DELTA PROTECTION COMMISSION
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Home Page: www.delta.ca.gov

Contra Costa County Board of Supervisors

Sacramento County Board of Supervisors

San Joaquin County Board of Supervisors

Solano County Board of Supervisors

Yolo County Board of Supervisors

Cities of Contra Costa and Solano Counties

Cities of Sacramento and Yolo Counties

Cities of San Joaquin County

Central Delta Reclamation Districts

North Delta Reclamation Districts

South Delta Reclamation Districts

Business, Transportation and Housing

Department of Food and Agriculture

Natural Resources Agency

State Lands Commission

May 30, 2013

Governor Jerry Brown
State of California
c/o State Capitol, Suite 1173
Sacramento, CA 95814

Dear Governor Brown:

The Delta Protection Act of 1992 (Act) created the Delta Protection Commission (Commission) with membership composed of a supervisor representative from each of the five Delta counties (Sacramento, San Joaquin, Contra Costa, Solano and Yolo counties), three representatives each from incorporated cities in the Delta and reclamation districts from the North, Central and South Delta regions respectively, and four state agencies: Natural Resources Agency, California Department of Food and Agriculture, Business Transportation and Housing, and State Lands Commission. The Act charged the Commission with preparing and implementing a comprehensive long-term Land Use and Resource Management Plan (LURMP) for the primary zone of the Delta. General plans of the five Delta counties are required to be consistent with the LURMP. Section 29760 (b) of the California Public Resources Code (PRC) sets out policy requirements for the LURMP, which include the following:

- Protect and preserve the cultural values and economic vitality that reflect the history, natural heritage, and human resources of the delta.
- Conserve and protect the quality of renewable resources.
- Preserve and protect agricultural viability.
- Restore, improve, and manage levee systems.
- Preserve and protect water quality of the Delta.
- Preserve and protect open-space and outdoor recreational opportunities.
- Protect the Delta from any development that results in any significant loss of habitat or agricultural land.

Paragraph (e) of PRC section 29760 states "to the extent that any of the requirements specified in this section are in conflict, nothing in this division shall deny the right of the landowner to continue the agricultural use of the land."

The Act was amended in 2009 with the passage of SBX7-1 (also known as the Delta Reform Act). The amended Act declares that "the Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and that it is the *policy of the State* (emphasis added) to recognize, preserve and protect those resources of the Delta for the use and

enjoyment of current and future generations...in a manner that protects and enhances the... unique values of the Delta..." (PRC sections 29701-2). The Commission is identified as a "forum for Delta residents to engage in decisions regarding actions to recognize and enhance the unique cultural, recreational, and agricultural resources of the Delta" (PRC section 29703.5(a)).

SBX7-1 also codified the co-equal goals of providing a more reliable water supply and protecting, restoring and enhancing the Delta ecosystem. Significantly, in approving SBX7-1, the legislature stated that inherent in achieving the co-equal goals it is the policy of the State to..."protect and enhance the unique cultural, recreational, and agricultural values of the California Delta,...improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta,...[and] reduce risks to people, property, and state interest in the Delta by effective emergency preparedness, appropriate land uses and investments in flood protection (California Water Code section 85020). California Water Code section 85021 also states that it is the policy of the State of California "to reduce reliance on the Delta in meeting California's future water supply needs through investing in... regional supplies,...conservation, and water use efficiency."

The above is background to the vote taken by the Delta Protection Commission on May 23, 2013 to oppose, 9-2 with state representatives voting no, the Bay Delta Conservation Plan (BDCP) as proposed.

Currently, the BDCP proposes to divert 9,000 cfs (cubic feet per second) of Sacramento River water through twin tunnels, the construction of which would severely and permanently impact the landscape of the Delta. Sites of tunnel intakes would destroy historical homesteads. Highways and levees would be relocated for a period of over ten years, disrupting public access and the local agricultural, tourism and recreational economies, which contribute over $6.5 billion to the overall state economy, according to the DPC 2012 Economic Sustainability Plan for the Delta. Proposed habitat restoration would take more than 100,000 acres of farmland out of production, yet wildlife and environmental scientists question whether this would assist in the recovery of listed species.

It is certain that diverting the Sacramento River would decrease fresh water flows through Delta channels, impairing the ability to meet water quality standards in the South, Central and Western Delta, and causing saline intrusion to groundwater on the East side of the Delta. The health of the Delta and its multiple resources is dependent on sufficient freshwater flows into and through Delta channels. Section 12200 et seq. of the California Water Code specifies that Delta water for export be from a common pool surplus to the needs of the Delta. Flows surplus to the needs of the Delta can only be identified by first defining and protecting flows needed by the Delta. To date, the State Water Resources Control Board has not defined flows necessary to protect the Delta -- and therefore there is no quantification of water available for diversion to other areas of the State.

