

LOCAL AGENCIES OF THE NORTH DELTA

1010 F Street, Suite 100, Sacramento, CA 95814 (916) 455-7300

deltalandcoalition@gmail.com

April 13, 2012

SENT VIA U.S. REGULAR MAIL

Mr. Michael L. Connor
Commissioner
United States Department of the Interior
Bureau of Reclamation
1849 C Street NW
Washington DC 20240-0001

RE: Response to U.S. Department of Interior, Bureau of Reclamation letter dated February 9, 2012

Dear Commissioner Connor,

We appreciate the response to our letter of November 4, 2011, which we received on February 12, 2012, and the apology for the delay in responding. There are a couple of factual misunderstandings, however, that we would like to clarify.

The federal agencies involved in the Bay Delta Conservation Plan (BDCP) have not yet directly and constructively engaged our member agencies or its representatives regarding the BDCP. The only "outreach" was the agreement to cooperate with our member agencies after we requested cooperating agency status under the National Environmental Policy Act. Only after that effort on our part, has there been any specific meetings or communications in regard to this project and our district coalition.

You state that we "will be afforded a full opportunity to participate in an open and transparent process to develop the BDCP and the accompanying environmental review documents." After four years of participation in this process in which we have observed the active failure of the Federal Lead Agencies to constructively engage us or other stakeholders, it is not clear to what process your letter refers. A Memorandum of Agreement (MOA) developed in secret that transfers decision-making authority to project proponents is an example, which we cited in our letter, of that ongoing lack of transparency. The procedural steps for the MOA recited in your letter unfortunately does not address any of the stated factual considerations we brought forth.

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Your letter also states that “Stakeholder comments and input have been, and will continue to be, carefully considered.” Yet there is no evidence that this is and has at any time been the case. With respect to modifications of the MOA, those modifications only arose after the obvious conflicts of interest were brought forward to the media. Moreover, those modifications do not address our concerns, particularly those referring to excessive authority of the State and Federal Water Contractors in formulating and implementing the BDCP. With respect to the substance of the BDCP itself, our most basic concerns about the effectiveness of the project in meeting its “conservation” objectives as well as the real-world need to minimize the devastating effects on existing land and water uses in the Delta have still not been addressed.

The public release of the BDCP planning documents is a step forward, bringing the level of document access back to where it was in November 2010 when the Steering Committee last met. There is still, however, no process for a disposition of comments and redline versions of the draft planning documents. If the Agencies mean to say that the disposition of comments will only happen in the content of the Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS), then that is too late in the process to make the fundamental changes to the plan that are needed for this to be an actual conservation plan. The meetings held for the cooperating agencies also have not thus far been fruitful in leading to changes to any of the BDCP documents that respond to local agency concerns.

The Independent Science Advisors (ISA) process is another case of the lack of transparency and, we feel another continued failure. We have repeatedly requested to participate in this process by receiving notice of these meetings and an opportunity to provide additional and at times countervailing scientific citations to the ISA. The coordinator has refused each of these requests, or simply not responded at all. This can hardly be called a fair, legitimate or scientifically responsible effort on the federal government’s part.

The statement in the letter that “the Federal and State lead agencies for the environmental review of the BDCP recognize the importance of and are committed to analyzing and providing a reasonable range of alternatives,” is caveated by another sentence that they must simply be “legally adequate,” a further example of the parsing and obfuscation that characterizes this process. A reasonable range of conveyance alternatives would not doggedly focus on five intakes clustered in one location. In addition to smaller diversion capacities and through Delta options, placement of one intake further north and one further south intake, as proposed in 2010 by the BDCP team, would be appropriate to lessen the intensity of impacts on a handful of unlucky landowners, districts and communities in the Hood/Freeport area. Also potentially viable

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is the western Delta “big gulp” or Western Delta Intake Concept proposed by Dr. Robert Pyke. Yet another possibility that could be paired with any of the new diversion facilities would be the screening of the South Delta pumps (at least at for lower pumping levels), which would most certainly reduce mortality of fish in the South Delta and was part of CalFED.

Finally, please note that the Delta Counties Coalition represents a single administrative level of government and does not represent the coalition of local districts. That process, of which we are supportive, works on the regional level and cannot address the site specific considerations or specific technical and legal issues brought forward by us. Again, the basis for technical analysis does not exist at the county-level for impacts on the Districts, which is why this LAND coalition was formed. Thus, any interactions with the Delta Counties Coalition does not substitute for effective communication with affected local districts.

In short, the pro-forma hand waving that goes on in the political process described in your letter will not resolve a single issue that faces the Delta, its agencies and its residents. Moreover, continued obfuscation and avoidance of critical process and implementation issues make it unlikely that the BDCP will be successful in restoring imperiled Delta fish species while meeting water supply needs. We look forward to developing a more constructive and more substantive relationship with the federal government in the future. Please feel free to contact me anytime to discuss any of the issues raised in this letter.

Very truly yours,

SOLURI MESERVE

A Law Corporation

By: 

Osha R. Meserve

cc: David Nawi (david_nawi@ios.doi.gov)
Frederico Barajas (fbarajas@usbr.gov)
Melinda Terry (melinda@northdw.com)
Jerry Meral (jerry.meral@resources.ca.gov)
Local Agencies of the North Delta Steering Committee