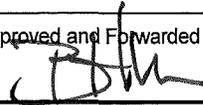




## STAFF REPORT

**Date:** July 8, 2014  
**To:** City Council  
**From:** Bryan Montgomery, City Manager

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

**SUBJECT: Approval of Comment Letter relating to the Environmental Studies for the Bay Delta Conservation Plan (BDCP).**

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### Summary

The Bay Delta Conservation Plan (BDCP) has been developed after years of review and discussion and to respond to the goals of ecosystem restoration and water supply reliability, as mandated by the 2009 Delta Reform Act. Here is a link to the BDCP website where a number of documents, including the environmental studies, can be found: <http://baydeltaconservationplan.com/>.

The BDCP has come under considerable scrutiny as it proposes to move more water out of the Delta and various other measures considered as "conservation" that could threaten various agricultural, environmental and recreational interests. The public has been invited to comment on the environmental studies related to the BDCP up until July 29, 2014. As a community within the Delta, a letter outlining some of these concerns appears to be very appropriate, and a draft comment letter is attached for the City Council's consideration.

### Fiscal Impact

N/A

### Recommendation

Approve the draft letter and authorize the Mayor to sign and send on behalf of the City Council.

### Attachments

1. Draft Comment Letter

3231 Main Street  
Oakley, CA 94561  
925 625 7000 tel  
925 625 9859 fax  
www.ci.oakley.ca.us

July 9, 2014

**MAYOR**  
Randy Pope

**VICE MAYOR**  
Doug Hardcastle

**COUNCILMEMBERS**  
Diane Burgis  
Kevin Romick  
Carol Rios

Bay Delta Conservation Plan Comments  
Ryan Wulff, NMFS  
650 Capital Mall, Suite 5-100  
Sacramento, CA 95814

**RE: Comments on the Draft EIR/EIS for the Bay Delta Conservation Plan**

Dear Mr. Wulff:

The Oakley City Council appreciates the opportunity to comment on the Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Bay Delta Conservation Plan (BDCP).

As a community literally in the “heart” of the Delta, we are understandably very concerned with any proposed activities that could adversely affect the ecosystem of the Delta. We assert, and you well know, that the overall health and vitality of the Delta is critical to millions of Californians.

The Oakley City Council has concluded that the BDCP is fundamentally flawed and the Plan should be revised substantially to address these flaws before it is further pursued. Just some of the critical defects include:

- Failing to establish operational rules and in-Delta flow criteria, necessary for a reliable water supply and protection of water quality, while accepting as “unavoidable” over 50 significant and unmitigated adverse environmental impacts;
- Proposing to extract water from the Delta during relatively wet periods yet ignoring the lack of adequate storage to retain that water for use in dry periods; and
- Proposing to obligate billions of dollars of ratepayer and public monies before evaluating whether a smaller and less costly facility could achieve the same or better result.

The Oakley City Council strongly supports the “balancing act” efforts of developing a reliable water supply and protection, restoration, and enhancement of the Delta ecosystem, but these flaws in the BDCP cannot be ignored and must be addressed. The State needs a cohesive, long-term, sustainable water plan that includes at least the following:

- Science-based analyses;
- Protections for the critical infrastructure, economic activity and recreation in the Delta;
- Effective habitat preservation and restoration;
- Clear operational rules for any water transfer activities;
- Expanded analysis of the need for additional water storage;
- Further studies of the opportunities for development of additional water resources such as conservation, re-use and desalination; and
- A sound benefit-cost scenario.

We are convinced that the continued pursuit of the flawed BDCP will simply mire the BDCP in protracted litigation, wasting critical years and diverting energy and resources from development of a solution that would truly meet California’s water needs and protect the ecosystem of the Delta. Of the many BDCP flaws, we explain the following:

- 1) The BDCP fails to include operational rules and flow-criteria, while dismissing dozens of significant environmental impacts as “unavoidable,” which is completely unacceptable**

The BDCP’s makes some claim to be a “Habitat Conservation Plan.” Habitat Conservation Plans, generally, have been a successful way of providing certainty for those pursuing economic development while protecting and preserving the environment. The BDCP does neither of these. The BDCP includes no operational rules or through-Delta flow criteria, so it provides no certainty for those intending to rely on that facility as a dependable water supply. Simultaneously, the BDCP EIR/EIS identifies over fifty significant and unmitigated adverse environmental impacts and concludes these are “unavoidable.” From a public policy standpoint, either of these results, water supply uncertainty or significant environmental harm, is unacceptable. Together, they clearly indicate the BDCP is the wrong path to achieving the co-equal goals of providing a reliable water supply *and* preserving and enhancing the Delta’s ecosystem.

## **2) The BDCP ignores the need for additional storage**

The underlying premise of the BDCP's North Delta Diversion (the "Preferred Project") is that it will draw "excess" water from the Delta during wet periods, which can be used during dry periods. For such a strategy to succeed, the water extracted during wet periods must be stored to buffer the dry periods, yet the BDCP ignores the lack of storage facilities necessary to store the extracted water. Increased storage is essential if *any* water transfer facility is to provide a stable and reliable water supply. The EIR/EIS does not evaluate the necessary integration of these major components. By ignoring the need for additional storage, the BDCP EIR/EIS is incomplete, at best.

## **3) The BDCP does not justify its selection of a 9,000 cfs facility as the Preferred Project**

The Preferred Project is sized to convey 9,000 cfs; however, the analytical rationale for the selection of a 9,000 cfs transfer facility is absent. Chapter 5 of the EIR/EIS contains results of various alternative-sizing scenarios. Modeling results present the combined export annual flows using both through-Delta conveyance and North Delta diversion systems. Examination of that data indicates that the combined annual export volumes could be greater for 3,000 cfs and 6,000 cfs capacity North Delta Diversion systems than for the Preferred Project (Chapter 5, Figures 5-17, 5-18 & 5-19).

If a major objective of the BDCP is to achieve water system reliability, it would seem that the optimum-sized North Delta Diversion facility would be that which, when combined with through-Delta conveyance, maximizes the opportunity to supply water to those relying on the system. At the very least, these results compel a closer examination of those smaller-sized alternatives with their resultant costs and environmental impacts before billions of dollars of ratepayer and public funds are committed to an effort with acknowledged, significant adverse environmental consequences.

## **4) Prevailing studies show that the Preferred Project does not meet any reasonable "benefit vs. cost" standard.**

Perhaps best explained by Dr. Jeff Michaels of the University of the Pacific, [http://forecast.pacific.edu/articles/BenefitCostDeltaTunnel Web.pdf](http://forecast.pacific.edu/articles/BenefitCostDeltaTunnel%20Web.pdf), the Preferred Project (using the results of the BDCP's own economic benefit and cost studies) has a cost of anywhere between \$1.90 and \$3.36 for every \$1 in

economic benefits. Dr. Michaels explains, "this benefit-cost ratio is 80% lower than those estimated for the State's high-speed rail project."

The Oakley City Council understands the critical importance to the State's economy of improved water infrastructure and a reliable water supply. It also very much understands the critical importance of preserving and enhancing the Delta's ecosystem. The BDCP, as proposed, is fundamentally flawed and does not represent a step towards solving to either of these significant goals. We further believe that the costs of the BDCP's Preferred Project is not in the best interests of the State's taxpayers.

Respectfully submitted,

Randy Pope  
Mayor

cc: Governor Jerry Brown  
California Secretary of Natural Resources - John Laird  
Senator Mark DeSaulnier  
Assemblymember Jim Frazier  
Contra Costa County Board of Supervisors