

March 29, 2016

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Spencer Kenner  
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**Re: CEQA Mitigation for California WaterFix Impacts on Contra Costa Water District's Water Quality**

Dear Spencer:

This letter supplements the comments previously submitted by Contra Costa Water District regarding the 2013 Draft Environmental Impact Report/ Environmental Impact Statement and 2015 Partially Recirculated Draft Environmental Impact Report/ Supplemental Environmental Impact Statement (2015 RDEIR/SDEIS) for the Bay Delta Conservation Plan, which include Action Alternative 4A, called the California WaterFix (BDCP/CWF).

Previously, CCWD submitted comments on the 2015 RDEIR/SDEIS and prior studies expressing its position that the BDCP/CWF would result in significant water quality, water supply and construction-related impacts to CCWD and its customers, and that the 2015 RDEIR/SDEIS was inadequate in other respects. Among other comments, CCWD expressed its concerns that construction of the BDCP/CWF could damage CCWD Facilities on and near Victoria Island; and that operation of the BDCP/CWF could cause salinity, algae and other contaminants to increase at CCWD's intakes. Increased salinity, algae and other contaminants at CCWD's intakes in turn could (a) adversely affect the quality of water delivered to CCWD's customers; (b) prevent CCWD from diverting water from one or more of its intakes during periods of degraded water quality; and (c) increase CCWD's water supply, energy and infrastructure costs due to changes in the timing of CCWD's diversions, periodic changes in the intakes used by CCWD to access water meeting CCWD's water quality objectives, and replacement of some or all of CCWD's water supply.

Since submitting these comments, CCWD has worked with the Department of Water Resources to identify CEQA mitigation measures to address the concerns expressed in CCWD's comment letters. Those discussions resulted in the attached settlement agreement, which specifies mitigation measures to be identified and evaluated in the Final Environmental Impact Report for the BDCP/CWF.

CCWD recognizes that DWR has not decided whether or on what conditions to approve the BDCP/CWF under CEQA. For that reason, our settlement agreement identifies the components

and parameters of the BDCP/CWF that would constitute a “Conforming Action Alternative.” The Conforming Action Alternative includes as one of its components a facility to convey water from one or more water diversion intakes located along the Sacramento River (“Northern Intakes”) to the State and/or Federal pumping facilities in the south Delta (“Conveyance Facility”). In addition to the Conveyance Facility, the Conforming Action Alternative includes the following components and parameters:

1. maximum diversion of a total of up to 9,000 cubic feet per second from a total of one or more new Northern Intakes;
2. requirements to allow sufficient flow to bypass the new Northern Intakes and remain in the Sacramento River as specified in Table 4.1-2 of the 2015 RDEIR/SDEIS and Table 3-16 in the DEIR/S;
3. continued use of existing State and Federal intakes in the south Delta to minimize water quality degradation by refraining from diverting from the Northern Intakes above a low-level pumping quantity of 300 cubic feet per second per intake during the months of July, August, and September of each calendar year unless the rate of diversions from the South Delta channels are at least approximately 3,000 cubic feet per second;
4. coordinated operation of the State Water Project and Federal Central Valley Project facilities to: (i) meet the Delta outflow requirements in place as of the effective date of this Agreement as specified in State Water Resources Control Board Water Rights Decision 1641 (“D-1641”) Table 3 at pp. 183-187 and in the United States Fish & Wildlife Service December 2008 Biological Opinion on the Effects of Long Term Coordinated Operations of the Central Valley and State Water Project on Delta Smelt and its Designated Critical Habitat, Reasonable and Prudent Alternative Component 3 at pp. 282-283 and Action 4 in Attachment B; (ii) the Rio Vista flow requirements in place as of the effective date of this Agreement as specified in D-1641 Table 3 at p. 184, and (iii) the additional Rio Vista flow requirements for at least 3,000 cubic feet per second from January to August of each calendar year, as specified in the 2015 RDEIR/SDEIS Table 4.1-2 at p. 4.1-9; and
5. up to 305 total acres of tidal wetland restoration located at Sherman Island, Cache Slough and the North Delta, where such restoration is required as mitigation for impacts of the BDCP/CWF and provided that tidal wetland restoration located at Sherman Island will not exceed 59 acres unless DWR demonstrates to CCWD’s satisfaction that the tidal wetlands restoration mitigation will cause no adverse net water quality impacts at CCWD’s intakes at any time.

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We understand DWR will not implement the Conforming Action Alternative until DWR approves the BDCP/CWF and files a Notice of Determination. If DWR approves and implements the Conforming Action Alternative and fully and completely implements the settlement agreement, it will have addressed the concerns expressed in CCWD's comment letter regarding the effects that operation of a Conforming Action alternative would have on water quality at CCWD's intakes and the potential for damage to CCWD facilities caused by construction of a Conforming Action Alternative.

As required by Article 5 of the settlement agreement, CCWD has withdrawn its pending water rights protest to the BDCP/CWF Change of Point of Diversion and materials submitted in connection with that protest. A copy of CCWD's letter to the State Water Resources Control Board may be found at <http://www.ccwater.com/317/Bay-Delta-Conservation-Plan-Comment>. Further, as long as the terms of the settlement agreement are satisfied by DWR, CCWD will not file a legal challenge to the environmental document for the BDCP/CWF or other related cause of action.

It bears noting that CCWD has not reached agreement with the United States Bureau of Reclamation and other Central Valley Project customers regarding cost allocations or water supply allocations for CVP water. Should the BDCP/CWF proceed toward implementation, CCWD will continue to negotiate with Reclamation and CVP contractors regarding CVP cost and water supply allocations, and CCWD has not waived any right to object or bring claims pertaining to these topics.

We appreciate DWR's good faith efforts in addressing CCWD's concerns.

Very truly yours,



Barbara J. Schussman

BJS