

May 29, 2008

Ms. Delores Brown  
Chief, Office of Environmental Compliance  
Department of Water Resources

via email: [delores@water.ca.gov](mailto:delores@water.ca.gov)

Dear Ms. Brown:

Advisory Letter Regarding BDCP EIS/EIR Scope

Executive Order S-17-6 directed us to “develop a durable vision for sustainable management of the Delta” with the goal of “...managing the Delta over the long term to restore and maintain indentified functions and values that are determined to be important to the environmental quality of the Delta and the economic and social well being of the people of the state.” This charge to make decisions about the Delta within a broad context is echoed in Governor Schwarzenegger’s statements on a comprehensive approach to water in July 2007, and in his letter to Senators Perata, Machado and Steinberg of February 28, 2008. Executive Order S-17-6 also directed Delta Vision to “Inform and be informed by current and future Delta planning processes such as those pertaining to the CALFED Bay-Delta Program, Bay Delta Conservation Plan, Suisun Marsh Plan, Water Plan...”

The vision for the California Delta we adopted in November 2007 makes twelve interrelated and linked recommendations and also seven near term action recommendations. As required under Executive Order S-17-06, in October 2008, we will adopt a strategic plan to implement the vision.

The charge to Delta Vision and our recommended vision are the basis from which we offer these advisory comments regarding the scope of the Environmental Impact Review/Statement now being launched.

Success of the BDCP process will play an important role in achieving important components of Delta Vision’s plan for a resilient and regenerated California Delta ecosystem and increased reliability of water supply. The Notice of Preparation for the BDCP EIR/S provides a broad framework within which to work and many important activities are listed, but the level of commitment to them needs to be strengthened as the planning process matures. We believe that bold and strong measures are needed if we are to change course, and both our Vision and our Strategic Plan have and will call for such measures comprehensively. We offer our recommendations, below, out of our desire to assist the BDCP in

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steering its efforts towards a comprehensive approach to achieving the twin objectives of improved water supply reliability and ecosystem health.

We believe that there are several elements that must be included in the BDCP EIR/S to ensure that success in BDCP also contributes to our vision of co-equal priorities of reliable water supplies for Californians and protecting and improving the Delta ecosystem. Specifically, we recommend:

**The BDCP EIR/S should directly assess alternative choices by how well they serve these two co-equal goals as the primary framework for analysis.** The BDCP process aims to develop a state Natural Communities Conservation Plan and a federal Habitat Conservation Plan which will allow issuing permits for the continued export of water from the Delta and for an array of measures directed at factors limiting essential ecological processes and functions within the Delta. We believe that the approach should ensure that restoring these functions is a central component of the plan, and not treated merely as mitigation to offset continued water export functions -- an approach which has failed to break through the political deadlock on water and the ecosystem for the past 40 years. Moreover, the EIR/S should include the full range of combinations of improved through Delta and alternative conveyance.

**The BDCP EIR/S should include clear description of near term actions which will be taken to improve ecosystem function and water system reliability and to protect human life.** Large scale projects will take years to reach completion. We therefore wish to stress the importance of identifying, evaluating and implementing an aggressive suite of "near-term" measures to improve Delta ecosystem function and water system reliability and to protect human life pending the completion of major new capital facilities associated with realizing the dual conveyance capabilities which appear to hold such promise over the longer-term. These near term improvements in through Delta conveyance should be incorporated in analyses of how improvements in through Delta conveyance can achieve the two important goals of (a) increased conveyance capacity and (b) reducing risk of catastrophic failure, including the value of repairable through Delta conveyance capacity. This is consistent with our Vision recommendations 7, 8 and 9.

**The BDCP EIR/S should expand its consideration of issues to include important new policy initiatives announced by the Governor and the major elements we identified in our Vision of last year. Specifically, BDCP should:**

a. Incorporate assumptions on water conservation to be achieved through the Governor's announced plan. A major element missing from BDCP in its current configuration is any assumption about levels of conservation throughout California, consistent with the Governor's goal of a 20% statewide reduction in per-capita use by the year 2020. Since the health of the Delta ecosystem cannot be achieved without substantial conservation by California --- and a reasonable supply of water for Californians must also be produced by actions which include conservation --- BDCP should build those levels of contribution into its planning and analysis.

b. Integrate sustainable water supply. Our adopted vision acknowledges that all water demands cannot be met at all times and expects reduced diversions from the Delta and/or its watershed at some times and in some places. The BDCP should clearly

state expectations on water diversion under different conditions and the decision processes and rules it would use to determine allowable diversions under a range of hydrological and climatological conditions. If a reliable water supply is the primary goal of water contractors --- and they tell us that is the case --- then the actual amount of water to be exported from the Delta, under diverse conditions, must be clearly stated. Projecting diversions for water supply first requires establishing quantified thresholds for water required in the Delta (in volume, timing and quality at various locations) for effective functioning of the estuarine ecosystem under different conditions.

