

# LOCAL AGENCIES OF THE NORTH DELTA

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February 6, 2013

**SENT VIA EMAIL TO BDCP.Comments@resources.ca.gov**

Dr. Jerry Meral  
Bay Delta Conservation Plan  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

RE: Comments on Task Order ICF-11 and Amendment 1  
Benefits and Costs of the Bay Delta Conservation Plan

Dear Dr. Meral:

Thank you for the opportunity to provide comments on the Task Order/Scope of Work for the benefit cost analysis of the Bay Delta Conservation Plan (“BDCP”). These comments are being provided on behalf of Local Agencies of the North Delta, (“LAND”), which is a coalition comprised of reclamation and water districts covering approximately 90,000 acres in the northern geographic area of the Delta.<sup>1</sup> LAND participant agencies have concerns about how the Task Order will prejudice or otherwise pre-determine the outcome of the cost-benefit analysis. That analysis, if not done in a robust and transparent manner, using reasonable assumptions, could mislead the public as to the potential costs and benefits of the BDCP, which threatens to ultimately impair agricultural productivity and/or the provision of water according to established water rights, and/or, drainage and flood control services to landowners within LAND’s respective districts.

## **General Comments on Process and Cost Benefit Approach**

Initially, we have a concern with the manner in which stakeholders are being asked to participate. According to the January 23, 2013 letter to North Delta Water Agency District Manager, Melinda Terry, from Department of Interior Commissioner

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<sup>1</sup> LAND participants include: Reclamation Districts 3, 150, 307, 317, 407, 551, 554, 755, 813, 999, 1002, 2067 and the Brannon-Andrus Levee Maintenance District. Some of these agencies provide both water delivery and drainage services, while others only provide drainage services. These districts also assist in the maintenance of the levees that provide flood protection to homes and farms.

Michael Connor, “The development of [the] cost-benefit analysis will be conducted in an open, transparent manner with regular updates to the Finance Working Group.” That is an interesting statement considering the following:

- There have been a total of only six Finance Working Group meetings since the group’s inception in 2011.
- The initial “Benefit” Analysis was conducted without any stakeholder input on methodology, despite requests dating back to the first BDCP Public Meeting under the Brown Administration from local interests to provide such input.
- The current Task Order ICF-11 and Amendment 1 was not provided to stakeholders until *after* the most recent Finance Working Group meeting. In fact the verbal notice that it was released minutes before the meeting came as surprise to the attendees.<sup>2</sup>
- The study of benefits and costs authorized by Task Order ICF-11 and Amendment 1 appears to already be underway, prior to the opportunity for stakeholders and others to comment on the approach to the analysis.
- Besides committing to “post” comments, there is no indication that public comments will actually be incorporated into the Scope of Work described in Task Order ICF-11 and Amendment 1.

Thus LAND requests that all comments on the Scope of Work be made publically available on the website and then discussed in substance at a Finance Workgroup meeting prior to completion of additional analysis of BDCP costs and benefits.

Additionally, the Finance Working Group meetings themselves are typically an hour or more of recitation of prior meetings and prior results, and a very short period of time for dialog and discussion. This appears to be a deliberate practice of withholding information, then filibustering to avoid any significant discussions. Unfortunately, this approach to public input is *worse not better* than what occurred under the Schwarzenegger Administration.

We also note that the continued lack of availability of environmental review makes it difficult to assess the usefulness of some of the measures of cost and benefit discussed in the Task Order. While ICF is apparently participating in the development of the Cost Benefit Analysis and supplying data and conclusions from the EIR/EIS, the

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<sup>2</sup> LAND has repeatedly requested that detailed agendas be prepared and the content of presentations be made available at least a couple of days before the meetings. The BDCP has a constant pattern and practice of withholding the information which prevents meeting preparation.

public does not have access to that foundational information. Thus, any assumptions made now for purposes of analysis Costs and Benefits will need to be verified later.

As we commented at the finance Workgroup meeting, the overall structural approach of this analysis uses project assumptions that lead inexorably to the desired conclusions. The reference baseline is inadequate for purposes of comparison, called in this case the no action alternative (“NAA”); the NAA fails to parse out key features of the individual project alternatives or any alternate proposals. LAND again formally calls for an optimization of the project elements to assess what project features lead to which costs and which benefits. The proposed approach cannot lead to an understanding of how to maximize the potential project benefits and how to minimize the social, environmental and economic costs. Strikingly, the Task Order assumes implementation of a developed restoration program even though no specific restoration projects are proposed under the BDCP and such restoration is only analyzed at the program level in the EIS/EIR.

LAND strongly advises that the structure of the Cost Benefit Analysis approach be corrected prior to proceeding further. Specifically, each BDCP component, as well as alternatives to each component, must be analyzed independently. Such an analysis would inform the selection of project components that are likely to actually have benefits justifying their costs, which should be the point of conducting a cost benefit analysis.

