



980 NINTH STREET, SUITE 1500  
SACRAMENTO, CALIFORNIA 95814  
HTTP://DELTACOUNCIL.CA.GOV  
(916) 445-5511

# DELTA STEWARDSHIP COUNCIL

*A California State Agency*

June 23, 2015

Wildlife Conservation Board  
1416 9<sup>th</sup> Street, Room 1266  
Sacramento, CA 95814  
wcbstreamflow@wildlife.ca.gov

**Chair**  
Randy Fiorini

**Members**  
Aja Brown  
Frank C. Damrell, Jr.  
Phil Isenberg  
Patrick Johnston  
Mary Piepho  
Susan Tatayon

**Executive Officer**  
Jessica R. Pearson

## **RE: Wildlife Conservation Board Project Proposition 1 Proposal Solicitation Notice for the California Stream Flow Enhancement Program**

The Delta Stewardship Council (Council) appreciates the opportunity to provide these comments on the Wildlife Conservation Board's (WCB) Proposal Solicitation Notice for the California Stream Flow Enhancement Program (Stream Flow Program) funded by the 2014 Water Quality, Supply, and Infrastructure Improvement Act (i.e., Proposition 1). This grant program is intended to help provide and protect enhanced stream flow, especially in waterways that support anadromous fish and special-status species, and provide resilience to climate change.

The mission of the Delta Stewardship Council (Council) is to promote the coequal goals of water supply reliability and ecosystem restoration in a manner that protects and enhances the unique values of the Delta as an evolving place (CA Water Code Section 85054). The Council has a legally enforceable management framework for the Delta and Suisun Marsh called the Delta Plan which applies a common sense approach based on the best available science to achieve the coequal goals. It is expected that some of the projects that WCB will fund through the Stream Flow Program will occur within the Delta and Suisun Marsh, and those projects could be considered "covered actions" subject to Delta Plan regulations.

One of the requirements of the Delta Plan is that all covered actions need to document use of best available science and that ecosystem restoration actions must assure the continued implementation of adaptive management. Although we anticipate that most of the projects that will be funded by the Stream Flow Program will be located outside the Delta and Suisun, many stream flow enhancement and habitat restoration actions located upstream in the Sacramento and San Joaquin River watersheds can contribute to the coequal goals and recommendations contained in the Delta Plan. These recommendations can be addressed by projects that restore more natural flow regimes in tributaries, those that enhance water supply reliability via enhancements to watershed storage capacity, restoration of floodplains and flood basins, and restoration of migratory corridors for fish and wildlife. Council staff offers the following

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*"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

comments, which are intended to improve consistency with the Delta Plan, and encourages the WCB to consider them as it finalizes the Proposal Solicitation for the Stream Flow Program.

### **Enhancing Stream Flow**

The Delta Plan calls for returning to a more naturally variable hydrograph as a key component for ecosystem restoration because the hydrograph works with habitat restoration to produce diverse and interconnected food webs, refuge options, spawning habitat, and regional food supplies to benefit native species. The Delta Plan also clarifies that a more natural hydrograph is more than changes in water volumes, but also include seasonal timing, magnitude, frequency, duration, and rate-of-change in flows. One of the performance measures of the Delta Plan associated with Delta Plan Recommendation ER R1 (Update Delta Flow Objectives) is measuring progress toward restoring in-Delta flows to more natural functional flow patterns to support a healthy estuary. Additionally, Delta Plan Recommendation ER R2 calls for projects that restore Delta habitat including restoration of natural flows to enhance floodplain habitat at certain areas within the Delta, including the lower San Joaquin River, the Yolo Bypass, and the Cosumnes-Mokelumne River confluence, to benefit salmonids and other native floodplain-dependent species.

Proposition 1 presents an important opportunity to make progress toward the Delta Plan's goal of achieving more natural flows, as it calls for the WCB to administer \$200 million "for projects that result in enhanced stream flows." However, we are concerned that neither the administrative review nor the technical review criteria specifically require projects to have stream flow enhancement as their primary objective. The WCB's draft Proposal Solicitation Notice sets the technical review criteria for "Project Description – Purpose and Need", and "Project Outcomes - Diversity and Significance of the Benefits" at 6% and 9%, respectively, of the total maximum score. However, the proposal solicitation does not explicitly require evidence that a project will provide enhancement of stream flows for either of these two categories. We recommend that only those projects whose primary objective is stream flow enhancement to benefit native species and can, using best available science, adequately describe why the project will likely achieve this objective, be considered for funding by the Stream Flow Program. The Delta Plan encourages the development of multiple benefit projects, but we urge the WCB to only fund proposals whose purpose is first and foremost stream flow enhancement. For those proposals that meet this criterion, we support the prioritization of projects that provide multiple benefits.

