Delta Counties Coalition

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County

"Working together on water and Delta issues"

March 12, 2012

The Honorable Fran Pavley
Chair, Senate Committee on Natural Resources and Water
State Capitol Room 4035
Sacramento, CA 95814

RE: <u>Senate Natural Resources and Water Committee Hearing-Delta Counties Coalition Comments</u>

Dear Senator Pavley,

The Sacramento-San Joaquin Delta Counties Coalition (DCC) appreciates the opportunity to participate in your Committee's March 13, 2012 oversight hearing on the Delta Plan and Bay Delta Conservation Plan (BDCP) and to submit these comments for consideration. The DCC speaks with one voice on the collective concerns of the Counties of Contra Costa, Sacramento, San Joaquin, Solano and Yolo regarding the protection, restoration, and enhancement of the Sacramento-San Joaquin Delta (Delta).

We want to start by emphasizing our long-standing willingness to have a constructive dialogue with the state concerning the BDCP. We do understand what is at stake for all Californians, not just the residents we represent. Our comments are presented with the goal that we work together to arrive at sound and lasting solutions that are realistic and achievable.

The state's February release of administrative draft BDCP documents and preliminary draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) documents makes our goal even more pressing. These draft documents identify (1) the annual movement of 5.9 million acre feet of water – which is nearly the maximum amount of water ever taken from the Delta in a single year; (2) the creation of over 110,000 acres of fish and wildlife habitat on existing Delta properties and (3) the building of a 40-mile tunnel or canal to divert water from the Sacramento River before it ever reaches the Delta. A more refined proposed project is expected in July, a few short months away.

We appreciate the state's willingness in their January 6, 2012 letter to consider the impact of BDCP proposals on the people we serve and to involve us more directly in the process. But, much more work needs to be done. The state needs to make a firm commitment now to evaluate the impacts of BDCP implementation, to mitigate those impacts, to provide compensation for economic impacts, and use the information to create <u>net</u> improvements to the current conditions in the Delta. The attainment of net improvements in the economy, agriculture, water quality, water quantity, flood protection, recreation, and natural resources of each of the five Delta counties is consistent with the requirements of the 2009 Delta Reform Act [Water Code Section 29702 (b)] and should be made a higher priority.

We have been clear throughout this process about our specific recommendations related to the BDCP and these recommendations remain timely and relevant to this hearing, as follows:

- **Evaluate non-diversion alternatives in the BDCP environmental review process.** The recently-released BDCP documents continue to focus on water conveyance alternatives to divert water from the Delta. Non-diversion alternatives to reduce reliance on the Delta, as the 2009 water package requires, should also be considered. Examples include water recycling, water conservation, groundwater management, and stormwater capture. The Delta Protection Commission's January 2012 Economic Sustainability Plan (ESP) specifically calls for improving through-Delta conveyance through systemic levee improvements, another non-diversion alternative that would reduce reliance on the Delta and protect Delta communities. This alternative would minimize impacts on agriculture, would reduce the scale of necessary infrastructure improvements, and would be consistent with the 2009 Delta Reform Act's requirements to protect and enhance the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.
- **Conduct a cost-benefit analysis of each non-diversion and diversion alternative.** A thorough cost-benefit analysis should be conducted of each non-diversion and diversion alternative, consistent with the requirements identified in the Department of Water Resources (DWR) Cost-Benefit Analysis Handbook. To the extent feasible, the ongoing operation and maintenance costs of each alternative should be included to determine the full costs. Economic data from the Delta Protection Commission's Economic Sustainability Plan (ESP) is available and can assist in completing this analysis.
- **Conduct an independent scientific review of BDCP proposals and flow standards.** An independent scientific review of BDCP proposals involving all stakeholders and Delta counties remains a priority of the Delta counties to ensure that decisions that will have long-term impacts are based on sound information. We also believe that State through-Delta flow standards be based on peer-reviewed science that is legally enforceable <u>before</u> the BDCP is adopted. These flow standards should address a variety of factors, such as water quality and quantity and flow timing that is appropriate to sustain Delta agriculture and habitat. Funding should be made available for this review, which should be conducted under the auspices of a Delta agency such as the Delta Conservancy.
- **Establish a high-level governance role for the Delta counties.** We continue to seek full and effective participation at a high-level in the ongoing development and implementation of the BDCP. The current BDCP governance proposal provides no role for key decision-makers in the Delta counties. This is contrary to the State and federal government's repeated statements that collaboration with us is critical to the success of the BDCP. We agree and have often been quoted as saying that the State cannot succeed without us.