### **Specific Comments on Scope of Work**

Notwithstanding the structural defects in the current approach, LAND offers the following specific comments on the Scope of Work.

The Task Order divides costs and benefits into three broad categories: (1) Construction and operating costs of proposed project; (2) Impacts to Delta-dependent economic activities; and (3) Non-market environmental impacts. We believe that the Impacts to Delta-dependent economic activities are inadequately described and formulated. In particular, these impacts are inaccurately described in a manner that demonstrates project benefits. Moreover, the non-market environmental impacts described are largely trivial and poorly defined.

With respect to *Increased water supply reliability to south of Delta water agencies* (p. 2), this task question fails to address differences between water supply reliability within, and upstream of, the Delta as a result of the project. How will upstream and in-Delta water supply reliability be impacted? While the Task Order later references *Impacts to Delta agriculture* and *Increased salinity and urban water treatment in the west Delta* (p. 3), the costs of changes in water quality throughout the Delta from the BDCP must be considered in the analysis.

When considering water supply issues, the Task Order also must consider the water demands of the habitat component of BDCP. Water use by the newly created habitat could affect availability of water for export, as well as for use within the Delta. It should not be assumed that habitat creation is water supply neutral. Indeed, evapotranspiration in newly created habitat areas will be significant.

Though *Reduced seismic risks to state and federal projects* (p. 3) assumes that such risks will in fact be reduced as a result of BDCP, that conclusion is questionable. In particular, the state of the current infrastructure for the SWP/CVP is not discussed, nor is the engineering standards for the proposed project. What is the seismic design standard for each of the project conveyance elements, e.g., powerlines, substations, fish screens, tunnels, vents? What is the current seismic status of the existing infrastructure associated with the remainder of the existing statewide water storage and conveyance facilities? The SWP/CVP rely on antiquated infrastructure, most of which is not proposed for upgrading under the BDCP. It is incorrect to assume, as the Task Order appears to, that the entire SWP/CVP conveyance system could withstand a design level earthquake after implementation of the BDCP.

The Task Order also assumes *Reduced salinity of Delta exports* (p. 3). But what are the costs associated with increased salinity of the watershed downstream of the proposed intakes? Costs associated with new water diversions from the North Delta include agricultural crop declines, including permanent crops such as dichondra, grapes and pears; reduced ability to meet discharge requirements; possible violation of existing water quality standards and agreements (e.g., D-1641 and NDWA contract); increased water treatment needs in the Delta (not just in the western Delta); increased *Corbula-Corbicula* infestation; continued selenium contamination of the South Delta from CVP water deliveries to the West Side of the San Joaquin Valley. BDCP habitat creation will also cause increased mercury contamination from the Yolo Bypass and elsewhere, leading to additional costs that must be considered.

For *Impacts to Delta Agriculture* (p. 3), the Task Order discusses conversion of 45,000 acres of cropland. It is not clear how 45,000 acres of conversion of cultivated land was derived, especially since it appears that most habitat will need to be created on private lands and over 100,000 acres of new habitat are proposed. Moreover, Delta farmland is not currently under threat of development other than from the BDCP. Indeed, existing development restrictions in the Delta prevent most all development outside of existing communities. It is therefore incorrect to assume that BDCP, through the purchase of easements or other mitigation, would result in greater protection of cropland.

With respect to *Impacts to recreational activities in the Delta* (p. 4), the basic assumption seems to be that there is a resource availability limitation, basically that there

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is some constraint on recreation or its access in the Delta. The recent marina operator comments show strong visitor use correlates to fuel price, so it is unclear how the BDCP would improve anything that would have a net positive on recreational uses. For example, the purported habitat (since it is strictly programmatic) benefits associated with increased birding are predicated on an unsubstantiated assumption that somehow access is currently limited and that more acres would somehow bring in more visitors. The Delta, however, already has visitor infrastructure in place for birding and there is no evidence that that is saturated. Indeed, the project will have significant negative impacts on cranes and riparian bird species near the proposed intakes and forebay. Those aspects of the BDCP would result in costs, not benefits in terms of recreational activities.

### Conclusion

Despite our concerns about the approach to Cost Benefit analysis taken in the Task Order, we appreciate the inclusion of the public, and particularly delta agriculture and special districts, as described in Task 5, Meetings and Coordination. We hope consideration of written public comments as well as the coordination described in Task 5 will lead to correction of the current deficiencies in the Task Order. We are available to consult further on the issues raised in this letter. Please feel free to contact my office should any further information be required.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:   
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cc: Commissioner Michael L. Connor, [MLConnor@usbr.gov](mailto:MLConnor@usbr.gov)