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September 13, 2016

Ms. Felicia Marcus, California WaterFix Co-Hearing Officer  
Ms. Tam Doduc, California WaterFix Co-Hearing Officer  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Subject: California WaterFix Hearing (Part I) Policy Statement

Dear Ms. Marcus and Ms. Doduc:

The Butte County Board of Supervisors would like to take this opportunity to provide a policy statement for your consideration regarding the California WaterFix. Butte County appears on the List of Interested Persons intending to present a non-evidentiary statement on the Joint Petition (Parts I and II). This statement will document the harm that the California WaterFix will impose on Butte County. The Butte County Board of Supervisors remains opposed to the California WaterFix and respectfully implores the State Water Resources Control Board to reject the petition submitted by the Department of Water Resources and the U.S. Bureau of Reclamation to change water rights in support of the California WaterFix.

The Butte County Board of Supervisors has engaged in the Bay Delta Conservation Plan (BDCP) and the subsequent California WaterFix processes. Butte County had high expectations that a successful California WaterFix process would achieve co-equal goals in a way that was beneficial to all Californians. Butte County offered constructive recommendations over the course of its development and repeatedly found that the plan did not address the concerns of Butte County. The project proponent actions led to the Butte County Board of Supervisors adopting a Resolution in Opposition to the BDCP in August 2012. Since then the project proponents appear intent to move forward with the California WaterFix and California EcoRestore with little regard to legal requirements or mitigating impacts. Butte County's list of concerns with the BDCP/WaterFix is more than legal technicalities; if ignored the failures would lead to actions that will ultimately damage the region's economy, environment and communities. Therefore, the Butte County Board of Supervisors remains opposed to the California WaterFix. The following statement reflects the comments submitted by Butte County in October 2015 on the California WaterFix Environmental Impact Statement (EIS)/Environmental Impact Report (EIR).

Butte County and the northern Sacramento Valley region have an interest in the overall health and stewardship of the Delta. The northern Sacramento Valley region is the area of origin for much of the water that flows through the Delta, and the region is a major source for California's overall water supply picture. The surface water resources include the crown jewel of the State Water Project (SWP) located at Lake Oroville, as well as a network of creeks and rivers that are tributary to the great Sacramento River which feeds into the Delta. The resources in the region are more than just the water supply for the Delta and the State, they provide the life blood for the local agricultural-based communities, economy and environment. Much of the local water supply comes from various groundwater basins throughout the region that are recharged through these creeks and rivers. The California WaterFix lacks sufficient assurances for areas upstream of the Delta as it relates to regional water sustainability, water right protections, and no negative unmitigated direct or indirect impacts to the water supply, economy, and environment of these areas.

The northern Sacramento Valley region is neither a party to, nor a direct beneficiary of, the California WaterFix. However, contrary to state and federal commitments, implementation of the California WaterFix will redirect impacts and impose obligations on communities, water users and the environment in the northern Sacramento Valley. The California WaterFix ignores fundamental state water policies, disregards area of origin water rights, violates the water right priority system and redirects impacts to the northern Sacramento Valley without fully assessing or mitigating those impacts. As proposed, the California WaterFix will cause irreparable harm to Butte County and the northern Sacramento Valley.

One of California's fundamental water policies mandates that "each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts" (Water Code, § 85021). The California WaterFix will jeopardize the regional self-reliance of the northern Sacramento Valley. The health, vitality and sustainability of northern Sacramento Valley depends upon the exercise of water rights and honoring area-of-origin rights. The Legislature expressly recognized that water rights and area-of-origin rights shall not be impaired or diminished as a result of any program or project in the Bay-Delta (Water Code, § 85031). Specifically, the California WaterFix calls for extracting more water from the northern Sacramento Valley. The California WaterFix will deplete and, in some instances, draw down upstream reservoirs to dead pool conditions. The result would create conditions that prevent other water users from obtaining supplies that they are entitled to under contract or water rights. In doing so, the California WaterFix will violate long-standing principles of California water law by causing upstream senior diverters to forego diversions, thereby allowing the continued export of water by junior appropriators. The approach to subvert the area-of-origin statutes is a clear violation of those statutes intended to protect areas of origin, including the protection of northern Sacramento Valley water supplies from injury by export projects.

