

**From:** Patrick Porgans <porgansinc@sbcglobal.net>  
**Sent:** Tuesday, July 29, 2014 5:06 PM  
**To:** BDCP.Comments@noaa.gov; pp@planetarysolutionaries.org  
**Subject:** BDCP Final Comments  
**Attachments:** BDCPpubliccommentsFINAL.pdf

[BDCP.Comments@noaa.gov](mailto:BDCP.Comments@noaa.gov)

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

**Public Comments:** Submitted by *Patrick Porgans & Associates (P/A)* on behalf of *Planetary Solutionaries (PS)*, a nonprofit org.  
**Re: "UPDATED: Draft Bay Delta Conservation Plan (BDCP) and associated Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS).**

Final Comments, includes all footnotes.

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Tuesday, 29 July 2014

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**Re:** "UPDATED: Draft Bay Delta Conservation Plan (BDCP) and associated Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS).

Dear Sir:

Please enter Porgans & Associates and Planetary Solutionaries comments into the record. Also, we would appreciate confirmation that you have received this email communication. Thank you.

Sincerely,

Patrick Porgans, Solutionist

cc: Interested parties

**Public Comments:** Submitted by *Patrick Porgans & Associates (P/A)* on behalf of *Planetary Solutionaries (PS)*, a nonprofit org.

**Re: "UPDATED: Draft Bay Delta Conservation Plan (BDCP) and associated Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS).**

Neither time nor resources permit detailed comments pertinent to the contents of the 20,000-page draft BDCP and draft EIR/EIS, to do so could be construed as giving the report and the premise upon which it is being promoted a relative degree of credence; that is not the case. Rather, P/A and PS focus is on the "BIG Picture" to address the concept of the plan and the historical track-record of government's repetitive deception as to the "real cost" of water projects, and its failures to protect the Sacramento-San Joaquin Delta and the San Francisco Bay Estuary over the course of the last century, and for its success in the destruction of other invaluable delta estuaries. Therefore, we commence by referencing BDCP's lead-off quotations, which are the embodiment of a myriad of false assurances preface upon preconceived misconceptions espoused by the very government entities responsible for the existing and deplorable conditions of the Bay-Delta Estuary. Anyone with even the slightest clue of what has been going on within that ecosystem knows that history has show, and public records attest, the Bay-Delta Estuary has been the victim of a litany of government broken promises, which have led to ecological collapse. Albeit, to place any level of confidence in the consortium of federal and state agencies, bureaus, boards, or commission, engaged in the train-wreck-in-the making Delta Vision, would be delusory.

*"The BDCP is a comprehensive conservation strategy aimed at protecting dozens of species of fish and wildlife, while permitting the reliable operation of California's two biggest water delivery projects.*

*Why BDCP?*

*Securing California Water Supplies - Restoring the Sacramento-San Joaquin Delta Ecosystem*

*Addressing Climate Change - Planning for the Future"<sup>1</sup>*

**Comment:** State and federal officials have had more than a half-of-century, and expended tens-of-billions of public funds in a failed attempt to protect and restore the Bay-Delta Estuary and to ensure the reliability of the State's water supply.

**1957- The California Water Plan.** *"California is presently faced with problems of a highly critical nature --- the need for further control, protection, conservation and distribution of her most vital resource---water... Unless corrective action is taken--and taken immediately---the consequences may be disastrous."*<sup>2</sup> Source: Department of Water Resources.

**2009- Gov. Schwarzenegger,** *"California's Water: A Crisis We Can't Afford to Ignore."* However, as I have already said, when a crisis is at its worst the opportunity to reform it is at its greatest and this is why we had a good shot this time, Association of California Water Agencies."<sup>3</sup>

**2010-Fifty-three years and an estimated \$50 billion later --** *"Right now we have the most unreliable water system we ever had in California..."*<sup>4</sup> Source: Lester Snow, Director, Department of Water Resources.

