

California Natural Resources Agency

Remarks

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**The Bay Delta Conservation
Plan**

**California Water Policy 20: A Little Less Talk and A
Lot More Action**

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Good morning. I am very pleased to be here today. The POWER conference has for many years been a great forum for the exchange of ideas on progressive management of our state's water supply.

The Current Situation

California is challenged today to manage its water resources in response to two significant public demands; protection of environmental quality, and a safe, reliable, and plentiful water supply. Californians realize that you can't have one without the other, and the Legislature has also recognized this by establishing both of those goals in law.

Major decisions on California water development have come only rarely: the 1932 passage of the Central Valley Project (CVP) by the Legislature, confirmed by the voters in 1933; legislative approval of the State Water Project in 1959 and its approval by the voters in 1960; and legislative approval of a Delta and water development project in 1980, and its rejection by the voters in 1982.

Nearly 30 years passed before the Legislature acted again in November of 2009, creating the Delta Stewardship Council, and recognizing the Bay Delta Conservation Plan in statute. This package of bills was passed and subsequently signed into law to address water policy, finance, and recovery of the Sacramento – San Joaquin Delta. This landmark legislation required that the two “co-equal” goals, of Delta ecosystem restoration and water supply reliability, be met in working to manage the many complex issues that affect the Sacramento-San Joaquin Delta.

Governor Brown, in his water policy statement, clearly recognized these co-equal goals. During his gubernatorial campaign, he wrote:

“ California must implement a science-based plan to ensure safe and adequate water supplies while addressing the severe challenges facing the Delta...As Governor I will ensure the co-equal goals of restoring the Delta ecosystem and creating a more reliable water supply for California.”

As the person responsible for the Bay Delta Conservation Plan, I must carry out state law, the policies of the Legislature, and those of the Governor. Achieving these dual goals is a great challenge, yet despite California's long history of controversy and conflict over water and the Delta, we have never been closer to achieving common ground. We truly have arrived at an historic place, so for all of us who think and care deeply about these issues and about California's future I ask you, if not now, then when?

BDCP Moving Forward

While I know there are many things people claim the BDCP to be, both good and bad, I can tell you what BDCP will be in this administration. And I'd like to spend some time doing just that:

- BDCP is a process through which we are working to achieve the dual goals of restoring the Delta ecosystem and creating water supply reliability.
- BDCP is about making science-based decisions.
- BDCP is a stakeholder driven process that involves broad participation at all levels.
- BDCP is the foundation for a 50-year collaborative planning process.
- BDCP is a way in which we will meet all environmental laws.

If BDCP is successful, we will be permitted to operate the state and federal water projects in full compliance with endangered species laws.

Ecosystem and Habitat Restoration

Governor Brown has stated:

“In addition to providing water for 25 million Californians, the Sacramento-San Joaquin Delta is home to many small communities. It also provides important farmland, recreational opportunities and habitat for fisheries, endangered species and other wildlife. The Delta ecosystem faces numerous threats from water diversions, unreliable levees, invasive species, polluted runoff from agriculture and urban areas, sea level rise, saltwater intrusion and more. California must implement a science-based plan to ensure safe and adequate water supplies while addressing the severe challenges facing the Delta.”

In order to accomplish the goal of Delta habitat restoration, we will:

- *Ensure that the newly-formed Delta Stewardship Council completes a Delta Plan that achieves the co-equal goals of restoring the Delta ecosystem and creating a more reliable water supply for California*
- *Prioritize levee repairs to protect existing communities and water supplies*
- *Require the Delta Stewardship Council and Department of Water Resources to integrate sea level rise and other climate change impacts into the Delta Plan*
- *Ensure that the Central Valley Flood Protection Plan is a multi-objective, integrated flood management plan that protects existing urban areas, and considers protection, restoration, and use of floodplains and wetlands for ecosystem restoration and groundwater recharge*
- *Complete scientific, economic and environmental review of alternative conveyance facilities recommended by the Bay Delta Conservation Plan*

Everything in which we are involved must be informed by a process that is science-based and driven by the participation of varied and important interests, all with a keen understanding that the Delta ecosystem’s recovery and development of a clean and reliable water supply is what will allow us to all succeed together.

Achieving our co-equal goals mandates that we bring the Delta ecosystem and habitat back to health. One of the greatest impacts on aquatic and terrestrial species in the Central Valley, and especially the Delta, is the loss of habitat due to human development. Studies suggest that 90 percent or more of California's riparian, wetlands, vernal pools, and other critical habitat has been lost. While people readily understand that birds and other land animals need to have riparian forests and wetlands, they often do not know that fish need habitat as well, and not just in the water column.

Many fish species rely on wetlands periodically inundated by water to breed, develop, rest, and hide from predators. The young of anadromous fish species such as salmon and steelhead need shallow water habitat, with its extensive plant cover, to grow larger and stronger before completing their migration to the sea. The current draft plan contemplates conversion of up to 113,000 acres of both aquatic and terrestrial restored habitat. Habitat restoration of this type works: just take a look at the fabulously productive work of the Yolo Basin Foundation and its allies in the Yolo Bypass near Davis.