Additionally, the Sustainable Groundwater Management Act of 2014 (SGMA) emphasizes the principle of regional self-reliance by requiring local agencies enact long-term groundwater sustainability plans. The project proponents fail to recognize the statutory obligations of SGMA.

The Supplemental EIR/EIS stated that cumulative impacts from implementation of SGMA by various groundwater sustainability agencies were reviewed and found not be substantive. The conclusion lacked documentation or data. In doing so, the project proponents have failed their legal obligation to consider groundwater sustainability plans when revising or adopting policies, regulations or criteria, or when issuing orders or determinations (Water Code, §10720.9). The State Water Resources Control Board (SWRCB) is encouraged to review and comply with the obligations that project proponents and the SWRCB have in regards to SGMA.

A more direct impact from the California WaterFix comes from the disclosure that there is an expected increase in groundwater use in the Sacramento Valley to make up for any shortfalls in surface water supply of Central Valley Project (CVP) contractors. The California WaterFix EIR/EIS discusses the potential for the BDCP/WaterFix to result in “minor decreases in water supply availability to CVP water users in the Sacramento Valley . . .” (See *Analysis of Groundwater Conditions in Areas that Use SWP/CVP Water Supplies*, EIR/EIS, p. 7-32, lines 30-40). The estimated decrease in supply is 50,000 acre-feet/year. The section concludes, “[a] 2% increase in groundwater use in the Sacramento Valley to make up for any shortfalls in surface water supply is not anticipated to substantially impact the groundwater resources as long as the additional pumping is not concentrated in a particular area of the valley”. No information is provided as to where additional pumping will take place, whether it will interfere with existing water supplies, or whether it will exacerbate existing groundwater overdraft or cause groundwater overdraft in locations where that condition does not presently exist. Despite the acknowledgement that the California WaterFix would affect Sacramento Valley groundwater, analysis of the impact to the region’s groundwater was specifically eliminated. In the EIR/EIS, Chapter 7, *Groundwater* states that for the “*purposes of this analysis, the groundwater study area (the area in which impacts may occur) consists of the Delta Region, ... the Upstream of the Delta Region and ...*”. On page 7-13 the description of the Sacramento Valley points out that portions of the region are showing early signs of declining groundwater elevations. On page 7-37 the EIR/EIS states, “*The CVHM domain was reduced by eliminating most of the Sacramento Valley and San Joaquin Valley from the domain when developing CVHM-D. This modification allowed for greater precision in model output in the Delta Region.*” The decision to eliminate the Sacramento Valley from hydrologic modeling demonstrates the disregard of the region and creates an inconsistency within the EIS/EIR. The sensitivity of groundwater basins in the region necessitates that the California WaterFix fully disclose and assess groundwater impacts upstream of the Delta.

Another blatant attempt of the California WaterFix to redirect impacts to northern Sacramento Valley comes from the goal of facilitating groundwater substitution transfer programs. The EIR/EIS Section 5C.10 *Potential Sources of Upstream-of-Delta Water Transfers and Potential Impact* indicates that the California WaterFix is expecting additional water from upstream of the Delta. The EIR/EIS ignored any environmental consequence from groundwater substitution programs and failed to acknowledge that groundwater substitution programs must comply with applicable County ordinances. In Butte County, groundwater substitution transfer programs are governed by the Groundwater Conservation Ordinance (Chapter 33 of the Butte County Code). The California WaterFix must fully disclose, assess and mitigate the impacts of the plans to incorporate north of Delta groundwater basins into the state water project.

