

From: Murray, Beth <BMurray@sandiego.gov>
Sent: Tuesday, July 29, 2014 4:46 PM
To: BDCP.comments@noaa.gov
Cc: Razak, Halla; Pieroni, Cathleen
Subject: BDCP Comment Letter from the City of San Diego
Attachments: BDCP Comment Letter from the City of San Diego.pdf

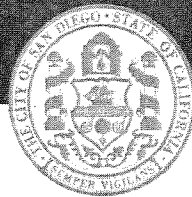
Please see attached comment letter from the City of San Diego.

Regards,

Beth Murray, Program Manager
Management Support
Public Utilities Department
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BDCP1724

THE CITY OF SAN DIEGO

July 29, 2014

Mr. Ryan Wulff
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Dear Mr. Wulff:

Subject: BDCP Comments

On behalf of the City of San Diego's Public Utilities Department (San Diego), I wish to submit the following comments related to the joint Draft Environmental Impact Report and Draft Environmental Impact Statement prepared by the U.S. Department of Interior Bureau of Reclamation (Reclamation), U.S. Fish and Wildlife Service, the U.S. Department of Commerce, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service, and the California Department of Water Resources for the proposed Bay Delta Conservation Plan (BDCP). The proposed BDCP is truly monumental in its vision – California and the United States are to be commended for taking this project forward for consideration.

San Diego currently imports approximately 85 percent of its water supplies from the Colorado River and State Water Project (SWP). As the largest member agency of the San Diego County Water Authority (Water Authority), San Diego is paying approximately 40 percent of the cost to bring online 50,000 acre-feet per year of desalinated seawater by 2015. Additionally, San Diego is moving forward with plans to purify its recycled water for potable purposes. By 2035, over a third of San Diego's future drinking water demands are anticipated to be met with locally produced purified water.

The San Diego region is doing everything it can to diversify and fortify our collective water supply portfolio while minimizing imported water deliveries from the SWP. We have recently seen the cost of purchasing imported water double every ten years. Water affordability in the urban area's disadvantaged community (DAC) is an issue with which we struggle. A disadvantaged household in San Diego is already paying approximately \$2,000 an acre-foot for their water. The proposed cost of the BDCP would further increase water rates by 20 percent or more, leading to even greater affordability issues for our ratepayers.

With these general concerns in mind, San Diego supports the co-equal goals of an enhanced Delta ecosystem and enhanced water export reliability. With the resolution of the following general concerns and support for firm commitments by the SWP individual contractors, we are prepared to support the advancement of the Bay Delta Conservation Plan. From our perspective, the greatest risk to cost increases is the potential rolling off of anticipated project partners due to the project's expense, leaving San Diego with a disproportionate share of the cost as compared to that which is envisioned at this time. Project partners need to demonstrate a firm commitment upfront before the project is authorized.



Public Utilities Department

9192 Topaz Way • San Diego, CA 92123-1117

GENERAL CONCERNS

1. **Financial Aspects.** Chapter 8 lacks sufficient detailed information to allow individual agencies to perform their own cost-benefit analysis. With this information, individual SWP contracting agencies should be able to make firm decisions as to whether or not they wish to commit to taking the water made available by the BDCP. With that commitment, the SWP contractors will be better able to move forward with their negotiations related to how to assure continued payment for BDCP conveyance projects. The final BDCP should detail "step-up" provisions if individual water contracts default on their funding obligations. Accompanying those provisions should be a legal analysis of the viability of relying on the State's general fund as security for project debt. San Diego's clear concern is that its ratepayers will be left paying a disproportionate share of the conveyance projects if abandoned by other agencies due to its initial expense.
2. **Draft Implementing Agreement.** The draft Implementing Agreement, dated May 30, 2014, is intended to establish how the various federal, State, and certain SWP contractors (Authorized Entities) will work together cooperatively towards achieving the BDCP's various financial and implementation obligations. Our review of the draft Implementing Agreement finds insufficient clarity with regard to how these legally binding obligations will be made and the timeframe in which they will be made. The final Implementation Agreement should establish the specific commitments of individual SWP or Central Valley Water contractors participating in the BDCP. Also, the draft Implementing Agreement needs to better outline how federal and State funding will be assured over the entire implementation schedule of the BDCP.