Habitat can and will be restored. But it must be done thoughtfully, with the goal of maximum habitat benefits per dollar spent, and minimum impact on farming and local economies.

The Delta Conservancy was created by the Legislature to take a lead role in habitat restoration, and it is now getting under way with its work. This conservancy gives local elected officials a seat at the table to help tackle these local issues.

Creating a Clean and Reliable Water Supply

In regards to water supply, Governor Brown has said:

"California desperately needs investment in its water infrastructure, but given the State's financial condition, we must ensure that investments are cost-effective and funded by the appropriate sources. The beneficiaries - or users - of water infrastructure projects should pay their share of the costs of those projects. The state should invest in infrastructure improvements providing benefits to the general public or the environment. The projects must be cost-effective and make long-term sense."

In order to create a clean and reliable water supply, we will:

- *Support infrastructure investments, including water storage projects, that achieve the multiple goals of increasing water supply reliability, protecting the environment and other public benefits, such as wetlands protection and restoration, and flood protection*
- *Support conveyance and storage investments, such as a peripheral canal or tunnel, that provide a net benefit in ecosystem and water quality conditions and where the beneficiaries pay for the benefits they receive*

No decision can be made about which, if any, facilities should be part of the plan before knowing that the dual goals can be met. The existing facilities cause great harm to the biology of the Delta, while

delivering relatively poor quality water under the constant threat of water supply interruptions from court imposed sanctions to failing levees.

The technical aspect of how our dual goals will be achieved is extremely complex. Considering various water uses and all water users, upstream and down, the development of a more reliable water supply and a restored ecosystem is no easy undertaking. And all the while we must make certain at every step of the way that all environmental laws, both state and federal, are met.

So how will we move water? And how will the costs be allocated?

Facilities of various sizes to divert water from the Sacramento River have been proposed to solve biological, water quality, security, and supply problems caused by the existing system. Some have argued for minimal sized facilities to solve mainly urban water supply problems, or to take advantage of the most cost effective solutions. But building smaller diversion and water transportation facilities would incorporate other risks.

If a small facility proves satisfactory from a water supply point of view, but does not deliver maximum biological benefits, water agencies will be reluctant to expand it unless required to do so by biological permitting agencies. Also, a small facility would not prepare the state if a disaster prevented transportation of water across the Delta.

On the other hand, a large facility could prove more difficult to finance. It would also be perceived by some as more of a threat to northern California water supplies.

These tradeoffs will be given serious consideration as BDCP moves forward. It is important to remember that it is science that will drive these decisions in the end.

The Legislature has determined that the “user pay” principal will apply to any new facilities built in the Delta. The Governor has also supported this principal. By absorbing the full cost of new water facilities, water users will receive price signals about the true cost of water, and will manage it accordingly.

Only once before have the state and federal governments jointly built a water supply facility: San Luis Reservoir. But that facility was financed in a hybrid way; with state financing through State Water Project contracts and federal financing through Congressional appropriation. Bureau of Reclamation repayment contracts are less demanding on water users than SWP contracts.

In the case of BDCP, it is unlikely that Congressional appropriations will help finance new facilities. So it will be up to SWP and CVP contractors to pay for the new facilities directly. While SWP contracts can be amended to include the SWP share of costs, the CVP contractors intend to sell revenue bonds to pay for their share.

Before this happens, the cost of the facilities will have to be allocated among the various beneficiaries. Then the likely billions of dollars of costs will have to be financed through the issuance of new revenue bonds. While the water agencies are confident that the market will readily absorb these

new issues, the state must be sure that this financing plan will actually work, or other alternatives will have to be developed.

The Roles of Science and Public Involvement

First and foremost, BDCP is a process informed by science-based decisions. Using the best available science upon which to decide how we will restore the Delta ecosystem and develop a reliable water supply for California is paramount in the achievement of our dual goals and BDCP's success.

The Delta is an incredibly complex ecosystem, affected by a huge watershed stretching from near the Oregon border, far south to the Tehachapi Mountains. Dozens of sensitive species exist throughout the ecosystem, and it is our duty to manage them, and restore reduced and threatened populations as much as possible.

We must use what we know today in making decisions, and then use adaptive management to make use of scientific knowledge gained in the future. Adaptive management will also allow us to react to changing conditions.

Management decisions must be fully informed by the latest scientific knowledge, unfiltered by political considerations. The co-equal goals established by the Legislature and called for by the Governor require that the water supply needs of the state be met, along with the need for ecological restoration. In making these decisions, their full impact must be understood using all available science.

This understanding must come from the involvement of interested and committed people and groups. From its outset, BDCP has actively promoted extensive public involvement. Countless public meetings and hearings, more than 300 at last count, have been held. Documents have been posted on the BDCP Web site. A broadly based steering committee was established with state and federal agencies, water supply agencies, conservation groups, and other regulatory agencies. This committee met more than 122 times.

But there has also been dissatisfaction with the way BDCP has received and processed public input. Agencies, local governments, and conservation and fishing groups that did not join the steering committee felt excluded, allowed only brief comments at steering committee meetings. Steering committee members sometimes felt as if their suggestions and comments were not fully taken into account. Much of this was driven not by neglect, but by a need to keep the program on track, and to meet aggressive deadlines.

