July 22, 2010

Honorable Karen Scarborough
Undersecretary of Resources
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Subject: Recommendations on Refining Purpose and Needs Statement

Dear Undersecretary Scarborough,

Our organizations are writing to provide recommendations to improve the development and review of the Bay-Delta Conservation Plan (BDCP). As we have outlined numerous times including in our June 4th letter to the BDCP Steering Committee ("Recent BDCP Accomplishments and Remaining Tasks"), many key issues remain unresolved which require immediate attention in order for both the timely creation of a comprehensive and credible draft plan that our organizations can support and for our continued commitment to the process. One such fundamental and unresolved issue that is critical to successfully moving forward is the BDCP project purpose, included in the February 13, 2009 Notice of Intent.

Given the serious concerns recently raised in letters by the Environmental Protection Agency (EPA), Congressional representatives, as well at the Delta Stewardship Council regarding the BDCP project purpose and alternatives analysis, we strongly recommend that the BDCP urge the federal lead agencies to adjust the Purpose and Needs statement to focus on the physical reliability and predictability of water supplies, rather than on increasing deliveries from the Delta. In particular, we are concerned that the current version of the Purpose and Needs statement, the development of which was never publicly discussed at Steering Committee meetings, could jeopardize the overall success of the plan by constraining the selection and evaluation of a broad range of alternatives for the NEPA/CEQA analysis as well as the Endangered Species Act review.

As EPA pointed out, the NOI evolved from one in which the purpose was to "improve water supply reliability" to one in which the BDCP would "restore the ability of the State Water Project and Central Valley Project to deliver up to full contract amounts." It is not clear what the language "up to full contract amounts" means in the context of the

alternative analysis and screening criteria. We agree with the EPA that it does not appear to be an appropriate performance metric for the alternatives since it is so broadly stated, nor does it appear to be consistent with the recent state legislation "to reduce reliance on the Delta." We believe the existing language which lacks clarity will only lead to more, not less, conflict at a time when we desperately need to find sustainable solutions for our Delta ecosystem that meet the co-equal goals of the State.

We are also troubled by the current legal claims of DWR and many of the PREs against the 2008 delta smelt biological opinion (2008 BiOp) in this context. Those claims allege that 2008 BiOp is invalid because its water supply impacts are inconsistent with the intended purpose of the action (which, in that case, is continued operation of the CVP and SWP). Combined, this information indicates that we may be setting the BDCP up for failure if we do not revise the Purpose and Needs statement now.

Given the swift schedule of EIR/S process, which heavily depends on a clearly defined project purpose, we recommend the Steering Committee prioritize and resolve this issue as soon as possible. We would be happy to further discuss this with you at your convenience.

Sincerely,

Gary Bobker

Kim Delfino

Ann Hayden