**2012 - Gov. Jerry Brown's comment on the BDCP** *"I want to get "s\*\*t done."*<sup>5</sup>

**Comment:** More aptly stated; the BDCP is a comprehensive strategy which if implemented would be the final coup de gras for the last largest remaining ecosystem of its nature on the West Coast of the Americas. Keeping in mind, its predecessor, the Colorado River Delta fell prey to "Manifest Destiny," which included expansion of the West and the Bureau of Reclamation's conquest and damming of the Colorado River Basin and in so doing destroy one of the largest Delta estuaries in the world.

<sup>1</sup> [Http://www.baydeltaconservationplan.com/Home.aspx](http://www.baydeltaconservationplan.com/Home.aspx)

<sup>2</sup> Department of Water Resources, *The California Water Plan*, Bulletin No. 3, Foreword, May 1957, p. v.

<sup>3</sup> Office of the Governor, *Governor's Remark Regarding Water Conservation & Rebuilding CA's Water System*, Guest Speaker At the California Association of California Water Agencies, 12 Dec 2009, p. 2-4.

<sup>4</sup> *Testimony of Lester A. Snow, Director*, California Department of Water Resources, Presented to Little Hoover Commission, Hearing on State Water Governance, 25 June 2009, p. 4.

<sup>5</sup> <http://blogs.kqed.org/climatewatch/2012/07/25/combatants-in-new-ca-water-war-dig-in/>

Until the early 20<sup>th</sup> Century the Colorado River ran free from its headwaters in the Rocky Mountains of Colorado southwest into Mexico, where it flowed into the Gulf of California. Significant quantities of nourishing silt from throughout the Colorado River Basin were carried downstream, creating the vast Colorado River Delta.

Prior to the construction of major dams along its route, the Colorado River fed one of the largest desert estuaries in the world. Spread across the northernmost end of the Gulf of California, the Colorado River delta's vast riparian, freshwater, brackish, and tidal wetlands once covered 7,810 km<sup>2</sup> (1,930,000 acres) and supported a large population of plant, bird, and marine life. Because most of the river's flow reached the delta at that time, its freshwater, silt, and nutrients helped create and sustain a complex system of estuarial wetlands that provided feeding and nesting grounds for birds, spawning habitat for fish and marine mammals.

Today, conditions in the delta have changed. ... The construction of Hoover Dam in the 1930s marked the beginning of the modern era for the Colorado River Delta. ... The loss of freshwater flows to the delta over the twentieth century has reduced delta wetlands to about 5 percent of their original extent, and nonnative species have compromised the ecological health of much of what remains.<sup>6</sup>

**Comment:** The "management and operation" of two of the California's largest water projects, the State Water Project (SWP) and the federal Central Valley Project (CVP), are the primary factors contributing to the precipitous decline and demise of anadromous and pelagic species dependent on the ecological sustainability of the San Francisco Bay and Sacramento-San Joaquin Delta Estuary.<sup>7</sup>

Collectively, the California Department of Water Resources (DWR) delegated with the "responsibility" to operate and manage the SWP, the federal Bureau of Reclamation "responsible" for the operation of the CVP, and the State Water Resources Control Board (SWRCB), entrusted with the authority for permitting the use of the distribution of SWP and CVP water are at fault for California's government-induced water crisis effecting the Bay-Delta Estuary.<sup>8</sup>

The BDCP is an extenuation of the underfinanced and contractually overcommitted SWP, which was sold to the public in 1960 as a project that "would pay-for-itself"; i.e., the recipients of the water and power would pay.<sup>9</sup> P/A completed a series of fact-finding reports, forensic accounting of the SWP financing and repayment obligations, which served as the basis for a series of Senate hearings<sup>10</sup> that substantiated the fact that the SWP has not, nor will it ever pay for itself as promised.<sup>11</sup> Furthermore, the facts revealed that although DWR officials and Governor Edmund "Pat" Brown, Sr. assured the public the SWP would cost \$1.75 billion that was never true, which former Governor Ronald Reagan acknowledge during his term in office.<sup>12</sup> The capital cost on the SWP has exceeded \$6.5 billion, and there is still about \$350 million in outstanding debt on the initial \$1.75 billion. Although there is no definitive amount as to what it will cost to "complete" the SWP, estimates exceed \$50 billion (includes principal and interest). Then, as is now, the government misinformed the public of the real cost of the SWP. (Refer to Attachment A for an overview of SWP financial and contractual shortcomings that have led up to the BDCP.)

