



April 11, 2016

Attn: Mr. Edgar Fandialan  
The Metropolitan Water District of Southern California  
P.O. Box 54153  
Los Angeles, CA 90054-0153

**RE: Comments on MWD's draft 2015 Urban Water Management Plan**

Dear Mr. Fandialan:

On behalf of the Natural Resources Defense Council ("NRDC"), I am writing to provide comments on the March 2016 draft Urban Water Management Plan ("Draft Plan") for the Metropolitan Water District of Southern California ("MWD"). NRDC's primary concern with the Draft Plan is that it presents a highly inaccurate and misleading picture of near- and long-term water imports that are likely to be available from State Water Project ("SWP") deliveries from the Sacramento-San Joaquin River Delta ("Delta"). First, the Draft Plan's estimate of future (2030) water supplies available from the Delta conflicts with, and vastly exceeds, the estimates presented in the proposed California WaterFix (formerly, the Bay Delta Conservation Plan or BDCP). Second, the Draft Plan's estimate of near-term (2020) Delta imports conflicts with, and vastly lowballs, the Department of Water Resource's ("DWR's") most recent estimate of average Delta water exports available to MWD in the 2015 State Water Project Delivery Capability Report. Together, these two flaws appear designed to give the reader an inflated sense of the water supply benefits of implementing the California WaterFix that is contradicted by the available data. Third, the California WaterFix is a highly controversial project that, to date, has failed to attract the necessary commitment from water districts to fund the project, and has not received the necessary permits from key state and federal agencies to implement the project. Because it is highly uncertain, the Draft Plan should be revised to plan for a future without the WaterFix in place, and ensure that MWD and its member agencies will have sufficient local and regional supplies in a future of declining imports from the Delta.

As a result of these faulty assumptions in the Draft Plan, it significantly underestimates the need for increased investment in local and regional water supplies and demand management measures. We urge MWD to correct the faulty assumptions regarding Delta water supplies so that a realistic local water management and investment plan can be developed and implemented.

**NATURAL RESOURCES DEFENSE COUNCIL**

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**I. The Draft Plan's Assumptions Regarding Future Delta Exports Conflict with WaterFix**

**a. Cal WaterFix Will Not Increase Delta Supplies to MWD by Over 200 TAF**

The Draft Plan states that existing “delivery estimates for the SWP for 2020 conditions ... [are] equivalent to 975 TAF, under long-term average condition.” Page 2-12. However, the Draft Plan projects that this SWP delivery amount will increase to “1.2 MAF of supplies on average starting in 2030 when the long-term Delta solution is assumed to be in place.” *Id.* This is an anticipated increase of 225,000 acre-feet annually of SWP supplies from the Delta on average by 2030. Elsewhere in the document, the Draft Plan attributes 205 TAF of this increase to “Delta improvements” in place by 2035. Page 3-18, Table 3-2.

The Draft Plan's assumption that the proposed California WaterFix will increase deliveries to MWD from the Delta by 205-225 TAF annually is not supported by the analysis presented in WaterFix. First, projecting that Delta exports will increase at all under WaterFix is at odds with the projections for the “High Outflow Scenario” in the WaterFix revised DEIS/EIR, which concludes that average Delta exports will be lower than today's levels after the tunnels are constructed. *See, e.g.*, Figure 4.3.1-18 in the revised DEIS/EIR (showing that the Alternative H4, the high outflow scenario, has lower total Delta exports than the No Action Alternative, under a 50% exceedance probability). Moreover, the misnamed “High Outflow Scenario” does not meaningfully increase outflows as compared to today's levels, and is, itself, likely a significant underestimate of the amount of flows that will be needed to restore the Delta ecosystem, as required by the co-equal goals of the Delta Reform Act and the State Water Resource Control Board's update of the Bay-Delta Water Quality Control Plan.

The Draft Plan's projected Delta deliveries also exceed even far less plausible scenarios of Delta exports analyzed under the WaterFix. For example, the draft WaterFix biological assessment<sup>1</sup> predicts that: “Annual Delta exports under the [Proposed Alternative] [would] increase[] compared to the [No Action Alternative] under all the climate scenarios by about 220 TAF/YR to 240 TAF/YR.” Draft BA, App. 5.A, p. 834 of 949. Even if this predicted increase in Delta exports under WaterFix were able to pass scientific and biological muster under the state and federal Endangered Species Acts and SWRCB permitting processes (which is highly unlikely since it fails to reflect the best available science), the increase would be distributed among *all* the water agencies funding WaterFix, not just accrue to MWD. MWD has repeatedly stated that it will not finance more than a pro rata share of this multi-billion dollar project. The yield of the project would likewise be distributed on a pro rata basis among all participating contractors. In contrast, the Draft Plan assumes that MWD reaps virtually *all* of the benefits of any increased exports from the Delta enabled by the WaterFix, sharing nothing with other water agencies that contribute funding.

