

# BAY DELTA CONSERVATION PLAN

## JOINT OVERSIGHT HEARING

### QUESTIONS POSED TO PARTICIPANTS IN ADVANCE

#### I. BDCP State Lead

*Jerry Meral, Undersecretary,  
California Natural Resources Agency*

- 1) The Natural Resources Agency is the State lead for the BDCP process. On August 9, 2011 the Natural Resources Agency sent a letter to David Hayes, Deputy Secretary of the U.S. Department of Interior and Jane Lubchenko, Under Secretary for the Department of Commerce, memorializing State and Federal agreement to an "aggressive" schedule for completing BDCP (BDCP Schedule). Then, on August 30, 2011 the State signed a Memorandum of Agreement (MOA) with, principally, Metropolitan Water District of Southern California, Kern County Water Agency, and Westlands Water District. The MOA included the BDCP Schedule and referenced it. What are the policy and fiscal implications of the MOA, including the BDCP Schedule?
- 2) The December 2010 document *Highlights of the BDCP*, which was issued by the Natural Resources Agency, stated "BDCP cost and funding sources are still preliminary and will remain a topic of ongoing discussions." What is the status of those discussions? Are there updated cost projections or assumptions regarding how costs will be split between export water beneficiaries and the general public? What process will be used to resolve that issue?
- 3) The BDCP web site indicates there is a Finance Working Group, who are the members? Where is the development of a finance plan reflected in the BDCP Schedule?
- 4) What progress has the BDCP planning effort made in addressing the issues raised by the National Academy of Sciences report *A Review of the Use of Science and Adaptive Management in California's Draft Bay Delta Conservation Plan*?
- 5) In September 2011 *A Conceptual Foundation and Analytical Framework for Effects Analysis* was released (Effect Analysis Framework). Can you describe the State's approach in the Effects Analysis Framework? How will biological goals and objectives be incorporated? How will the Effects Analysis Framework approach address Delta Reform Act provisions, which specify BDCP must include "operational requirements and flows necessary for recovering the Delta Ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses"? What is the range of alternatives, including canal or tunnel sizes that will be analyzed in the effect analysis? Will the State utilize the completed

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effects analysis to choose the preferred project alternative for the BDCP EIS/EIR from the range of alternatives?

- 6) More generally, how is the BDCP integrating, or how has it integrated, Delta Reform Act requirements into its process, including reduced Delta reliance, consideration of the State Water Resources Control Board public trust flow criteria, and consideration of the Department of Fish and Game quantifiable Delta biological objectives and flow criteria?
- 7) The BDCP Steering Committee no longer meets to hold a public dialogue among stakeholders. How are stakeholder concerns being addressed comprehensively? How can stakeholders determine if a concern has been or is going to be addressed and incorporated into the planning effort?
- 8) What are the key differences between the prior BDCP outreach efforts and those that you have instituted? What is the current status of outreach efforts with the Delta communities?

**II. Export Water Agency Signatories to the BDCP Planning Agreement & Memorandum of Agreement Amendment**

*Roger Patterson, Assistant General Manager of Strategic Initiatives  
Metropolitan Water District of Southern California*

*Jason Peltier, Chief Deputy General Manager  
Westlands Water District*

- 1) On August 30, 2011, the state signed a Memorandum of Agreement (MOA) with, principally, Metropolitan Water District of Southern California, Kern County Water Agency, and Westlands Water District regarding how the BDCP planning process would be conducted and funded. Please describe, in your opinion, what are the duties and privileges the MOA provides your organization, including any policy or fiscal implications.
- 2) In both the MOA and a letter issued by the Natural Resources Agency on August 9, 2011 to David Hayes, Deputy Secretary of the U.S. Department of Interior and Jane Lubchenko, Under Secretary for the Department of Commerce, the State commits to an "aggressive" schedule for BDCP. Does your organization have concerns with the schedule? If so, why?

