

NOTICE INVITING PUBLIC COMMENT ON BAY DELTA CONSERVATION PLAN (BDCP) MEMORANDUM OF AGREEMENT AND ESTABLISHING ADDITIONAL OPPORTUNITIES FOR STAKEHOLDER INPUT ON BDCP

The U.S. Department of the Interior and the California Natural Resources Agency are announcing an opportunity for members of the public to comment on the "First Amendment to the Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance For the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan" (BDCP MOA).¹ In addition, these agencies and the Department of Commerce are establishing a series of actions designed to enhance opportunities for public input into key issues relating to the BDCP and the related Environmental Impact Statement/Report (EIS/EIR) process.

PUBLIC COMMENT ON THE MOA

The Bureau of Reclamation (Reclamation), the California Department of Water Resources (DWR), and several federal and state water contractor agencies (Public Water Agencies) developed a BDCP MOA intended to enable timely analysis of conservation and water supply measures developed in the BDCP and to address related financial matters. The BDCP MOA is intended to replace in its entirety an earlier MOA on the same topic signed by the same parties in March 2009. The MOA would not alter any of the fundamental roles and responsibilities of Reclamation, other federal agencies, or DWR with respect to preparation of the EIS/EIR for the BDCP. These roles and responsibilities are set forth in the June 2010 "Agreement Regarding Preparation of a Joint Environmental Impact Report/Environmental Impact Statement for the Bay Delta Conservation Plan."

The BDCP MOA has been signed by some, but not all, of the parties and accordingly, by its own terms, is not in effect.

Recently a number of Bay Delta stakeholders and interested legislators have raised questions about various provisions of the BDCP MOA and have requested that an opportunity be provided for public comment on the BDCP MOA. Questions include whether provisions of the MOA conflict with legal obligations of federal and/or state law, whether the MOA gives Public Water Agencies special access to draft documents, and how schedule-related and other commitments might impact the BDCP decision-making process.

The "Federal White Paper on the 2011 Bay Delta Conservation Plan MOA" (White Paper) provides a summary of the background and function of the BDCP MOA. As explained in the White Paper, many of the questions raised about the BDCP MOA are rooted in misunderstandings about the nature and/or scope of the document. Nonetheless, the agencies agree that the process would be well-served by broadly sharing the BDCP MOA and related documents and by soliciting comments on the BDCP MOA before it is finalized and becomes

¹ The BDCP MOA was posted on the BDCP website on September 6, 2011 and can be found at http://baydeltaconservationplan.com/news/news/11-09-06/Memorandum_of_Agreement_MOA.aspx. Comments must be received no later than 5:00 p.m. on November 16, 2011.

effective. Therefore, the agencies will accept public comments on the BDCP MOA and the White Paper until November 16, 2011.

Comments may be submitted by e-mail to BDO@usbr.gov or by mail to the Bureau of Reclamation, Bay-Delta Office, 801 I Street, Ste. 140, Sacramento, CA 95814. Comments must be received no later than 5:00 p.m. on Wednesday, November 16, 2011.

The BDCP MOA will not go into effect before the agencies have had the opportunity to review and consider all comments received by the November 16 deadline. Based on comments received, the agencies will provide feedback to the comments and, among the potential future approaches, may decide that no actions are needed; that modifications to the BDCP MOA should be considered by the parties to the MOA; that the MOA should be supplemented or amended by the Parties; or that other actions, such as entering into additional agreements or commitments with other entities, should be taken. In addition, consideration will be given to whether other actions or agreements should be developed to ensure that other stakeholders may have appropriate access to draft environmental documents.

ADDITIONAL OPPORTUNITIES FOR STAKEHOLDER INPUT ON THE BAY DELTA CONSERVATION PLAN

In recent months, the California Natural Resources Agency, with the support of the U.S. Departments of the Interior and Commerce, has taken a number of steps to enhance opportunities for public input and independent scientific review input into the development of the BDCP. Monthly public meetings are being held in addition to the creation and use of technical working groups with professional facilitation. The increased use of independent science includes input into the development of goals and objectives for the BDCP, as well as reviewing the effects analysis associated with the BDCP. Overall, development of the BDCP is at a key point where many important technical, science-related, and policy issues are under active consideration and are beginning to be addressed. It is therefore increasingly important that the state and federal agencies continue to look for ways to improve transparency and broad stakeholder involvement as development of the BDCP and its related environmental analyses continue. Accordingly, high-level representatives of both state and federal agencies are increasing their direct dialogue with a number of different interested parties in order to gain a better understanding of the key issues that must be addressed and resolved. Public meetings will continue to be a high priority and will address a variety of subjects, both procedural and substantive. Additional suggestions for process improvements are also welcome during the comment period and will be considered by the agencies as they continue their efforts to develop a sound and effective BDCP.