The member agencies of the Water Authority, including the City of San Diego, have a very large collective stake in the success of the BDCP. As such, we believe that the Water Authority should be allowed a seat of its own in the various planning and negotiation efforts at which the Metropolitan Water District of Southern California (MWD) is currently representing our interests. We support the work of MWD to advance the BDCP and we also support the work of the Water Authority to thoroughly vet the complex array of engineering and financial decisions presented in the draft BDCP, Implementing Agreement, and all future documents governing the advancement of this project.

Thank you for this opportunity to comment. If you have any questions or concerns, please feel free to contact Cathleen C. Pieroni at 858-292-6424.

Sincerely,



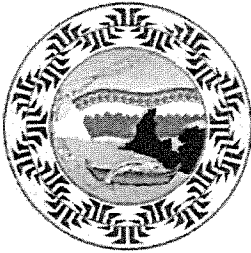
Halla Razak
Director of Public Utilities

From: Dave Hillemeier <Dave@yuroktribe.nsn.us>
Sent: Tuesday, July 29, 2014 4:43 PM
To: BDCP.Comments@noaa.gov
Cc: Dave Hillemeier; Tim Hayden; Nathan Voegeli; John Corbett; Troy Fletcher
Subject: Yurok Tribe comments regarding BDCP EIR/EIS
Attachments: Yurok Comments BDCP Final signed 7 29 2014.pdf

Yurok Tribal comments are attached. Please confirm you have received.

Dave

Dave Hillemeier
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YUROK TRIBE

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July 21, 2014

BDCP Comments
Ryan Wulff, NMFS
650 Capital Mall, Suite 5-100
Sacramento, CA. 95814

Re: Yurok Tribe Comments on the Draft Bay Delta Conservation Plan (BDCP) and BDCP EIR/EIS

Mr. Wulff:

The Yurok Tribe supports the goal of restoration of the Bay Delta ecosystem and its endangered and threatened species. We recognize the likelihood of increased future water demand and increased uncertainty in water reliability due to impending climate change and population growth in California. We encourage the development of a scientifically based restoration plan that fully recognizes the Yurok Tribe's reserved fishing and water rights on the Klamath and Trinity Rivers, and respects and honors the federal trust relationship between the United States and the Yurok Tribe. We do not support the Draft BDCP as proposed and believe that the Draft EIR/EIS is insufficient, both from a procedural and technical perspective, and fails to fully analyze impacts to the Klamath and Trinity Rivers and their fishery resources that are of utmost importance to the Yurok Tribe and its members.

The Yurok Tribe is located on the lower 44 miles of the Klamath River, and is the largest Tribe in California. Fisheries resources of the Klamath and Trinity Basins are an integral component of the Yurok way of life - for sustenance, ceremonial, religious, and commercial purposes. In light of the importance of the Klamath and Trinity River fishery resource to Yurok People, the Tribe has been a leader in Klamath Basin science and restoration efforts. We must be vigilant stewards of the river and the fishery it supports, to ensure that future generations of Yurok People may continue our way of life.

Despite last minute attempts from the California Department of Water Resources (DWR) to outreach and consult with tribes, we are frustrated that the Yurok Tribe was not consulted and engaged early in the BDCP EIR/EIS development process and that alternatives were evaluated and eliminated prior to adequate tribal consultation efforts by the DWR as lead agency. Furthermore we are concerned that as the BDCP co-lead agency, and federal trustee of the Yurok Tribe, the Bureau of Reclamation (Reclamation) has not initiated formal government-to-government consultation with the Yurok Tribe regarding the development of the Draft BDCP

and supporting Draft EIR/EIS. This failure to consult with the Tribe is a violation of Reclamation's federal trust responsibility to act in our best interests and is contrary to the protection of the Tribe's federally reserved rights and trust resources.