As BDCP moves into its final phase of achieving a completed plan and the accompanying environmental documents, more public involvement is necessary. In fact, it is critical for the results to be accepted by all. At this time, it appears the most productive way to gain public input is to establish working groups that will be tasked with resolving those issues that remain in order for the plan to be complete.

All interest groups, local governments, and state and federal agencies who want to see BDCP successfully completed will be invited to participate in each working group. If there are too many organizations that want to participate in a working group, organizations with similar or common interests will be asked to designate someone who can truly represent their interests. Some examples might be conservation organizations, Delta counties, state and federal water contractors, fishing organizations, biological agencies, and so on.

This process will create meaningful public involvement, where all interest groups representing different segments of the public work together to solve the remaining issues faced by BDCP.

BDCP is the foundation for a 50-year collaborative planning process

California has had three overlapping waves of water development: local facilities built by irrigation districts and cities from the late 1800's through today, the Central Valley Project from the 1930's to the 1970's, and the State Water Project in the 1960s and the 1970's.

The facilities which were built as a result of these momentous decisions were designed to last for at least 200 years, and perhaps far longer. The decisions we make today about what to build and how to operate it must be planned with similar durability. But while prior decisions could be made based on what appeared to be a relatively stable hydrology, our thinking today must be informed and even driven by what appears to be an inevitable change in climate and a rise in sea level.

The possible impact of sea level rise on the delicate ecology of the Bay-Delta system is not well known. Much depends on whether habitat improvements over the coming decades can result in improvement of many of the species of concern. The Bay Delta Conservation Plan process stands as our best chance to achieve the dual goals of a restored delta ecosystem and a reliable water supply.

We cannot know if or when sea level rise will cause a devastating loss of water supply, much less the threat it could pose to public health and safety. Yet, it would be completely irresponsible to ignore this strong possibility and to not prepare plans which also include an alternative that allows the state to fully maintain our water supply and economy.

As I mentioned previously, at the heart of the BDCP process are the Delta stakeholders, many and varied, working together on a science-based approach to resolve California's great water challenge and achieve our mutual goals.

BDCP is a way in which we will meet all environmental laws

BDCP is a process through which we protect the sensitive species and habitat that exists in the Sacramento – San Joaquin Delta estuary while making sure that the state and federal water projects

follow the law in keeping with the state's environmental quality act, the national environmental quality act and the federal endangered species act.

The plan was developed under the federal Endangered Species Act and the California National Communities Conservation Planning Act in response to strict operating restrictions that were placed on the water projects by various court decisions and state and federal biological agencies seeking to protect endangered species.

BDCP must be submitted to the National Marine Fisheries Service and the Fish and Wildlife Service and to the California Department of Fish and Game to ensure that state and federal laws are followed so that permits may be granted. Under the landmark legislation of 2009 that I mentioned the Delta Stewardship Council must include BDCP in its overall Delta Plan.

Ultimately, this process will spell out how SWP and CVP will be permitted to operate in compliance with these acts.

House Continuing Resolution 1

I had the opportunity a couple of weeks ago to spend some time in Washington D.C., talking with members about our work in California to resolve some of our long-standing water issues.

I'm sure you're all well aware of the current legislation, House Continuing Resolution 1 that passed in the House of Representatives on Feb. 19. This bill, which cleared the House along party lines 235 to 189 - the exception being three Republicans who joined Democrats in opposition because they wanted deeper cuts - now heads for the United States Senate. Although the likelihood of passage in the Senate is not great, the legislation contains numerous amendments that would undercut our ongoing and critical environmental work in the Delta, along the Klamath River and in the Klamath River Basin and it threatens to undermine the historic San Joaquin River Restoration Agreement that was 18 years in the making. If the continuing resolution passes the Senate, it will force courts to make decisions on these projects rather than allowing stakeholders to come to agreements themselves. These issues should not go to the courts when so much progress has already been made, and successful completion, with all stakeholders involved, is so near.

The Brown administration vigorously opposed this amendment through Secretary for Natural Resources John Laird who advocated the administration's opposition to members of the House and to U.S. Senators Feinstein and Boxer. We have complete confidence that Senators Feinstein and Boxer will help us make sure our water future is charted through a participatory public process.

Conclusion

Perhaps in the face of all those things you've heard or others may say which BDCP is not, let me restate what we believe BDCP must be for all of us and for the future of California;

- BDCP is a process through which we are working to achieve the dual goals of restoring the Delta ecosystem and creating water supply reliability.
- BDCP is about making science-based decisions.
- BDCP is a stakeholder driven process that involves broad participation at all levels.
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As I mentioned when I began, Governor Brown has clearly recognized BDCP's co-equal goals of ecosystem restoration and water supply reliability and that the implementation of those goal must be science-based. The active participation of all parties: water agencies, regulatory agencies, and conservation groups is vital to the success of BDCP. I urge each of you to get your agency or organization involved today. I guarantee you that no one will be excluded who has a sincere desire to see the BDCP process succeed.

Thank you for the opportunity to speak to you today.