it anticipates a Record of Decision will be adopted by April 2014. This is an ambitious schedule, particularly given the fact that it will be challenging to review the BDCP and EIR/EIS, which at the administrative drafts stage total more than 25,000 pages, in such a short public comment window of 90 days.

Water Authority's BDCP Review Process

The Water Authority staff has initiated the process of providing a series of briefings and updates to the Board of Directors – through the Imported Water Committee – over the next several months, leading to the Board's consideration of approving an EIR/EIS comment letter on the BDCP environmental document at its November 21, 2013 regular meeting. At the appropriate time, the board may consider adopting a position on one or more of the BDCP alternatives. The schedule is largely driven by the expectation that there will be only a 90-day comment period for the BDCP EIR/EIS. It is not a certainty that the EIR and EIS will be released on October 1, and that the comment period will only extend 90 days. While this would be an anticipated comment period length of time, clearly the BDCP is enormously complex and will face challenges from many fronts. There is a possibility that the EIR/EIS comment period will extend beyond 90 days. If the comment period is extended, the Water Authority's review schedule may be extended as well.

Assuming that the comment period expires at the end of 2013, the last opportunity for the Water Authority Board to consider and approve a comment letter on the EIR/EIS and to submit timely comments would be the November 21, 2013 Board meeting.

The fundamental purpose and objective of the Water Authority's analysis of BDCP and alternatives is to provide, for the Board's consideration, an assessment of which alternative, or combination of alternatives, is most consistent with, and best achieves the Board's Bay-Delta

Policy Principles (Attachment 1), and the reliability and supply diversification goals in the Water Authority's 2010 Urban Water Management Plan.

Description of Alternatives

Although the BDCP Consultant Administrative Draft of the EIR/EIS identifies 15 different project alternatives for consideration, the Water Authority staff proposes to review four specific alternatives – two of which are among the 15 alternatives in the BDCP Consultant Administrative Draft, and two which are not – for the Board's consideration. These alternatives are chosen to provide a broad range of potential options:

- BDCP Preferred Alternative (included in the BDCP administrative draft);
- No Action Alternative (included in the BDCP administrative draft);
- The Delta Vision Foundation's BDCP-Plus Strategy; and,
- Natural Resources Defense Council's Portfolio Alternative.

The last two alternatives – Delta Vision Foundation's BDCP-Plus and NRDC's portfolio-based alternative – have not gone through the same level of analysis as the alternatives studied under the BDCP's evaluation; however, they included additional project components that may help guide and optimize the sizing of the new conveyance and present different risk-benefit profiles that are worthy of exploring further. In addition, the BDCP alternatives include analysis of conveyance projects of sizes comparable to those advanced in BDCP-Plus and the Portfolio Alternative, and provide useful information for understanding the benefits and costs of those alternative size facilities.

These alternatives are outlined within the context of the following BDCP alternatives analysis framework in Attachment 2.

BDCP Alternatives Analysis Framework	
1. Description of alternatives	
○ Project components	
▪ Delta export capacity	
▪ South of Delta storage	
▪ Local projects	
○ Operational scenarios	
○ Project water supply yield	
○ Demand assumptions	
○ Conservation and restored Delta functionality	
○ Environmental impacts and mitigation	
○ Cost estimates	
○ Financial impact on Water Authority	

Delta Financing

On May 29, the California Natural Resources Agency released the final chapters of the BDCP administrative draft, including Chapter 8 on project financing. The Water Authority has been communicating concerns over Bay-Delta financing for several years. In August 2012, the Water Authority General Manager sent a letter to Natural Resources Agency Deputy Secretary Dr. Jerry Meral summarizing these concerns. Despite assurances that the next revision to Chapter 8 would

address the Water Authority's concerns, the Chapter 8 released in late May did not do so. On July 30, the General Manager sent correspondence to Deputy Secretary Meral asking that BDCP address its concerns (Attachment 3).

Next Steps

Staff will continue to implement its multidisciplinary evaluation and analysis of the four BDCP alternatives. Based on the schedule outlined below, staff will provide more detailed technical analysis of the four alternatives at the August 22 Board meeting, including preliminary analysis relating to water demand assumptions, potential project yields, and projected cost information related to each alternative.

Meeting	Imported Water Committee/Board Activity
July 25, 2013	Provide input on scope of proposed Water Authority analysis of BDCP alternatives; provide input on policy questions to be addressed
Aug. 8, 2013 Special Meeting	Overview of Bay-Delta and proposals for Delta fix, including description of alternatives
Aug. 22, 2013	Review of technical analysis – demand assumptions; alternative project yield assumptions; projected costs
Sept. 12, 2013 Special Meeting	BDCP economic study on cost-benefit of BDCP preferred alternative
Sept. 26, 2013	Review of technical analysis (cont.), including responses to policy questions
Oct. 10, 2013 Special Meeting	Summary of technical analysis: Comparison of alternatives with Delta Policy Principles
Oct. 24 2013	Information: Identify areas of concern; potential CEQA-NEPA comment letter
Nov. 21, 2013	Action: EIR/EIS comment letter; earliest opportunity to consider adopting position on BDCP alternative(s)

Prepared by: Glenn A. Farrel, Government Relations Manager

Reviewed by: Amy Chen, Director of the MWD Program

Approved by: Dennis A. Cushman, Assistant General Manager

Attachment 1: Water Authority's Bay Delta Principles

Attachment 2: BDCP Alternatives Descriptions (updated 8/1/2013)

Attachment 3: July 30, 2013 letter from General Manager to Deputy Secretary Meral

San Diego County Water Authority Delta Policy Principles

The San Diego County Water Authority Board of Directors supports a Bay Delta solution that will meet the co-equal goals and provide San Diego County with a reliable, high-quality supply of affordable, imported water consistent with the Water Authority's Urban Water Management Plan and Regional Facilities Optimization and Master Plan. The adopted policy principles will guide staff in evaluating projects and actions concerning the Bay-Delta.

