

May 11, 2009

Ms. Delores Brown, Chief
Office of Environmental Compliance
Department of Water Resources
Post Office Box 942836
Sacramento, California 94236

Re: Comments on Preliminary Scoping Report Bay Delta Conservation Plan EIR/EIS
Project February 2009

Dear Ms. Brown:

These comments are submitted on behalf of the Stockton East Water District to the Preliminary Scoping Report Bay Delta Conservation Plan EIR/EIS Project February 2009. At the outset, we would like to emphasize that the Preliminary Scoping Report does not provide a sufficient description of the project which is to be the subject of the EIR/EIS. This puts anyone commenting on the Report at a disadvantage; as a result, our comments must be somewhat general.

Water Rights and Area of Origin

Stockton East Water District is entitled to protection pursuant to Water Code Section 11460 from any impacts of operation of the State Water Project and the Central Valley Project. To the extent that portion of the project propose to re-operate either of both of these projects, the EIR/EIS must evaluate any potential impacts on rights under section 11460 and insure that any adverse impacts are fully mitigated.

Water Quality Impacts

Stockton East Water District obtains water by contract with the United States Bureau of Reclamation from the New Melones Project on the Stanislaus River. In D 1641 the State Water Resources Control Board imposed upon the permits for the CVP, including New Melones, the obligation to meet water quality standards for agriculture and fish and wildlife at Vernalis.

The Department of Water Resources has prepared previous studies on dual delta water conveyance system, which will likely be a part of the Project evaluated in the EIR/EIS. The May 2008 study prepared by the Department of Water Resources for the Delta Vision Blue

Ribbon Task Force entitled "*An Initial Assessment of Dual Delta Water Conveyance*" identifies some of the adverse impacts operation of an isolated or dual water conveyance system through the Delta on salinity and flow in the southern Delta. Quotes from the study reveal the potential for adverse impact on water quality in the Delta that could adversely impact water supply from the New Melones Project:

Under each of the Dual Conveyance operation scenarios, the average monthly position of X2 shifted upstream about 2 km more than the current operations. This is due to the increased amounts of water being exported from the Delta under the Dual Conveyance operation scenarios. P. 3

The operation of the Through-Delta component of a Dual Conveyance System affects water quality in the southern and central Delta when south Delta exports are low and San Joaquin River water quality dominates. P. 4.

If the state and federal water projects ceased diverting from the south Delta and, instead, diverted water around the Delta at that time, the commingling process would be eliminated and the resulting water in the southern and central Delta would be higher in salinity than it is under the current operations. P. 20.

Without the influence of Sacramento River water in the south Delta, the agricultural water quality objectives in the south Delta could not be met as reliably during parts of the year. P. 20.

Whereas less pumping from the south Delta increases Old and Middle River flows, it could result in less dilution of the San Joaquin River water with Sacramento River water thus leading to an increase in salinity in the southern and central Delta. A subsequent analysis would investigate the water quality and flows effects within Delta channels of any assumed operation facility configuration. P. 23.

This comparison signals the need to examine another mode of operation of a Dual Conveyance System where exports from the south Delta are nearly eliminated during the winter and spring months and maintained at low levels during the remainder of the year when water quality in the south Delta would benefit. P 32.

Any adverse impact on the ability to meet water quality requirements at Vernalis and in the southern and central Delta must be fully evaluated and mitigated.

Compliance with Law

We agree with numerous comments that have been made that the BDCP process should be consistent with existing laws and regulations including the Clean Water Act, Endangered Species Act, California Endangered Special Act, Central Valley Project Improvements Act,

and Delta Protection Act. We would also include other specific laws that would control any actions undertaken through the BDCP, including, but not limited to:

- **Watershed Protection Statute** Water Code section 11460
- **San Joaquin River Protection Act** Water Code sections 22000 et seq.
- **Public Law 108-361 Section 103d(2)(D)(vii)**, which, among other things, directs the Secretary of the Interior to update the New Melones operating plan to “reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives. . .” Other measures authorized in PL 108-361 are meant to add flexibility to meet any obligations to the Central Valley Project contractors by reducing demand for water dedicated to meeting water quality standards in the San Joaquin River from New Melones.

Section 1.1 at Page 1-1

“The purpose of the BDCP is to provide for the recovery of endangered and sensitive species and their habitats in the Delta and also provide for the protection and restoration of water supplies that the federal and state projects currently convey through the Bay Delta”. The purpose of the BDCP cannot be limited to restoring water supplies that are conveyed through the Bay Delta, it must also include the purpose of protecting and restoring all water supplies provided by the federal and state projects.

Redirected Impacts

We agree with comments made that the EIR/EIS must specifically identify and mitigate any redirected impacts from the BDCP projects.

Very truly yours,



JEANNE M. ZOLEZZI
Attorney-at-Law

JMZ:md

cc: Mr. Kevin Kauffman