

NORTH DELTA WATER AGENCY

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NORTH DELTA WATER AGENCY TESTIMONY

Melinda Terry, Manager
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FIVE ISSUES FOR BDCP TO BE SUCCESSFUL

1) Flood Safety

- Public safety needs to remain the highest priority in the management of the Central Valley State-Federal flood protection system. Sacramento is still the “River City” and could experience overtopping of levees like Nashville if it got that much rain in two days.
- Delta levees protect statewide interests including water supply reliability and habitat, so are critical for achieving the two co-equal goals. We have not had one levee failure attributed to earthquake, but high water events still are significant threat. Good news is that levee investments made through Delta Subventions program over the last two decades has significantly increased Delta levee reliability, as evidenced by the reduced number of flooded Delta islands during the flood events of 1997 and 2006.
- Flood protection is not addressed at BDCP Steering Committee, so hope it will be a priority of Delta Stewardship Council in developing a Delta Plan. I am told at the Steering Committee, that will be addressed in BDCP EIR/EIS, but that is NOT a public, transparent process. Need to have good modeling on this, but have not been able to see the assumptions or models used yet.
- Have not see coordination between DWR’s water conveyance and flood management divisions. Particularly concerning since the Central Valley Flood Protection Plan (CVFPP) and BDCP should be compatible on issues like where is the flood water that flows east to west from the mountains going to go when it hits a 42 mile long canal with 35 feet high levee walls in the middle of the floodplain? Or how is CA going to reconcile the USACE’s no vegetation on levees policy with BDCP’s desire to create more riparian habitat on levees?
- Canal or tunnel will be built in a floodplain identified as seismically unsafe by DWR, so would create extreme flood damage if has failure, likely causing many deaths. High risk project for exporters too, having their “Delta Fix”

built in seismically unsafe floodplain, but risks can be reduced if BDCP's projects are coordinated with the development of the CVFPP.

- With more than 100,000 acres being identified as habitat in BDCP and tens of thousands of more acres in the five Delta county HCPs, what will be left for other local flood control projects? Where will reclamation districts go to mitigate every time they do levee improvements?

2) **Burden v. Benefit**

- Delta Burden – Conversion of approximately 150,000 acres of highly productive agriculture lands; reduced and restricted property values that also effect farmer's ability to secure loans for land purchase, operating, and capital expenses; reduction in local flood protection which may trigger FEMA flood insurance requirements; reduced water quality and availability; lost local property taxes and assessments; seepage and erosion damage; ESA take exposure for Delta diversion intakes and land uses. (*Large diversion intakes for Delta's urban populations including Sacramento, East Bay MUD, Contra Costa are approximately 300 cfs, most diversion intakes in Delta are less than 30 cfs. Each of the BDCP's five diversion intakes are TEN TIMES larger than the largest diversion in the Delta, except intakes at Tracy*)
- Export Burden – Cost. However can be recovered through local taxes as export areas will begin building their tax base with new housing and shopping centers once a canal/tunnel is built. Delta does not have the same ability to build tax base as is already limited on its ability to grow from Delta Protection Act and last year's Delta legislation, but is asked to lose hundreds of thousands of acres of property taxes to create habitat as part endangered species take permits for water exporters.
- Export Benefits – ESA take coverage for Delta operations for 50 years, improved water quality, improved water supply reliability, and relief from operational criteria of current Biological Opinions. (*NOTE: BDCP preliminary modeling shows a 15,000 cfs facility can only be used rarely, 50% of the time the flow allowed is less than 4,000 cfs, so apparently bigger does not always mean more*)
- Delta Benefits – None.
- The Delta region is saddled with unmitigated impacts and a disproportionate burden under the BDCP. Have yet to see how last year's legislation or the Delta Stewardship's Council's Delta Plan intends to resolve this inequity.