Water Supply Reliability

- Continue to support the co-equal goals of water supply reliability and environmental restoration embodied in the 2009 Delta bill package.
- Support deliberative processes that are designed to ensure a meaningful dialogue with all stakeholders in order to reduce future conflicts and challenges to implementation of a Bay Delta solution.
- Provide regulatory certainty and predictable supplies to help meet California's water needs in the long-term.
- Encourage a Bay Delta solution that acknowledges, integrates and supports the development of water resources at the local level including water use efficiency, seawater and brackish water desalination, groundwater storage and conjunctive use, and recycled water including direct and indirect potable reuse.
- Improve the ability of water-users to divert water from the Delta during wet periods, when impacts on fish and ecosystem are lower and water quality is higher.
- Encourage the development of a statewide water transfer market that will improve water management.
- Support improved coordination of Central Valley Project and State Water Project (SWP) operations.

Ecosystem Restoration

- Restore the Bay-Delta ecosystem consistent with the requirements established under the state Natural Community Conservation Plan and the federal Habitat Conservation Plan, taking into account all factors that have degraded Bay-Delta habitat and wildlife.
- Work with all stakeholders to ensure a meaningful dialogue and that ecosystem restoration issues are addressed in an open and transparent process.

Finance and Funding

- Encourage and support a Bay Delta solution and facilities that are cost-effective when compared with other water supply development options for meeting Southern California's water needs.
- Require the total cost of any Bay Delta solution be identified before financing and funding decisions are made. The total cost must include the cost of facilities, mitigation and required or negotiated ecosystem restoration.
- Allocate costs of the Bay-Delta solution to stakeholders in proportion to benefits they receive.

- Seek and support independent financial analyses of Bay-Delta solution including the ability of all parties to pay their proportional costs.
- Require a firm commitment and funding stream by all parties to pay for the fixed costs associated with the proportional benefits they will receive from a Bay Delta solution, through take-or-pay contracts or legal equivalent.
- Condition financial support on provisions allowing access to any water conveyance or storage facilities that are included in the Bay Delta solution.
- Support the use of public funds to support specific projects and actions with identified costs that protect and restore the environment and provide broad-based public benefits.
- Oppose water user fees to fund ecosystem restoration and other public purpose, non-water-supply improvements in the Delta that benefit the public at large.

Facilities

- Require independent technical analysis of proposed key elements of the Bay-Delta solution, including forecasting future urban and agricultural demands and size and cost of any proposed conveyance facility, to ensure the solution realistically matches statewide needs.
- Support “right-sized” facilities to match firm commitments to pay for the Bay Delta solution.
- Allow access to all SWP facilities to facilitate water transfers.

Governance

- Support continued state ownership and operation of the SWP as a public resource.
- Support improved efficiency and transparency of all SWP operations.
- Oppose any transfer of operational control of the SWP or any of its facilities to MWD, the State Water Project Contractors, Central Valley Project Contractors, the State and Federal Contractors Water Agency, any entity comprised of MWD or other water project contractors, or any other special interest group.

BDCP ALTERNATIVES DESCRIPTIONS

ALTERNATIVE #1: BDCP Preferred Alternative

ALTERNATIVE COMPONENT	DESCRIPTION
Description	A cornerstone of the Administration's preferred alternative is a new North Delta conveyance facility that would work in tangent with the existing facilities under different operational conditions. The construction of new facilities and operations of both new and existing water conveyance facilities are described as a conservation measure, along with 21 others in the BDCP, each with specific actions that will be implemented to meet the requirements of the Environmental Species Act and the Natural Community Conservation Planning Act. This approach consists of two intake points – three new North Delta intakes (capable of diverting up to 9,000 cfs) fitted with fish screens to minimize entrainment or impingement risk and the existing South intake. It includes two 35-mile long tunnels (each 40-ft inside diameter) and more than 150 feet below ground and a new operable gate at the head of Old River. Other features include: a 750-acre forebay (plus another 600 acres of land surrounding it) near the town of Hood for temporarily storing the water diverted from the river with 32-foot-high levees.
Project Component: Delta Export Capacity	There are three new intakes/pumping plants (3,000 cfs each) feeding into two tunnels having combined flow of 9,000 cfs and are gravity-fed, allowing for lower energy needs. The North intakes will be coupled with existing South intakes to provide total export capacity.
Project Component: South of Delta Storage	No investments in local storage or South of Delta storage.
Project Component: Local Projects	No investments in local supply development.
Operational Scenarios	Four alternative sets of operating rules developed: 1) new by-pass flow criteria for the Sacramento River at new North Delta diversion points, as well as criteria intended to minimize reverse flows in the South Delta; 2) rules protecting in-Delta water quality; 3) rules governing an operable barrier on the Old River; and 4) rules governing Delta outflow.
Project Water Supply Yield	Per BDCP, Appendix 9.A, the project yield ranges from 4.71 – 5.59 MAF/year in early long term (forecasts for the year 2020 and an extended record of runoff patterns); the EIR/EIS (Table 5-6) estimates that with the tunnels, water exports ranges from 4.41 MAF to 5.25 MAF in the late long term (alternatives that are simulated with 2060 climate change and sea level rise). Actual yield will be governed under a Decision Tree process that will determine project operations after construction and initial operation.
Habitat Restoration	Restore and protect about 145,000 acres of habitat over its 50-year term.
Environmental Impacts and Mitigation	Table 8.A-61. EIR/EIS Mitigation Measures.