All of these issues notwithstanding, broader claims that BDCP would help the Delta persist. Yet Dr. Jerry Meral of the California Natural Resources Agency recently stated that the Delta cannot be saved, and that the tunnels were a way to *increase* water exports, *not* protect the Delta. It seems unlikely that the BDCP can meet even the goal to increase water exports, since it does not create any new water sources or include new storage.

There are several alternative proposals that could realize the co-equal goals, reduce reliance on the Delta, and improve the environment of the estuary, and which are projected to cost much less than the proposed BDCP project – alternatives that would also "protect and enhance the unique cultural, recreational, and agricultural values of the California Delta,...[and] improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta" as required by California Water Code 85020. Given the projected cost of BDCP, which does not include costs of local displacement, economic cost of disruption to the local and regional economy by the construction, and non-economic cost of potential environmental harm, it is incredible that the California Department of Water Resources (DWR) is not considering cost-benefit analyses, including project and non-project statewide costs, for all project alternatives. Further, failure to do so is actually inconsistent with DWR's own policy to conduct cost-benefit analyses, as set forth in its Economic Analysis Guidebook.

It is for the above reasons, as well as the disregard by the State of principles and requirements established by the legislature for local governments and private interests to follow, regarding sustaining the economy, the environment, and cultural resources of the Delta that the Delta Protection Commission voted to oppose the proposed BDCP project.

The Delta Protection Commission urges that cost-benefit analyses and feasibility studies be conducted on all alternatives that would achieve the co-equal goals while accomplishing the objective inherent in achieving the co-equal goals-- to protect and enhance the unique cultural, recreational, and agricultural values of the California Delta.

Sincerely,

Michael J. Machado
Executive Director

Cc: President Barack H. Obama
Senator Dianne Feinstein
Senator Barbara Boxer
Secretary U.S. Department of Interior
Secretary U.S. Environmental Protection Agency
Department Fish and Wildlife Service
National Oceanic and Atmospheric Administration
Col. William Leady, U.S. Army Corps of Engineers
California Congressional Delegation
John Laird, Secretary California Natural Resources Agency
California State Senate Members
California State Assembly Members
Phil Isenberg, Chair, Delta Stewardship Council
Chuck Bonham, Director, California Department of Fish and Wildlife
Felicia Marcus, Chair California State Water Quality Control Board
Ken Vogel, Chair, Delta Conservancy
Campbell Ingram, Executive Director Delta Conservancy

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY
EDMUND G. BROWN, Jr., *Governor*

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February 1, 2013

Kenneth Salazar, Secretary
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

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

RE: Analysis of Portfolio-Based BDCP Conceptual Alternative

Dear Secretaries Salazar and Laird:

At its January 24, 2013 meeting, the Delta Protection Commission received a presentation on the Portfolio-Based Bay-Delta Conservation Plan (BDCP) Conceptual Alternative. This alternative advocates for one 3,000 cfs conveyance facility with a North Delta intake; reduced reliance on the Delta through investments in South of the Delta water supply, including new surface and ground water storage facilities; levee improvements in the Delta; 40,000 acres of floodplain and tidal marsh habitat restoration; and integration of science into Delta management.

The 2009 Delta Reform Act established the coequal goals of water reliability and habitat restoration, and that the goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta. Section 29703.5 of the California Public Resource Code (PRC) states that the Delta Protection Commission created pursuant to Section 29735 of the PRC, provides an existing forum for Delta residents to engage in decisions regarding actions to recognize and enhance the unique cultural, recreational, and agricultural resources of the Delta. As a voice of the Delta, the Delta Protection Commission urges that the Portfolio-Based BDCP Conceptual Alternative be evaluated as an alternative to the conveyance under discussion in the BDCP.

This letter should not be construed as an endorsement of the Portfolio-Based BDCP Conceptual Alternative, but in the interest of transparency and consideration of all options that may impact the unique cultural,

recreational, natural resource, and agricultural values of the Delta, this alternative should be evaluated as a proposal to meet the coequal goals.

If you have any questions, please do not hesitate to contact Michael Machado, Executive Director of the Commission at (916) 375-4800.

Sincerely,

Don Nottoli

Don Nottoli
Chairman
Delta Protection Commission