



**Item No. 9-1 REVISED**

**ACTION ITEM**  
October 21, 2015

**TO:** **Public Affairs & Legislation Committee**  
(Directors Barbre, Hinman, Tamaribuchi)

**FROM:** Robert Hunter                      Staff Contacts: Karl Seckel, Harvey De La Torre,  
General Manager                      Heather Baez

**SUBJECT:** **Public Comment Letter on California WaterFix Partially Recirculated  
Draft EIR/Supplemental EIS**

**STAFF RECOMMENDATION**

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Staff recommends the Board authorize the General Manager to submit a formal comment letter on the BDCP/California WaterFix partially Recirculated Draft EIR/ Supplemental EIS.

**COMMITTEE RECOMMENDATION**

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On October 19, the PAL Committee recommended that staff add an additional comment to the California WaterFix EIR/EIS response letter noting the Board’s concern with the schedule for the project and to look for ways to expedite the project. Staff has incorporated such a comment in the attached letter for the Board’s consideration.

<b>Budgeted (Y/N):</b>	Budgeted amount: n/a	Core <input checked="" type="checkbox"/>	Choice <input type="checkbox"/>
<b>Action item amount: \$0</b>	Line item: n/a		
<b>Fiscal Impact (explain if unbudgeted):</b> Staff & consultant time			

**REVISED**

October 21, 2015

BDCP/California WaterFix  
Comments  
P.O. Box 1919  
Sacramento, CA 95812

Dear BDCP/California WaterFix:

**Subject: Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS)**

The Municipal Water District of Orange County (MWDOC) is pleased to submit comments on the partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) for the Bay Delta Conservation Plan/ California WaterFix released on July 10, 2015. Please note that on July 24, 2014 MWDOC submitted its formal comments on the BDCP Draft EIR/EIS and has attached that document to this letter as part of the official CEQA/NEPA record.

The Municipal Water District of Orange County (MWDOC) is a wholesale water supplier and resource-planning agency governed by a publicly elected seven-member Board of Directors. MWDOC is the third largest member agency of the Metropolitan Water District of Southern California (Metropolitan). Its service area covers all of Orange County with the exception of the three original Metropolitan member cities of Anaheim, Fullerton, and Santa Ana. MWDOC and the "Three Cities" coordinate water management planning. MWDOC serves Orange County through 27 cities and water agencies and one investor owned utility, including the Orange County Water District who manages the Lower Santa Ana River Groundwater Basin.

Orange County has a population of 3.1 million people, approximately eight percent of California's entire population, and an economy with a gross domestic product of over \$200 billion or 10 percent of the state's overall economy of \$2 trillion. Orange County's share of California's non-farm businesses was about 10 percent in 2011. In addition, Orange County is a major regional employment, higher education and tourism center.

MWDOC's mission is "to provide reliable, high-quality water supplies from Metropolitan and other sources to meet the present and future needs [of Orange County] at an equitable and economical cost, and to promote water use efficiency for all of Orange County." This mission is implemented through coordinated water management and planning with appropriate investments in water use efficiency, water supply development, system reliability improvements and emergency preparedness. Our mission is supported by collaboration with our member agencies and through public outreach, water education, and legislative advocacy. MWDOC strongly supports the state and federal effort under the BDCP/California WaterFix to enhance the reliability of State Water Project (SWP) supplies and bring stability to Delta exports over the long term. Orange County remains dependent on imported water to meet approximately 45 percent of our average annual demand, with the SWP deliveries from the Delta meeting approximately half of those needs. Orange County is an acknowledged national leader in water recycling and reuse and leads the Metropolitan service area in the development of highly reliable drought proof supplies and has a long history of aggressive implementation of water conservation. Despite the extensive diversification of Orange County's water supply portfolio we specifically rely on the SWP to meet demands as well as to support groundwater conjunctive use programs and large scale water recycling programs - it is an essential part of our regional and local water reliability strategy. We have seen very clearly the vital role storage reserves and reliable local water supplies have played in this current unprecedented four-year drought. It will be even more important in the future as California copes with climate change and the potential for seismic and other emergencies.

## **General Comments**

### **1. MWDOC supports the water supply facilities as described in the Modified Proposed Alternative 4A.**

- New intakes in the northern Delta on the Sacramento River would provide the ability to capture increased flow in wet and normal years and address reverse-flow conditions in the southern Delta that are a result of relying solely on the operation of the existing south delta pumping.
- The proposed twin-tunnel conveyance system would not only enhance water supply reliability and provide much needed stability to State Water Project deliveries it would also protect the people and economy of California from long-term catastrophic threats such as seismic events and adapt the state's backbone water supply system to deal with the anticipated effects of climate change and sea level rise.
- Expected water quality improvements in SWP supplies from the new water facilities described in Alternative 4A will result in reduced salinity, total organic carbon and bromide providing water quality benefits to consumers and promoting water recycling and reuse in Orange County and Southern California and improving the salinity balance in groundwater basins accessing this water. The latter issues are key to the successful implementation the Governor's Water Action Plan.