<p>Cost Estimate (over 50 years of undiscounted 2012 dollars)</p>	<p>Table 8-37&38 (BDCP) Total Undiscounted Capital and O&M Cost Estimate: \$24.544 B</p> <ul style="list-style-type: none"> - Water facilities and operations: \$15.965 B - Natural community protection and restoration: \$4.398 B - Other stressors conservation: \$2.534 B - Monitoring, research, administration, and other costs: \$1.646 B
<p>Funding Sources (over 50 years of undiscounted 2012 dollars)</p>	<p>Table 8-41 (BDCP) Summary of Estimated Funding Source: \$24.737 B</p> <ul style="list-style-type: none"> - Water contractors (68%): \$16.808 B - Federal funding (16%): \$3.927 B - State funding (15%): \$3.742 B - Interest income (1%): \$0.224 B

ALTERNATIVE #2: No Action Alternative

ALTERNATIVE COMPONENT	DESCRIPTION
Description	The No Action Alternative scenario (no tunnel) makes the assumption that through-Delta operations would continue under the current pumping constraints described in the 2008 USFWS and 2009 NMFS biological opinions. Per the EIR/EIS, the No Action Alternative factors in climate change but does not include future changes in facilities operations, land use, or policies to accommodate climate change or the adverse impacts associated with climate change.
Project Component: Delta Export Capacity	No investments or improvements to conveyance (except those facilities under construction as of February 13, 2009) – continued reliance on South Delta intakes and existing conveyance facilities.
Project Component: South of Delta Storage	No investments indicated.
Project Component: Local Projects	No investments indicated; existing conditions remain.
Operational Scenarios	The No Action Alternative includes criteria to maintain freshwater in the western Delta in the spring, and criteria to maintain Fall X2 operational constraints.
Project Water Supply Yield	The BDCP No Action scenario assumes increased restrictions beyond current regulations thus reducing water exports significantly to between 3.4 and 3.9 MAF in early long-term. However, the EIR/EIS No Action alternative uses a different operational regime and assumes the through-Delta operations would continue under the current pumping constraints imposed by the Endangered Species Act through "biological opinions." Because of this different assumption, the EIR/EIS No Action estimates average water exports at initial operations of about 4.7 million acre feet (MAF) per year at initial operations, declining to 4.4 MAF towards the end of the 50-year permit.
Habitat Restoration	8,000 acres of restored aquatic habitat (Per several federal and state requirements and 2008-2009 Biological Opinions issued by U.S. Fish and Wildlife Service and National Marine Fisheries Service).
Environmental Impacts and Mitigation	Continue along current permit requirements
Cost Estimate (over 50 years of undiscounted 2012 dollars)	Per MWD June 25, 2013 BDCP Presentation: \$231 Million (existing biological opinions and research obligations) and \$2 Million for existing Operations and Maintenance costs.
Funding Sources (over 50 years of undiscounted 2012 dollars)	Per MWD June 25, 2013 BDCP Presentation: Funding source is Water Contractor (MWD's cost estimated at about 25%)

ALTERNATIVE #3: Delta Vision Foundation's BDCP Plus Strategy

ALTERNATIVE COMPONENT	DESCRIPTION
Description	The Delta Vision Foundation's approach suggests "it is only through integrated implementation that the state can implement workable solutions to California's water resources management problems and achieve the Two Co-Equal Goals." The fundamental linked actions include: 1) existing and new facilities must be required to operate consistent with Delta ecosystem restoration; 2) optimization of conservation and efficient water use must be required of any user, exporter, or diverter of water from the Delta; and 3) new "water banking" surface and groundwater storage facilities must be coupled to expanded conveyance.
Project Component: Delta Export Capacity	Proposed average annual exports: not known. DVF suggests that conveyance capacity through and around the Delta must be sufficient to move water in wet years, yet have constraints in dry years. Strategy suggests the appropriate size of an isolated facility is likely in the 5,000 – 6,000 cfs range to optimize cost efficiencies. The BDCP modeled a 6,000 cfs facility and forecasted an early long term average yield of 4.5 maf. The BDCP EIR also modeled a 6,000 cfs facility and placed the late long term average yield at 5.4 maf.
Project Component: South of Delta Storage	No specific recommendation. DVF recommends in general that surface and groundwater storage (upstream and downstream) must be expanded and linked with conveyance such that wet year water can be captured and used to reduce dry year demand.
Project Component: Local Projects	DVF's proposal advocates that Regional self-sufficiency and alternate water supplies are critical for supporting the big gulp-little sip strategy for Delta exports. Their proposal links phasing of conveyance improvements with yet to be identified measurable reductions in water demand from the Delta.
Operational Scenarios	Unknown
Project Water Supply Yield	Unknown
Habitat Restoration	Unknown. This approach suggests identification (of location) and phasing improvements so that ecosystem benefits can be identified before scaling adapting large-scale restoration projects.
Environmental Impacts and Mitigation	Unknown
Cost Estimate (over 50 years of undiscounted 2012 dollars)	Unknown
Funding Sources (over 50 years of undiscounted 2012 dollars)	Unknown