The California WaterFix should not expect additional water from the northern Sacramento Valley, it must consider that some of the water supplies currently being exported may not be available in the future due to increased demand in the areas in which the water currently being exported originates. California law expressly recognizes the prior right of communities in those areas to water currently being exported, to the extent that water will be needed to adequately supply the beneficial needs of those areas (Water Code, §§ 10505, 10505.5, 11460, 11463 and 11128; also *id.*, §§ 12200-12220). That demand for water and the need to sustain groundwater basins, as required through the implementation of the SGMA, will increase in the Delta and north as population grows. The likelihood that less water will be available for export uses is reasonably foreseeable but not evaluated in the EIR/EIS. Again, the failure of the California WaterFix to follow the principle of regional self-reliance created irreparable flaws.

The California WaterFix and the EIR/EIS fail to fully describe the project's socioeconomic impacts. Without explanation, the EIR/EIS limits the analysis of socioeconomic impacts to Delta counties (Sacramento, San Joaquin, Yolo, Solano, and Contra Costa Counties). However, as noted elsewhere in the EIR/EIS, the BDCP/WaterFix impacts a much larger area, for example, the operational changes to Lake Oroville that are acknowledged in the California WaterFix. Appendix 5.C (page 5C 1.1) of the BDCP document states that "*No substantial changes in reservoir operations are expected as a result of the BDCP, with the potential exception of Lake Oroville, where the BDCP could shift substantial releases from summer months to spring months under high outflow scenario to contribute to spring outflow criteria*". Actions through the BDCP/WaterFix would further erode the region's economic, recreation and ecosystem benefit. The socioeconomic impacts analysis is inadequate because it fails to analyze the entire affected environmental setting of the proposed project and alternatives. The BDCP document, Chapter 1 (page 1-21) states,

*"Because the SWP and CVP water infrastructure is operated as an integrated system, the effects of implementing the BDCP may extend to aquatic systems beyond the Delta, both **upstream** and downstream, and will implicate water operations parameters as well as species and their habitats located in those areas. As such, the BDCP effects analysis (Chapter 5, Effects Analysis) takes into account these upstream and downstream aquatic effects, both positive and negative, and describes, analyzes, and addresses the overall effects of the BDCP. **Areas potentially affected by the implementation of the BDCP located outside of the Plan Area, have been included in the analysis of effects to ensure that all of the potential effects within the action area (all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action), as defined by Section 7 of the ESA, have been adequately assessed.**"*

Although the BDCP makes this statement, the EIS/EIR failed to assess the direct and indirect impacts from the BDCP outside of the Delta. This failure to assess the impacts of the BDCP to the region north of the Delta is inconsistent with State and Federal law.

Finally, most, if not all, of the identified funding sources are speculative and are undefined. The state water contractors is among the most uncertain. The California WaterFix claims that state water contractors have committed to providing funds for the construction and operation of new water facilities, as well as for mitigation necessary to address impacts to terrestrial and aquatic impacts associated with construction and operation. The state water project contractors vary in their

interest in and benefit from the California WaterFix. For example, Butte County is a state water project contractor that would derive no benefit from the California WaterFix and has gone on record opposing any financial obligation. To date, the state water contractors have yet to reach agreement on the structure of the commitment to fund California WaterFix. In fact, the state water project contractors have yet to begin the negotiations on how the financial commitment for the California WaterFix will be structured. Additionally, the assumptions that other funding sources (e.g., federal government, state bond funds) would provide funding commitments for California WaterFix cannot be substantiated.

In closing, the California WaterFix and its related EIR/EIS do not comply with State water law and inadequately assess the environmental and socioeconomic impacts. The actions of the California WaterFix would damage Butte County's economy, environment and communities. For these reasons, the Butte County Board of Supervisors remains opposed to the California WaterFix and respectfully implores the State Water Resources Control Board to reject the petition in support of the California WaterFix.

Sincerely,



Bill Connelly, Chair  
Butte County Board of Supervisors

Cc: Butte County Board of Supervisors  
Paul Gosselin, Director, Department of Water  
and Resource Conservation