Upstream flow enhancement has the potential to benefit ecological process and species downstream, including in the Delta, as called for in the Delta Plan. Proposals should clearly state whether they intend stream flow enhancement both on and off the site of the project. If the project is intended to provide offsite benefits, the proposal will need to explain the mechanism for working with the State Water Resources Control Board to protect the stream flow so that it is not diverted before reaching its intended destination.

## **Best Available Science and Adaptive Management**

The Delta Plan has a requirement that water infrastructure projects and ecosystem restoration projects that occur in part or in whole within the Delta or Suisun Marsh and otherwise meet the definition of a “covered action” include documentation of the use of best available science and adaptive management. The Delta Plan contains a detailed explanation for what is meant by “best available science” and “adaptive management” (see Delta Plan Appendix 1A and 1B available at

[http://deltacouncil.ca.gov/sites/default/files/documents/files/AppB\\_Combined\\_2013.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/AppB_Combined_2013.pdf)).

We are recommending that all agencies providing grants for any projects that may become covered actions subject to Delta Plan regulations, include the pertinent definitions of “best available science” and “adaptive management” in their grant guidelines and solicitation packages. Although most projects funded by the WCB are expected to be outside the boundaries of the Delta and Suisun Marsh – and hence out of the jurisdiction of the Delta Plan - we nevertheless recommend that all projects funded by the Stream Flow Program should be guided by best available science and incorporate an adaptive management plan. The 2014 Water Bond legislation (i.e., AB 1471) requires the use of best available science to inform decisions regarding water resources.

Since the scientific justification for projects is critically important to determine whether a project will likely have the intended habitat and wildlife benefits, we recommend that the importance of the scientific merit and basis of a project be elevated. In the current scoring criteria (Table 2 in the Draft Proposal Solicitation Notice), a proposal’s documentation of the scientific merit and the scientific basis of the project represents only 3% of the total maximum score (3 points out of a maximum 99). Given the requirements of Proposition 1, we recommend that if a full proposal fails to demonstrate use of best available science (as defined in Appendix 1A of the Delta Plan), such projects should be disqualified from grant funding consideration by the WCB in a similar process to the pass/fail scoring method of the administrative review process (i.e., Table 1 of the Proposal Solicitation Notice). We also suggest the scoring criteria include an assessment of whether proposals have an adaptive management plan informed by an effective monitoring and assessment framework that will enable the WCB and others to evaluate whether the projects achieve their intended benefits.

The Delta Science Program staff can provide guidance to project proponents and help them design monitoring programs and adaptive management plans that are guided by best available science. They can assist both with projects that will have a footprint in the Delta and Suisun Marsh as well as those projects that occur upstream of the Delta. Additionally, staff from our Science Program are willing to help participate in the WCB’s technical and science review process.

## **Monitoring and Reporting**

We appreciate and support WCB's requirement that all projects that are intended to change stream flow will be required to have hydrologic monitoring. We also recommend that the hydrologic monitoring be tied to assessments of water quality and biological indicators. Without concurrent monitoring of flow conditions (e.g., change in hydrograph), water quality (e.g., physical and chemical parameters including nutrient concentrations, conductivity (or salinity), pH, water temperature, and dissolved oxygen), and biological parameters (e.g., presence of native benthic macro-invertebrate assemblages, fish occurrence, and habitat use surveys), it will often be challenging if not impossible to determine whether a stream flow enhancement or floodplain restoration project is achieving its intended goals and objectives. Monitoring of these three elements (flow conditions, water quality, and biological parameters) concurrently is critical. Otherwise key monitoring information will be missing and it will be much more difficult to learn lessons from the project and inform adaptive management.

## **Performance Measures**

The Draft Proposal Solicitation Notice requires that monitoring plans for proposed projects include performance measures that will be sufficiently detailed to evaluate whether the project achieves and maintains its stated objectives. To the extent possible, we hope that those performance measures, especially for projects in the Delta and Suisun Marsh, be consistent and related to performance measure identified in the Delta Plan, which include tracking the acreage of habitat restoration projects in the Delta and Suisun Marsh and monitoring trends of native species in protected and restored habitats. (For example, a stream flow enhancement project may include monitoring the additional acreage of suitable floodplain habitat for salmonids created by increased floodplain inundation, as well as monitoring the use of the enhanced floodplain by native fish and birds.) Council staff recommends that a proposal's performance measures also reflect and link to the project's adaptive management plan. We look forward to working with WCB staff to ensure coordination of these project-specific performance measures with those in the Delta Plan.

## **Durability of Investments**

We would like to see assurances in the Proposal Solicitation Notice that projects funded by WCB through Proposition 1 will have long-term benefits. The Proposal Solicitation Notice requires that acquisition of water for the purpose of instream flow must not be for less than 20 years (page 6) and that for projects conducting on-the-ground work, properties must be improved or restored for at least 20 years. However, we are unsure whether elements such as changes of reservoir operations at existing and new storage sites will be required to have similar long-term assurances. Considering that the expected term of the bonds is 30 years, we recommend that the WCB only fund projects that can provide assurances that the projects will have benefits for a minimum of 30 years. Please make this requirement explicit when describing what project types are eligible under the Stream Flow Program.