ALTERNATIVE #4: NRDC's Portfolio-Based Conceptual Alternative

ALTERNATIVE COMPONENT	DESCRIPTION
Description	Advanced by the Natural Resources Defense Council, this approach suggests California can develop a plan that would utilize a smaller north of Delta facility sized at 3,000 cfs or more, along with increased investments in local and regional water supplies, increased water storage South of the Delta, improvements to Delta levees, and a smaller and what NRDC states is a more effective ecosystem restoration effort.
Project Component: Delta Export Capacity	The concept includes a new North Delta intake (diversion) facility with a capacity of at least 3,000 cfs and a single tunnel sized to transport the water. As with the other alternatives including new conveyance, the North intake is to be coupled with the existing South intake to provide total export capacity. Under this alternative, if more capacity is needed beyond the 3000 cfs intake it may be added at a later time.
Project Component: South of Delta Storage	No specific project recommendations. In general, NRDC identifies a need for new South of Delta storage of up to 1 MAF. NRDC suggests increasing storage would allow more water to be moved into export areas in very wet years and stored for use in dry years, thus increasing the effective export yield. The amount of water that can be moved to exporters in extremely wet years is currently constrained by the lack of adequate storage capacity in the system below the Delta pumps. For example, in 2011, DWR had to shut down its pumps due to lack of demand and storage capacity south of Delta.
Project Component: Local Projects	Increased investments in local and regional water supplies south of the Delta could reduce exporters' reliance on Delta supplies and improve exporters' water supply reliability through local projects. Using the framework of Integrated Regional Water Management, local agencies could work together to improve regional water supply reliability and manage shortages more effectively through conjunctive use agreements, storage agreements, water transfers, and other management options. No specific project recommendations. NRDC estimated the yield based on \$5 Billion investment: 0.926 MAF – 1.245 MAF (0.309 MAF – 0.311 MAF from water recycling and 0.617 MAF – 0.934 MAF from urban efficiency programs).
Operational Scenarios	Unknown
Project Water Supply Yield	4.0 – 4.3 MAF/year (Delta Exports) and ~0.93-1.2 MAF/year in new south of Delta water via local projects and water use efficiency program.
Habitat Restoration	This concept proposes to restore 40,000 acres of Delta habitat over the next 15-20 years. This restoration program would be less than the current draft BDCP plan and would be focused on the near term, which NRDC believes is when habitat restoration is needed to occur. This approach recommends a focus on the restoration efforts with the strongest scientific basis and allows testing of the results of that effort before committing to larger-scale restoration.
Environmental Impacts and Mitigation	Unknown

ALTERNATIVE COMPONENT	DESCRIPTION
Cost Estimate (over 50 years of undiscounted 2012 dollars)	NRDC's Portfolio-Based BDCP Conceptual Alternative Estimated Cost Summary: \$14 - \$16 B <ul style="list-style-type: none"> - 3,000 cfs North Delta facility: \$5 - \$7 B - Local supply development: \$5 B - Improved water agency integration: TBD - New south of Delta surface or groundwater storage: \$1.2 B - Levee improvements: \$1 B - Delta floodplain and tidal marsh habitat restoration: \$1.7 B - Integrating science into Delta management: TBD
Funding Sources (over 50 years of undiscounted 2012 dollars)	NRDC's Portfolio-Based BDCP Conceptual Alternative Estimated Source of Funding: \$14 - \$16 B Identifies parties that would have funding responsibilities but does not identify percentages <ul style="list-style-type: none"> - Water contractors: - Federal funding - State funding - Interest income

Component	Estimated Investment	Source of Funding
Total Estimated Funding Source (in Millions)	\$14,000-16,000	
New 3,000 cfs North Delta Facility	\$5,000-7,000	Water Contractors
Local Supply Development	\$5,000	Local Water Agencies and IRWMP
Improved Water Agency Integration	TBD	Water Contractors and IRWMP
New South of Delta Surface or Groundwater Storage	\$1,200	Water Contractors or Local Water Agencies or IRWMP
Levee Improvements	\$1,000	Public, Water Contractors, or IRWMP
Delta Floodplain and tidal Marsh Habitat Restoration	\$1,700	Water Contractors and Public
Integrating Science into Delta Management	TBD	Public and Water Contractors



San Diego County Water Authority

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July 30, 2013

Dr. Gerald Meral
Deputy Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

MEMBER AGENCIES

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City of Escondido
City of National City
City of Oceanside
City of Poway
City of San Diego
Fallbrook
Public Utility District
Helix Water District
Lakeside Water District
Olivenhain
Municipal Water District
Otay Water District
Padre Dam
Municipal Water District
Camp Pendleton
Marine Corps Base
Rainbow
Municipal Water District
Ramona
Municipal Water District
Rincon del Diablo
Municipal Water District
San Dieguito Water District
Santa Fe Irrigation District
South Bay Irrigation District
Vallecitos Water District
Valley Center
Municipal Water District
Vista Irrigation District
Yuma
Municipal Water District

OTHER REPRESENTATIVE

County of San Diego

Dear Jerry:

Thank you for the efforts that you, your state and federal agency colleagues, and the Administration have made to bring the BDCP to the point where it stands today. We appreciate the opportunity that the release of an administrative draft of the BDCP affords us to provide comments and questions that should be addressed in the next draft. This letter is a follow-up to the Water Authority's previous correspondence on BDCP Chapter 8, and conversations we have had with you over the past year.

Like many other stakeholders, the San Diego County Water Authority anticipated the May 29 release of the final chapters of the administrative draft of the BDCP document and believed, based upon earlier representations, it would address the questions and concerns the Water Authority has raised over the past several years over project financing. In particular, we were anxious to review the new draft of Chapter 8 in light of the correspondence we sent you 11 months ago (attached), in which we raised a series of BDCP financing issues and concerns. Our subsequent conversations led us to believe these concerns would be addressed in the most current iteration of Chapter 8. Instead, and disappointingly, Chapter 8 begins with this jarring admission:

"Details of the financing... are still being determined through on-going discussion between the state and federal governments and between the government, the state and federal water contractors and other interests."

