

# **SOLURI MESERVE**

A Law Corporation

1010 F Street, Suite 100  
Sacramento, California 95814

916.455.7300 (telephone)

916.244.7300 (facsimile)

www.semlawyers.com

October 25, 2011

Honorable Assemblymember Jared Huffman  
Chair, Assembly Water, Parks and Wildlife Committee  
California State Assembly  
1020 N Street, Suite 160  
Sacramento, CA 95814

**RE: BDCP Oversight Hearing Testimony of  
Local Agencies of the North Delta Coalition**

Dear Assemblymember Huffman and Committee Members:

Thank you for your continued efforts to provide much needed legislative oversight for the Bay Delta Conservation Plan ("BDCP") process. As an interested stakeholder, Local Agencies of the North Delta continues to have serious concerns about both the process by which the BDCP is being developed and the substantive details of the BDCP. At the hearing I presented testimony regarding our most critical concerns, a copy of which is attached for your reference.

Please feel free to contact me with any questions about the attached concerns and again, we appreciate your consideration of local interests as this plan of statewide importance is developed.

Very truly yours,

**SOLURI MESERVE**

A Law Corporation

By:



Osha R. Meserve

ORM/mre  
Enclosure

cc: Local Agencies of the North Delta Steering Committee

**Local Agencies of the North Delta**  
**Key Concerns Regarding BDCP**  
**October 19, 2011**

Local Agencies of the North Delta, made up of eleven Reclamation Districts (RDs) and water districts in the North Delta, supports sustainable agriculture, sound water planning, and effective infrastructure improvements. The Bay Delta Conservation Plan (BDCP) will directly and indirectly impact the local agencies, farms and residents of the Delta, who will unfairly bear the burdens of the BDCP. Ongoing concerns about the BDCP include:

**No Local Benefits** - The BDCP still includes no local benefits after over four years of participation by local entities in the planning process. BDCP proponents have given no reason for local interests to support the plan. There is still: no protection from eminent domain for the 100,000+ acres of habitat slated to be created; no pathway to C/ESA coverage for incidental take of listed fish species that could occur if fish populations do rebound; no commitment to upgrade levees upon which dual conveyance will continue to depend; and no plan to ensure that the Delta's agricultural economy continues during construction and operation of the BDCP.

**Uncertain Ecological Benefits** - Despite its estimated \$12+ billion price tag, there has been no serious consideration of canal or tunnel sizing that would optimize use of the facilities at a lower cost. Moreover, the National Academy of Sciences and others have identified the weak scientific relationship between creation of over 100,000 acres of habitat and alleged benefits to fish in the Delta, that would at the same time destroy sustainable, family farms in the Delta.

**No Meaningful Public Participation** - Despite discussion of a new public process that would be more inclusive than occurred under the previous administration, this has not occurred. The workgroup meetings are sporadic and there is no formalized process for consideration and incorporation of comments from interested stakeholders. Indeed, Delta interests are still being asked to restate the very same comments that were made when there was a Steering Committee. The significant problems with the BDCP process were not addressed by converting from a steering committee to a work group format. It is still not clear where the decisions are being made and who is making them.

**BDCP Alternatives Continue to be Irrationally Constrained** - Water conservation in areas served by Delta water supplies is an option to reduce reliance on the Delta, yet this alternative continues to be rejected. It would also be reasonable to install positive barrier fish screens for the South Delta intakes, at least for pumping flows of 3,000 cubic feet per second or less. The South Delta pumps would continue to operate under dual conveyance even if new diversions are built in the North Delta. Studies are clear that positive barrier fish screens would reduce fish mortality, which is why they were part of the CalFED Bay Delta plan. BDCP's refusal to include this obvious conservation measure is particularly shocking since the BDCP Effects Analysis documents released this month justify the new North Delta diversions on the basis that they will reduce take of protected fish species since they will include screens.