

BAWSCA

Bay Area Water Supply & Conservation Agency

November 20, 2013

Mr. John Swiecki
Community Development Director
City of Brisbane
50 Park Place
Brisbane, CA 94004

**Subject: Brisbane Baylands Project, Draft Environmental Impact Report,
State Clearinghouse No. 2006022136**

Dear Mr. Swiecki,

Thank you for the opportunity to provide the following comments from the Bay Area Water Supply & Conservation Agency (BAWSCA). BAWSCA represents the interests of 24 cities and water districts, an investor-owned utility, and a university, that purchase water wholesale from the San Francisco Regional Water System. BAWSCA's membership includes the City of Brisbane and Guadalupe Valley Municipal Improvement District.

These comments address the City of Brisbane's Draft Environmental Impact Report (DEIR) for the Brisbane Baylands Project (Project) dated June 2013.

BAWSCA understands that the DEIR is a programmatic CEQA review of the Project, and that the City plans to undertake a subsequent California Environmental Quality Act (CEQA) analysis on the preferred water supply alternative for the development if the Project progresses. (See e.g. DEIR Section 3.10 Water Supply, section 5.2.3 Approval of Development in Absence of Approving a Water Supply Agreement.) As part of this future analysis, **BAWSCA expects that the subsequent CEQA document will address the impacts of the proposed water transfer from Oakdale Irrigation District (OID) on the San Francisco Regional Water System (Regional Water System) and its wholesale customers, and any potential uncertainties associated with the OID transfer.** The OID transfer is identified in the Water Supply Assessment (WSA) for the DEIR as the water supply source for the Project.

In *Preserve Wild Santee v. City of Santee*, the EIR was inadequate because it did not analyze water supply impacts and uncertainties in adequate detail. 210 Cal. App. 4th 260, 284-85 (2013) (citing *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal.4th 412, 432 (2007)) ("[t]o provide decision makers with sufficient facts to evaluate the pros and cons of fulfilling the project's water needs, the EIR must "address the impacts of *likely* future water sources," including providing "a reasoned analysis of the circumstances affecting the likelihood of the water's availability."). The EIR in the *Preserve Wild Santee* case failed to discuss "known contingencies to a reliable water supply, including the successful implementation of planned water development, water delivery, and water conservation projects." *Id.* BAWSCA expects to see this type of analysis in a future environmental document analyzing the impact of the selected water supply for the Project on the Regional Water System.

BAWSCA looks forward to providing additional detailed comments for the Project when the CEQA document for the proposed water supply is released. In an abundance of caution, however, BAWSCA provides the following comments regarding key impacts that must be analyzed in a subsequent CEQA document. These impacts include:

- **Water Supply Agreement Impacts:** The Regional Water System wholesale customers must understand how the OID transfer water will be managed and allocated in the Regional Water System. It is critical to understand how, in both normal water years and during drought, the transfer water will be accounted for as compared to the wholesale customer water deliveries

provided in accordance with the 2009 Water Supply Agreement, by and between SFPUC and the wholesale customers. Any potential impacts to the other wholesale customers due to the conveyance of this transfer water through the Regional Water System must be discussed and mitigated.

- Raker Act Implications: A thorough description of the mechanics of the integration of the OID transfer into the Regional Water System must be analyzed, particularly as to how the transfer relates to the Raker Act, the status of the SFPUC and Modesto Irrigation District (MID) water rights on the Tuolumne River, and the Agreements that govern operation of the Don Pedro Water Bank.
- Technical Modeling Analysis: Modeling to demonstrate what, if any, impacts to the wholesale customer deliveries from the Regional Water System as a result of such a transfer/exchange must be completed with the results presented in the subsequent CEQA document.
- Impact of MID/SFPUC Exchange: The subsequent CEQA document must analyze the environmental impacts of the MID/SFPUC exchange as it relates to the proposed transfer with OID, as well as the environmental impacts of any associated arrangement between Brisbane and SFPUC to move the water through the Regional Water System.
- Reliability Analysis: The text of the WSA appended to the current DEIR states that the transfer water from OID is 100% reliable. However, the agreement to purchase water from OID has not yet been executed. Moreover, because the water is delivered via exchange, it is unclear with which agency the ultimate burden of responsibility for the reliability falls. The subsequent CEQA analysis must clarify in significant detail (through modeling or other presentations of results) how it is that SFPUC can guarantee the delivery of the transfer water 100% of the time without impacting deliveries to its existing wholesale customers, especially during dry years when the Regional Water System is experiencing shortfalls. The text must also clarify in what order the transfer water spills if it is to be stored in the Regional Water System's Hetch Hetchy Reservoir.
- Impact of FERC Relicensing and other Factors: Subsequent CEQA analysis must also include the impact of FERC relicensing and other factors outside of the control of OID, SFPUC and the City of Brisbane that may impact the supply reliability of the Regional Water System and OID transfer supplies.

BAWSCA appreciates the opportunity to provide the City of Brisbane with these comments, and looks forward to commenting further on any subsequent water supply documents the City releases related to the proposed Project.

Sincerely,



Nicole M. Sandkulla
CEO/General Manager

cc: R. Breault, City of Brisbane
A. Schutte, Hanson Bridgett