After reviewing the newly-revised Chapter 8 of the BDCP administrative draft, seven years into the BDCP planning process, and nearly a year after commenting on the prior draft, the most critical financing issues confronting the BDCP have yet to be addressed.

As we shared with you previously, potential participants in the BDCP must have sufficiently detailed information to evaluate the cost-benefit (or feasibility) of participating in the project. We recently heard David Sunding report to the Metropolitan Water District of Southern California's (MWD) Board of Directors that a cost-benefit analysis has been produced for all urban and agricultural water contractors, and that it includes an urban cost-benefit analysis for all MWD member agencies. Would you please send a copy of the complete report to me in advance of Dr. Sunding's Sept. 12 appearance before our Board's Imported Water Committee?

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As we have consistently stated, the Water Authority believes that any BDCP financing plan must include enforceable agreements to pay for the project, not only from state water contractors directly, but also from the member agencies or units that provide their revenues. The costs are far too high to simply rely on the hope that the contractors' water sales will be adequate over the long-term to pay the project's costs.

As the largest customer of the largest state water contractor – MWD – the Water Authority's member agency ratepayers have a great deal at stake in the BDCP process and its financing plan, its risks and contingencies. The Water Authority must be able to assess that the preferred alternative advocated by the BDCP program will provide sufficient benefits to be affordable for our member agency ratepayers. We also must ensure that our ratepayers are not at risk of paying BDCP costs associated with the water supplies of other MWD member agencies or other state or federal water contractors. The Water Authority is already in litigation with MWD over how it allocates its *current* State Water Project costs.

The Water Authority is concerned that future progress of the BDCP and efforts to resolve seemingly intractable conflicts in the Delta will falter if those expected to be participants in the BDCP are not able to evaluate the cost-benefit of the various alternatives or reasonably limit the risk that their ratepayers will be expected to assume. In this context, we renew our request that our comments and concerns raised in our August 28, 2012 correspondence regarding Chapter 8 of the BDCP administrative draft – *Implementation Costs and Funding Sources* – be addressed in the next draft.

Comments

In our August 28, 2012 correspondence, we identified three specific issue areas as lacking necessary discussion within Chapter 8:

- State water contractors that are wholesale water agencies should demonstrate that their customers – the member agencies or units that purchase their water and provide their revenue – have take-or-pay contracts or other enforceable, long-term commitments to pay the fixed costs of the project commensurate with the term of the BDCP obligation.
- It is important to analyze the possible effects of “step up” provisions – those bond pledges that may require other BDCP participants to assume the obligations of defaulting participants – on MWD and other participants in the BDCP.
- A careful legal analysis should be undertaken of MWD taxing authority within the BDCP due diligence process, to examine the feasibility and appropriateness of relying upon property taxes as additional back-up security for project debt.

Take-Or-Pay Contracts/Enforceable Commitments

As we have previously pointed out in discussions with you, MWD – which, as the largest state water contracting agency, is the foundation for financing the BDCP project – has been struggling over the past several years to pay its current fixed costs, let alone a substantially larger new cost associated with the BDCP. More than 80 percent of MWD's costs are fixed – however, less than 20 percent of MWD's revenues are paid from fixed charges. Conversely, more than 80 percent of MWD's revenues are from water sales – a variable revenue source – and those sales have

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declined by 30 percent since 2007. Furthermore, MWD's member agencies are not required to purchase *any* water from MWD. The variability of water sales – and thus uncertain future water sales revenues – coupled with Southern California water agencies' current and future planned actions to implement the State's policy to reduce reliance on water supplies imported from the Delta, creates significant uncertainty regarding long-term financing of BDCP obligations. This should be a major concern for the State of California, whose full faith and credit will be expected to back up the financing of the project. And yet, Chapter 8 makes no mention of this material, foundational risk to BDCP financing.

The Water Authority believes that, at a minimum, state water contractors that are wholesale water agencies must demonstrate that their customers have take-or-pay contracts or other enforceable long-term commitments to pay the fixed costs of the BDCP project corresponding to the term of the BDCP obligation. The Water Authority continues to be prepared to make such a commitment to MWD as long as the Water Authority gets the water supplies in return for its payments. We also believe that the willingness to make a financial commitment to a Delta solution will largely determine the demand for Delta water supply, and therefore help inform the best sizing for the conveyance facility. It would not be in the state's best interest to construct a facility only to have it stranded because no one is willing to pay for it, or hoped-for water sales necessary to pay for it do not materialize.

“Step-Up” Provisions

Existing State Water Project contracts contain provisions under which non-defaulting contractors can be assessed to cover payments not made by defaulting contractors, up to 25 percent of the defaulting contractors' obligations. Additionally, the East Branch Extension of MWD's State Water Project contract has a provision obligating MWD to cover default by any and all other participants. These State Water Project contract stipulations are known as “step-up” provisions.

We are informed that bond underwriters for the BDCP project are expected to require a “step-up” provision by which each BDCP participant in BDCP-related bonds pledges to assume the obligations of defaulting participants. In fact, the newly-released Chapter 8, at Section 8.10.1.1.1 (page 8-81) provides that:

“Existing water contracts would need to be amended to include the new costs of the BDCP assigned to the state water contractors and the repayment schedule.”