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- 3) The December 2010 document *Highlights of the BDCP*, which was issued by the Natural Resources Agency, stated "BDCP cost and funding sources are still preliminary and will remain a topic of ongoing discussions." The BDCP web site indicates there is a Finance Working Group. Is your organization a member? What is your understanding of the process that will be used to resolve BDCP financing issues, including a determination of the cost split between the export water agency beneficiaries and the general public?
- 4) In May 2011, the National Academy of Sciences (NAS) raised many issues related to the BDCP, including the need for an improved scientific foundation, in its report entitled *A Review of the Use of Science and Adaptive Management in California's Draft Bay Delta Conservation Plan*. In the opinion of your organization, are the issues raised by the NAS being addressed?
- 5) As a related question, in September 2011 the BDCP consultant ICF International released *A Conceptual Foundation and Analytical Framework for Effects Analysis: Administrative Draft Bay Delta Conservation Plan* (Effect Analysis Framework). What is your understanding of the State's approach in the Effects Analysis Framework? Will biological goals and objectives be incorporated? Will the Effects Analysis Framework approach address Delta Reform Act provisions, which specify BDCP must include "operational requirements and flows necessary for recovering the Delta Ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses"? What is your understanding of the range of alternatives, including canal or tunnel sizes that will be analyzed in the effect analysis? Has the State indicated to your organization whether it will use the completed effects analysis to choose the preferred project alternative for the BDCP Environmental Impact Statement/Environmental Impact Report from the range of alternatives?
- 6) More generally, do you believe the BDCP has integrated, or is integrating Delta Reform Act requirements into its process, including reduced Delta reliance, consideration of the State Water Resources Control Board public trust flow criteria, and consideration of the Department of Fish and Game quantifiable Delta biological objectives and flow criteria?
- 1) Are there critical issues which SDCWA believes BDCP needs to address to develop and implement a successful plan?

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**III. Environmental Organization Signatories to the BDCP Planning Agreement**

*Cynthia Koehler, California Water Legislative Director*  
*Environmental Defense Fund*

*Jonathan Rosenfield, Ph.D., Conservation Biologist*  
*The Bay Institute*

- 1) On August 30, 2011, the state signed a Memorandum of Agreement (MOA) with, principally, Metropolitan Water District of Southern California, Kern County Water Agency, and Westlands Water District regarding how the BDCP planning process would be conducted and funded. Please describe, in your opinion, if the MOA has any important policy or fiscal implications for the BDCP process.
- 2) In both the MOA and a letter issued by the Natural Resources Agency on August 9, 2011 to David Hayes, Deputy Secretary of the U.S. Department of Interior and Jane Lubchenko, Under Secretary for the Department of Commerce, the State commits to an "aggressive" schedule for BDCP. Does your organization have concerns with the schedule? If so, why?
- 3) The December 2010 document *Highlights of the BDCP*, which was issued by the Natural Resources Agency, stated "BDCP cost and funding sources are still preliminary and will remain a topic of ongoing discussions." The BDCP web site indicates there is a Finance Working Group. Is your organization a member? What is your understanding of the process that will be used to resolve BDCP financing issues, including a determination of the cost split between the export water agency beneficiaries and the general public?
- 4) In May 2011, the National Academy of Sciences (NAS) raised many issues related to the BDCP, including the need for an improved scientific foundation, in its report entitled *A Review of the Use of Science and Adaptive Management in California's Draft Bay Delta Conservation Plan*. In the opinion of your organization, are the issues raised by the NAS being addressed?
- 5) As a related question, in September 2011 the BDCP consultant ICF International released *A Conceptual Foundation and Analytical Framework for Effects Analysis: Administrative Draft Bay Delta Conservation Plan* (Effect Analysis Framework). What is your understanding of the State's approach in the Effects Analysis Framework? Will biological goals and objectives be incorporated? Will the Effects Analysis Framework approach address Delta Reform Act provisions, which specify BDCP must include "operational requirements and flows necessary

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for recovering the Delta Ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses"? What is your understanding of the range of alternatives, including canal or tunnel sizes that will be analyzed in the effect analysis? Has the State indicated to your organization whether it will use the completed effects analysis to choose the preferred project alternative for the BDCP Environmental Impact Statement/Environmental Impact Report from the range of alternatives?

