

# **UNION ISLAND RECLAMATION DISTRICT NO. 1**

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August 19, 2019

Erin Mullin, P.E., Senior Engineer  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

Sent via email to: oal\_amendRRP1@deltacouncil.ca.gov

**Subject:      Comments on the Proposed Rulemaking to Implement Delta Plan Amendment Regarding Delta Levees Investment Strategy**

Dear Ms. Mullin:

Union Island Reclamation District No. 1 would like to take this opportunity to comment on the Delta Stewardship Council's (DSC) proposed changes to Section 5001 and Section 5012 in Title 23 of the California Code of Regulations to implement the Delta Levees Investment Strategy (DLIS). The proposed amendments to the DSC Prioritization of State Investments in the Delta Levees are contrary to clauses in the existing water code and would severely restrict the Delta levee districts' ability to responsibly maintain the existing flood control system.

The Delta Plan generically describes definitions for "levee improvement", "levee maintenance", and "levee rehabilitation". In the rulemaking, the proposed definitions are not aligned with other previously established definitions of maintenance and rehabilitation used in existing federal regulations and the California Water Code. Furthermore, rehabilitation is a vital component of maintaining the existing flood control system and should not be included with "improvements" which are subject to the Delta Stewardship Council's discretionary investment prioritization. Funding for levee maintenance must continue to include rehabilitation and be made available throughout the Delta as authorized by Water Code section 12980, et seq.

We strongly encourage the Council to consider alternate definitions, attached herewith as Exhibit "A". The alternate definitions are consistent with previously established definitions at both the State and Federal levels and are supported by a wide

range of Delta stakeholders. We also request an extension of the proposed rulemaking to enable DSC staff to coordinate with the Delta stakeholders in further development of acceptable amendment language.

Thank you for your consideration, and we look forward to further coordination with you and your staff. If you have any questions regarding this letter, please contact the District as directed in the above letterhead.

Respectfully Submitted,  
UNION ISLAND RECLAMATION  
DISTRICT NO. 1

By Paul Marchini  
Paul Marchini, Chairman

Cc: KSN Engineers

**Exhibit A**

Changes to Proposed Amendments to DSC Prioritization of State Investments in Delta Levees  
August 14, 2019

**§ 5001. Definitions.** As used in this division, the terms listed below shall have the meanings noted:

(w) "Levee improvement" means levee improvements, other than "Levee operation, maintenance, repair, rehabilitation and replacement", intended to reduce the probability of flooding. An example of a levee improvement would be changing a levee geometry to reach a higher level of protection.

(x) "Levee operation, maintenance, repair, rehabilitation and replacement" means levee work intended to preserve the Delta levee system and the Delta's physical characteristics in essentially their then present form (Water Code Section 12981, Stats. 1973, c. 717). Such work shall include all work authorized by Water Code section 12980 et seq. and 12310 et seq. 1) including for nonproject levees all levee operation, maintenance, repair, rehabilitation and replacement work to achieve , restore or maintain the agricultural standards in DWR Bulletin 192-82 and /or USACE PL 84-99 Delta Agricultural standards with a minimum crown width of 24 feet to allow for raises in freeboard to meet sea level rise, and 2) including for project levees all work to meet operation and maintenance requirements including repair, rehabilitation, and replacement as defined in USACE Engineering Regulation ER 1110-401. Such work includes patrols, surveys and inspections, extermination and control of burrowing animals, work on the levee crown to provide adequate access and drainage, removing vegetation or debris, control of seepage and boils, addressing encroachments, cleaning drains and toe ditches, restoring rock protection, maintenance of levee-related habitat improvement sites, flood fight and repair of flood or other emergency or critical damage.

**§ 5012. Prioritization of State Investments in Delta Levees and Risk Reduction.**

(a) Fund "Levee operation, maintenance, repair, rehabilitation and replacement". Funding for "Levee operation, maintenance, repair, rehabilitation and replacement" as defined above shall continue to be available throughout the Delta where authorized by Water Code section 12980 et seq. and 12310 et seq. or any other program and not subject to the priorities set forth below.

(b) Delta levees investment strategy.

(1) **Prioritize levee improvements.** The recommended priorities listed in the Table below shall be considered for State discretionary investments in the improvement of Delta levees. As the California Department of Water Resources selects levee improvement projects for funding through its levee funding programs, it should consider priorities as identified in Table 1 and depicted in Delta Plan Appendix P dated [XXXX], which Appendix P is incorporated herein by

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**Changes to Proposed Amendments to DSC Prioritization of State Investments in Delta Levees**

**August 14, 2019**

this reference as if fully set forth, subject to consideration of how the project protects lives, property and the State's interests in water supply for the delta and other parts of the State and how the project achieves restoration, protection, and enhancement of the Delta ecosystem while considering the Delta's unique agricultural, natural, historic, and cultural values.

**(2) Annual Report.**

**(A)** The California Department of Water Resources shall submit a written annual report to the Council, as well as present the report to the Council, identifying decisions to award State funds for Delta levee improvement projects, including the location of each funded levee improvement, the priority of the funded islands or tracts, the levee improvements funded, including the relevant levee improvement type, habitat mitigation or enhancement features, State funds awarded, and local or federal matching funds. At least 30 days prior to the oral presentation before the Council, the California Department of Water Resources shall submit the written annual report to the Council and make the report publicly available.

**(B)** When the California Department of Water Resources' contributions towards levee improvements vary from the priorities identified in (b)(1), the annual report shall identify how the funding is inconsistent with the priorities, describe why variation from the priorities is necessary, and explain how the funding nevertheless protects lives, property, and the State's interests in water supply reliability for the Delta and other areas of the State, and restoration, protection, and enhancement of the Delta ecosystem while considering the Delta's unique agricultural, natural, historic, and cultural values.

**(c)** For purposes of Water Code section 85057.5(a) (3) and section 5001(j) (1) (E) of this Chapter, this policy covers a proposed action that involves discretionary State investments in the improvement and rehabilitation of Delta levees. "Levee operation, maintenance, repair, rehabilitation and replacement" work as defined above meets the definition of Water Code section 85057.5 (b) (5) and is not a covered action. Nothing in this policy establishes or otherwise changes existing levee standards.