c. Address seismic and flood durability. The BDCP should explicitly address the level of flood protection required for ecosystem protection, for the protection of water conveyance systems, and assess how its projects impact non-ecosystem levees and human uses of the Delta.

d. Incorporate ecosystem health and resilience. While the NCCP or HCP processes of BDCP are focused on providing a basis for issuing permits for large diversions, the EIR/S should clearly assess the extent to which these actions will contribute to overall ecosystem health and resilience. For example, while the majority of scientific opinion appears to believe that a properly operated isolated or dual conveyance facility would achieve substantial benefits to water reliability, and would reduce the damage to fish species by use of the existing pumps, the EIR/S should also analyze a full range of through-Delta flows on in-Delta ecological processes and functions, in addition to how reduced pumping operations may reduce entrainment of certain fish species. Similarly, the full range of impacts of any new capital facilities, such as an isolated facility, should be analyzed, including impacts on the ecosystem, flood management and water supply reliability.

e. Incorporate water quality. We recommend that the BDCP clearly evaluate the implications of alternative approaches to conveyance and to ecological restoration on existing (and potentially modified) water quality objectives for the Delta, and how these objectives will be affected by the various alternatives under development. Those water quality levels should address both ecosystem and human needs. The establishment of water quality levels in the Delta should be achieved concurrently with any facility improvements.

f. Specify projected schedules for construction, the cost of the activities and the source of funding for such activities. We recommend that the BDCP include sufficient details to guarantee that the conservation measures contemplated by the final plan will be fully and properly implemented. These details should include specific implementation schedules, financing commitments and assignments of appropriate roles and responsibilities to ensure vigorous implementation. The absence of detailed information on these items would otherwise jeopardize achievement of the goals.

g. State a specific assumption about projected sea level rise and the implications of that for all of the elements of BDCP. The BDCP should clearly state its assumptions regarding sea level rise and evaluate how it will address and respond to the enormous challenges of climate change and sea level rise over the course of plan implementation.

h. Devise assurances that the actions included in the final BDCP EIR/EIS will be implemented, including, for example, directly incorporating actions into any and all state water contracts, and as conditions for receipt of bond funds, either for facility development or for ecosystem purposes. It would be extremely valuable if the BDCP analysis is written in a format which allows the incorporation of its water diversions, export operational

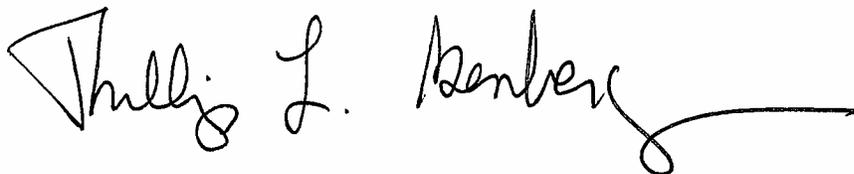
parameters and conservation measures, including ecosystem enhancement activities, into the relevant water contracts, general obligation or revenue bonds, and other legally binding instruments (e.g., JPAs, etc.) which may be developed to implement the desired Delta Vision.

i. Seize any opportunities for positive coordination with other infrastructure or ecosystem improvements. Without diverting focus from achieving the goals and objectives of BDCP, the EIR/S process and subsequent implementation should look for opportunities for positive coordination with other public policy efforts.

**In addition to these major recommendations for scoping the BDCP EIR/S, we recommend meeting the following standards:**

- Easily comparable information about all options. Provide pre-construction (e.g., land purchase), construction, operation and maintenance, and mitigation costs for all alternatives. Similarly, provide comparable information about expected impacts on the ecosystem and water available for human use under various standardized scenarios.
- Clear description of the complexity and cost all proposed changes in conveyance and storage. For the example of a proposed improvements to the Middle River, does the option involve (1) inexpensive interim upgrading, (2) improvements with semi-permanent features which would be lost to an earthquake, or (3) a permanent design that after catastrophe is reclaimed and re-operated? Similarly, the costs and complexity of any proposed isolated conveyance facility need to be clearly described.
- Clear description of how the design and operation component of each alternative serves ecosystem health and resilience. This is consistent with our Vision recommendation 1.
- Clear description of effective adaptive management. Include adequate description of a comprehensive monitoring, assessment and adaptive management program, including the processes and factors which will result in decision makers actually managing adaptively.
- Transparent and consistent modeling assumptions. Major assumptions could include: (1) expected Delta fish protection actions, (2) projected reductions in per capita water use, (3) expected CVP and SWP operations, (4) regional self-sufficiency actions, (5) major agreements and settlements (e.g., San Joaquin River settlement), and (6) changed demand and supply from climate change.

Sincerely,

A handwritten signature in black ink that reads "Phillip L. Isenberg". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Phillip L. Isenberg, Chair  
Delta Vision Blue Ribbon Task Force