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<sup>1</sup> A complete copy of the draft WaterFix biological assessment is available here: [https://s3.amazonaws.com/californiawater/pdfs/aozyy\\_FIX\\_BA\\_TOC.pdf](https://s3.amazonaws.com/californiawater/pdfs/aozyy_FIX_BA_TOC.pdf)

The final Plan should correct the unsupported assumptions that Delta deliveries to MWD will significantly increase under WaterFix.

**b. WaterFix Does Not Comport with the Draft Plan’s “Big Gulp, Little Sip” Approach**

The Draft Plan states that “Metropolitan’s strategy is to reduce its dependence on SWP supplies during dry years, when risks to the Bay-Delta ecosystem are greatest, and to maximize its deliveries of available SWP water during wetter years to store in surface reservoirs and groundwater basins for later use during droughts and emergencies.” Page A.3-26. However, this statement, too, is at odds with the operations proposed in the draft WaterFix biological assessment, which shows that WaterFix would *reduce* Delta exports in wet years and *increase* exports in dry and critically dry years. See draft WaterFix Biological Assessment, Table 5.A.6-26. We converted the referenced table into acre-feet, which yields the following export estimates:

	TOTAL			
	NAA	PA	Diff.	Percent Diff.
Wet (32%)	5,884,005	5,762,913	121,092	-2%
Above Normal (16%)	5,287,715	5,556,220	268,505	5%
Below Normal (13%)	4,700,856	5,134,722	433,865	9%
Dry (24%)	3,978,984	4,526,929	547,945	14%
Critical (15%)	2,509,899	2,711,457	201,558	8%

The final Plan should be corrected to reflect that WaterFix is not consistent with MWD’s strategy to reduce Delta reliance in drier years and increase exports in wetter years.

**c. State Law Directs MWD to Reduce Diversions from the Delta**

In addition, the Draft Plan’s proposal to increase MWD’s reliance on Delta exports in the future conflicts with state law. In 2009, with MWD’s support, the Legislature passed the Delta Reform Act, which states that:

The policy of the State of California is to reduce reliance on the Delta in meeting California’s future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. 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. Oddly, the Draft Plan recites several provisions of the Delta Reform Act at page 3-22, but entirely ignores this directive to reduce reliance on the Delta. The Plan should be revised to both acknowledge this statewide requirement and to meet its intent.

As explained in the following letter from one of the primary authors of the bill, then-Assemblyman Jared Huffman, the intent of this provision is to reduce exports from the Delta from 2009 forward, not from some hypothetical baseline of the highest export levels ever:

*Dear Chair Isenberg and members of the Council:*

*As the United States Supreme Court has often repeated, you “must presume that a legislature says in a statute what it means and means in a statute what it says there.” Only if it is ambiguous do you need to look farther.*

*Almost three years ago the Legislature and the Governor acknowledged, in an unambiguous manner, that the Sacramento-San Joaquin Delta Estuary was in crisis and that existing Delta policies were not sustainable. In adopting the Delta Reform Act of 2009, the law unequivocally stated that the “policy of the State of California is to reduce reliance on the Delta in meeting California’s future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency.”*

*As one of the legislators who helped write that Act, and who specifically insisted on the inclusion of the “reduce reliance” provision, let me be clear: the Act means what it says. Reduce means reduce — it means use less Delta water. Equally plain, it does not and cannot mean use more Delta water, even if technical justifications are offered based on per capita water use or other complex rationales.*

*There are those who seek to creatively reinterpret the word “future” to mean that all present reliance was somehow grandfathered in and that the goal of lessening our pressure on an oversubscribed Delta Estuary was somehow limited to some as-yet-unknown additional pressure. These are inaccurate, self-serving interpretations of the Act by interests who knew full well in 2009 what the letter and spirit of the Act required. Having declared in 2009 that the level of reliance on the Delta was “unsustainable,” it would make no sense to enshrine that unsustainable reliance as a means of fixing the Delta.*

*Let's be clear: in 2009 the year 2012 was the future. It is now the present. And it is past time to reduce our reliance on unsustainable Delta diversions.*

*It bears noting that had the legislature intended to grandfather-in existing levels of diversions, to apply the "reduce reliance" policy only to future additional demands, to apply it only to per capita water use, or to maintain existing contractual or "average" levels of Delta exports, the Act would have said so. It does not say any of those things and even the most tortured post-hoc interpretation cannot credibly bend the words of the Act to mean these things.*

*Finally, for those within the Delta watershed who seek to over-complicate the Act by arguing they are incapable of a reduction in reliance because they cannot "improve their regional self-reliance," that is an equally tortured interpretation. The statute does not say they must eliminate reliance on the Delta. Instead, it calls for 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. There are many approaches in that portfolio that would lead to a reduction in the use of Delta water and hence reduced reliance on Delta diversions.*

*In closing, I urge the Council not to weaken Water Reliability Policy 1 in the Delta Plan but to instead hold all parties accountable for reducing their reliance on the Delta. To do otherwise will fundamentally undermine your own ability to achieve the coequal goals. It is only by reaching a more realistic expectation of what the Delta can sustainably provide, and moving aggressively to implement technologies that will enhance other water supply sources, that Californian's will enjoy a more reliable water supply and improved ecosystem health in the Delta.*

*Sincerely,*

***Jared Huffman, Chair***

*Assembly Committee on Water, Parks & Wildlife*

Congressman Huffman's letter is also available here:

<http://mavensnotebook.com/2013/01/24/addendum-to-mavens-minutes-huffman-clarifies-the-meaning-of-reduced-reliance-on-the-delta/>

The final Plan should be revised to comport with state law.