3) Local Support

- Disenfranchised Delta public. This is problem for BDCP supporters, because the HCP needs willing seller landowners in the Delta to make it work. Hopefully the Delta Stewardship Council will involve the Delta community to develop a Delta Plan that works for the Delta too.
- Economic impacts are often brought up by Delta residents at BDCP public meetings. We are told, “that is being addressed in the EIR/EIS” which is NOT a public or transparent process. That is called “hide the ball.” Consequently, do not be surprised when the plan is legally attacked because it does not adequately address these issues. Hopefully DSC will do a better job in addressing the economic issues in an inclusive public, transparent process.
- Recent decision by Judge Wanger on biological opinions highlight the need to ensure there is a balancing of species protection with detrimental economic and safety impacts to humans, particularly if there is a high level of scientific uncertainty regarding the benefits of a conservation measure. “The stakes are high, the harms to the affected human communities great, and the injuries unacceptable if they can be mitigated.” Delta Plan needs to make sure to “identify and select alternative remedial measures that minimize jeopardy to affected humans and their communities.”
- Lots of great local knowledge, experience, and consensus that can be utilized, but is not. For example, the Lower Yolo Bypass Planning Forum, building upon two decades of local coordination and cooperation has submitted an alternative to the BDCP’s Yolo Bypass floodplain conservation measure, but has failed to garner much traction with the Steering Committee. BDCP planning to convene a local work group for Bypass, but it has not been formed yet. Again, hopefully the Delta Stewardship Council will do a better job of incorporating the ideas that local Delta residents offer.
- Expect conflict and opposition rather than cooperation if Delta residents continue to be shut out of decision making processes.

4) Mitigation & Assurances

- Any Delta Solution, BDCP or Delta Stewardship Council, needs to provide third party assurances and protection for in-Delta residents and water users.
- San Joaquin River Settlement included third party protections which were demanded by the Exchange Contractors. “This community and its thousands of workers would be in jeopardy if the settlement agreement threatens their water supply or ability to farm,” Dan Nelson, Executive Director of the San Luis and Delta Mendota Water Authority. If third party protections were provided for that process, then it most certainly can and should be provided in BDCP and Delta Plan.

- In addition, believe Judge Wanger’s recent decision on biological opinions needing to balance economic, welfare and safety impacts to humans with conservation measures for species protection is something the Delta Stewardship Council should focus, as it is not being done in a public, transparent process at the BDCP.

5) Cost

- This is elephant in the room, not being discussed, despite the fact than many agree that inadequate funding was one of primary reasons that the CALFED process failed.
- BDCP and Delta Plan must include adequate, reliable, and permanent financing mechanisms (i.e. endowment, annuity, or dedicated stream of revenue), especially for maintaining project-related properties and habitat so they do not negatively impact neighboring land uses and land values and for payment of all local in lieu taxes and assessments due to the local government agencies.
- I am concerned because at a CEFEE water conference last year I had a manager of a Southern California water district look me in the eye and say “I know Metropolitan Water District (MWD) has told you that they will pay for the BDCP projects, but they cannot make that promise because MWD does not have the money to pay for this project, our ratepayers do, and they have not decided to make that investment yet.”
- As discussed earlier, the Delta residents are not beneficiaries for what is currently being proposed as a “Delta Fix”, so they should not be asked to fund these activities, but they would like some entity to identify who is going to pay for the detriments to Delta water users caused by this “Delta Fix.”
- Question that all stakeholders should ask themselves about BDCP: Is this an investment or a boondoggle? (*Definition of boondoggle is a scheme that wastes time and money*).

In closing, we hope the BDCP and DSC will respect the commitments and assurances already made by the State of California to the North Delta Water Agency’s landowners and recognized the need to use the terms and conditions of the 1981 Contract as an important baseline to be maintained and protected, as well as the need to include additional protections and assurances related to today’s plan to fix the Delta.

BDCP GOVERNANCE

- Steering committee controlled by a “management team” and decisions often reached before meetings by the various “caucuses.” Unfortunately, North Delta Water Agency is a caucus of one, so I am not privy to pre-decisions made prior to meetings.
- Frustrating to receive documents the day before they are to be discussed or decided on. This does not allow time to discuss with constituency or board. I have already said I am not able to say yes on documents received the day before a meeting.
- There are many deficiencies in the Plan that many Steering Committee members have raised, but have not yet been addressed to their satisfaction, so the Plan is nowhere close to being in the shape it needs to be in for many of the members of the Steering Committee to say YES.
- We remain concerned regarding who has oversight and responsibility over water supply decisions. We do not believe there is an appropriate 'check and balance' to prevent over-allocation of water.
- Garbage In, Garbage Out. The quality and reliability of the end product is only as good as the quality of the data and science that goes in. Need modeling assumptions and models to be made public so we can validate the quality of the operational criteria, habitat projects, and water conveyance, particularly their cumulative impact and interaction with each other.