Since “step-up” provisions are already embodied within, and apply to, MWD's State Water Project contract, it would appear that such provisions would apply to the “new costs of the BDCP assigned to the state water contractors.” Given those “step-up” provision obligations, we renew our request that Chapter 8 fully analyze the possible financial and economic effects of the “step-up” provisions on MWD and the other participants in the BDCP.

Property Taxes

Some have suggested that property taxes may be contemplated as back-up security for BDCP payment obligations of individual state water contractors. There are very clear and significant limitations in MWD's existing taxing authority under the provisions of the MWD Act:

- The Act limits MWD's ability to levy taxes to pay its State Water Project obligations.

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MWD is limited to levying taxes for *“the composite amount required to pay (1) the principal and interest on general obligation bonded indebtedness of the district and (2) that portion of the district’s payment obligation under [the SWP contract] which is reasonably allocable, as determined by the district, to the repayment by the state of principal and interest on [SWP bonds] as of [January 1, 1985] and used to finance construction of facilities for the benefit of the district.”*

- Although the Act contains override ability in the event of a fiscal crisis, as determined by the MWD board, the override is limited to only one year at a time. In such an event, the State of California and bondholders would be relying upon an annual vote of MWD’s Board of Directors in which it *“...finds that a tax in excess of these restrictions is essential to the fiscal integrity of the district....”*
- It is unclear whether changes to the limitations provided under the MWD Act would require voter approval and/or new legislation. Chapter 8 should address and answer these questions.

Given these limitations and uncertainties, it is difficult to consider MWD’s existing taxing authority as a meaningful back-up security for BDCP payment obligations. It is also highly questionable whether the financing of BDCP can be – or should be – backed by taxing authority that was authorized by voters decades ago, when the program was much different than is being discussed today. A careful legal analysis of MWD taxing authority should be included in the BDCP due diligence process if taxes are going to be relied upon as additional back-up security for BDCP project debt. The newly-released version of Chapter 8 is silent on this issue.

Based on the assurances that you previously provided to the Water Authority, we expected that the full consideration and analysis of the issues we have raised would be integrated in to the Chapter 8 analysis and conclusions. And yet, the current version of Chapter 8 of the BDCP administrative draft does not comprehensively or adequately conduct due diligence on all of the facts and circumstances described in this letter and our previous correspondence. We remain concerned that a potential cascading collapse of funding could occur if the proper due diligence is not undertaken in a timely manner.

We appreciate the opportunity to provide comments on the newly-released Chapter 8 of the BDCP administrative draft. We remain committed to working with you and all parties to evaluate, address, and resolve these critical financing issues.

Sincerely,



Maureen A. Stapleton
General Manager

Attachment: August 28, 2012 letter



San Diego County Water Authority

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August 28, 2012

Dr. Gerald Meral
Deputy Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Jerry:

Thank you for visiting with us on Wednesday. We enjoyed our discussion, and appreciate the information you shared on the progress of the Bay-Delta Conservation Plan. We very much appreciate the efforts by you, Secretary Laird, Governor Brown, Secretary Salazar and all of the state and federal agencies in bringing the BDCP to this point.

We promised to send you the Water Authority's comments on BDCP Chapter 8. We understand that work is under way to produce a new draft of Chapter 8. It is our hope that the issues outlined below will be considered and addressed.

Introduction

The San Diego County Water Authority is a wholesale water agency providing a safe and reliable water supply to 24 public agencies in San Diego County, supporting our region's \$186 billion economy and the quality of life of 3.1 million Californians. Highly dependent on imported water supplies, the Water Authority has historically and consistently been a strong advocate for the Delta and for the co-equal goals of providing a more reliable water supply for California, while protecting, restoring and enhancing the Delta ecosystem. The Water Authority's board of directors reaffirmed this longstanding support at its February 2012 board meeting. The board also adopted an updated set of policy principles relating to the Bay-Delta outlining the critical issues that must be resolved in the BDCP process; a copy of these Policy Principles is enclosed.

Chief among the Water Authority's concerns is the need to define the various components of the financing plan for the BDCP and the recently announced decision-tree concept in a manner that allows potential participants to evaluate the cost-benefit (or feasibility) of participating in the project. We believe the financing plan must include enforceable agreements to pay for the project, not only from state water contractors directly, but from the member agencies or units

MEMBER AGENCIES

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Municipal Water District

City of Del Mar

City of Escondido

City of National City

City of Oceanside

City of Poway

City of San Diego

Fallbrook
Public Utility District

Helix Water District

Lakeside Water District

Olivewood
Municipal Water District

Otay Water District

Padre Dam
Municipal Water District

Camp Pendleton
Marine Corps Base

Rainbow
Municipal Water District

Rancho
Municipal Water District

Rincon del Diabio
Municipal Water District

San Diego Water District

Santa Fe Irrigation District

South Bay Irrigation District

Vallecitos Water District

Valley Center
Municipal Water District

Vista Irrigation District

Yuma
Municipal Water District

OTHER REPRESENTATIVE

County of San Diego

A public agency providing a safe and reliable water supply to the San Diego region

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that provide their revenues. The costs are simply too great to rely on the hope that there will be enough water purchasers over the long-term to pay the project's costs.

As the largest customer of the largest state water contractor – the Metropolitan Water District of Southern California (MWD) – the Water Authority's ratepayers have a great deal at stake in the BDCP process and its financing plan. The Water Authority must be able to assess not only that the project will provide sufficient benefits to be affordable by our ratepayers, but also that they are not at risk of paying BDCP costs associated with the water supplies of other MWD member agencies or state contractors. The Water Authority is already in litigation with MWD over how it allocates its current State Water Project costs.