The Yurok Tribe submitted formal comments on the 5th Staff Draft of BDCP in September 2011. We did not receive a written response to our comments, which remain unaddressed in the Draft BDCP and supporting EIR/EIS. In our 2011 comments, in addition to requesting early and ongoing consultation during development of the BDCP, we expressed our concerns regarding the following insufficiencies of the 5th Staff Draft of the BDCP, concerns that remain today:

- Specific language that preserves the fishery restoration flows established in the December 2000 Trinity River Mainstem Fishery Restoration Record of Decision (ROD) and recognizes and authorizes the 50,000 acre-feet of Trinity water identified in the second provision of the 1955 Act.
- Full recognition and compliance with the instream flow requirements and restoration prescriptions of the Trinity River ROD.
- Scientific certainty that the BDCP would not impact annual carry-over storage in Trinity Reservoir and cold-water pool availability and thus jeopardize compliance with Trinity River water temperature objectives contained in the "Water Quality Control Plan for the North Coast Region" by the North Coast Regional Water Quality Control Board (NCRWQCB).
- Water budget analyses and water operating plans for the CVP and State Water Projects that fully account for 50,000 acre-feet of water from the Trinity River Division that is required to be managed for release on a schedule that makes it available to Humboldt County and downstream water uses for beneficial uses in the Trinity/Klamath basin, including non-consumptive instream flows for fishery purposes.
- Segregation and management of the 50,000 acre-feet in a manner that does not interfere with or diminish flow releases identified in the 2000 Trinity River Record of Decision.
- Requirements in the BDCP that, pursuant to section 3404(c)(2) of the CVPIA, every new, interim or renewed CVP water service or repayment contract will include provisions by which CVP water and power contractors expressly agree that the Trinity Division will provide: (a) the separate amounts and independent management and use of the ROD flow releases and the 50,000 acre-feet for the Trinity basin; and (b) pay the cost of Trinity River fishery restoration pursuant to section 3406(b)(23) of the CVPIA.

These insufficiencies remain unaddressed and/or are not incorporated into the Draft BDCP and were not included in the modeling and analysis that was used to evaluate the project alternatives

in the Draft BDCP EIR/EIS. For these reasons, the CEQA/NEPA analysis is insufficient, and does not fully evaluate the impacts related to implementation of Alternative 4 in the Draft BDCP EIR/EIS.

Furthermore, Trinity River in-basin flows for in-basin needs have priority over out-of-basin needs under the 1955 Act. It is clear from the legislative and administrative record that the diversion of Trinity River water is limited to water that is surplus to the needs of the Trinity River basin, which includes the amount of water necessary to meet the federal government's Tribal trust obligations to restore and protect the fishery resources of the Yurok and Hoopa Valley Tribes. Therefore, the BDCP should contain a policy stating that meeting the co-equal goals of water supply reliability and ecosystem restoration shall give priority to in-basin needs over out-of-basin diversions and not adversely impact the downstream federally reserved fishing rights and tribal trust resources of the Yurok and Hoopa Valley Tribes. Klamath and Trinity fishery resource protection includes meeting the flow requirements of the Trinity River ROD,¹ satisfying Trinity River temperature objectives contained in the "Water Quality Control Plan for the North Coast Region"² by the NCRWQCB, and ensuring adequate cold water carry-over storage for downstream fishery needs.

In its current form, the BDCP will fail to achieve its purpose of restoring the Delta ecosystem. The conservation and mitigation measures promoted by the BDCP are unlikely to succeed, and will result in further degradation of Endangered Species Act (ESA) listed Sacramento River Winter-run Chinook salmon, Delta Smelt and other ESA covered fish species. For example the BDCP modeling results reveal substantial decreases in smolt survival rate as a result of Alternative 4 implementation.

The Yurok Tribe is especially concerned about BDCP impacts to Trinity River water quality and temperature compliance targets established by the NCRWQCB for threatened SONCC coho salmon and Spring-run Chinook populations. Water quality impacts of the BDCP and its alternatives on surface water quality in the Trinity River are inadequate, did not consider or evaluate operational/infrastructure changes to Lewiston Reservoir for improved water temperature control measures, and did not contain models or analyses that incorporated the 50,000 acre-feet of Trinity water identified in the second provision of the 1955 Act for Humboldt County and downstream users.

In addition, the Draft BDCP EIR/EIS did not fully evaluate the cumulative impacts of climate change on Trinity Reservoir cold-water pool and end-of-September carry-over storage levels as a result of the BDCP. California is in a third year of drought and forecasted end-of-September (EOS) water volumes for Trinity Reservoir will be insufficient to provide for Trinity ROD flows

¹ See http://www.trrp.net/?page_id=72, accessed 9/14/11.

² See "Water Quality Control Plan for the North Coast Region" Table 3-1, page 3-8.00, footnote 5, located at http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/083105-bp/04_water_quality_objectives.pdf, accessed 9/14/11.

