American Rivers
The Bay Institute
Defenders of Wildlife
Environmental Defense Fund
Natural Resources Defense Council

CRITICAL ISSUES IN 2010 FOR THE BAY DELTA CONSERVATION PLAN

The Bay Delta Conservation Plan (BDCP) is at a critical point. Our organizations hope for the development of a Habitat Conservation Plan/Natural Communities Conservation Plan that will support recovery of the Delta's endangered species and habitats, and have devoted considerable resources to help ensure that the BDCP can serve as the HCP/NCCP vehicle. However, there are a number of critical outstanding issues that must be resolved if the BDCP is to be a success. The State Administration is pushing for a final plan and draft EIS/R by the end of 2010. However, in light of the issues raised below, this aggressive schedule is not likely to result in a credible, defensible product. A more realistic and deliberate approach, as outlined below, will produce lasting results faster then the state's current schedule.

Developing – and Using – Quantified Biological Objectives: Issuing a permit for a plan as ambitious as the BDCP in a system as complex as the Delta must depend primarily on the confidence that that plan is reasonably able to achieve specific, measurable, and clear objectives for recovery and restoration of the Delta's covered species and ecosystems. These quantified objectives, and associated performance targets and metrics, are a prerequisite to designing, evaluating and selecting the suite of conservation measures that will ultimately become the plan. Quantified objectives, targets and metrics are also necessary to measure how successful the plan's implementation is over time and to guide long-term adaptive management in the face of climate change, levee failure and other emerging threats to the Delta. Yet, the BDCP still lacks a comprehensive set of quantified objectives, targets and metrics. Developing quantified objectives – and revising the plan's conservation measures and other elements to ensure their attainment – must become a priority and a prerequisite for assembling an administrative draft of the Conservation Strategy and ultimately finalizing the BDCP, and adequate resources and time must be allocated to ensure this critical task is completed.

Complying with the State Legislature's Mandate for BDCP Guidance: In passing SB 7X 1 last fall, the California legislature established a number of requirements to guide and inform the development of the BDCP. Most notably, SB 7X 1 requires the State Water Resources Control Board to develop flow criteria to protect the Delta's public trust resources and the Department of Fish and Game to develop quantifiable biological objectives for the Delta. SB 7X 1 also requires that the BDCP fully evaluate a range of alternative capacities for dual or isolated conveyance facilities. The state legislature included these and other requirements for the explicit purpose of informing and guiding the BDCP process – but the current schedule does not allow for review and revision of the proposed BDCP conservation measures based on the SWRCB and DFG guidance or for thorough evaluation of alternative

conveyance capacities prior to the plan being finalized. To comply with the new state legislation, the final plan must reflect the new guidance and analysis, and provide adequate time in the BDCP schedule for doing so thoroughly and comprehensively.

Developing an Appropriate Project Purpose and Description: The current schedule is rushing forward with the NEPA/CEQA analysis before developing a clear project description and a sufficiently broad project purpose statement. As a result, many promising strategies for reducing conflict between ecosystem and water supply objectives may be overlooked. Currently, the BDCP only looks at actions in the Delta to meet its species/ecosystem recovery and water supply goals, but many of these goals could be most cost effectively addressed through actions outside the Delta including water conservation, reservoir reoperation, and habitat restoration. February 13, 2009 NOI project purpose statement provides clear and measurable direction regarding water supply objectives -- "to restore and protect the ability of the SWP and CVP to deliver up to full contract amounts" -- but only vague direction on ecosystem objectives. This creates an irresolvable tension that can only result either in a proposal to increase Delta diversions, potentially well beyond even the historic high levels of export that could harm the Delta ecosystem, or in a perceived failure to meet water supply expectations. This bias toward increasing overall Delta diversions appears contrary to the state legislature's direction in SB 7X 1 to reduce California's reliance on water exports from the Delta, develop a NCCP for the Delta, and consider a full range of operations.

Before further advancing the EIR/EIS, the project purpose and description should be revised and developed to properly balance water supply and ecosystem objectives in accordance with state law. The project purpose for water supply should focus on increasing the predictability of export operations and decreasing the physical vulnerability of project operations to disruption instead of focusing on simply increasing diversions. Furthermore, the Department of Water Resources and the Bureau of Reclamation should consider how the BDCP will help reduce reliance on Delta exports, particularly in dry years, through changes in water management inside the legal Delta and beyond. Failure to revise and develop the project purpose and description before evaluating the impacts of the proposed project will waste time and money and result in a poor quality work product.

Improving the Drafting Process: The pathway to a final BDCP is a confused one at best. The potential permit applicants, DWR and Reclamation, hold the water rights and operate the facilities that are at the core of the permit, and must manage these facilities to meet numerous statutory obligations under federal and state law. Yet the preparation of the BDCP itself is in the hands of the export contractors who receive water from DWR and Reclamation, and these parties – in the form of the BDCP Management Team -- are the primary decision-makers on project definition and analysis. Environmental and other stakeholders have less access to information and influence over decision-making. Furthermore, the schedule for completing the BDCP has set unrealistic expectations, resulting at times in draft products that have been characterized by poor quality, lack of clarity, and hasty review – and in repeated revision of the schedule as it becomes clear that deliverables are not ready. The BDCP is ultimately a decision to be made by DWR and Reclamation, the potential permit applicants, and the federal and state fish and wildlife agencies as the approving agencies. These agencies must

do more to control the process, improve the quality of the analysis, and better define how and what changes to project operations and water rights will be considered and analyzed., Going forward, the decision-making process should be structured to provide equal access to decision-making and information to a broad range of parties with a stake in how the Delta is managed, because the Delta is a vital resource to the people of California and the nation

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