The Water Authority is concerned that all of the progress that has been made in bringing the BDCP to this point will be stymied, and that the BDCP will fail if participants are not able to evaluate the cost-benefit of the project or reasonably limit the risk their ratepayers are being asked to assume. It is in this light that we offer the following brief comments on the administrative draft of Chapter 8 – *Implementation Costs and Funding Sources*.

Comments

As the largest state water contractor, MWD is the foundation for financing the project. And yet, MWD itself has been struggling over the past several years to pay its current fixed costs – let alone a substantially larger cost associated with the BDCP. The reason is simple: more than 80 percent of MWD's costs are fixed while less than 20 percent of its revenues are paid from fixed charges. More than 80 percent of MWD's revenues come from water sales. Yet, MWD's member agencies are not required to purchase *any* water from MWD. With its member agencies unwilling to sign take-or-pay contracts or make any other firm financial commitments to MWD to cover its fixed obligations, the agency remains heavily dependent on revenues from variable water sales. MWD's water sales have declined approximately 30 percent since 2008, with its firm sales declining to less than 1.3 million acre-feet in fiscal year 2012. MWD's member agencies – including the Water Authority – have also experienced significant reductions in sales. A direct consequence of these declining sales is sharply higher imported water rates that have made additional local water supply investments economically competitive. As a consequence, MWD's member agencies – and their sub-agencies – are doing what they have been asked to do over the past 20 years: reducing reliance on water supplies imported from the Delta.

Dr. Gerald Meral
 August 28, 2012
 Page 3

We are concerned that the BDCP will become the kind of “big ticket project” that MWD board members vocally and enthusiastically support – at the same time their agencies are unwilling to make enforceable commitments to pay for the project.

A final note on the subject of risk: because the project is anticipated to be financed through project revenues, we are informed that bond underwriters are expected to require a “step up” provision by which each BDCP participant in BDCP-related bonds pledges to assume the obligations of defaulting participants.¹ The current draft of Chapter 8 is silent on this issue, yet it is conceivable that some of the BDCP participants may default, which would cause remaining participants, including MWD, to assume a greater portion of the debt. It is important that Chapter 8 analyze the possible effects of the “step up” provisions on MWD and the other participants in the BDCP.

Some have suggested that property taxes may provide the ultimate security for BDCP payment obligations of individual contractors. Putting aside the question whether property taxes levied under the authorization of the Burns-Porter Act may be used to pay for new projects contemplated by the BDCP, it is important to remember that MWD's taxing authority is further limited by the provisions of the MWD Act.² Although the Act contains override ability in the event of a fiscal crisis as determined by the MWD board (one year at a time³), it effectively limits MWD's ability to levy taxes to pay its SWP obligations. It is also unclear whether changes to this limit would require voter approval. Thus, a careful legal analysis of MWD taxing authority should be included in the BDCP due diligence process if taxes are contemplated as additional back-up security for project debt.

To effectively evaluate the finances available for the BDCP, the drafters of Chapter 8 need to conduct comprehensive due diligence on all of the facts and

¹ Under Section 50(h) of MWD's current State Water Project contract, non-defaulting contractors can be assessed to cover payments not made by defaulting contractors, up to 25 percent of the payment not made. Under Section 49(i) of its East Branch Extension of the State Water Project contract, MWD is obligated to cover a default by any and all other participants.

² Section 124.5 of the Metropolitan Water District Act limits MWD's property tax levy to “the composite amount required to pay (1) the principal and interest on general obligation bonded indebtedness of the district and (2) that portion of the district's payment obligation under [the SWP contract] which is reasonably allocable, as determined by the district, to the repayment by the state of principal and interest on [SWP bonds] as of [January 1, 1985] and used to finance construction of facilities for the benefit of the district.”

³ In such an event, the State of California would be relying upon an annual vote of MWD's Board of Directors in which it “...finds that a tax in excess of these restrictions is essential to the fiscal integrity of the district....”

Dr. Gerald Meral
August 28, 2012
Page 4

circumstances described in this letter. Without such due diligence, the BDCP faces a potential cascading collapse of funding. At a minimum, state water contractors that are wholesale water agencies must demonstrate that their customers – the member agencies or units that buy their water and provide their revenues – have take-or-pay contracts or other enforceable commitments to pay the fixed costs of the project commensurate with the term of the BDCP obligation. The Water Authority continues to stand ready to make such a commitment to MWD that provides benefits commensurate with its payments.

Ultimately, the full faith and credit of the State of California will back up the bonds issued to build the conveyance project. Failure to secure enforceable financial commitments from the member agencies or units of water wholesale contractors could place all of California at significant risk of having tens of billions of dollars of new outstanding debt without sufficient water contractor payments to cover the debt service. This is why all California taxpayers have a stake in ensuring that there is a solid foundation and financing plan for the BDCP going forward.

Thank you again for providing the opportunity to comment on the administrative draft of Chapter 8 of the BDCP. We are committed to working with you and all parties to address and resolve these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen A. Stapleton". The signature is fluid and cursive, with the first name being the most prominent.

Maureen A. Stapleton
General Manager

Enclosure: Water Authority Bay-Delta Policy Principles



February 15, 2012

Attention: Imported Water Committee

Adopt Delta Policy Principles. (Action)

Staff recommendation

Adopt Delta Policy Principles to guide staff in evaluating Bay-Delta initiatives and the Water Authority's advocacy to ensure a successful implementation of a Delta solution.

Alternatives

1. Modify one or more draft principles.
2. Do not adopt Delta Policy Principles.

Fiscal impact

None.

