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November 14, 2013

The Honorable John Laird
Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Natural Resources Agency - San Joaquin County Meeting Re: Bay Delta Conservation Plan

Dear Secretary Laird:

It was a pleasure meeting with you in San Joaquin County on November 6th. While we came to no conclusions, it is always helpful to discuss important areas of agreement and disagreement in an attempt to arrive at an end point that meets our mutual goals.

In our meeting we discussed a number of important issues including your Agencies' recently released California Water Action Plan (CWAP), Bay Delta Conservation Plan (BDCP) governance and funding, assurances, adequate funding for the legislatively-created governing bodies of the Delta, local agencies' lack of trust that our interests and rights are being recognized and protected, and most importantly, water supply and water quality related impacts to the Delta and San Joaquin County.

The County is reviewing the 20-page draft CWAP and will likely have comments submitted within the next few weeks. As discussed, while the County cannot support a Plan that presumes the necessity for and environmental validity of isolated conveyance in the Sacramento-San Joaquin Bay Delta, there were portions of the CWAP which bear further analysis, including new water storage, water quality remediation, and flood control. Although you stated that the CWAP is a means for addressing water issues Statewide, the County remains concerned that funding for the BDCP proposed tunnel project will exhaust funds available for worthwhile projects that have come out of collaborative discussions among Coalitions willing to focus on projects that work for all. Also, BDCP funding will likely negatively affect the ability of the State and local entities to meet the State's goals of regional water self-sufficiency.

In regards to BDCP governance, you shared that your goal is to figure out how to involve the Delta Counties in that governance. We have in the past suggested a number of ways to accomplish that involvement. But, you asked, perhaps rhetorically, how those opposed to the BDCP could participate in its governance. Evidently, following up on comments you made to us and the other four Delta Counties during the BDCP Principals briefings that governance participation should be based on proportionality of interest in the BDCP, you suggested that there might be two representatives of the Delta Counties as well as two representatives of the Water Contractors, among others involved with the governance of the BDCP. As we pointed out, there are problems with that approach, including the presumption that we could truly be involved in governance of a project that we were excluded from during the development and planning

phase, and have had no reasonable opportunity to shape. Additionally, there is a fundamental problem of numerically equating governance structure involvement when some of the participants are regulators and others are those regulated.

With regards to assurances, you shared that you have had conversations with Senator Feinstein about the BDCP and BDCP-related agreements, and that if there are agreements, we have to hold to those agreements and that the challenge is to arrive at assurances that are enforceable. The County concurs that there absolutely need to be legally enforceable assurances, but not just for the BDCP. We need to arrive at legally enforceable assurances that, as to Delta water quality and quantity at least, past promises made will be kept and laws created to impose standards on water quality and quantity, as well as water resource operations, will be enforced. We went over those past and recent failures to keep these promises and to enforce these laws and we hope that this will be a priority matter with you as we move forward in your discussions with us and with the other Delta Counties. Attached for your immediate reference are Central Delta Water Agency letters related to recent failures in enforcing regulations.

The County expressed concerns that BDCP funding (assuming the BDCP outlined sources of such funding come to fruition) will siphon off funds available for workable, acceptable and cost-effective near-term solutions. You indicated that the State's bonding capacity would not be so burdened by the BDCP funding that other State-wide water resource and flood control projects could not be implemented - noting that this was because the BDCP is based on the concept of "beneficiary pays". The County believes that, in order to be a valid basis for the advancement of the BDCP, the "beneficiary pays" concept should be fully analyzed and enforceable provisions placed in the BDCP. In regards to a comprehensive benefit/cost analysis of the BDCP project, you indicated that it is your goal to complete a benefit/cost analysis once the project is fully defined. The County maintains the position that a benefit/cost analysis should be conducted prior to submittal of the BDCP to State and Federal agencies for endorsement, fully disclosing the projected benefits and costs of the project to taxpayers and rate payers.

Discussing the adequacy of the funding of those agencies entrusted by the Legislature with governance in the Delta, the County pointed out the precarious and stifled financing arrangement for the operations of the Delta Stewardship Council, the Delta Protection Commission and the Delta Conservancy. How are the very agencies empowered by law to protect and conserve the Delta and to assist as legally mandated in the attainment of the co-equal goals of the 2009 Delta Reform Act supposed to carry out their missions when they are severely underfunded and adequate funding seems to be withheld? Clearly, one of the points of building trust is to demonstrate that the Delta governing agencies closest to the people are meaningfully funded so that they can do their jobs.

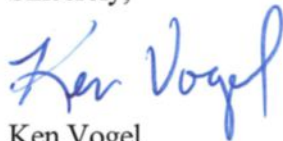
As you said, we need to work together to come to acceptable solutions. The Legislature is doing this as the Senate and Assembly move towards each other in fashioning a water bond. And, there will be a need to work together to have legislative enactments that address the concept of trust. But, we also need to have further discussions about what we can do to address not only the Delta's needs but the State-wide water needs should BDCP not come to pass. As we asked, what is Plan B? For example, the County expressed the need to strengthen the existing Delta levees which serve as the Statewide water conveyance system today. You did not concur that strengthening Delta levees was a workable solution and a valid alternative. We clearly need to have more discussions regarding your position on this as it conflicts with the studies and proposals we have discussed with Coalitions in which we have participated over recent years.

Symbolic of our meeting, this letter begins and ends highlighting the overarching issue that there is insufficient water in the Delta to satisfy the level of water export planned for in the BDCP, particularly in dry years. For example, currently, the projects export between 3 and 7 million acre feet of water out of the Delta, after the water flows into and through the Delta to the export pumps. With an isolated facility, there would be between 3 and 7 million acre feet less fresh water flowing into and through the Delta. It would be nearly impossible to "improve" this fresh water estuary by removing between 3 and 7 million acre feet from it, especially in drought years, such as 2013, the driest calendar year on record, when there is insufficient water in storage to meet permit conditions and export demands. Furthermore, nearly all fishery and regulatory agencies agree that more inflow and outflow are needed to protect endangered and threatened species, and improve fisheries. Furthermore, it is important to acknowledge that nearly all fishery and regulatory agencies agree that more Delta inflow and outflow are needed to protect endangered and threatened species and improve fisheries.

The County remains committed to engaging in efforts focused on improving statewide water supply reliability and restoring and enhancing the Delta ecosystem, including strengthening the existing Delta levee system, implementing near-term Delta improvement and water storage projects, water recycling and conservation measures, as well as other efforts to address the 2009 Delta Reform Act.

Thank you for your visit to the County, and we look forward to working with you on these important issues. If you have any questions, please contact me or Supervisor Larry Ruhstaller at (209) 468-3113.

Sincerely,



Ken Vogel
Chairman

Attachments (Three)

BOS11-02

c: San Joaquin County Board of Supervisors
San Joaquin County State and Federal Delegation
Delta Counties Coalition
Central Delta Water Agency
South Delta Water Agency
Delta Coalition