SAN DIEGO™ REGIONAL CHAMBER OF COMMERCE

Emerald Plaza
402 West Broadway, Suite 1000
San Diego, California 92101-3585
Tel 619.544.1300
www.sdchamber.org

June 25, 2014

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

Re: Bay Delta Conservation Plan

Dear Mr. Wulff:

On behalf of the San Diego Regional Chamber of Commerce (Chamber), I submit this letter in response to the significant issues that have been raised with respect to the Bay Delta Conservation Plan (BDCP). With more than 3,000 members representing 400,000 employees, the Chamber is the largest nonprofit advocate for regional businesses and is dedicated to growing commerce in the San Diego region. Our members offer the following comments on the BDCP.

While we understand and support the need to maintain and improve the state's water infrastructure to support its economic vitality, we seek resolution by the appropriate parties of funding issues that have gone unaddressed, and we are also concerned with the absence of a final financing plan for the BDCP. We worry that our region will carry a disproportionate share of the burden of funding the project. We will have no assurances the demand for Bay-Delta water is firm before the Metropolitan Water District (MWD), our imported water supplier, agrees to invest billions of dollars in new infrastructure.

Additionally, we are supportive of local supply development, particularly the City of San Diego's indirect potable water reuse (IPR) project. While we understand a Bay-Delta fix and local supply alternatives are not mutually exclusive, we simply cannot identify the right mix of water supply investments for our community without a comprehensive and thorough analysis of the cost and benefits of local supply investment and of the BDCP.

The Chamber has long advocated for a comprehensive plan for the Bay Delta that would restore the environment and provide a more reliable water supply for the state. We were part of a regional effort that led to the historic Bay-Delta legislation in November 2009, and we recognize the need is heightened during this historic drought. Any comprehensive plan will need to answer critical questions, including those set forth in great detail in the letters from the San Diego County Water Authority listed below (copies are attached for your reference). These are the same key questions, meriting response from the appropriate agencies, which the Chamber's committees and Board of Directors have asked:

- Have all local water supply development plans been evaluated and taken into account in assessing the demand for Delta exports and the size of the project (for example, the City of San Diego's IPR project)?
- What will the project cost?
- Who will pay for the project?
- Will MWD's member agencies enter into enforceable commitments to pay?
- How will the costs be allocated?

We do not believe we can conduct a cost-benefit analysis or decide whether to support the BDCP without first receiving answers to these questions. Given that San Diego regional ratepayers may be asked to pay

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the second largest share of the costs in the state, we strongly support the Water Authority's request to participate directly in the BDCP cost allocation discussions and negotiations process.

We look forward to a continued dialogue and the opportunity to review information as it becomes available. If there is anything the Chamber can help you with, please do not hesitate to let us know. Laura Shingles, Policy Analyst, can be reached at (619) 544-1378 or lshingles@sdchamber.org.

Sincerely,

Jerry Sanders
President & CEO
San Diego Regional Chamber of Commerce

Attachments:
SDCWA letter to Deputy Secretary Meral dated August 28, 2012
SDCWA letter to Deputy Secretary Meral dated July 30, 2013
SDCWA letter to Secretary John Laird dated October 7, 2013
SDCWA letter to Ryan Wulff, National Marine Fisheries Service dated February 5, 2014 with Attachment 1: BDCP Financing and Economic Issues and Questions

San Diego County Water Authority
4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

February 5, 2014

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

MEMBER AGENCIES
Carlsbad 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
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
Yuima Municipal Water District

OTHER REPRESENTATIVE
County of San Diego

Dear Mr. Wulff:

This letter raises a number of questions related to the funding and financing issues embodied within the Public Review Draft Bay-Delta Conservation Plan (BDCP). In addition to these questions, which are submitted as part of the BDCP open house in San Diego on February 6, 2014, the Water Authority intends to submit a more comprehensive comment letter on the Public Review Draft BDCP and associated Draft EIR/EIS documents prior to the April 14, 2014 comment deadline and close of public review.

As the largest member agency of the largest State Water Contractor, the Metropolitan Water District of Southern California (MWD), the Water Authority and its ratepayers are being counted upon to pay the second-largest share of BDCP costs in the state (among MWD member agencies, and second only to the Kern County Water Agency). Accordingly, we have requested – on multiple occasions – the opportunity to directly engage in the BDCP cost allocation discussions and negotiations process. Those requests have gone unanswered. We renew that request with this letter. The stakes are so high for the San Diego region that the Water Authority should clearly be afforded the opportunity to directly participate in the cost allocation negotiations and be provided the information we need to assess whether the preferred alternative advocated by the BDCP program will provide water supply benefits commensurate with the billions of dollars our ratepayers are being counted upon to pay. We also must ensure that our ratepayers are not at risk of paying costs for BDCP water supplies of other MWD member agencies or other state or federal water contractors, and that costs are allocated to the participants based on proportion of benefits received. To date, we have received no assurances to allay these concerns.