**Federal agencies reviewing draft for proposal to re-plumb the Sacramento-San Joaquin Delta call it 'insufficient,' and 'biased' and 'confusing.'**

*In what would be the biggest water supply project constructed in California in half a century, the state is proposing to build a large diversion point on the Sacramento River in the north delta and send the water through two 35-mile tunnels to aqueducts serving the San Joaquin Valley and Southern California.*

<sup>6</sup> [http://en.wikipedia.org/wiki/Colorado\\_River\\_Delta](http://en.wikipedia.org/wiki/Colorado_River_Delta)

<sup>7</sup> Patrick Porgans & Associates, *Salmon Collapse, Natural Phenomenon and/or a Government-Induced Disaster*, 2009.

<sup>8</sup> Patrick Porgans & Associates, White Paper, *Cracking California's Water Code, "Water Crisis" Government-Induced Management Fiasco*, 2010.

<sup>9</sup> Patrick Porgans, Principal, Red-Tape Abatement, *State of the State Water Project, Report No. 1, Who's Financing It? Is It Paying for Itself?* 1980.

<sup>10</sup> Patrick Porgans, Regulatory Specialist, *State of the State Water Project, Supply, Demand, Financing and Management*, Prepared for the California Senate Committee on Agriculture and Water Resources, (pro bono) 1994.

<sup>11</sup> Patrick Porgans, Red-Tape Abatement, *State of the State Water Project*, Taped-Recorded and Transcribed Interviews with Mr. Donald Sandison, Comptroller, California Department of Water Resources, 26 March 1982 and 23 April 1982.

<sup>12</sup> California Senate Committee on Agriculture and Water Resources, *State Water Project Financing: Progress Report to the Legislature*, 1958, Regular Session, Report No. 2.

By adding the diversion point and restoring more than 100,000 acres of delta habitat, the south-of-the-delta urban and agricultural water contractors who have promised to pay for much of the project are hoping to get relief from environmental restrictions on their deliveries.

The project, estimated to cost about \$24 billion, must pass muster with federal fishery agencies that oversee endangered species protections for migrating salmon and the delta's imperiled native fish.<sup>13</sup>

**Who Will be Financially Liable for Restoration Costs, Capital and, O&M?<sup>14</sup>**

*In order for BDCP to receive permits as a Habitat Conservation Plan<sup>15</sup> and a Natural Communities Conservation Plan<sup>16</sup> Federal and State laws require evidence that there is assured funding for the habitat restoration component of BDCP. BDCP is assuming that Federal and State taxpayers will pay just under \$4 billion for the capital costs of purchasing and restoring upwards of 145,000 acres of land.<sup>17</sup>*

*Department of Water Resources Director Cowin described the estimated cost of the BDCP plan as \$24.5 billion, of which \$14.5 billion would be for conveyance (the tunnels). The remaining costs are for habitat and operations and maintenance costs, Cowin said.<sup>18</sup>*

**Comment:** An estimated \$6.5 billion has been spent on Delta and Delta-related habitat and wetlands improvements, and \$500 million expended on buying water for fish! Those expenditures were primarily from the issuance of General Obligation Bonds sales, which are repaid with interest from the heretofore State's deficit-ridden General Fund. In addition, vast expenditures of public funds were used in government's failed attempt to double anadromous fish populations that migrate through the Bay-Delta Estuary. Fish populations are worst now than at any other time in history. Expending another \$10 billion on habitat improvement and taking 145,000 acres of Delta land out of production is unjustifiable. It is estimated that government already has more than 100,000 acres of Delta lands in its possession. SWP and CVP will benefit from the acquisition of those lands, as it will free up hundreds-of-thousands of acre-feet of water when those lands are no longer irrigated.

