



TO: Delta Vision Blue Ribbon Task Force

FROM: John J. Kirlin, Executive Director
Delta Vision

DATE: May 28, 2008

SUBJECT: Draft Advisory Letter re: NOP for BDCP EIR/S

Attached is a draft advisory letter to submit regarding the Notice of Preparation for the BDCP EIR/S process, prepared in response to your direction to staff. This cover memo provides some context in which the draft can be considered.

Your adopted vision speaks to the importance of making decisions regarding improved conveyance and storage in the context of policies to improve functioning of the Delta estuary and of overall water policies for the state, including increased conservation and regional self-sufficiency.

In February, the Governor's letter to Senators Perata, Machado and Steinberg committed the state to achieving greater water conservation and flood plain protection among other goals, and also directed DWR to proceed with the NEPA/CEQA analysis of at least four alternatives for Delta conveyance.

Pursuant to that direction, the Notice of Preparation for the BDCP EIR/S was issued March 17, 2008. Several public scoping meetings were held. The period for written comment closes on May 30, 2008.

The draft advisory letter builds on your adopted vision and is also informed by the issues identified in the assessment of prior analyses of conveyance completed by CALFED and the analysis of dual conveyance completed by DWR, both presented at your April meeting.

It is my understanding that comments such as this can inform the final design of the EIR/S.

In conversations over the past weeks, I have informed the leadership of the Resources Agency, BDCP, DWR and DFG that the Task Force anticipates offering advice on the NOP for the BDCP EIR/S.

Attachment

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Advisory letter regarding BCDP EIS/EIR scoping

May 29, 2008

Ms. Delores Brown
Chief, Office of Environmental Compliance
DWR

via email: "delores@water.ca.gov"

Dear Ms. Brown:

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.

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 Delta Vision's plan for a resilient and regenerated California Delta ecosystem and increased reliability of water supply. However, by themselves, the actions *currently* discussed in BDCP, even if fully

implemented, are not sufficiently broad to achieve either a reliable source of water for California or a healthy Delta ecosystem.

The Notice of Preparation for the BDCP EIR/S provides a broad framework within which to work and many important activities are listed following the term “..likely to include..” While some of the advisory comments below may be intended by the authors of the Notice of Preparation, that is not clearly expressed and we believe the EIR/S will be improved if the scope is adjusted as suggested here.

We believe that the current BDCP EIR/S lacks essential elements needed to achieve our vision of a co-equal priority given to a reliable water supply for Californians and protecting and improving the Delta ecosystem. Specifically, we recommend:

1, The BDCP EIR/S should directly assess alternative choices by how well they serve these two co-equal goals; not as an afterthought, but 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 exports of water from the Delta. While somewhat broader than an analysis of species specific permits, this approach still appears to treat ecosystem considerations primarily as mitigation, 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. In its adopted vision, the Task Force called for “immediate improvements to the through-Delta export system, including operations of all the components..” and we remain convinced of the importance of this course of action.

2. 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. **Consider and outline 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. **Consider 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. BDCP should clearly state expectations on water diversion under different conditions and the decision processes and/or rules it would use to determine allowable diversions. 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. **Consider seismic and flood durability.** Specifically, BDCP should clearly indicate the level of flood protection required for ecosystem protection and for protection of water conveyance systems, and as a part, the level of protection required for non-ecosystem levees and human development.

d. **Consider 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 what a reduced level of water flowing through the Delta would do to the balance of the Delta ecosystem not immediately affected by the operation of the pumps. Similarly, the full range of impacts of any new capital facility, such as an isolated facility, should be analyzed, including impacts on the ecosystem, flood management and water supply reliability

e. **Consider water quality.** Specifically, BDCP should clearly define the level of water quality at various points in the Delta. 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 improvement.

f. **Consider and identify projected schedules for construction, the cost of the activities and the source of funding for such activities.** Specifically, BDCP should include sufficient details to guarantee that the construction and financing assumptions used will become the basis of administrative implementation. The absence of detailed information on these items will jeopardize achievement of the goals.

g. **State a clear assumption about projected sea level rise and the implications of that for all of the elements of BDCP.** BDCP should clearly state its assumptions regarding sea level rise and judge all proposed actions against that standard.

h. **The final BDCP EIR/EIS should be directly incorporated into any and all state water contracts, and conditions for receipt of bond funds, either for facility development or for ecosystem purposes.** It would extremely valuable if the BDCP analysis would be written in a format which allows placement in water contracts, General Obligation or Revenue bonds, and other arrangements (e.g., JPAs, etc.) which may be developed to implement the desired Delta Vision.

3. 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 improvements to existing conveyance and storage systems in the alternatives to increase reliability of water supply, ecosystem function and reduction in risks from floods or seismic events. This is consistent with our Vision recommendations 7, 8 and 9.
- 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/or 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.
- 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. Describe what will be done now and over the intervening years to improve Delta ecosystem function and water system reliability and to protect human life

Sincerely,

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