Over the past several years, I have sent several letters to officials with the California Natural Resources Agency raising a number of questions regarding the proposed project. To date, the Water Authority has received no responses to those questions. I incorporate those letters, attached, and the questions they raised, with this letter. We renew our request for answers raised in those letters with this letter.

We strongly believe that each participant in the BDCP must have clearly delineated capital and operations and maintenance cost responsibility identified, and be provided sufficiently detailed information to evaluate the cost-benefit (or feasibility) of participating in the project. The Water Authority has previously heard Dr. David Sunding report to the MWD Board of Directors that

cost-benefit analyses have been produced by BDCP for all urban and agricultural water contractors, and that include cost-benefit analyses for each MWD member agency, including the Water Authority. The Water Authority has made multiple requests for this information. These requests have been ignored. We renew that request with this letter.

As we have consistently stated in a variety of public venues, 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 revenues to their respective state water contractor. The stakes are far too high to simply rely on the hope that the contractors' variable water sales revenues will be adequate over the long-term to pay the project's costs.

Equally important, the Water Authority is also concerned that future progress of the BDCP and efforts to resolve seemingly intractable conflicts in the Delta will falter, especially if the cost allocation for those expected to be participants in the BDCP is not expected to be resolved before the BDCP environmental review process concludes. Without the cost allocation explicitly agreed upon, how does BDCP expect water agencies to evaluate the cost-benefit of the various alternatives or reasonably limit the risk that their ratepayers will be expected to assume?

The attachment to this letter outlines a series of issues and questions that the Water Authority believes should be thoroughly resolved in the context of the BDCP public review process. We are requesting formal, written responses to each of these items. We are concerned that the Public Review Draft BDCP does not comprehensively or adequately conduct due diligence on all of the facts and circumstances highlighted in the attachment. We remain concerned that a potential cascading collapse of funding could occur if information that should be included in a proper due diligence analysis is not provided, in a timely manner, to those who are expected to fund the program.

We appreciate the opportunity to provide these initial comments on the Public Review Draft BDCP. We remain committed to working with all parties to evaluate, address, and resolve these critical financing issues. We look forward to your written responses to our questions.

Sincerely,

Maureen A. Stapleton,
General Manager

Attachment 1: BDCP Financing and Economic Issues and Questions
Attachment 2: October 7, 2013 letter to California Natural Resources Secretary John Laird
Attachment 3: July 30, 2013 letter to California Natural Resources Agency Deputy Secretary Gerald Meral
Attachment 4: August 28, 2012 letter to California Natural Resources Agency Deputy Secretary Gerald Meral

Attachment 1

BDCP Financing and Economic Issues and Questions

Take-Or-Pay Contracts/Enforceable Commitments

As the Water Authority has pointed out during discussions and written correspondence over the past two years, MWD – which, as the largest state water contracting agency, is the foundation for financing the BDCP project – relies on a financial rate structure that is not sustainable to pay its long-term financial obligations. While more than 80 percent of MWD's costs are fixed, less than 20 percent of MWD's revenues are paid from fixed charges. MWD's heavy reliance – more than 80 percent -- on variable water sales to meet its financial obligations causes its water rates to be highly volatile. Since 2007, water rates at MWD have increased by more than 86 percent while sales have declined by 31 percent.

Although MWD sales have increased this year due to dry conditions, they are nowhere near the historically high water sales level. Region-wide, MWD's per-capita water use in 2012 reduced by about 15.5 percent from its 2005 10-year average baseline. 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 improve water use efficiency and invest in local water resource development, raises significant question regarding MWD's capability to provide the financial backing needed to fund long-term 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 financial commitments to pay the fixed costs of the BDCP program corresponding to the term of the contractor's 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 such a firm financial commitment to a Delta solution will determine the true 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 or able 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 Public Review Draft BDCP Chapter 8, at Section 8.3.3 (page 8-71) suggests amending the existing contracts as a potential funding source:

"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 existing 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 remain concerned that the Public Review Draft BDCP does not fully analyze the possible financial effects of the "step up" provisions on MWD and the other participants in the BDCP.

Property Taxes

The Public Review Draft BDCP suggests that property taxes may be used as back-up security for BDCP payment obligations of individual state water contractors. However, 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. 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 ISWP 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, or to what extent the MWD board would override this taxing limitation to back its BDCP obligation. The Public Review Draft BDCP should address and answer these questions.

