DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

MAR 12 2012

Executive Office

Mr. Mark Cowin
Director
Department of Water Resources
1416 Ninth Street
Sacramento, California 94236-0001

Dear Mr. Cowin:

I am responding to your January 30, 2012, letter which requested concurrence with basic and overall purpose statements for the Bay Delta Conservation Plan (BDCP). The statements, which were developed with input from my Regulatory Division staff, are intended to reflect the requirements of the U.S. Environmental Protection Agency's 404(b)(1) Guidelines.

As you describe in your letter, we recognize the BDCP will set out a comprehensive strategy which strives to achieve the goals of restoring ecological functions and improving water reliability. As a programmatic document, the BDCP itself does not require a Department of the Army permit. However, specific projects of the BDCP that result in the discharge of dredged or fill material into waters of the United States under Section 404 of the Clean Water Act, work or structures in or affecting navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899, or modifications to a Federal project under Section 14 of the Rivers and Harbors Act of 1899, will require Department of the Army authorization prior to starting work.

Because the BDCP is programmatic and does not require a Department of the Army permit, there is no requirement to have basic and overall purpose statements. However, I concur that these statements at the programmatic level of the BDCP, and the additional information and analyses your staff would develop and incorporate into the BDCP based on them, provide useful context for subsequent permit decisions we will need to make for specific, individual projects of the BDCP. As such, the BDCP's basic and overall purpose statements were developed consistent with the process for projects requiring Department of the Army authorization under Section 404 of the Clean Water Act. We caution against using the statements to screen out BDCP alternatives under the National Environmental Policy Act.

For each of the individual projects of the BDCP requiring Department of the Army authorization under Sections 404 of the Clean Water Act, we will determine the specific basic and overall purpose statements after receiving a permit application with sufficient detail for the project. Under the 404(b)(1) Guidelines, we will use the basic purpose statement to determine whether the proposed project is water-dependent. The overall purpose for a project is necessary

to evaluate practicable, less environmentally damaging alternatives as required by the Guidelines. In the attachment to your January 30, 2012 letter, you provided a description of Action 1 (Water Operations and Conveyance Infrastructure), your first project for implementation under the BDCP. Once a permit application and sufficient detail is received, my staff will determine the basic and overall purpose statement for Action 1.

I hope this information is helpful to you. Please refer to identification number SPK-2008-00861 in any correspondence concerning this project. If you have any questions, please contact Mr. Michael Nepstad, Deputy Chief, Regulatory Division, at email *Michael.G.Nepstad@usace.army.mil*, or telephone 916-557-7262.

Sincerely,

William J. Leady, P.E.
Colonel, U.S. Army
District Commander

Enclosure

Copy Furnished:

Ms. Karen Schwinn, Associate Director, Water Division, U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street (WTR-1), San Francisco, CA 94105
Mr. Paul Robershotte, Integrated Water Resource Planning, South Pacific Division, U.S. Army Corps of Engineers, 1455 Market Street, San Francisco, CA 95103-1399
Mr. David Nawi, Senior Advisor to the Secretary, California and Nevada, 650 Capital Mall, 5th Floor, Sacramento, CA 95814

NEPSTAD/dd
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LEMASTER
CESPK-DDC

LEADY
CESPK-DC

Bay Delta Conservation Plan

BASIC AND OVERALL PROJECT PURPOSE STATEMENT PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT

BASIC PURPOSE

The restoration and enhancement of ecological functions, including aquatic habitat restoration; and improvements to the water conveyance infrastructure and the supply and reliability of water deliveries conveyed.

OVERALL PROJECT PURPOSE

To implement the Bay Delta Conservation Plan (BDCP), which has been designed to achieve the co-equal goals of providing for the conservation and management of aquatic and terrestrial species, including the restoration and enhancement of ecological functions in the Delta, and improving current water supplies and the reliability of delivery of water supplies conveyed through the State Water Project (SWP) and the Central Valley Project (CVP). To accomplish these goals, the BDCP sets out a comprehensive, integrated conservation strategy that involves: 1) substantial modifications and improvements to SWP and CVP water conveyance facilities in the Delta and vicinity, including the potential addition of new points of diversion in the north Delta and other facilities to convey water around the Delta; 2) operational changes to the SWP and CVP; 3) extensive protection and restoration of physical habitat, including actions to expand the extent and quality of intertidal, floodplain and other aquatic habitats in the Delta and vicinity; and 4) actions to address other stressors that adversely affect covered species. The BDCP will achieve these goals in a manner that meets the requirements of applicable federal and state laws, including the Endangered Species and Clean Water acts, and in accord with the Sacramento-San Joaquin Delta Reform Act of 2009.

ACTION 1 – WATER OPERATIONS AND CONVEYANCE INFRASTRUCTURE

The proposed action is the implementation of the Water Operations and Conveyance Conservation Measures component of the Bay Delta Conservation Plan. The water operations and conveyance conservations measures are designed to allow greater flexibility in balancing the needs of the Sacramento-San Joaquin Delta estuary (Delta) with reliable water supply. Specifically, actions include modifications to the State Water Project and Central Valley Project conveyance facilities, including the addition of new points of diversion in the north Delta, and other facilities to convey water around the Delta. These water conveyance measures will align water operations in the Delta to better reflect seasonal flow patterns, reduce the physical impact of a southern Delta diversion point, and protect fish with state of the art fish screens.