



Key Points on the Pending Announcement of a New Delta Proposal

➤ For Immediate Release: Tuesday, July 24, 2012

The following organizations today urged that the points and key elements that follow be considered with regard to *this Wednesday's* proposed major reframing of the Bay-Delta Conservation Plan:

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On July 25, Governor Jerry Brown, Interior Secretary Ken Salazar, and NOAA Administrator Jane Lubchenco are expected to announce a major reframing of the Bay-Delta Conservation Plan (BDCP) – a process to secure a 50-year permit for the federal and state water project pumping plants in the Delta. The BDCP’s intent is to achieve the co-equal goals established by State law. These co-equal goals are to restore the Delta ecosystem and provide more reliable water supplies for Delta water users in a manner that protects and enhances the unique values of the Delta as an evolving place.

Our organizations—The Bay Institute, Natural Resources Defense Council, American Rivers, The Nature Conservancy, and Defenders of Wildlife— have been deeply involved over the past six years in the process to produce an acceptable BDCP proposal. We anticipate that the July 25 announcement will acknowledge that the prior BDCP plan, begun under the Schwarzenegger administration, was on the wrong track. We also expect that the state and federal agencies will reveal how the plan is being reoriented in a direction better designed to restore and sustain the Delta’s vanishing species and habitats, including California’s unique and commercially important Chinook salmon runs, and reduce the vulnerability of the state’s water supply system to catastrophic failure. **Achieving these co-equal goals is critical because the status quo in the Delta is unacceptable from environmental, water supply and public safety perspectives.**

➤ **The following points and key elements for a successful plan should be kept in mind with regard to the pending BDCP announcement:**

1. The Brown and Obama administrations deserve credit for rejecting the previous proposed project and for continuing to work to develop a new approach that will actually restore and sustain the Delta, meet both of the co-equal goals, and would be permitted under applicable laws. According to extensive scientific reviews by state and federal agencies, conservation organizations, and independent peer reviewers, the previous project analyzed in the BDCP documents released in February 2012 would have further damaged the Delta ecosystem, contributed to the extinction of native salmon and other species, and would not merit a permit under state or federal law.

2. It is now beyond dispute that the best available science demonstrates that current levels of diversion from the Delta are not sustainable. The giant state and federal pumps in the Delta kill, harm or entrain tens of millions of fish each year, and the altered flows degrade habitat conditions throughout the estuary. **As the Public Policy Institute of California recently recognized, water exports from the Delta must be significantly reduced in order to restore the estuary (along with other actions to improve flows and habitat), at least until native fisheries recover and habitats and ecological functions are restored and can be maintained.** It is clear that operational rules that reduce exports and govern how the projects will be managed adaptively over the multi-year permit term must be fully established in the final plan in order for BDCP to receive a permit.

3. Any plan that moves forward must comply with state and federal requirements, including the recovery of endangered species and the restoration of the health of the estuary. To ensure this outcome, **Governor Brown and the federal leadership should make it clear that BDCP will include enforceable commitments to achieve specific biological objectives necessary to recover endangered species and restore a healthy estuary.**

4. A new diversion facility could be an important part of an overall plan to effectively manage the Delta's environmental problems and make the water supply system less vulnerable to failure; **but a new facility would be acceptable only if it were designed and operated to benefit the Delta ecosystem.**

5. The optimal size for a new diversion facility depends on a number of factors: how it is operated; the effectiveness of new fish screen technologies to prevent fish mortality at the intakes; the location of the intakes and the route of the tunnel; and economic, engineering and cost considerations. But there is a way to move this plan forward in a way that achieves and tests our collective interests: phasing construction of the new facility one intake at a time would allow for testing of the fish screens; evaluation of design and operational efficacy in achieving plan objectives; and modification of plans for additional intakes. **Any announcement that includes a specific decision on canal size and configuration of the diversion facility is premature because these details are still unknown.**

6. Consistent with California and Federal law, **the water agencies who receive exported water have a clear obligation to pay for all of the costs of construction and operation of a new facility, to fully mitigate all environmental impacts associated with the project, and to contribute to the funding of environmental restoration programs.** Neither the old nor the new BDCP project descriptions have adequately addressed how this obligation will be met. It is also important to ensure that funding is available not only to construct new facilities and implement near-term measures but to ensure that the conservation strategy can adapt to changing circumstances over the 50 year life of the permit.

7. It is clear that **reducing reliance on the Delta as a source of water supplies, as required by the Delta Reform Act of 2009, is absolutely essential to sustainable management of the Delta,** and the Brown and Obama administrations' expected new focus on parallel efforts to secure alternative water supplies through conservation, recycling and other measures would be especially welcome. The relationship between BDCP and this parallel effort, as well as the Central Valley Flood Plan, regional water management planning efforts, and regional habitat conservation plans, needs to be clearly explained. BDCP should be carefully aligned to meet regional economic, flood safety, water supply, and water quality objectives. Integrated state and federal flood, water supply, and water quality programs have an important role to play in achieving this goal.

8. The rules for adapting to changing circumstances over time are critical: they must be explicitly driven by the need to achieve the plan's biological objectives; the decision-making process must be clearly defined, transparent, and controlled by the expert fish and wildlife agencies; and the scientific review process must be independent. **The absence of specific rules for operations and adaptive management would be a troubling omission.**

Whatever is announced on July 25, it is clear that BDCP is a work in progress, and that further work is needed. Those areas that require further substantive attention include, but are not limited to: the plan's commitments to achieve recovery and restoration; the design and sizing of a new facility and the rules to operate it so as to fulfill those commitments; governance mechanisms to ensure that the commitments are honored; and funding arrangements to ensure that implementation is feasible.

Acknowledging that the prior project was not consistent with the co-equal goals is a significant step in the right direction, and we hope that the Brown and Obama administrations will chart a path towards success that is consistent with the points made above. Our organizations remain committed to working through these next steps to develop a BDCP that is permittable, fundable, durable, and widely supported.

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