Northern California Coalition

Calaveras County Water District
Calaveras Public Utility District
Central Delta Water Agency
Citrus Heights Water District
City of Folsom
City of Hayward
City of Manteca
City of Roseville
City of Sacramento
City of Stockton
County of Sacramento
Del Paso Manor Water District
East Bay Municipal Utility District
El Dorado County Water Agency
Foresthill Public Utility District
Glenn-Colusa Irrigation District
Jackson Valley Irrigation District
Kirkwood Meadows Public Utility District
Modesto Irrigation District
North San Joaquin Water Conservation District
Northern California Water Association
Placer County Water Agency
Rancho Murieta Community Services District
Reclamation District #17 (Mossdale Tract)
Reclamation District #684 (Lower Roberts Island)
Reclamation District #999  
Reclamation District #2024 (Orwood Palm Island)  
Reclamation District #2038 (Lower Jones Tract)  
Reclamation District #2072 (Woodward Tract)  
Regional Council of Rural Counties  
Regional Water Authority  
Sacramento Municipal Utility District  
Sacramento Suburban Water District  
San Francisco Public Utilities Commission  
San Joaquin County  
San Joaquin River Group Authority  
San Juan Water District  
South Delta Water Agency  
Stockton East Water District  
Tuolumne Utilities District  
Woodbridge Irrigation District  
Yolo County Flood Control & Water Conservation District  
Yuba County Water Agency  

November 4, 2010  

Karen Scarborough  
Undersecretary, California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814  

Dear Ms. Scarborough:
As interested observers of the Bay Delta Conservation Plan (BDCP) process, we submit comment on BDCP issues and work products, including the upcoming November 18, 2010 document that will reflect the progress to date. In advance of the release of the November document, we would like to reiterate two foundational concerns that we believe should be addressed in any public BDCP documents.

**Water Rights and Delta Flows** – The Delta Reform Act of 2009 states that water rights shall not be impaired or diminished as a result of its provisions, which include the BDCP. As explained in the September 3, 2010 letter from Somach Simmons & Dunn (copy attached), the current “ranges of operations” being considered by the BDCP include contributions of flow from upstream water users who are not party to the BDCP. We strongly agree with the Somach Simmons & Dunn finding that such a proposal is neither lawful nor appropriate for inclusion in the BDCP. It is critical that the BDCP expressly acknowledge that the parties to the BDCP – not third parties – have full responsibility to satisfy any flow obligations described as part of the BDCP alternatives.

**Funding** – A realistic funding plan is necessary to assure a successful BDCP, and in fact is a legal requirement. However, there has been very little open discussion of the total program costs, allocation of those costs, or sources of funding. Although the south of Delta exporters have agreed to pay for conveyance facilities, the other elements of the plan will carry a substantial cost. In this time of unprecedented government budget shortfalls, it is critical to have complete transparency in deliberations on how the BDCP will be funded. Costs must be apportioned on the basis of benefits received. The applicants for the BDCP, or potentially regulated entities (PREs), will derive tangible benefits of considerable value from the BDCP and they must shoulder an appropriate share of the total costs in exchange for those benefits. The November 18th document should describe in detail the benefit that the PREs will receive, as well as any benefits that the public is expected to receive and pay for.

Finally, as the BDCP Steering Committee quickly approaches its deadline for completion of a Delta Plan, we expect that the Plan will include mitigation flows for any proposed new conveyance facility around the Delta, and it will lay out a plan for financing the entire, expensive Delta fix. The BDCP has been an applicant-driven process where the direct beneficiaries define the parameters on flows and public finances. However, many of the water, environmental, and land use interests that are not represented on the BDCP Steering Committee may be profoundly affected by this Plan.

Therefore, we strongly urge that the State and Federal Governments provide for full Due Process, affording interested parties opportunities to present evidence and input, on the record, regarding all elements of the BDCP before the Steering Committee adopts its Plan. Fundamental principles of fairness demand Due Process be afforded to all interests before this Plan is adopted.

Given the great importance of the BDCP, we urge you to explicitly address these continuing concerns, and commit to transparency and openness so that everyone can understand the issues
and the proposed solutions. This is essential in reaching a mutually agreeable outcome that all affected interests can support.

Sincerely,

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Willie W. Weatherford, Mayor
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Municipal Utilities Department  
City of Stockton

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County of Sacramento

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Del Paso Manor Water District

Dennis Diemer, General Manager  
East Bay Municipal Utility District

James R. Sweeney, Board of Directors, Chair  
El Dorado County Water Agency

Kurt Reed, General Manager  
Foresthill Public Utility District

Thaddeus Bettner, General Manager  
Glenn-Colusa Irrigation District

Tom Hoover, General Manager  
Jackson Valley Irrigation District

Tom Henie, General Manager  
Kirkwood Meadows Public Utility District

Allen Short, General Manager  
Modesto Irrigation District

Edward Steffani, General Manager  
North San Joaquin Water Conservation District
Undersecretary Karen Scarborough
November 4, 2010
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Curt Aikens, General Manager
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Attachment

Cc : Senators Dianne Feinstein & Barbara Boxer
Members of California Congressional delegation
Kenneth Salazar, Secretary of the Interior
David Hayes, Deputy Secretary of the Interior
Mike Connor, Commissioner, Bureau of Reclamation
Donald Glaser, Director, USBR Mid-Pacific Region
Governor Arnold Schwarzenegger
Lester Snow, Secretary, Natural Resources Agency
Mark Cowin, Director, Department of Water Resources
John McCamman, Director, Department of Fish and Game
Members of the California Legislature
Delta Stewardship Council
State Water Resources Control Board