



Delta Independent Science Board

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June 24, 2013

To: Phil Isenberg, Chair, Delta Stewardship Council
Chuck Bonham, Director, California Department of Fish and Wildlife

From: Delta Independent Science Board

Subject: DISB Comments on Current Administrative Draft of
BDCP Documents

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This memo comments briefly on the administrative draft EIR/EIS dated May 10, 2013, and on the Plan's draft Chapters 5 and 6 dated March 27, 2013. We offer six unranked suggestions:

1. Extend the comment period on the Public Draft EIR/EIS beyond the Delta Science Program's review of the Effects Analysis.
2. Clarify the dual roles of regulatory agencies that contributed to the EIR/EIS.
3. Provide project-level analyses that treat the co-equal goals equally.
4. Discuss reducing water demands from the Delta as an alternative considered.
5. Clarify plans and implementation for adaptive management.
6. Provide readable comparisons of the environmental effects of analyzed alternatives.

The Delta Reform Act requires the Delta Independent Science Board to review the BDCP EIR/EIS. We interpret this charge broadly to include commenting on administrative drafts of the EIR/EIS and of the Plan itself. Previously we commented on the structure of BDCP science and the reviewability of the draft BDCP documents (June 12, 2012; <http://deltacouncil.ca.gov/science-board/delta-isb-products>). Recently, we engaged in further discussions over BDCP science structure (<http://deltacouncil.ca.gov/science-board/delta-isb-public-correspondence>). We plan to provide further comments after the public draft EIR/EIS has been released.

1. Effects Analysis and the public comment period. The Plan's Chapter 5, "Effects Analysis," is central to the EIR/EIS. The chapter lays out the scientific grounds for determining the effects, favorable and unfavorable, of the Plan's many conservation measures and alternatives. The EIR/EIS discusses how these effects compare and how some unfavorable effects might be mitigated. The Delta Science Program (DSP) has coordinated two prior reviews that found the Effects Analysis wanting (<http://deltacouncil.ca.gov/science-program-event-products>). A third DSP-coordinated review is slated to focus on the public draft Plan. We recommend that the comment period on the public draft EIR/EIS extend at least 90 days after DSP's release of this third review.

2. Roles of regulatory agencies. The draft EIR/EIS counts the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife among the agencies that

prepared it (p. 1-1, lines 10-11; p. 1-15, lines 3-6; p. 2-2, lines 8-10; p. 33-4, 33-7, and 33-8). At the same time, the draft identifies USFWS, NMFS, and DFW as regulatory agencies from which the BDCP proponents are seeking permits. We suggest that EIR/EIS Chapters 1, 2, and (or) 33 describe how the regulatory agencies are separating their dual roles of preparer and regulator.

3. Levels of analysis. The administrative draft EIR/EIS makes clear that concurrent actions receive different levels of analysis (p. 1-13; 4-2 to 4-3). The concurrent actions include construction of new north Delta diversion and conveyance facilities (CM1) and "near-term" acquisition and restoration of natural communities (CM3-CM10) (EIR/EIS, p. 3-21; Plan, p. 6-3). CM1 receives both program-level and project-level assessment, while all the other actions receive program-level assessment only. The draft EIR/EIS offers several explanations: the BDCP is to be managed adaptively; few sites of ecosystem restoration have been selected; restoration is still "at a conceptual level" of design (p. 4-2). Still, the difference in level appears to give unequal weight to the co-equal goals. We advise developing the main near-term restoration actions beyond the conceptual level and giving them project-level analysis in the EIR/EIS, or explaining further how these actions would receive appropriate project-level analysis for implementation in the near term.

4. Alternatives considered. Our legislated mandate to review the BDCP EIR/EIS has been interpreted, by counsel to the Delta Stewardship Council, to include commenting on whether the BDCP EIR/EIS evaluates "a reasonable range of potentially feasible alternatives that would reduce or eliminate significant impacts of the project and obtain most of the basic project objectives and purpose." The alternatives summarized on pages 3-14 and 3-15 do not presently include reducing California's reliance on water from the Delta and its tributaries. The Delta Stewardship Council's Delta Plan highlights several approaches to reducing demand for this water ("New Water for California" in chapter 3). The draft EIR/EIS appears to say little about them except in Appendix 5B, where they are described as responses to public policies, levee failures, or climate changes that reduce supplies of water to areas south and west of the Delta. The BDCP and its EIR/EIS could go further in considering demand-reduction actions and relating them to the Delta Stewardship Council's Delta Plan.

5. Adaptive management. Another part of our charge asks whether the goals of the adaptive management plan are achievable. The public draft EIR/EIS could make several points clearer:

- How will funding and oversight of the monitoring and adaptive management plan assure the independence of the science supporting adaptive management?
- How will the monitoring and adaptive management plan be integrated with other management actions and activities in the Delta?
- What kinds of management actions are likely to be adapted? Are both operations and habitat conservation measures subject to adaptive management?
- What future conditions are likely to prompt adaptation? The draft mentions sea-level rise and changes in Delta outflow requirements. Other futures worth considering include the flooding of additional subsided islands, requirements for upstream reservoirs to release cold water, tightened water-quality standards for byproducts of disinfection, and salinity regulation for Delta and south-of-Delta agriculture.

7. *Comparisons among alternatives.* Our charge also includes the question, "How clearly are the roll-up comparisons among alternatives conveyed in the text, figures and tables?" The administrative draft EIR/EIS inundates the reader with descriptive detail while offering few readable comparisons of environmental impacts. We expect that in the public draft, each of the EIR/EIS chapters 5 through 30 will begin with an abstract that compares environmental effects of the various alternatives, with emphasis on effects of the preferred alternative. Role models include the draft's nuanced summaries of the currently tentative selection of Alternative 4 (p. 3-11 to 3-13; 31-4 to 31-8). In addition, we look forward to finding summary tables that compare alternatives in terms of expected effects on the co-equal goals. The key indicators in these tables could include water exports, reverse-flow days, and economic effects on local and special water deliveries. Our June 2012 memo contained a similar request for improved readability of the EIR/EIS and the Plan.

cc: Delta Stewardship Council Members
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