The draft Proposal Solicitation Notice includes weed eradication actions that reshape the stream hydrograph as a type of habitat restoration project eligible for Proposition 1 grant funding. We have noticed in past projects that in order for weed eradication to be effective, sites have to be regularly maintained to prevent weed recolonization. We encourage the WCB to only approve weed eradication projects when there is a long-term commitment for ongoing removal of problematic, water intensive weeds (e.g., grant applicant has a multi-decade endowment funded by non-State sources); otherwise the benefits of weed eradication on stream flow conditions are expected to be short-term.

### Other Comments

In order to help applicants understand how to show consistency with the Delta Plan in the grant application, we recommend that the WCB provide potential grantees with the following information:

- General information about Delta Plan policies and recommendations, links to our regulations and online forms, and Council staff contact information.
- CDFW’s guidance related to avoiding or mitigating conditions that benefit non-native invasive species and DFW staff contact information, as required by Delta Plan Policy ER P5.
- DWR’s Agriculture and Land Stewardship guidance for managers of habitat restoration projects, including good neighbor policies and landowner participation options, and DWR or other appropriate agencies’ staff contact information.

### Suggested Line Edits to the Draft Proposal Solicitation Notice

Council staff offers the following suggested revisions to the draft Proposal Solicitation Notice for consideration by WCB staff:

- a. Proposals must identify the stream(s), reaches of those stream(s), and watershed (s) in which they are found **and submit documentation showing that benefits of the project will continue long-term, at a minimum of 30 years.**

b.

Criteria	Score
Proposed project is not required mitigation or to be used for mitigation under CEQA, NEPA, CESA, ESA, CWA, Porter-Cologne, other pertinent laws and regulations, or a permit issued by any local, state, or federal agency.	Pass/Fail
The applicant has included a consultation form from the California Conservation Corps or California Association of Local	Pass/Fail

Conservation Corps (collectively, the Corps”) to determine the feasibility of the Corps participation, consistent with the guidance stipulated in Appendix D of the solicitation.	
<u>The project uses best available science consistent with California Water Code section 79707(d) and the definition contained within Delta Plan Appendix 1A.</u>	<u>Pass/Fail</u>
<u>The project has an adaptive management plan, consistent with Delta Plan Appendix 1B.</u>	<u>Pass/Fail</u>
<u>The primary purpose of the project is to achieve stream flow enhancement that will benefit native species.</u>	<u>Pass/Fail</u>

c.

Scoring Criteria	Weighting Factor	Maximum Criterion Score	Percent of Total Maximum Score
Organizational Capacity			
Applicant Qualifications / Ability to Accomplish Project	3	9	
Project Benefits / State Priorities			
Project Description – Purpose and Need <u>(i.e., Description of how and why the project will lead to providing and protecting enhanced stream flow that benefits native fish and wildlife)</u>	2	6	36%
Project Outcomes – Diversity and Significance of the Benefits	3	9	
Climate Change Considerations	2	6	
Compatibility with Statewide and Regional Plans	2	6	
Co-Benefits – Description	1	3	
Project Outcomes – Durability of Investment	2	6	
Readiness / Feasibility			
Project Description – Implementation	2	6	24%

Schedule and Deliverables	1	3	
Project Readiness	3	9	
Budget	2	6	
Other Funding			
Leverage Funds	1	3	9%
Non-State Cost Share Funds	2	6	
Community / Stakeholder Support			
Community Support and Collaboration	1	3	6%
Disadvantaged Communities	1	3	
Innovation and Science			
Monitoring and Assessment	3	9	15%
New or Innovative Technology or Practices	1	3	
Scientific Merit – Scientific Basis	1	3	
<b>Use of Best Available Science and Adaptive Management</b>	<b>Pass/Fail</b>		

d.

Scoring Criteria	Weighting Factor	Points 0-3	Scoring Standards
<b>Project Benefits / State Priorities</b>		36	
<b>Project Description – Purpose and Need</b> The extent to which the proposal includes a detailed project description, including sufficient rationale to justify project need and a description of the primary objectives and protect location and boundaries are clearly delineated. of how the project will lead to	2	6	See standard Scoring Criteria

<p>providing and protecting enhanced stream flow that benefits native fish and wildlife. Also the extent to which the primary objectives and protect location and boundaries are clearly delineated.</p>			
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**Final Remarks**

We are pleased with the progress of the WCB's Proposition 1 Grant Program which will restore aquatic habitat and increase the resilience of ecosystem to climate change impacts throughout the State, including the Delta and its upstream tributaries. If you need clarification regarding our comments, I encourage you to contact Jessica Davenport at [Jessica.Davenport@deltacouncil.ca.gov](mailto:Jessica.Davenport@deltacouncil.ca.gov) or 916-445-2168.

Sincerely,

Cindy Messer  
Deputy Executive Officer  
Delta Stewardship Council