Given these limitations and uncertainties, it is difficult to consider MWD's or other contractors' 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 Public Review Draft BDCP is silent on this issue.

Funding Sources

Both state and federal regulations are clear in terms of their requirement for funding assurance before issuance of permit under the habitat conservation plan. The federal Endangered Species Act requires that a habitat conservation plan applicant ensure that adequate funding for the plan will be provided. The case law under ESA provides that:

- The plan must "ensure" funding over the lifetime of the permit
- The HCP cannot rely on federal funding to "ensure" funding of the plan in light of the "Anti-Deficiency Act and the availability of appropriated funds"
- The HCP must provide "remedies for failure to meet funding obligations by signatory measures"
- The HCP "cannot rely on speculative funding actions of others" for funding
- The HCP effectively must be backed by a guarantee by applicant to ensure funding for all plan element

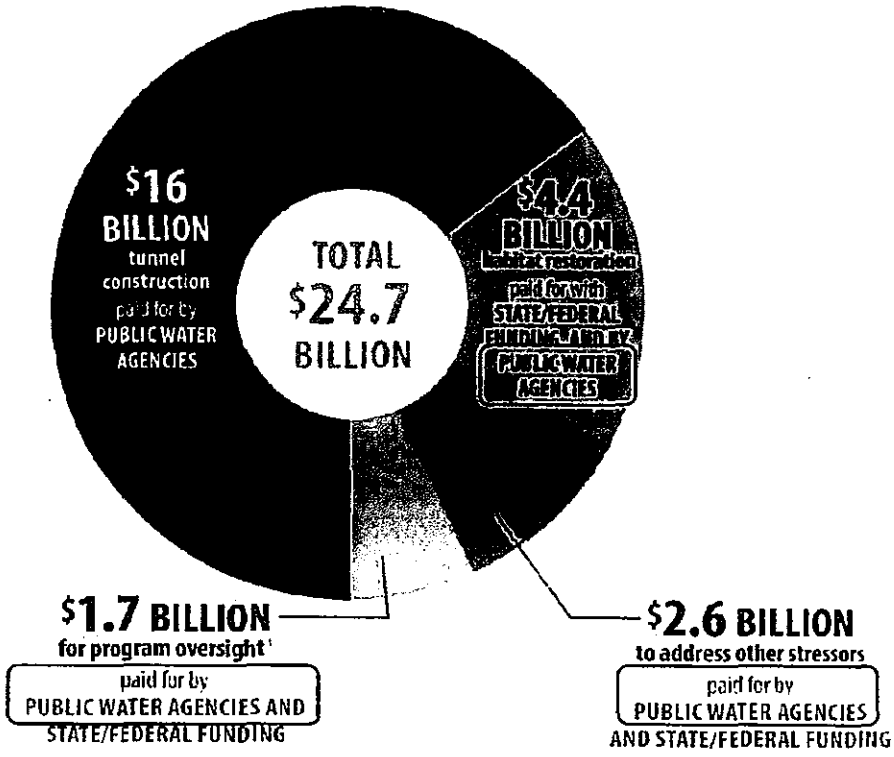
Yet, the BDCP appears to rely on federal funding that has yet to be appropriated and voter passage of future state water bonds to finance the habitat restoration costs. In fact, footnote "a" in Table 8-37 of the Public Review Draft states:

> *"In most cases, funding amounts are estimates only based on funding history... Funding estimates from state and federal agencies do not represent commitments and are subject to grant awards, annual appropriations from Congress, and passage of water bonds by voters of California..."*

The BDCP must address whether the regulatory agencies will accept BDCP's reliance on public funding sources yet to be approved as sufficient funding assurance before issuance of permits.

While the Public Review Draft BDCP goes to great lengths to explain the various funding sources and the responsibilities of the parties to fund components of BDCP implementation, Section 8.4.2 discusses the actions that will be taken or required in the event of a shortfall in state or federal funding. Specifically, the Public Review Draft BDCP states that: *"The Authorized Entities will not be required to provide land, water, or monetary resources beyond their commitments in this Plan in the event of a shortfall in state or federal funding."* This statement appears to directly conflict with "step-up" provisions in existing State Water Project contracts, and which will likely be included in amended contracts.

This statement found in Section 8.4.2 also appears inconsistent with the BDCP public messaging regarding what will occur in the event of a shortfall in state or federal funding. The graphic below – taken directly from a BDCP presentation – demonstrates the reliance on water contractors to also provide some or, potentially *all* funding for BDCP program components beyond implementation of Conservation Measure 1.