The 35-mile twin tunnels are essentially a prototype of the Mono-Lake-North-Sacramento-Valley-siphon system capable of re-routing up to 9000 cubic feet per second from the Sacramento River flow placing the central and southern portions of the Delta to even greater risk of salt water intrusion.

*In the latest episode in the sordid saga of the Bay Delta Conservation Plan "BDCP" to build the peripheral tunnels, two environmental groups revealed on June 20 [2104] that even an economist hired by BDCP officials won't sign off on the controversial project.*

*Dr. David Sunding, an economist on the faculty of the University of California-Berkeley and a principal with The Brattle Group, said at the recent Continuing Legal Education Water Law Conference in San Diego that "given the financial uncertainties if he were a water agency, he would not sign off" on the BDCP, according to a news release*

*"The recently released statements and documents from BDCP on the costs, and who will pay, are more of the same disingenuous statements that they have been making throughout the life of the project," said Barbara Barrigan-Parrilla, executive director of Restore the Delta (RTD). "These unsubstantiated claims show how desperate BDCP officials are to greenwash this project for the public. Documents from public record requests, and statements from their own officials and water agency officials, reveal that the project will be closer to \$67 billion in today's dollars, before cost over-runs."*

<sup>13</sup> Bettina Boxall, *Los Angeles Times*, **Federal agencies reviewing draft for proposal to re-plumb the Sacramento-San Joaquin Delta call it 'insufficient' and 'biased,'** July 18, 2013.

<sup>14</sup> Steve Kasower, SEACO, 11 Red Flags, <http://mavensnotebook.com/wp-content/uploads/2013/12/BDCP-Eleven-Red-Flags-2.pdf>

<sup>15</sup> Online: <http://www.fws.gov/endangered/what-we-do/hcp-overview.html>

<sup>16</sup> Online: <http://www.dfg.ca.gov/habcon/nccp/>

<sup>17</sup> Costs are cited from The Brattle Group, **Employment Impacts for Proposed bay Delta Water Conveyance facility and Habitat Restoration**, February 22, 2013, Table 3-1, page 18, online:

<http://baydeltaconservationplan.com/Libraries/Dynamic Document Library/Employment Impacts for Proposed BDCP 2-26-13.sflb.ashx>

<sup>18</sup> IBID. Heather Hacking, MediaNews Group, **Final chapters of Bay Delta Conservation Plan Released**, 5/31/2013, online:

[http://www.redbluffdailynews.com/ci\\_23361038/final-chapters-bay-delta-conservation-plan-released](http://www.redbluffdailynews.com/ci_23361038/final-chapters-bay-delta-conservation-plan-released)

Independent University of the Pacific economist Dr. Jeff Michael concludes that the average water ratepayer will end up paying between \$40 and \$80 per person per year.<sup>19</sup>

