March 27, 2009

Secretary Mike Chrisman
Undersecretary Karen Scarborough
California Natural Resources Agency
Bay Delta Conservation Plan Steering Committee Members
1416 9th St., Suite 1311
Sacramento, CA 95814

Secretary Chrisman, Undersecretary Scarborough, and Committee Members:

Solano County’s Board of Supervisors would like to convey requests for action to the Bay Delta Conservation Plan (BDCP) Steering Committee. It appears that despite meetings on a staff level and recent presentations to the Board of Supervisors of some Delta counties, important information from the counties has not been included in documents from Steering Committee. This letter is written to ensure our concerns and the desire for a written response is communicated. We will also be providing issues to be addressed in the environmental review of the BDCP through the scoping process.

Enclosed are Solano County’s Guiding Principles which were adopted on April 1, 2008 along with a Solano County Delta Related Preferred Outcomes List which was adopted on March 17, 2009. The Guiding Principles represent our guidelines for Delta management decisions that include results desired from Delta-related decisions. The “Delta Related Preferred Outcomes List” include ground level, project related requirements that should be of special interest to BDCP, since these are threshold conditions that should be designed into projects from the beginning. Although some of the items included in these documents are not related to BDCP activities, many are and we ask that you review them carefully.

Solano County has been a good steward of the land. Our County adopted city-centered growth decades ago to protect production agriculture. The availability of large expanses of agricultural land in Solano County has made us a disproportionate target for aquatic ecosystem restoration. Those kinds of conversions would harm the production agriculture our area has sustained. Also, habitat development and changes to flow conditions in the Yolo Bypass will impair and diminish flood protection in eastern Solano County.

Additionally, continued access to Delta agricultural water is essential to a healthy agricultural base in the eastern county. Habitat restoration activities have the potential to damage Solano County’s ability to continue providing a secure and reliable agricultural water supply.

The January 12, 2009 draft BDCP Conservation Strategy document contains core element proposals for large scale tidal marsh restoration in the Cache Slough and Suisun Marsh areas. These proposals
have the potential for tremendous negative impacts. Solano County feels that we deserve direct, written assurance from the BDCP Steering Committee that the full impact of such massive change will be completely addressed. The completed BDCP must incorporate the following, related to BDCP activities in Solano County:

- Preserve tax, assessment and other revenue sources and mitigate the costs of increased public services
- Mitigate economic and socio-economic impacts of projects and management changes;
- Maintain a viable agricultural economy

Please pay particular attention to the “Parameters” document, as noted above. We consider these items fundamental requirements for projects and proposals affecting Solano County.

Our goal as part of any Delta solution is to ensure full mitigation of impacts to local Delta interests from Delta conveyance, habitat and recreation projects. This would include adoption of a policy that the State will fully mitigate the local impacts of Delta conveyance, habitat and recreation projects and programs so local Delta interests will not be adversely impacted. We are looking for a commitment that all State agencies will be directed to immediately work with local Delta interests, including the five Delta counties and impacted Delta area cities, to obtain their direct input into all Delta planning efforts and Delta programs.

The BDCP process is progressing rapidly, so we ask that you provide for us with substantive, responsive proposals for inclusion into the Plan. We hope these comments are sufficiently specific, and appreciate your consideration. Please contact Kathy Barnes-Jones at 707-784-7914 if you have any questions.

Sincerely,

John M. Vasquez
Chair

Enclosures

cc: Senator Lois Wolk
    Senator Pat Wiggins
    Assembly Member Mariko Yamada
    Assembly Member Noreen Evans
    Contra Costa, Sacramento, San Joaquin, Yolo Boards of Supervisors

The Bay-Delta Conservation Planning process, Delta Vision, Public Policy Institute of California, and the Governor have all recommended further study of some type of Delta water conveyance facility to meet the needs of south of Delta and statewide water users. In short, almost every research, public policy-based organization and process is proposing further study and analysis of improvements to Delta water conveyance. It is clear that future water export operations in the Delta will change. The key question is, in what form or fashion, and in what way will the future changes in shape and water conveyance operations and ecosystem restoration projects in the Delta impact Solano County? Unfortunately, the answer is unknown at this time.