Cost Allocation

Even though the bulk of the BDCP will be paid by the federal and state water contractors, we are disappointed to learn that the actual funding share between the federal and state contractors will not be determined until it is "*near the time that permits are issued for BDCP.*" If this timeline, as described in the Public Review Draft, holds true, each contractor's share of BDCP's cost obligation will not be known until many months after the closing of the public comment period. How would water agency policy makers be in a position to assess whether BDCP is cost effective for their own unique jurisdictions? Relying on an overarching declarative statement that "*the costs of CM1 and associated mitigation and construction are affordable by ratepayers of the urban and agricultural agencies...*" is simply insufficient, and is certainly no guarantee that funding will materialize.

Even assuming that the BDCP, as a whole, would provide a statewide net positive benefit, how the costs are allocated and benefits apportioned could impact individual water agencies differently. Without a clear description of how costs are allocated, it is simply impossible to assess the cost-benefit of BDCP to individual water agencies and their ratepayers. Without this important piece being concluded or disclosed, what is the assurance that individual contractors will all find the BDCP cost effective when it is finally disclosed? And if not all contractors sign up to pay for the BDCP, how would that impact the costs that the remaining contractors must bear?

Postponing the cost allocation discussion to *after* the public commenting period is concluded is not acceptable. The BDCP must address this issue and keep the public commenting period open until this issue is resolved to afford the public an opportunity to comment on this critically important element.

San Diego County Water Authority
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(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

October 7, 2013

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

MEMBER AGENCIES

Carlsbad 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
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
Yuima Municipal Water District

OTHER REPRESENTATIVE

County of San Diego

Dear Secretary Laird:

On behalf of the San Diego County Water Authority (Water Authority), thank you for your September 11, 2013 letter to Chair Wornham and me responding to a January 2013 multi-agency letter requesting analysis of the Natural Resources Defense Council's portfolio approach to statewide water management and the Bay-Delta Conservation Plan (BDCP).

We look forward to working with you to help develop a BDCP project that achieves the co-equal goals and is affordable. As the largest member agency of the largest State Water Contractor, the Metropolitan Water District, the Water Authority and its ratepayers are being counted upon to pay the second-largest share of BDCP costs.[1] Yet, we have been relegated to the status of an outside observer who may have no financial stake in the BDCP. Accordingly, we request the opportunity to become more directly engaged in the BDCP cost allocation discussions and negotiations process – and be part of the solution. The stakes are sufficiently high for the San Diego region to be afforded the opportunity to be at the cost allocation negotiating table.

As you know, the Water Authority has not endorsed <u>any</u> alternative that has been considered by the BDCP program or advanced by others, including the Natural Resources Defense Council's Portfolio Alternative and the Delta Vision Foundation's BDCP-Plus. However, we firmly believe that a thorough and comprehensive analysis of Delta fix alternatives is critical to help inform the ultimate selection of an implementable plan for achieving the co-equal goals.

The Water Authority is committed to helping find a Delta solution, and to that end, is continuing its multi-year effort to inform our Board of Directors and civic and business leaders in our region on a variety of issues associated with the Delta. In addition, over the past several months, the Water Authority Board and staff have been engaged in an intensive, comprehensive review of BDCP-related alternatives to assess how various options may improve the San Diego region's water supply reliability along with risks associated with each. This review process is ongoing, and is scheduled to continue into 2014. We were disappointed to learn from Natural Resources Agency Deputy Secretary Jerry Meral at our September 12 Board workshop that determinations regarding the cost allocation among contractors will not be concluded when the BDCP and its environmental documents are released for public review next month. Although we plan to

[1] Among MWD's member agencies, and second only to the Kern County Water Agency.

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

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submit a formal comment letter during the BDCP environmental review process, the allocation of BDCP costs and the resultant rate impacts on San Diegans will remain a central element in our Board's consideration of which option to support.

While we had hoped that your Agency's evaluation of the Portfolio Alternative would be helpful to the Water Authority's ongoing review and analysis, some of the information contained in your September 11 letter raises more questions than it answers.

- The letter states that a single-tunnel, 3,000 cfs conveyance facility (which is proposed in the Portfolio Alternative) would cost $6 billion less than the BDCP preferred alternative (9,000 cfs twin tunnels) - $8.5 billion compared to $14.5 billion. However, on September 16, a corrected version of the evaluation was posted on the BDCP website, which indicates that the 3,000 cfs single-tunnel conveyance facility would only cost $3 billion less than the BDCP preferred alternative. Further, none of these numbers match Dr. David Sunding's economic benefit analysis, which he shared with us at our September 12 Board of Directors workshop, which identified the cost at $10 billion.

  Many entities that are undertaking review and analysis of the Delta fix options, like the Water Authority, would benefit from reliable cost estimates for the conveyance features of the Portfolio Alternative. The lack of clarity in the cost estimate has made it challenging to have a meaningful cost comparison of the various conveyance feature sizes. Could you please provide an apples-to-apples cost comparison of the 3,000 (single tunnel), 6,000 and 9,000 cfs conveyance project sizes?