Background

The Sacramento-San Joaquin Bay Delta is an important water supply source for Southern California. Metropolitan Water District (MWD) purchases water from the Department of Water Resources through its State Water Project (SWP) contract. MWD is the SWP's largest customer, providing more than 50 percent of its revenues. As such, MWD is the principle source of revenue under the current SWP as it will be for any proposed Bay Delta solution. As the largest steady purchaser of MWD water, the Water Authority has a vital interest in assuring that any Bay Delta solution is financially sustainable. The Water Authority has advocated for a number of changes in the MWD rate structure, including securing take-or-pay contracts with its member agencies or other firm commitments to pay the fixed costs of a Delta conveyance project.

Discussion

The Water Authority has been a strong advocate for a sustainable Bay Delta solution. The Water Authority actively engages in Bay Delta issues at the MWD board and other forums including the State Capitol, where it lobbied for passage of the 2009 comprehensive Bay Delta bill package. The 2009 bill package approved as state policy the co-equal status of restoring the Delta ecosystem and creating a more reliable water supply for California. Recently, the Water Authority held two Bay-Delta workshops receiving input from stakeholders on their views of the issues and a Bay Delta solution. The Water Authority also participates directly on three Bay Delta Conservation Plan (BDCP) working groups on Conveyance, Governance and Finance.

The Water Authority has consistently advocated for a "right-size" solution in the Delta that is also supported by a broad range of stakeholders in order to reduce challenges to implementation. A central point of the Water Authority's advocacy position in determining the "right size" of a Bay

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Delta solution is clear commitments to pay through take-or-pay contracts or legal equivalent to pay the fixed costs of a project.

The Delta Policy Principles will help guide staff as they evaluate the BDCP and other projects and actions relating to the Bay Delta solution. Draft principles were presented to this committee for review last month; the attached recommended principles reflect comments received on the prior draft.

Prepared by: Debbie S. Discar-Espe, Senior Water Resources Specialist

**Reviewed by: Jeff Volberg, Government Relations Manager
Amy I. Chen, MWD Program Chief**

Approved by: Dennis A. Cushman, Assistant General Manager

Attachment: Delta Policy Principles

Imported Water Committee
February 15, 2012
Page 3 of 4

San Diego County Water Authority Delta Policy Principles

The San Diego County Water Authority Board of Directors supports a Bay Delta solution that will meet the co-equal goals and provide San Diego County with a reliable, high-quality supply of affordable, imported water consistent with the Water Authority's Urban Water Management Plan and Regional Facilities Optimization and Master Plan. The adopted policy principles will guide staff in evaluating projects and actions concerning the Bay-Delta.

Water Supply Reliability

- Continue to support the co-equal goals of water supply reliability and environmental restoration embodied in the 2009 Delta bill package.
- Support deliberative processes that are designed to ensure a meaningful dialogue with all stakeholders in order to reduce future conflicts and challenges to implementation of a Bay Delta solution.
- Provide regulatory certainty and predictable supplies to help meet California's water needs in the long-term.
- Encourage a Bay Delta solution that acknowledges, integrates and supports the development of water resources at the local level including water use efficiency, seawater and brackish water desalination, groundwater storage and conjunctive use, and recycled water including direct and indirect potable reuse.
- Improve the ability of water-users to divert water from the Delta during wet periods, when impacts on fish and ecosystem are lower and water quality is higher.
- Encourage the development of a statewide water transfer market that will improve water management.
- Support improved coordination of Central Valley Project and State Water Project (SWP) operations.

Ecosystem Restoration

- Restore the Bay-Delta ecosystem consistent with the requirements established under the state Natural Community Conservation Plan and the federal Habitat Conservation Plan, taking into account all factors that have degraded Bay-Delta habitat and wildlife.
- Work with all stakeholders to ensure a meaningful dialogue and that ecosystem restoration issues are addressed in an open and transparent process.

Finance and Funding

- Encourage and support a Bay Delta solution and facilities that are cost-effective when compared with other water supply development options for meeting Southern California's water needs.
- Require the total cost of any Bay Delta solution be identified before financing and funding decisions are made. The total cost must include the cost of facilities, mitigation and required or negotiated ecosystem restoration.
- Allocate costs of the Bay-Delta solution to stakeholders in proportion to benefits they receive.

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- **Seek and support independent financial analyses of Bay-Delta solution including the ability of all parties to pay their proportional costs.**
- **Require a firm commitment and funding stream by all parties to pay for the fixed costs associated with the proportional benefits they will receive from a Bay Delta solution, through take-or-pay contracts or legal equivalent.**
- **Condition financial support on provisions allowing access to any water conveyance or storage facilities that are included in the Bay Delta solution.**
- **Support the use of public funds to support specific projects and actions with identified costs that protect and restore the environment and provide broad-based public benefits.**
- **Oppose water user fees to fund ecosystem restoration and other public purpose, non-water-supply improvements in the Delta that benefit the public at large.**

Facilities

- **Require independent technical analysis of proposed key elements of the Bay-Delta solution, including forecasting future urban and agricultural demands and size and cost of any proposed conveyance facility, to ensure the solution realistically matches statewide needs.**
- **Support “right-sized” facilities to match firm commitments to pay for the Bay Delta solution.**
- **Allow access to all SWP facilities to facilitate water transfers.**

Governance

- **Support continued state ownership and operation of the SWP as a public resource.**
- **Support improved efficiency and transparency of all SWP operations.**
- **Oppose any transfer of operational control of the SWP or any of its facilities to MWD, the State Water Project Contractors, Central Valley Project Contractors, the State and Federal Contractors Water Agency, any entity comprised of MWD or other water project contractors, or any other special interest group.**