The Delta Vision Blue Ribbon Task Force released the first part of a two-part report "Our Vision for the California Delta," which offers a vision for sustainable management of the Sacramento-San Joaquin Delta for 30 to 50 years into the future. Currently this group is developing a strategic plan to implement the Vision. Included in this report were three specific strategy recommendations regarding "conveyance." They are:

◊ A revitalized Delta ecosystem will require reduced diversions, or changes in patterns and timing of those diversions, upstream, within the Delta and exported from the Delta at critical times.
◊ New facilities for conveyance and storage, and better linkage between the two, are needed to effectively manage California's water resources, the estuary and exports.
◊ Major investments in the California Delta and the statewide water management system must be consistent with, and integrate specific policies in this vision. In particular, these strategic investments must strengthen selected levees, improve floodplain management and improve water circulation and quality.

The Task Force also identified Near-Term Actions that must be taken because threats to the Delta and Suisun Marsh are so serious. These focus on preparing for disasters in or around the Delta, protecting its ecosystem and water supply system from urban encroachment, and starting work soon on short-term improvements to both the ecosystem and the water supply system. One specific reference dealing with conveyance is:

◊ Improvements in the current water conveyance and groundwater surface water storage systems should be pursued as rapidly as possible by the responsible agencies and departments, upon direction by the Governor.

Therefore, the County should support a position of further study in a show of good faith in the overall process. However, extreme vigilance is recommended with the goal of protecting County prerogatives, rights, financial needs, impacts to its residents,
future Delta governance, and legal options. It is important for the County to be willing to work with others and consider their needs, but the County must have its needs met involving future delta activities, landscapes, and operations. Anything less is unacceptable.

2. Seek Full Mitigation Of Negative Impacts To The County, Its Citizens Or Its Economic Well-Being And Ensure That Solano County And Other Delta Community Concerns Have A Standing Equal To Delta Water Export Interests And Ecosystem Improvements.

It is evident that significant impacts could be coming the County’s way. These impacts come in the form of lost business opportunity and income, lost tax and assessment revenues, increased compliance costs with endangered species laws, additional strain on local emergency services, changes to transportation routes, changing flood control operations and reliability, and a potential reduction in urban and agricultural water supplies.

Develop Compensation Concepts
It is critical that the County prepare compensation concepts to determine methods of assessing and receiving financial mitigation of various impacts. The County needs to define, quantify, and seek reparations for these losses, with the goal of not incurring new costs already borne by the County, cities, special districts and their residents. Solano County must actively seek mitigation of all negative impacts to its habitat and urban areas, and ensure that other jurisdictions are held financially responsible for any negative impacts. It will be critical to monitor and support legislation that would provide for mitigation to Solano County and its residents as a way of ensuring that Solano County and other Delta community concerns have a standing equal to Delta water export interests and ecosystem improvements.


Being vocal on priorities will show others interested in Delta policy that the County must be included when new policies and proposals are considered. Providing written follow-up, when appropriate, will document the County’s position on critical issues. This will further the County’s desire for a ‘seat at the table’ and continue to reflect an offensive posture. Seven specific issues should be defended: land use authority, tax, assessment and fee revenues, public health and safety, economic development, agricultural stability, environmental protection, and the Suisun Marsh.

Land Use Authority
One of the greatest threats the County faces is losing its land use authority within the legal Delta region. Consideration should be given to existing authority rather than creating new authority. Existing authority of the Delta Protection Commission (DPC) provides for land use authority oversight (appeal not permitting authority) through county general plans and local governmental representation on the DPC.
The Commission previously provided a letter to Blue Ribbon Task Force that suggested establishing objectives, mandates, benchmarks and timelines through Delta Vision to consider statewide input but then provide authority to carry out through locally driven processes such as DPC.

The Delta Vision identifies eco restoration and water supply as co-equals although there has also been recognition of Delta as place and Delta governance/strategic finance. Control over lands within the County’s borders will help continue the primary function of local government—meeting the needs of its citizens and protecting their health and well being. Joining neighboring counties to protect this right should be paramount.

**Tax, Assessment and Fee Revenues**

Many of the Delta processes and proposals focus on changing land use from private, agricultural, and habitat-based usage to public, habitat-based usage. This will have a negative impact on Solano County and local special district revenues in the short-term with unknown long-term revenue impacts. Concern over the future financial health of the County is not only warranted, but a powerful argument against those seeking to reshape the Delta because of the potentially negative impacts to services provided for County residents.