While the State is focused on developing and implementing the BDCP and integrating it into the Delta Plan, we also urge the Legislature and the Administration to take immediate action to prevent further decline in the Delta. Specifically, we continue to recommend the following "early actions":

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- **Spend existing bond funds to secure Delta water supplies, restore habitat, and protect our Delta communities.** Approximately $4.2 billion in bonds already sold and allocated to levee repair, habitat improvements, and other conservation projects should be spent. The possibility for Delta levees to collapse is very real. In the event of levee failure, the ability to move water to other parts of the state would be significantly threatened. Delta communities would also be harmed. Spending existing bond funds is a simple and commonsense solution that can be done now.
- **Provide the Delta counties with funding to study the impacts of the BDCP.** Each Delta county needs funding to evaluate the impacts of pending BDCP proposals, as well as potential alternatives. Yolo County has received $425,000 from three different sources to analyze the potential impacts of creating fish habitat in the Yolo Bypass and to evaluate alternatives. No other county has received funding to begin this type of analysis in their communities. Yolo County's funding has enabled the County to participate collaboratively in discussions about the design of the proposed project and should be extended to the other four counties.
- **Establish through-Delta flow standards that are based on peer-reviewed science and are legally enforceable before BDCP adoption.** Such flow standards should not redirect any water supply impacts upstream of the Delta and should be implemented consistent with California's water rights priority system and statutory protections of area of origin. Flow standards shall include water quality and quantity requirements, salinity standards, water temperature limits, and flow timing appropriate for Delta agriculture and habitat.
- **Jointly develop Delta standards based on independent analysis.** The State and the Delta counties should jointly develop Delta standards based on independent analysis for improved drinking water, irrigation, ecosystem, and recreational water quality in the Delta, as well as develop a mechanism for enforcing these standards. All water operations that impact the Delta, including BDCP, shall abide by these standards.
- **Ensure the Delta Plan does not exceed its statutory authority.** The current Fifth Draft of the Delta Plan includes overreaching policies and recommendations that go beyond those statutorily intended or authorized in the 2009 Delta Reform Act. Significant uncertainty exists within the Delta Plan regarding the evolving breadth of the covered actions and the project consistency certification process, the Plan's applicability to CEQA-exempt projects, its geographic scope and authority, and the direct effects of its risk reduction policies on the land use authority of the five Delta counties. Regulations and policies identified in the Draft Delta Plan that are inconsistent with the statutory authority of the Delta Reform Act should be removed from the Plan.
- **Implement the SB 27 Sacramento-San Joaquin Delta Multi-Hazard Coordination Task Force Report.** Funding is needed to implement the recommendations in this Task Force report to improve emergency response between the State and the Delta counties, as called for in Senator Joe Simitian's SB 27, enacted in 2008.

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We believe our recommendations uphold and promote the Legislature's coequal goals of a reliable water supply and ecosystem restoration while leading to net improvements in the Delta upon which we all depend. Acting now under the aggressive timelines the State has laid out should not preclude addressing the issues we have raised if a lasting and enduring Delta solution is to be achieved. We look forward to continued discussions with the Legislature, the State, and other stakeholders in the months ahead.

Sincerely,

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Supervisor, Contra Costa County

Michael J. Reagan
Supervisor, Solano County

Don Nottoli
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