## II. The Draft Plan Underestimates DWR's Current Estimate of Water Deliveries to MWD from the Delta

As explained above, the Draft Plan asserts that “delivery estimates for the SWP for 2020 conditions ... [are] equivalent to 975 TAF, under long-term average condition.” Page 2-12. The Draft Plan purports to base this estimate on DWR’s 2015 State Water Project Delivery Capability Report (“2015 Reliability Report”).<sup>2</sup> However, the Draft Plan’s estimate conflicts with DWR’s projection in the 2015 Reliability Report of SWP supplies available to MWD under existing conditions. Instead, the Reliability Report concludes that 62% of SWP Table A deliveries is available on average, which Appendix B translates to 1.166 million acre-feet for MWD. See 2015 Reliability Report, page B-56. Thus, the Draft Plan underestimates DWR’s delivery estimate by 191 thousand acre-feet, almost the entire amount of increases in Delta imports that the Plan attributes to the Cal WaterFix.

Instead of using DWR’s estimate of anticipated SWP deliveries under existing conditions, the Draft Plan utilizes an unjustified and unsubstantiated “Existing Conveyance, Low Outflow” alternative drawn from the California WaterFix/Bay Delta Conservation Plan’s economic analysis that assumes significant regulatory changes on SWP operations in the south Delta that would be implemented under California WaterFix. But this alternative is presented simply as a basis of comparison in DWR’s 2015 Reliability Report, *not*, as the Draft Plan describes it, as an estimate of likely SWP deliveries under the current regulatory regime. As DWR explains in the 2015 Reliability Report:

The ... report presents the existing overall delivery capability of the SWP system and the allocation of that capacity to each of the contractors under a range of hydrologic conditions. ... Appendix A of this report briefly introduces and *compares the assumptions for the 2015 Delivery Capability Report (DCR) Base scenario and the following alternatives*: Early Long-Term (ELT), Existing Conveyance High Outflow (ECHO), *Existing Conveyance Low Outflow (ECLO)*, and Bay-Delta Conservation Plan (BDCP) Alternative 4 H3 study (Alt 4). The other appendices to this report present model updates, model assumptions, and input and output data for the simulation runs under Existing Conditions scenario (Appendix B), the ELT scenario (Appendix C), the ECHO scenario derived for the BDCP planning process (Appendix D), the ECLO scenario which is a similar simulation to the ECHO scenario, without the Fall X2 and enhanced spring outflow requirements (Appendix E), and the BDCP Alternative 4 H3 study (Appendix F).

2015 Reliability Report, at page 1 (emphasis added). There is no basis for MWD to assume that the hypothetical “Existing Conveyance Low Outflow” alternative is an accurate representation of Delta deliveries in 2020, and that assumption is contradicted by DWR’s own estimate of Delta deliveries presented in the Report under actual existing conditions.

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<sup>2</sup> The 2015 Reliability Report and its appendices are available here: <http://baydeltaoffice.water.ca.gov/swpreliability/>

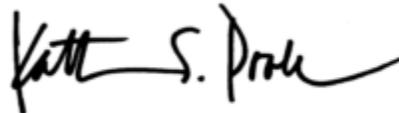
It appears that the Draft Plan underestimates DWR's current estimate of SWP water deliveries from the Delta in an effort to overstate the water supply benefits of California WaterFix. The final Plan should be revised to use DWR's actual delivery estimate as presented in the text of the 2015 Reliability Report as a more accurate representation of MWD's 2020 Delta deliveries. By using the unsupported "ECL0" baseline from the appendix, which is presented merely as a basis for comparison with actual deliveries, the Draft Plan misleads the public about the near-term availability of Delta supplies and the potential water supply benefits of WaterFix.

**III. The Draft Plan Should be Revised to Address the Likelihood that California WaterFix Will Not Be Implemented**

The Draft Plan assumes that California WaterFix will be permitted, funded, and built, all of which are highly speculative at the moment. To function as the useful planning tool that the legislature intended, the final Plan should be revised to anticipate and plan for near- and long-term water supplies without WaterFix, supplies which are likely to decline as the impacts of climate change increase on California's snowpack and hydrology.<sup>3</sup>

Thank you for considering our views. We look forward to reviewing a revised version of the Plan that ensures that MWD is accurately projecting the amount of Delta exports that it should plan on receiving in the future, and ensuring that the Plan accurately reflects the amount of local and regional water supply investment that the agency should be making.

Sincerely,



Katherine S. Poole  
Senior Attorney, NRDC

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<sup>3</sup> For example, DWR's 2015 Reliability Report predicts that average SWP deliveries from the Delta will decline from 62% to 60% by 2025 due to climate change, and that those impacts will worsen over time. See 2015 DWR Reliability Report at page C-47.