- 6) More generally, do you believe the BDCP has integrated, or is integrating Delta Reform Act requirements into its process, including reduced Delta reliance, consideration of the State Water Resources Control Board public trust flow criteria, and consideration of the Department of Fish and Game quantifiable Delta biological objectives and flow criteria?
- 7) Your organization was part of a coalition of environmental groups who sent a letter on September 30, 2011 to Natural Resources Agency Secretary Laird, Undersecretary Jerry Meral, and Deputy Secretary of the Department of Interior Hayes detailing concerns with the BDCP process and suggesting actions to remedy those concerns. Are there any concerns which you raised in that letter which you have not already addressed? If so, what were your proposed solutions?

**IV. BDCP Export Water Agency End User (Metropolitan Water District Member Agency)**

*Dennis Cushman, Assistant General Manager*  
*San Diego County Water Authority*

- 2) Can you explain the interest of San Diego County Water Authority (SDCWA) in the BDCP and a Delta fix?
- 3) More specifically, what is SDCWA's relationship to current BDCP efforts? Is SDCWA playing a role with regard to BDCP? Does SDCWA consider itself a stakeholder? If so, why?
- 4) If SDCWA considers itself a stakeholder, what opportunities has it had or does it have to be involved in the BDCP process?

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**V. BDCP Commercial and Recreational Fishing Interest**

*Dick Pool, Secretary*  
*Golden Gate Salmon Association*

- 1) On August 30, 2011, the state signed a Memorandum of Agreement (MOA) with, principally, Metropolitan Water District of Southern California, Kern County Water Agency, and Westlands Water District regarding how the BDCP planning process would be conducted and funded. In both the MOA and a letter issued by the Natural Resources Agency on August 9, 2011 to David Hayes, Deputy Secretary of the U.S. Department of Interior and Jane Lubchenko, Under Secretary for the Department of Commerce, the State commits to an "aggressive" schedule for BDCP. Does your organization have concerns with the schedule? If so, why?
- 2) In May 2011, the National Academy of Sciences (NAS) raised many issues related to the BDCP, including the need for an improved scientific foundation, in its report entitled *A Review of the Use of Science and Adaptive Management in California's Draft Bay Delta Conservation Plan*. In the opinion of your organization, are the issues raised by the NAS being addressed?
- 3) As a related question, in September 2011 the BDCP consultant ICF International released *A Conceptual Foundation and Analytical Framework for Effects Analysis: Administrative Draft Bay Delta Conservation Plan* (Effect Analysis Framework). What is your understanding of the State's approach in the Effects Analysis Framework? Do you think there are gaps in the analytical approach for salmon? If so, what are those gaps and how should they be addressed?
- 4) The Delta Reform Act specifies BDCP must include "operational requirements and flows necessary for recovering the Delta Ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses." What is your understanding of the range of alternatives, including canal or tunnel sizes, and operational criteria that will be analyzed in the effect analysis? Has the State indicated to your organization whether it will use the completed effects analysis to choose the preferred project alternative for the BDCP Environmental Impact Statement/Environmental Impact Report from the range of alternatives?
- 5) More generally, do you believe the BDCP has integrated, or is integrating Delta Reform Act requirements into its process, including reduced Delta reliance, consideration of the State Water Resources Control Board public trust

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- flow criteria, and consideration of the Department of Fish and Game quantifiable Delta biological objectives and flow criteria?
- 6) Does your organization have any other concerns or suggestions with regard to the current draft BDCP approach?

**VI. BDCP Local Government Stakeholder/Delta Governance Entities' Member**

*Don Nottoli, Delta Stewardship Council Member, Delta Protection  
Commission Chair, Sacramento County Board of Supervisors*

- 1) At our prior oversight hearing on May 11, 2010, and again at the hearing on November 16, 2010, concerns were raised regarding adequate consideration by the BDCP of local Delta issues and integration of the BDCP with local Delta efforts such as the Counties' Habitat Conservation Plans and Natural Community Conservation Plans. Since that time, what progress has been made to resolve those concerns? What remains to be resolved and what is your understanding of the approach that will be used to reach resolution?
- 2) Do you feel there are other remaining critical issues which BDCP needs to address with regard to local communities and the five Delta counties?