- In terms of the benefit cost ratio of alternatives, your evaluation indicates that "*the 3,000-cfs tunnel has a negative benefit cost ratio, largely because the cost of the 3,000-cfs tunnel is approximately two thirds of building the proposed 9,000-cfs twin tunnels but the water yield is much smaller.*" The evaluation may be accurate; we are not attempting to dispute or refute the calculations and findings. However, with the numerous cost estimates for the conveyance features included in your own evaluations it is difficult to definitively understand the benefit cost ratio at which the evaluation arrives. A more comprehensive evaluation and identification of the appropriate assumptions would be valuable for those seeking to undertake independent analysis of cost-related information.

- The evaluation regarding the potential water supply yield in water recycling and water use efficiency projects that could be achieved from a $3B investment in local and regional water supply projects requires additional analysis. Your evaluation indicates, that with respect to investments in local and regional water recycling projects and water conservation projects, "*it is doubtful that a $3 billion investment would produce even 100,000 acre-feet of reliable new water supply in urban areas, and would do nothing for agricultural users.*" This evaluation appears at odds with the Department of Water Resources' California Water Plan Update, which provides an analysis from which it may be concluded that a $3 billion investment in water recycling projects could actually

produce approximately 400,000 acre-feet of new water supplies (2009 Water Plan Update, Page 11-10). In addition, data developed by the Water Authority on local project costs and implementation also indicates that BDCP's estimate is very low. We believe this warrants additional analysis to better understand how your evaluation arrived at a potential yield of 100,000 acre-feet or less. We would be happy to share the Water Authority's data and our observations on local supply development with your staff.

- The evaluation with respect to the ability to export water from the south Delta following a significant seismic event stated that, "*It may take from one to 10 years to rebuild enough Delta levees to once again allow substantial exports from the south Delta.*" While certainly more work remains to be completed in terms of the efforts that have been undertaken through the Delta Emergency Rock and Transfer Facilities Project and the Delta Emergency Response Program to secure water supply reliability following a significant seismic event, it is our understanding that significant progress has been made to reduce the worst-case export outage. A more comprehensive analysis on this issue would be beneficial.

We look forward to working with you to consider a BDCP project that is implementable, achieves the co-equal goals, and improves water supply reliability and is affordable within the San Diego region and the rest of the state. In addition, we look forward to arranging a meeting with you in the near-term to explore avenues for additional information sharing and the Water Authority's participation in the cost allocation negotiation process.

Sincerely,

Maureen A. Stapleton
General Manager

Attachments:

1. January 2013 multi-agency letter regarding NRDC Portfolio Alternative
2. September 11, 2013 correspondence and Portfolio Alternative evaluation from Secretary John Laird

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

OTHER REPRESENTATIVE

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?

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

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.

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
4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

August 28, 2012

MEMBER AGENCIES

OTHER REPRESENTATIVE

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

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.

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 time[3]), 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

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[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...."*

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,



Maureen A. Stapleton
General Manager

Enclosure: Water Authority Bay-Delta Policy Principles

San Diego County Water Authority

January 18, 2012

Attention: Imported Water Committee

Draft Delta Policy Principles (Information).

Purpose
The Delta Policy Principles will guide staff in evaluating Bay-Delta planned initiatives and the cost and sources of funding to implement the projects and actions. These policy principles are presented in draft form (Attachment 1) this month with board action sought in February.

Background
The Metropolitan Water District (MWD) imports water from the Colorado River through its Colorado River Aqueduct and from northern California via the State Water Project (SWP). Because the reliability of MWD supplies is of vital importance to the Water Authority, the Water Authority has consistently been a strong proponent and leading voice advocating for a Delta fix.