**Public Health and Safety**

Public safety is the primary responsibility of County government and could be placed at risk with increased public lands to monitor, impaired capacity and operation of flood control and drainage projects, degraded levee systems (or lack thereof), and increased salinity levels near domestic and agricultural water supplies. The re-wilding of lands near urbanized centers will increase public health threats from expanding mosquito populations and increased vector control costs to control the spread of these populations. It will be important to determine how the County and local governments will pay for increased law enforcement patrols, emergency response, water supply and treatment costs, and the control of elevated public health threats directly and indirectly related to the loss of revenue as a result of land use conversions and modifications.

**Economic Development**

It is in the interest of and the obligation of Solano County to ensure that sufficient venues remain available for the retention and expansion of existing businesses and new ventures to meet projected employment and economic development needs. To this end, the County has focused the update of its General Plan to improve the viability of agriculture and to provide targeted areas for employers that are not appropriate for urban settings. Many of the Delta proposals would compromise this strategy and the county's agriculture industry, which also serves as the mainstay of the urban separators that contribute significantly to the county’s quality of life.

**Agricultural Stability**

Protection of Solano County's Farm Gate stability is critical. According to the County's Agricultural Commissioner’s annual report, Solano County had 360,562 acres that were under agricultural production in 2006. This agriculture generated approximately $233 million in commodity sales in 2006. Solano County must be fully compensated for any negative impacts to its agricultural resources.
Environmental Protection
Solano County seeks to balance human and environmental needs in support of its diverse land uses that include farmlands and approximately 80 square miles of water. The citizens of this County made a very public commitment to protecting our environment over 20 years ago with an Orderly Growth Initiative that has ensured the continued prosperity and sustainability of open spaces and active agriculture lands. The County is in the process of a General Plan update that will ensure these long-established set of values are not compromised. Many of the Delta proposals will impact the County’s ability to sustain those environmental objectives.

Suisun Marsh
The County remains very concerned with impacts on the Suisun Marsh and its natural habitat and wants to ensure that future action is consistent with the Suisun Marsh Preservation Act and the Suisun Marsh Plan which covers marshlands, bays and sloughs in the waters surrounding the marsh. This means providing for adequate water quality, exercising sound water management practices including drainage within the Marsh, providing the production of valuable waterfowl plant foods and future supplemental fresh water supply.


Many of the processes and proposals envision a reshaping of the current Delta landscape and replacing it with what is anticipated to be a more dynamic, resilient, and sustainable environment. If these processes prove financially detrimental to the County, it will be critical to quantify and recoup any loss. Infrastructure components continue to play a vitally important part in a “new” Delta by providing the necessary access and movement of goods throughout the area, agricultural support services, and recreational opportunities while also protecting the remaining features from deadly flooding and salinity intrusion. It should be a Board priority to support the retention and improvement of remaining infrastructure components so vital to a properly functioning Delta, not only because of the benefits it provides to the County, but for statewide priorities (water transfers) these protect. Three areas of infrastructure improvements should be pursued; Transportation Corridors, Levees/Flood Control/Storage, and Water Delivery Systems.

Transportation Corridors
Roads, highways, and shipping channels are vital to inter-County mobility, public safety, a healthy business climate, recreation, and agricultural vitality throughout the County. Highway 12 is a prime example of a transportation corridor that supports commerce, emergency response, and circulation in the County, but also transects the Delta. Other routes of north-south and east-west mobility are Highway 113 and Interstate 80, respectively. Ensuring these three routes are operational is not only important for economics and emergency preparedness, but also for the military readiness of this country. Travis Air Force Base is vital to this area. By having adequate interconnectivity on adjacent transportation corridors, Travis can be maximized for military and humanitarian efforts when needed. Maintaining and improving these routes is vital and funding opportunities should be pursued.
Levees/Flood Control/Storage
Projects and activities that have the effect of altering flood hydraulics and hydrology must, as a component of those projects and activities, provide protective mitigation to Solano County lands and populations. Maintaining the capacity and functionality of flood control systems surrounding and protecting the residents of the County is necessary for the protection of life and property. The ability of the local communities and Reclamation Districts to maintain and operate these structures is in direct correlation to the financial ability of having the tax and assessment base to fund the required work and to leverage State and Federal funds for maintenance and improvements. This highlights the County’s need to maintain a healthy revenue stream.

