

Municipal Services Agency
Paul Hahn
Agency Administrator



County Executive
Terry Schutten

County of Sacramento

August 27, 2008

Mike Chrisman
Secretary
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Karen Scarborough
Chair
Bay-Delta Conservation Plan Steering Committee
P. O. Box 942836,
Sacramento, CA 94236-0001

Re: The Position of the County of Sacramento on the BDCP

Dear Mr. Chrisman and Ms. Scarborough:

The County of Sacramento ("Sacramento") has not, to date, commented directly on the various documents being produced by the Steering Committee for the Bay-Delta Conservation Plan ("BDCP"). However, having now reviewed all of this material, Sacramento County is greatly concerned about the BDCP.

Sacramento understands that the Steering Committee is now in the process of developing a conservation strategy and that the environmental consultant is attempting to assess the BDCP's effects on the environment.

The Steering Committee is comprised of the following water agencies that rely on water diverted from the Delta which includes:

- Operators of the state and federal water projects
- Department of Water Resources
- United State Bureau of Reclamation
- Metropolitan Water District of Southern California (MWD)
- Kern County Water Agency (KCWA)
- Santa Clara Valley Water District (SCVWD)
- Alameda County Flood Control and Water Conservation District
- Zone 7 Water Agency (Zone 7)
- San Luis and Delta Mendota Water Authority (SLDMWA)
- Westlands Water District, and
- Mirant Delta, a power company that also diverts water from the Delta.

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The "stakeholder" members of the Steering Committee include:

- The Nature Conservancy
- Environmental Defense
- Defenders of Wildlife
- California Farm Bureau
- Natural Heritage Institute
- American Rivers
- Contra Costa Water District and,
- The Bay Institute.

While we believe that each of these groups have a legitimate interest in the Delta, we are extremely concerned that the very real and important interests of Sacramento County and its residents are being overlooked in your process. As your group has previously acknowledged, the Delta, as defined in the Water Code, includes land within Yolo, Solano, Contra Costa, San Joaquin, and Sacramento counties. To date, *none* of these local governmental agencies has been invited to participate in the Steering Committee that is developing the BDCP, even though the Steering Committee has expressly stated that lands within these counties will be included in the planning area.

Sacramento County's concerns are underscored by the Notice of Preparation ("NOP") for the BDCP environmental impact report, which identified a "core purpose" of the BDCP as "protect and restore certain aquatic, riparian and *associated terrestrial* natural communities that support these covered species." The covered species include Swainson's hawk (*Buteo swainsoni*), Bank swallow (*Riparia riparia*), and Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), all of which can be found miles inland.

The NOP further noted that "it may be necessary for the BDCP to include conservation actions outside of the Statutory Delta that advance the goals and objectives of the BDCP within the Delta, including[,] as appropriate, conservation actions in the Suisun Marsh, Suisun Bay, and areas upstream of the Delta." While the NOP recognizes that this activity would necessarily affect local governments, it essentially subordinated the interests of the Delta counties to the Plan, stating, "[w]here appropriate, conservation actions outside the Statutory Delta would be implemented pursuant to cooperative agreements or similar mechanisms with local agencies, interested non-governmental organizations, landowners, and others *as appropriate*." This language suggests that the Steering Committee believes the interests of BDCP are paramount, and it intends to cooperate with local governments only to the extent it finds it convenient to do so.

This position is not acceptable. Sacramento County is not willing to cede its land use planning authority to the Steering Committee or any other outside group. While we agree that the State

has a pressing need to improve the reliability of the water supply for South-of-Delta and West-of-Delta exporters such as the members of the Steering Committee, this need does not justify ignoring local land use and governments. Nor should it be used as an excuse to strip water away from its counties and watersheds of origin. Specifically, as you develop the BDCP, you must ensure that the following principles are incorporated:

1. It is vitally important that all programs or facilities implemented or constructed in the Delta, including programs or facilities implemented as part of the BDCP, be subject to local governance and not result in significant adverse environmental, economic or social impacts to Delta counties or the watersheds of origin of Delta waters.
2. We understand that restoration activities will require the purchase of lands within the Delta from willing sellers.¹ Presumably, many of these habitat lands have existing water supplies and water rights. The past history of our State provides ample evidence of why these water supplies and rights should not be exported.
3. The County of Sacramento and other local jurisdictions cannot be forced to bear the financial burdens associated with Delta ecosystem restoration and water supply reliability. The planning effort must also identify how the Plan participants will ensure that the County and other local governments with jurisdiction over the planning area will be kept whole if lands are being dedicated to environmental restoration. Specifically, the Steering Committee needs to consider the tax revenue implications of its habitat acquisitions and to determine a means of protecting the local governments.
4. Sacramento County itself is in the process of developing the South Sacramento Habitat Conservation Plan (“SSHCP”) which may well overlap geographically with areas to be covered by the BDCP. The BDCP cannot have precedence over what Sacramento may itself develop in its SSHCP. Moreover, land use decisions within Sacramento County, including associated Endangered Species Act “permitting” can not be based upon criteria that includes compliance with the BDCP or that uses the BDCP as a baseline.
5. Habitat restoration proposals must be undertaken in a manner that does not sacrifice public safety (in the form of adequate flood protection) or local agriculture.

The foregoing issues are of primary importance to Sacramento County at this time. As the BDCP and its EIR are developed and more information becomes available, the County may identify additional issues and areas of concern. The County will take all reasonable efforts to bring these to the attention of the Steering Committee as soon as it identifies them.

¹ The County does not support the use of eminent domain to acquire habitat property.

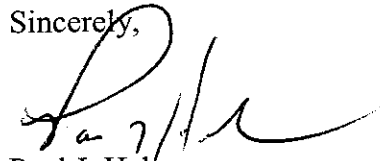
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In the meantime, we ask that you add Keith DeVore, Deputy Agency Administrator for the Municipal Services Agency, 700 H Street, 7th Floor, Room 7650, Sacramento, CA 95814 (devorek@saccounty.net) to the list of parties receiving CEQA and any other notices issued for the BDCP by the Steering Committee or any of its members.

Sacramento County includes substantial portions of the Delta and is well aware that it is a unique and valued area, and that the Sacramento Delta boasts places of great natural beauty, historic towns, productive farming and close-knit communities. The County of Sacramento urges you to respect and preserve these interests as you undertake the BDCP process.

We believe that a meeting with you as early as possible is imperative and will contact your offices to follow-up with the necessary scheduling. In the meantime please do not hesitate to contact me or Keith DeVore (916-874-6851) if you have any questions or need additional information.

Sincerely,



Paul J. Hahn
Municipal Services Agency Administrator

PJH:ds

cc: Sacramento County Board of Supervisors
Terry Schutten, County Executive for Sacramento County
State and Federal Legislative Representatives
Delta Vision Blue Ribbon Task Force
Delta Task Force
County Administrators for Alameda, Contra Costa, San Joaquin, Solano, and
Yolo County
City Manager of Sacramento
City Managers for Elk Grove and Galt