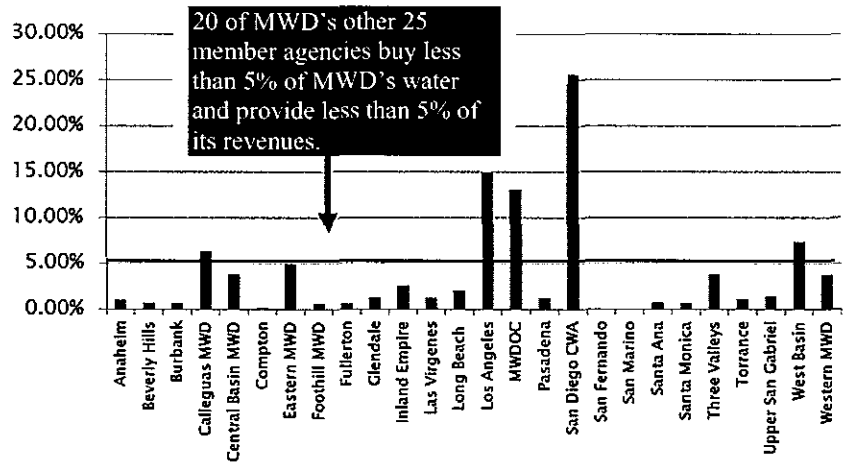
Despite recently improved hydrological conditions, California continues to have long-term water supply challenges in the Sacramento-San Joaquin Bay Delta. State and federal agencies with responsibility for different aspects of California's Bay-Delta estuary along with various stakeholders seek to develop a comprehensive, long-term plan to achieve the co-equal goals of eco-system restoration and water supply reliability. Last May, as part of management actions in response to the end of the drought and termination of supply cutbacks from MWD, the Water Authority Board renewed its resolve to call upon the state of California to finalize a plan to achieve the co-equal goals, including a viable financing plan to attain them (April 28, 2011, Water Planning Committee Item #1C). More recently, in December, the Water Authority Board adopted its 2012 Legislative Policy Guidelines, which reflected Bay-Delta policy principles adopted by the Board throughout 2011 (Attachment 2).

Discussion
The Water Authority has been involved in efforts to implement a long-term, comprehensive solution of the Bay-Delta estuary. The Water Authority has sought to attain a resolution to the Bay-Delta's long-standing problems that will help to provide San Diego County with a reliable, high-quality supply of water while restoring the estuary's ecosystem by actively engaging in Bay-Delta matters at MWD and other forums in support of a Bay-Delta fix. It successfully lobbied for the passage of the 2009 comprehensive Bay-Delta bill package. Most recently, the Water Authority held two Bay-Delta workshops receiving input from stakeholders on their views of a Delta solution.

Throughout this time, the Water Authority has advocated for a "right-size" fix for the Delta: that the fix must be supported by a broad range of stakeholders to ensure it is implementable; that the water contractors who finance the solution must show firm financial commitment and be capable of financing and maintaining the improvements. Of particular concern, 20 of MWD's other 25 member agencies buy less than 5 percent of MWD's water, and contribute less than 5 percent of MWD's revenues (See Figure 1). Because 80 percent of MWD's revenues come from water

sales, which have declined by one-third since 2007, this is a major vulnerability for MWD. MWD does not have assurances from its member agencies that they will provide revenues to MWD to ensure it can pay for its share of the Delta fix, which could more than double its SWP costs (approximately $670 million annually).

Figure 1: Average MWD Water Purchases by Member Agency (2000-09)



The Water Authority has steadfastly advocated that the costs for the Delta fix be allocated among beneficiaries of the improvements, and that MWD member agencies be required to make firm long-term contractual commitments (e.g. take-or-pay contracts) to pay their share of MWD's SWP contract obligations. Currently, MWD's 26 member agencies are not required to buy *any* water from MWD. Yet, MWD says it will continue to rely upon water sales revenues to pay for the Delta fix. Further, as MWD rates continue to rise, MWD's member agencies are expanding their local water supply projects, such as recycling, Indirect Potable Reuse, groundwater and seawater desalination, which are becoming more cost-competitive and affordable. While developing local water supplies and reducing reliance on imported water is sound public policy, it is important that MWD protect its long-term fiscal sustainability and strengthen its ability to meet its financial obligations by requiring take-or-pay contracts or similar firm financial commitments from its member agencies. Requiring firm financial commitments would also provide the needed information of how much water MWD member agencies truly need (i.e., are willing to pay for) from a Delta fix. Last May, a broad-based coalition of urban water agencies and environmental organizations also expressed concerns over Delta project financing and wrote a letter to the California Natural Resources Agency Secretary urging an immediate focus on Delta financing, affordability of a Delta conveyance project, and the need for commitments to pay project costs by water end-users (Attachment 3). In spite of rising costs (and water rates) and reduced sales, in 2011 MWD continued selling water at a discount for replenishment. This had the effect of further driving up the cost of MWD's Tier 1 water.

The attached draft policy principles are divided into five decision-making guidelines – Water Supply Reliability, Ecosystem Restoration, Finance and Funding, Facilities, and Governance. The draft offers policy principles to help guide staff as they evaluate the many projects and actions that make the Bay-Delta co-equal goals of ecosystem restoration and water supply reliability a reality.

Because of the Water Authority's continued reliance on the SWP, the Water Authority supports an affordable, comprehensive approach that focuses on steps to ensure reliable water supplies and Delta restoration.