- Proposed project modifications identified in the RDEIR/SEIS, to consolidate intake pumping into a single facility in the southern Delta on SWP property near Clifton Court Forebay further reduces the physical footprint of the Project and is responsive to concerns expressed by Delta communities and compatible with existing land use activities.
2. **MWDOC continues to support sound science and adaptive management as key strategies in enhancing the reliability of State Water Project operations and also supports efforts to improve real-time monitoring to protect both threatened natural fisheries and water supply reliability.**
  3. **Implementation of Alternative 4A requires a significant investment by water supply agencies and their ratepayers. That investment continues to require greater certainty in regulatory assurances and participative management inclusive of the water supply contractors.**
    - The RDEIR/SEIS proposes a significant change in the approach to permitting and achievement of the legislatively mandated co-equal goals of eco system restoration and water supply reliability. MWDOC still believes its ratepayer's investment requires that the Final Plan address the issues of regulatory assurances and greater certainty of SWP deliveries.
  4. **The MWDOC Board of Directors has specifically raised a concern with the project schedule for the California WaterFix, which currently appears headed towards an operational date of 2031, thereby leaving 16 years and \$15 billion of uncertainty for a water system underpinning a \$2 trillion dollar state economy.**
    - While the Board realizes a project of this magnitude cannot be implemented immediately, every effort should be made to initiate early actions and to approach contracting in a manner that provides incentives for early completion; procurement of long lead time specialty items, including the Tunnel Boring Machines, should be pursued. If DWR has limitations on its contracting flexibility, these should be resolved via administrative or legislative methods or the contracting should be delegated to others, with the overall goal of advancing the completion date. Furthermore, once the funding commitment has been made for the construction phase, regulatory flexibility should be implemented to improve reliability of supplies until such time as the construction has been completed and the operations of the WaterFix begins.

MWDOC offers the following additional, more specific, comments on the RDEIR/SEIS:

**Water Supply Reliability.** The primary reliability benefit of a north delta diversion is the ability to capture increased flow in wet and normal years when compared to the existing south delta pumps only. Capturing this increased flow in those years is critical to the foundation of

Southern California's dry year strategy, reliable local supplies and storage. The current four year drought and the previous 2008-2010 drought clearly demonstrated the importance of investments made by Metropolitan in storage. It also highlighted the value of groundwater basins in Orange County and elsewhere in the Metropolitan service area as a storage asset that could reduce the demand for imported supplies in dry years. Being able to maintain high levels of storage in Metropolitan's system and in conjunctive use groundwater basins of its member agencies is dependent on maximizing SWP supplies during those wet and normal years when the system is much less stressed. The Final EIR/EIS should provide additional information on yield, operating criteria and the benefits of real-time operations in contributing to increasing the amount of water supply yield. This is critical information needed in planning to optimize all storage assets in southern California and enhance reliability during the inevitable prolonged dry periods that will occur. The Final EIR/EIS should also include a discussion in the No Action Alternative of the likelihood and future effects on SWP operations of further fish protection restrictions, i.e.: high outflow operating criteria, and its effect on water supply yield and water quality in the absence of implementation of the Preferred Alternative.

**Change in Regulatory Approach.** An important factor in the BDCP and its achievement of the co-equal goals was that it sought to provide more stable and reliable SWP supplies through obtaining a 50 year permit for water supply operations under Section 10 of the ESA and the Natural Communities Conservation Planning Act (NCCPA) under CESA. The change in permitting approach through ESA Section 7 and CESA Section 2081(b) is a more standard permitting path but one that contains less certainty and assurances on future requirements. A final plan should include formalized agreements between the permitting agencies and the permit holders that provides a participatory role for the involvement of the permit holders and water contractors in operational decisions. This formal agreement can take the form of an MOU identified in RDEIR/SEIS and include the Adaptive Management approach of the BDCP and the reliance on collaborative science to adjust to actual conditions and make operational decisions jointly with the permit holders. The final plan should include an MOU or other form of agreement that seeks to incorporate the "No Surprises" rule and regulatory assurances that are similar to those contained in *Safe Harbor Agreements* for listed species and *Candidate Conservation Agreements with Assurances* for currently unlisted species. These arrangements are regularly used with landowners as a means to better manage lands for habitat conservation and species protection. MWDOC strongly believes that the final plan should include these formal mechanisms that provide assurances, guarantees and participative management that reflect the intent of the BDCP and can be obtained under ESA Section 7 and CESA Section 2081(b).

**Habitat and Mitigation.** Under the BDCP water conveyance facilities and habitat enhancement and restoration were linked in the same permitting process. Under the modifications of the permitting process contained in the RDEIR/SEIS they have been delinked and the total amount of habitat acreage has been significantly reduced. While overall habitat acreage has been reduced the amount of habitat and mitigation related to construction of the water conveyance facilities under the modified Preferred Alternative 4A has substantially increased from the amount identified under the BDCP. Under the BDCP, mitigation for direct

impacts of the water conveyance facilities was significantly less than the 16,000 acres identified in Alternative 4A. Under the BDCP, water conveyance facilities (CM1) had cost responsibility for a share of habitat mitigation occurring under several of the other conservation measures (CMs 2-22). It was understood that the basis of the quantification of acreage for habitat enhancement assigned to the water suppliers was linked to the physical impacts resulting from the construction of the water conveyance facilities under CM1. Preferred Alternative 4A has a smaller construction footprint than was contemplated in the BDCP DEIR/EIS yet the amount of mitigation acreage has substantially increased. The final EIR/EIS should provide a clear explanation of how the 16,000 acres was arrived at, specifically detailing in easily understood table(s), the direct and indirect impacts associated with water conveyance facilities and how the total mitigation acreage was derived. If the mitigation acreage is in excess of the physical impacts of the Project then the Final Plan should indicate the rationale as to why it is the financial responsibility of the water supply contractors.

Thank you for your time and consideration of these comments. MWDOC looks forward to a Final Plan and Final EIR/EIS being released by the Lead Agencies that addresses our comments. If you should have any questions please do not hesitate to call me at (714) 593-5026.

Sincerely,

Robert J. Hunter  
General Manager