#### ATTACHMENT A: EXCERPTS FROM PATRICK PORGANS & ASSOCIATES WHITE PAPER: CRACKING CALIFORNIA'S WATER CODE

**TODAY'S "WATER CRISIS" GOT STARTED 50 YEARS AGO**, IN THE FORM OF A GENERAL OBLIGATION (GO) BOND MEASURE, AUTHORIZING THE FUNDING AND CONSTRUCTION OF THE CALIFORNIA STATE WATER PROJECT (SWP). UNFORTUNATELY, THE SWP, WHICH WAS MADE POSSIBLE BY AN INGENUOUS FUNDING SCHEME, HAS THREE MAJOR FLAWS: (1) OFFICIALS WILLFULLY AND KNOWINGLY MISINFORMED THE PUBLIC OF ITS TRUE COSTS,<sup>i</sup> (2) CONTRACTED OUT MORE WATER THAN IT COULD PROVIDE (IN CERTAIN WATER-YEAR TYPES),<sup>ii</sup> "PAPER" WATER, A (3) IT WAS SOLD UNDER THE FALSE PRETENSE THAT IT WOULD COST \$1.75 BILLION AND WOULD "PAY-FOR-ITSELF"<sup>iii</sup> – IT NEVER HAS.<sup>iv</sup> IN ORDER TO STABILIZE DEFAULT BY SWP AGRICULTURAL CONTRACTORS, AND TO KEEP THE SWP "SOLVENT" DWR AND THE CONTRACTORS DEvised THE 1994 MONTEREY AGREEMENT, WHICH, AMONG OTHER INGENUOUS SCHEMES. ESTABLISHED A "TRUST FUND" THAT SETS ASIDE \$10 MILLION A YEAR, BEGINNING IN 1997, FROM THE EARNED INTEREST OFF OF CALIFORNIA WATER FUND (OBTAINED FROM THE SALE OF PUBLICLY OWNED TIDELAND OIL RESERVES AND GENERAL FUND ALLOCATIONS), AND HUNDREDS OF MILLIONS OF DOLLARS OF THIS SAME MONEY WILL BE DISTRIBUTED TO SWP URBAN CONTRACTORS TO DO WHAT THEY WANT WITH THIS MONEY. *The Monterey Agreement increased the reliability of existing water supplies; providing strong financial management for the SWP; and increased water management flexibility; proving more tools for local water agencies to maximize use of existing facilities.*<sup>v</sup> (REFER TO PAGE 59, MONTEREY AGREEMENT ANOTHER BACKDOOR AGREEMENT IN THE "ERA OF TRANSPARENCY – COMPOSED BEHIND CLOSED DOORS.") [Appendix I, Exhibits 11, 12, 13 and 14.]

**Government Water Projects at the Crux of California's "Water Crisis" Inundating the State in an Era of Bonded Indebtedness:** Ironically, the SWP remains at the epicenter of the "crisis" that continues to cost Californians tens-of-billions of dollars of debt from the sale of GO Bond funds – bailouts. Since its inception, the SWP has been inundated with a series of unrelenting crises and the subject of decades of Legislative hearings in failed attempts to reconcile its inherent shortcomings.

As early as 1963 DWR recognized the SWP was going to be short of funds and resorted to issuing millions in revenue bonds. 1967: Governor Reagan's Water Task Force reported SWP had a \$300 million to \$600 million deficiency.<sup>vi</sup> [A-I, E15.]

1970: DWR appeals to Legislature for passage of Proposition 7; claimed that if it fail to pass it would cause the shutdown of SWP construction, causing a financial disaster.<sup>vii</sup> [A-I, E7 AND 16.]

1985: DWR reports agricultural contractors may not be able to pay their bills.<sup>viii</sup> [A-I, E17.]

1991: DWR exhausted SWP reserve funds to buy water to keep agricultural contractors solvent.<sup>ix</sup> [A-I, E18.]

1993: DWR resorted to Legislature to pass urgency law to keep SWP financially afloat, issues \$150 million in commercial paper notes, via Goldman Sachs, to buy water.<sup>x</sup> [A-I, E19.]

2000 through 2006: more than \$19.6 billion in GO water and water-related bonds were approved,<sup>xi</sup> [A-I, E20.] a significant portion had been used to keep the SWP afloat - Déjà vu. The interest payments on those GO bonds cost taxpayers another \$10 billion. In November 2014 voters may be asked to approve yet another \$11 billion GO bond Act bailout, being promoted under the guise it will ensure the State's water supply reliability, shore up its aging infrastructure, and restore the Bay-Delta Estuary. However, according to the Governor and other officials, those funds are only a "down Payment" or leverage for yet another \$30 to \$40 billion to "move forward" with other components of

<sup>19</sup> Dan Bacher, <http://www.calitics.com/diary/15526/even-bdcpired-economist-wouldnt-sign-off-on-browns-tunnel-plan> 6/22/2104.

the project!<sup>xii</sup> [A-I, E21.] “Every time we’ve had a problem in the financing of the State Water Project, we’ve tried to take action to solve the problem,…”<sup>xiii</sup> [A-I, E22.]