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 1: Draft Delta Policy Principles
Attachment 2: 2012 Legislative Policy Guidelines – Bay-Delta, December 2011
Attachment 3: Urban/Environmental Coalition Letter on BDCP, May 2011

San Diego County Water Authority
Draft Delta Policy Principles

The San Diego County Water Authority Board of Directors supports a solution to the Bay-Delta's long-standing problems that will provide San Diego County with a reliable, high-quality supply of water and enhance the estuary's ecosystem in an affordable, cost-effective manner. The adopted policy principles will guide staff in evaluating projects and actions affecting 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.
- Address conflicts between water management and the Bay-Delta environment including meaningful dialogue with all stakeholders.
- Provide regulatory certainty and predictable supplies to help meet California's water needs in the long-term.
- 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 and support the development of water resources at the local level such as seawater and brackish water desalination, groundwater, storage, graywater, rainwater harvesting (e.g., cisterns and rain barrels), and recycled water (including direct and indirect potable reuse), to make water supplies more reliable, reduce demands on the Bay-Delta, and improve water quality.
- Encourage the development of a statewide water transfer market that will facilitate better water management.
- Provide better coordination of Central Valley Project and State Water Project operations.
- Encourage cost-effective water use efficiency measures.

Ecosystem Restoration

- Restore the Bay-Delta ecosystem to a point where species listed under the state and federal Endangered Species Acts are no longer threatened or endangered, taking into account all factors that have degraded Bay-Delta habitat and wildlife.
- Work with all stakeholders to ensure meaningful dialogue and that all issues are addressed in an open and transparent process.

Finance and Funding

- Encourage projects and actions that provide conveyance and storage facilities that are cost-effective when compared with other water supply development options for meeting Southern California's water needs.
- Support construction of Delta improvements only upon securing take-or-pay contracts or similar firm financial commitments by water contractors and their member agencies, as well as other entities, to pay for the fixed costs of the improvements.
- Condition financial support on allowing access to facilities to facilitate water transfers.
- Encourage the establishment of a stable funding stream and improve oversight transparency, only in support of a clearly defined project with clearly defined benefits, with clearly defined costs that are commensurate with the project's benefits to each stakeholder and that are cost-effective compared to alternative sources of supply.

BAY-DELTA

Generally, the Water Authority has supported a solution to the conflicts between water supplies and ecosystems in the Delta that have made water supply less reliable. However, the Water Authority is also concerned that the solution to Delta conflicts be cost-effective, and that the water contractors who finance the solution be capable of financing and maintaining improvements to the Delta. The Water Authority is also concerned that the costs be shared equitably among beneficiaries of the improvements, and that MWD member agencies be required to make firm commitments to pay their share of MWD's State Water Project contract obligations.

It shall be the Water Authority's policy to support legislation that:

1. Requires the Delta Stewardship Council or DWR to provide periodic analyses of the cost of proposed Delta improvements to the Legislature and the public.

2. Provides conveyance and storage facilities that are cost-effective, improve the reliability and quality of the San Diego region's water supplies and protect the Bay-Delta's ecosystem.

3. Requires water agencies and other entities that contract to pay the costs of improvements in the Delta to obtain take-or-pay contracts with their member agencies to pay the fixed costs of the improvements.

4. Implements a long-term, comprehensive solution for the Bay-Delta that:

    a. Focuses on resolution of conflicts between water management and the environment in the Bay-Delta.
    b. Provides reliable water supplies to meet California's short- and long-term needs.
    c. Improves the ability to transport water to enhance State Water Project deliveries and facilitate transfers from north of the Delta to south of the Delta.
    d. Improves the quality of water delivered by the Metropolitan Water District to San Diego County.
    e. Enhances the Bay-Delta's ecological health, taking into account all factors that have degraded Bay-Delta habitat and wildlife.
    f. Encourages cost-effective water use efficiency measures.
    g. Provides a cost-effective solution when compared with other water supply development options.
    h. Equitably allocates costs of the Bay-Delta solution to all those benefiting from improvements to the Bay-Delta system.
    i. Provides a firm commitment that the state will pursue water supply reliability and environmental restoration as co-equal goals.
    j. Encourages the development of local supplies such as seawater desalination, groundwater, storage, graywater, rainwater harvesting (e.g., cisterns and rain barrels), and recycled water (including indirect potable reuse), in order to make water supplies more reliable, reduce demand on the Bay-Delta, and improve water quality.
    k. Encourages the development of water transfers that will reduce demand on the Bay-Delta.

- Allocate costs proportionally to all those benefitting from improvements to the Bay-Delta system, so that financial support for the program reflect the benefits that are received.
- Use 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 are the responsibility of the broader public.
- Seek and support independent financial analyses of project costs and the ability of water contractors and their agencies to pay the costs of the project.