Another impact to these facilities is endangered species issues that can limit and sometime prohibit the maintaining entity from performing needed work in a cost-effective way. Obtaining ESA take authority, as a component of the ongoing Bay Delta Conservation Plan, and reliable and reasonable Endangered Species Act (ESA) “safe harbor” protection that applies to all parties along with financial resources to ensure that required facilities are properly maintained and operated is critical to the overall protection of county residents, property and commerce.

Levees are also vital for rural communities and as a defense for agricultural and salt water intrusion. Consideration should be given to the needs for dredging and reuse of material. Federal funding is frequently unreliable for flood control projects. It is therefore critical that the County identify and secure reliable and sustainable funding sources that are accessible to local government.

Small storage reservoirs, or “detention basins,” strategically located throughout the County can help level off high stream flows during storm events to reduce flooding. An additional benefit of constructing such facilities is the reduced storm flows that can overburden and overtop wastewater treatment plants, which impairs local water bodies and possibly contaminate drinking water sources. Some municipalities are in the process of building or have already built these types of facilities and should be supported where reasonable.

Water Delivery Systems
Changes in Delta operations will require the County receive a reliable water supply, both in terms quantity and quality. The major cities in the county (and Napa County) receive water from the State Water Project (SWP) through the North Bay Aqueduct (NBA). The pumping plant intake to the NBA is located in a slough in eastern Solano County. Additionally, tens of thousands of acres in eastern Solano County are wholly dependent on Delta water supplies for agricultural uses.

All the recent Delta studies and programs see these agricultural areas in eastern Solano County as prime candidate lands for habitat restoration for the benefit of threatened and endangered species that are in decline in the Delta. However, creating environments for threatened and endangered species to thrive so close to critical water supplies for the County will only increase operating difficulties for urban water suppliers and threaten a critical mass of Solano agriculture in the immediate future. Therefore, alternatives need to include solutions that protect the continued operation and financial viability of the NBA, agricultural intakes in the northwest Delta and the managed wetlands in Suisun Marsh. These solutions should be funded and maintained with financial resources provided by those restoration projects and their sponsoring beneficiaries, coupled with
ESA take authority, as a component of the ongoing Bay Delta Conservation Plan, and reliable and reasonable “ESA safe harbor” provisions for continued NBA and agricultural operations in Solano County. Changes in the Delta will have an adverse water quality impact on the NBA (but not on agricultural divisions).

**Improved Emergency Response**
Department of Water Resources (DWR), Army Corps of Engineers, and Sacramento District must deploy a robust command and control, maintenance and repair capability. The State and counties should coordinate with local agencies to ensure that equipment and supplies (earth moving equipment and supplies of rock/sand) are continuously available at locations throughout the Central Valley to enable agencies to respond rapidly to flood threats and levees that are threatened with failure. Continue to establish and maintain stockpiles of the necessary supplies.

Coordination is essential between all the organizations of the government and exercises and training to prepare for emergency response must be incorporated into business plans.

---

**5. Ensure The County Is A Voting Member Of Any Delta Governance Structure And That Locally Elected Representatives Are A Majority Of The Leaders.**

Taking an active and engaged position in multiple, strategically selected policy development arenas allows the County to “have a seat at the table” and minimizes or prevents the County from needing to take a defensive posture. When participating in policy development arenas, three specific areas that should be pursued are Delta processes, State and Federal Legislatures, and the California water community.

**Delta Processes**
The County is becoming actively engaged in many Delta processes and proposals, through consultants, County staff, elected officials, and governmental entities the County has membership in (Delta Protection Commission [DPC], Solano County Water Agency [SCWA], Solano City County Coordinating Council [SCCCC]). Efforts should continue with meeting attendance, comments to programs and proposals, coordination amongst County consultants and staff, and discussion of County positions within the DPC, SCWA, and Solano CCCC. This will also allow the County to communicate and educate its residents on the current and future importance of these matters. The County should consider the use of additional resources, as they may become available, such as the California State Association of Counties, League of California Cities, California Central Valley Flood Control Association, and the Association of California Water Agencies to advance its policy positions.