It is apparent that if this bailout cycle is not reconciled, it will continue to add to the State’s ever-increasing debt load, depletion of General Fund revenues, increase cost for State’s borrowing, adversely effecting its credit rating, which was cut to the lowest of all 50 states,<sup>xiv</sup> [A-I, E23.] and jeopardized the Golden State’s once promising economic prosperity as eighth-biggest economy<sup>xv</sup> in the world.<sup>xvi</sup> [A-I, E24 and 25.] Because of California’s persistent fiscal problem, bond rating agencies assigned it the lowest rating; a few notches above junk bonds.<sup>xvii</sup>

ENDNOTES

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<sup>i</sup> Porgans & Associates source data on the history of the California State Water Project, 1981..

<sup>ii</sup> DWR, *Management of the California State Water Project, Bulletin 132-05, Dec. Executive Summary*, 2006, xxix.

<sup>iii</sup> Rita Schmidt Sudman, *Western Water, State Water Project Cost Sharing*, November/December 1983, pp. 4, 5, and 6.

<sup>iv</sup> Department of Water Resources, *California State Water Project, Volume 1, History, Planning, and Early Progress, Bulletin Number 200*, November 1974, p. 25.

<sup>v</sup> Department of Water Resources, *Bulletin 132-02, Management of the California State Water Project, Monterey Agreement*, Jan 2004, Chapter 9, p. 107.

<sup>vi</sup> California Senate Committee on Water Resources, *State Water Project Financing, Progress Report to the Legislature, 1968, Regular Session, Report No. 2*, p. 42.

<sup>vii</sup> DWR, *California State Water Project, Bulletin 132-71*, June 1971, p. 3.

<sup>viii</sup> DWR, *Management of the California State Water Project, Bulletin 132-86*, p. 52.\*

<sup>ix</sup> DWR, *Management of the California State Water Project, Bulletin 132-92, Appendix A, June 30, 1992, Financial Report*, November 1992, p. 17.

<sup>x</sup> *Goldman-Sachs, Commercial Paper Annual Memorandum, \$150,000,000, State of California, Department of Water Resources, Water Revenue Commercial Paper Notes, Series 1, Note Counsel, Orrick, Herrington & Sutcliffe, San Francisco, California, Co-Financial Consultants, Lehman Brothers, New York, New York, Whitefield Inc., Paulsbo, Washington, Issuing and Paying Agent, Bank of America National Trust Company, New York, New York, State Water Project data prepared by California Department of Water Resources*, 23 June 1993, p. 2.

<sup>xi</sup> Legislative Analyst’s Office, *California’s Water: An LAO Primer, Chapter 4, How Do We Finance Water Projects*, Oct 2008.

<sup>xii</sup> Office of the Governor, *Governor’s Remark Regarding Water Conservation & Rebuilding CA’s Water System*, Guest Speaker At the California Association of California Water Agencies, 12 Dec 2009, p. 2-4.

<sup>xiii</sup> Patrick Porgans’ Taped-recorded and Transcribed Interviews with Mr. Donald Sandison, Controller, California Department of Water Resources, 26 March 1982 and 23 April 1982.

<sup>xiv</sup> The Los Angeles Times, *California’s credit rating cut to lowest of all 50 states*, Money & Company, 2 Feb. 2009, [http://latimesblog.latimes.com/money\\_co/2009/02/California-cred.html](http://latimesblog.latimes.com/money_co/2009/02/California-cred.html)

<sup>xv</sup> San Francisco, Reuters, Update 2-California looks into banks’ role in underwriting, CDS, 30 March 2010. [www.reuters.com/article/idUSN3015057220100330?type=markeysNews](http://www.reuters.com/article/idUSN3015057220100330?type=markeysNews)

<sup>xvi</sup> FACTS ON POLICY: *The California Economy*, Hoover Inst. Stanford University, December 16, 2008

<sup>xvii</sup> San Francisco, Reuters, Update 2-California looks into banks’ role in underwriting, CDS, 30 March 2010. [www.reuters.com/article/idUSN3015057220100330?type=markeysNews](http://www.reuters.com/article/idUSN3015057220100330?type=markeysNews)