Facilities

- Require technical analysis of proposed key elements of the Bay-Delta solution, such as forecasting future urban and agricultural demands and size and cost of a new conveyance facility, to ensure projected projects realistically match statewide needs.
- Support "right-sizing" of the facilities by requiring agencies back up their forecasted demands Delta with a firm contractual commitment to pay for improvements and facilities.
- Allow access to State Water Project facilities to facilitate water transfers.
- Require that financial support by water agencies and other entities be enforceable.
- Improve the ability to transport water by enhancing State Water Project operations and facilities.

Governance

- Oppose transfer of operational control of the State Water Project 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.

l. Provides better coordination of Central Valley Project and State Water Project operations.
m. Improves Delta levees to control flooding, maintain water supply reliability and reduce seawater intrusion to protect water quality.
n. Develops adequate and reliable funding for maintenance of Delta levees.

5. Authorizes and appropriates the federal share of funding for the long-term Bay-Delta solution.

6. Provides the ongoing state share of funding for the long-term Bay-Delta solution.

7. Provides state funding for aquatic toxicity monitoring in the Bay-Delta. Such legislation should not place a surcharge on water supply exports nor should it substantively reduce funding for other measures that protect environment and public health.

It shall be the Water Authority's policy to oppose legislation that:

1. Requires additional reviews or approvals of Delta conveyance options beyond those provided by SBX7-1 (2009).

2. Transfers ownership, operation or control of the State Water Project or any of its facilities to MWD, the State Water Project Contractors, Central Valley Project Contractors, the State and Federal Contractors Water Agency or any entity comprised of MWD or other water project contractors.

May 31, 2011

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

Dear Secretary Laird:

We wish to congratulate you on renewing the effort to advance the Bay Delta Conservation Plan (BDCP), with an increased emphasis on transparency and broader inclusiveness for stakeholders. Establishing workgroups for the most critical issue areas in the BDCP will provide vital input from various interests, and help develop solutions that are broadly acceptable.

In particular, focusing attention on the plan for financing the implementation of the BDCP is critical, as this issue has received inadequate attention so far. The documents released to date have offered some total cost estimates, but critical details remain to be addressed such as cost allocation, the ability and willingness of prospective end users to pay, as well as the financial commitments from the BDCP applicants to cover not only the infrastructure, but also associated mitigation costs. In addition, there is no consensus on how the ecosystem restoration element of the BDCP will be paid for.

David Nesmith, Facilitator
Environmental Water Caucus

Jonas Minton, Senior Water Policy Advisor
Planning and Conservation League

Barry Nelson, Senior Policy Analyst, Western Water Program
Natural Resources Defense Council

Maureen A. Stapleton, General Manager
San Diego County Water Authority

Michael Carlin, Deputy General Manager
San Francisco Public Utilities Commission

Mark Watton, General Manager
Otay Water District

Gary Bobker, Program Director
The Bay Institute

cc: Senators Dianne Feinstein & Barbara Boxer
Members of California Congressional delegation
Kenneth Salazar, Secretary of the Interior
David Hayes, Deputy Secretary of the Interior
Michael Connor, Commissioner, Bureau of Reclamation
Donald Glaser, Director, USBR Mid-Pacific Region
Governor Jerry Brown
Gerald Meral, Deputy Secretary, Natural Resources Agency
Mark Cowin, Acting Director, Department of Water Resources
John McCamman, Acting Director, Department of Fish and Game
Members of the California Legislature
Delta Stewardship Council
State Water Resources Control Board

The recently published National Research Council study has provided an important service in underscoring the importance of a full and thorough review of alternative water supply scenarios, including those that would lessen the pressures upon the Delta. None of us would consider signing a contract to purchase a home without first assessing whether we can afford it and determining how we would finance the purchase. Given the huge cost estimates associated with the BDCP, we must approach this program in a similar manner.

For these reasons, we support your decision to form a Financing Working Group. We respectfully recommend that you begin this important work as soon as possible and not delay until the fall as indicated in the work group announcement. The total project cost is intrinsically linked to all aspects of the planning process, and therefore this work should proceed immediately to ensure that cost considerations fully inform the BDCP process. We look forward to working with you and the other stakeholders to ensure that the BDCP has a viable financing plan before any decisions are made to select an alternative.

Thank you for your consideration of our views.

Steve Rothert, California Regional Director
American Rivers

Kim Delfino, California Program Director
Defenders of Wildlife

Michael Sweeney, Mayor
City of Hayward

Alexander R. Coate, General Manager
East Bay Municipal Utility District

Jerry Brown, General Manager
Contra Costa Water District

Cynthia Koheler, California Water Legislative Director
Environmental Defense Fund