**State and Federal Legislatures and Agencies**
Utilizing the County’s Legislative Advocates, seek meetings with State and Federal elected officials to explain the County’s concerns regarding impacts from Delta processes and programs. This will allow for direct communication with decision-makers in Sacramento and Washington, D.C., which steer State and Federal agencies’ future policies and regulations. An effort to influence State and Federal senior staff employees at the policy and decision-making level should be considered an essential component of this effort.
California Water Community

One-on-one meetings with individual water districts, especially the so-called "water export community," will show the County is serious in protecting its rights and citizens from adverse decisions regarding the future shape of the Delta, while also facilitating relationships with those who seek water from Northern California. These efforts should be coordinated with SCWA’s existing relationships with the California water community. The County should evaluate the potential to establish strategic alliances with other Delta and Delta tributary counties that can strengthen the message on common interests and positions.

6. Utilize Legal Standing For Any And All Proposals And Programs That Directly Or Indirectly Impact The County, Its Citizens Or Its Economic Well-Being.

While still unclear, the County will need to preserve its legal standing in a few specific areas if it hopes to achieve success in current Delta discussions. These areas are water rights, area-of-origin and Delta protection statutes, and salinity standards.

Water Rights

The County Supervisors are members of the Solano County Water Agency Board of Directors (SCWA). A substantial portion of Solano County is within the Sacramento River watershed and a substantial portion is within the legally defined Delta, wherein future water use needs are statutorily superior to export needs. Additional protections apply to the statutory Delta. Protection of the County’s ability to secure and defend its area-of-origin rights to water is essential for future growth and prosperity. These rights and the existing appropriative and riparian rights within the county should be well understood and vigorously defended by the County. These existing statutory, contractual, and constitutional water right protections accrue to the benefit of Solano County, its residents and businesses. Proposals to realign and modify these protections and priorities have the potential to cause serious social and economic damage to the County.

Working with SCWA and other water right holders within its borders, the County should seek to perfect these rights and act diligently to maintain their specified quantities, without reduction. Solano County will vigorously defend the statutory protections afforded the County, its cities, districts and residents.

Area-of-Origin and Delta Protection Statutes

Area-of-Origin is a tenant of California’s water law that in essence allows those in the area-of-origin to obtain additional water if their needs warrant at the expense of existing water users. The County is part of the Sacramento River watershed and has rights for additional supplies for future growth and prosperity, and should support others within the area-of-origin in their claims for additional supplies. While the area-of-origin concept has not truly been tested in the courts, it should be carefully watched and monitored. There may also be a movement in the State Legislature to change the area-of-origin statute. The County would be well served to oppose any and all attempts to change the law. The Delta is provided an additional level of statutory protection, California Water Code (CWC) §12201, 12202, 12203, 12204 & 12205, collectively part of the Delta statues.
**Salinity Standards**
High levels of salinity impacts drinking water, agricultural production and certain types of natural habitats, and has also been of great concern to county residents. State and Federal water operations are currently dictated by the amount of salinity within certain areas of the Delta CWC §12202. These standards are constantly being debated by various water interests (exporters, environmentalists, delta counties, etc.) but ultimately, the Legislature and State Water Quality Control Board holds the power to dictate the acceptable levels. Certain County water users also possess contractual protection of water at a specified quality as measured by various levels of salinity, i.e. North Delta Water Agency Agreement with the California Department of Water Resources. As such, Solano County should seek to coordinate with County entities that are directly impacted by salinity and seek a unified position on appropriate salinity levels for County users.

