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DELTA STEWARDSHIP COUNCIL

A California State Agency

July 31, 2019

Chair
Susan Tatayon

Mr. Michael Tree
Tri Valley – San Joaquin Valley Regional Rail Authority
1362 Rutan Court #100
Livermore, CA 94551

Members
Frank C. Damrell, Jr.
Randy Fiorini
Michael Gatto
Maria Mehranian
Oscar Villegas
Ken Weinberg

Executive Officer
Jessica R. Pearson

Via email: comments@valleylinkrail.com

RE: Comments on June 2019 Draft Valley Link Feasibility Report

Dear Mr. Tree:

Thank you for the opportunity to review and comment on the June 2019 draft Valley Link Feasibility Report (Draft Feasibility Report) for the Tri-Valley and San Joaquin Valley Regional Rail Authority (Regional Rail Authority). The Delta Stewardship Council (Council) recognizes the Regional Rail Authority's goal to deliver a cost-effective connection from the San Joaquin Valley to the Bay Area Rapid Transit District system and the Altamont Corridor Express in the Tri-Valley, as well as to address regional economic and transportation challenges. Additionally, the Council understands that the Draft Feasibility Study was prepared to meet the requirements of Assembly Bill 758, and discusses how the Valley Link Rail Project can be expedited, identifies how a preferred entity or entities can deliver transit connectivity, includes a funding plan, a description on how the project will be financed, a schedule for completion, and preliminary design of the project.

The Council previously submitted a comment letter on the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for this project to the Regional Rail Authority on October 11, 2018, outlining the Council's regulatory authority and discussing the potential covered action status of the project. Council staff also met with Regional Rail Authority staff on February 28, 2019 to discuss Delta Plan policies that are potentially implicated by the project. This letter reiterates the requirements of the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act), the Council's enabling statute codified in Division 35 of the California Water Code, Sections 85000-85350, pertaining to the project.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

The Council is an independent state agency established by the Delta Reform Act, which charges the Council with furthering California's coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem, to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. (Cal. Water Code § 85054.) Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a legally enforceable management framework for the Delta and Suisun Marsh for achieving the coequal goals. (Cal. Water Code § 85001(c).)

Based on the Council staff's review of the Valley Link Alignment options discussed in the Draft Feasibility Report, the Council understands that the proposed project will be located within the Delta Secondary Zone and, therefore, is required to comply with the Delta Reform Act. As discussed in the Council's October 11, 2018 comment letter on the NOP for the project, the Council has specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh, which are referred to as "covered actions" through the Delta Reform Act. State and local agencies are required to demonstrate consistency with applicable regulatory policies identified in the Delta Plan (set forth in 23 Cal. Code Reg. sections 5001-5012) when carrying out, approving, or funding a covered action. The Regional Rail Authority must determine if the project is a covered action, and if so, submit a certification of consistency with the Delta Plan to the Council prior to project implementation.

Please continue to refer to the Council's October 11, 2018 NOP comment letter for specific comments to consider as you prepare the EIR related to the regulatory setting, mitigation measures, and potential policies identified to be discussed in the EIR for its consistency with the Delta Plan. As outlined in that letter, the Council's principal concerns include potential impacts for the ability to restore habitat in the Priority Habitat Restoration Area located near Paradise Cut, and potential growth inducement associated with planned station sites in the Delta secondary zone.

Furthermore, as discussed during the February 28, 2019 meeting between Council staff and Regional Rail Authority staff, the 2012 Central Valley Flood Protection Plan (CVFPP), an integrated flood system planning document developed by the Department of Water Resources (DWR), identified the need to perform basin wide studies on the main rivers that comprise the Delta. As a result, the San Joaquin River Basin-Wide Feasibility Study¹ (CVFPP Feasibility Study) was prepared, and primarily refines large-scale actions consistent with the State Systemwide Investment Approach (SSIA) of the CVFPP for the San Joaquin River Basin. The SSIA is an investment strategy that identifies and allocates State funds for investing in future flood control projects.

The bridge crossing at Paradise Cut was identified as a constraint for current and future flood control and ecosystem restoration needs in the region. Per Section 4.1 of the CVFPP Feasibility Study, the Paradise Cut bypass would need to be improved and widened to

¹ <https://water.ca.gov/LegacyFiles/cvfmp/docs/BWFS-SJR-Rpt-March2017.pdf>

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accommodate for peak flood stages related to forecasted higher flows with potential climate change impacts as well as the inclusion of restoration planning efforts conducted by the local River Islands Development. The Final Feasibility Report should identify the CVFPP Feasibility Study and the need to coordinate with DWR and the Council on proposed future improvements to Paradise Cut, and discuss the need of the project to accommodate for future flood control and ecosystem improvements as well as minimize potential impacts to the Valley Link project and its sustainability to support future serviced communities.

Closing Comments

As the Regional Rail Authority proceeds with the EIR process for the Valley Link Rail project, the Council invites the Regional Rail Authority to continue to engage Council staff to ensure consistency between the project and the Delta Plan, to ensure that the project and plan are complementary in nature and serve to protect the Delta while promoting sustainable growth and economic vitality in the broader region. Please contact Anthony Navasero at Anthony.Navasero@deltacouncil.ca.gov or (916) 445-5471 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Henderson", with a long horizontal flourish extending to the right.

Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council