**CONCLUSION**

Adopting the six Guiding Principles will allow the County to be well placed to obtain lost resources and be held harmless with whatever proposals and processes emerge from future Delta discussions. This body certainly has every right to demand concessions of those who seek to irreparably change the lives and livelihoods of Solano County’s residents.
SOLANO COUNTY DELTA RELATED PREFERRED OUTCOMES LIST

Parameters for Delta-related habitat projects and longer term actions by the State

Tier One

1. Payment in-lieu of property tax for lands changing from private to public ownership

2. Payment for lost business opportunity and income, including socio-economic issues

3. Continued payment of special district assessment(s) and fees

4. Mitigation of costs for increased public services (e.g. law enforcement, fire, rescue, roads, drainage, flood protection)

5. Mitigation for economic impacts of agricultural land converted to habitat (lost business opportunities and income; continued payment of district assessments for funding for O&M and infrastructure [including levees] from project proponents; emergency services and road impacts; along with increased flooding due to changes that will be handled through the CEQA process

6. No adverse changes to flood protection for surrounding areas including increased costs for O&M and regulatory compliance

7. Funding and establishment of the responsible entity for monitoring and adaptive management of habitat projects and associated lands

8. Long term funding for improvements and maintenance of Delta levees

9. Develop and fund a comprehensive emergency response program

10. Analyze and mitigate for any flood impacts to Rio Vista

11. Provide funding for NBA Alternate Intake Project

12. Determine funding for protection from levee breaks and ensure full mitigation

13. Delta representation as a voting member on all governance bodies involved in oversight of the Delta

14. Willing sellers only

15. No amendments to Area-of-Origin or Delta Protection Act laws

16. Maintain the existing water rights priority system

17. Permanent protection/preservation of like or better quality agricultural lands for agricultural lands converted, compliance with local policies regarding conservation easements

---

1 For all items in this list that require funding, such funding must be guaranteed to Yolo and Solano Counties and applicable Special Districts in perpetuity and allocated outside the state's budget process.
18. Maintain water quality by establishing Safe Harbor for agricultural and urban point and non-point discharges so that local runoff is not required to be improved above normal requirements due to creation of new habitat.

19. Mitigation for increased organic carbon at North Bay Aqueduct

20. Mitigation for changes in salinity in the north Delta and in the Suisun Marsh

21. The North Delta Water Agency Agreement with the State of California shall remain in full force and effect, both as to the specific terms of the agreement and the water quality and quantity intent

22. Credits for the Counties and Special Districts to obtain mitigation of future impacts associated with County and Special District public works projects (e.g., roads, bridges, levee work) as part of habitat projects

23. Provide internal buffers sufficient to avoid the need for additional restrictions on farm practices and public agency activities on surrounding lands

24. Full ESA and CESA protection for neighboring lands/landowners/agencies including reliable and enforceable Safe Harbor for adjacent lands

25. Full ESA and CESA protection for water diversions within the project regions, including funding for installing and operating fish screens or other diversion modification requirements

26. Local agricultural diversions need take coverage through North Delta Water Agency participation in BDCP along with interim relief for interim habitat projects. Reliable and enforceable Safe Harbor or assumption of ESA obligation, based on pre-POD conditions, is required

27. Mitigation for loss of terrestrial habitat for special status species and other wildlife

28. No out of Delta water transfers from converted lands

29. Protect Delta transportation corridors such as Highways 12 and 113.

30. Ensure upstream "dumping" of flood waters does not negatively impact Solano County or the Yolo Bypass

31. BDCP must recognize the work of the Suisun Marsh Charter in determining salinity changes and limits on acres converted

32. North Delta Water Agency salinity standards must be recognized to preserve Delta agriculture
Tier Two

1. Project impacts originating in Yolo county must be discharged in Yolo county to avoid direct or indirect negative impacts to Solano County

2. Consistency with the Yolo Natural Heritage Program and Solano Habitat Conservation Plan and consider the Suisun Marsh Plan of Protection

3. Protection of existing high value habitat

4. Exclusion, detection and eradication programs for vectors, invasive species and agricultural pests

5. No increase in mercury release or transport or toxic pollutant load in general

6. If possible, projects will be designed to accept dredged materials from the Sacramento Deep Water Ship Channel

7. Recognition that the Yolo Bypass is primarily a flood control feature of the Sacramento Flood Control Project and that all other uses shall be subordinate, compatible with, and without hydraulic impact to the current and future needs of the Sacramento River Flood Control Project

8. Projects shall not result in increased point and non-point discharge requirements for agricultural and urban activities

9. Permanently funded stakeholder working group for the Yolo/Solano portion of the Delta

Other

Mosquito & Vectors – Good neighbor programs usually deal with vectors. Vector control must be funded in management plans.