



## CENTRAL DELTA WATER AGENCY

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June 29, 2015

via email [DLIS\\_NOP\\_comments@deltacouncil.ca.gov](mailto:DLIS_NOP_comments@deltacouncil.ca.gov)

Cindy Messer  
Deputy Executive Officer - Planning  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
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Re: Notice of Preparation for Delta Levee Investment Strategy Policy

We are concerned with the process of setting forth constraining principles prior to completion of the EIR and in particular the exclusion of numerous long recognized local, state and national interests protected by the Delta levees.

### Local, State and National Interests

In addition to the levees protecting the region's residents, farms and businesses the Delta levees also protect:

1. The hundreds of miles of meandering waterways and associated public trust resources;
2. Recreational assets;
3. Fisheries;
4. Wildlife, including thousands of acres of agricultural land serving as an essential part of the wintering habitat for waterfowl of the Pacific Flyway;
5. Over 67 billion dollars (2005 dollars) of infrastructure at the 100 year flood level and substantially more at higher levels. The protected infrastructure includes interstate and intrastate highways, railroads, and utilities (Delta Risk Management Study);
6. The health and safety of hundreds of thousands of people from flood related drowning, disease and crime;

7. The water delivery system for a portion of the supply for millions of state residents and millions of acres of farmland in areas outside of the Delta;

8. Hundreds of thousands of acre feet of fresh water savings due to reduction of evaporative losses;

9. Commercial and military navigation including the Sacramento and Stockton Ship Channels;

10. The health and safety of hundreds of thousands of people from vectors such as mosquitos;

11. Detrimental changes in climate including fog;

12. Public assets such as hospitals, jails, military facilities, police, fire facilities and the like;

13. Natural gas storage facilities;

14. The water restrictions which help reduce salinity intrusion such as those recognized as related to the levees on the eight western delta islands;

15. Against increases in the tidal prism which induce greater salinity intrusion;

16. The restrictions of the paths for salinity intrusion into the interior of the Delta and export pumps;

17. Against degradation of surrounding groundwater basins;

18. Water quality as related to dissolved organic carbon, methyl mercury and other contaminants;

19. Against detrimental water temperature increases.

#### Levee Geography and History of Flooding

There appears to be a lack of understanding of the geography of the Delta and the differences of the various levees comprising the levee system. The now flooded portion of Liberty Island is part of the Yolo Bypass. It's levees have for years been restricted by elevation control easements so that it is planned to be flooded in certain high river flow events to protect the Sacramento Metropolitan area. The flooding in periods when there is no high river flow is

now intentional and is intended to provide beneficial fish habitat. The detrimental increase in the tidal prism, the increase in evaporative losses and in the predation of salmon demonstrates the harmful effects of loss of levee segments whether intentional or accidental. Levees in bypass or floodway areas which are restricted as to elevation are planned to fail in high flow events well below the 50 and 100 year levels. Similarly, many of the USACE project levees were designed to protect only against 20 year, 30 year or more frequent events. It is also important to distinguish the levee failures such as Mildred which occurred in the 1980's before significant state funding of the Delta levee subvention and special project programs. Even a number of the strong advocates of the peripheral canal or tunnels who are knowledgeable of Delta levees are urging caution in the application of your principles which do not maintain the levees in the Delta as a system. The suggestion that timing be considered and deferral until tunnels are in place is obviously prudent. Even with the tunnels the plan of the export projects appears to be to operate about 50% of the time with no diversion into the tunnels. The interrelationship of islands as to seepage and wind generated waves is obvious and should not be ignored. The flooding of Jones Tract in 2004 where Hwy 4, the EBMUD aqueducts, the BNSF railroad, the Kinder Morgan Fuel Pipeline, the PG&E gas storage facility and sizable electrical transmission lines were at risk is the perfect example where looking solely at the land value within the levees is not in the state's or anyone's interest. Although the challenge of managing floods in the Delta may increase with time the structural improvement of Delta levees can also increase with time. Assuming climate change will aggravate Delta flooding needs more careful evaluation. Many of the major historical flood events have occurred when rain has induced or coincided with melting of a substantial snow pack. Freeboard, crown width and toe berms can provide the ability to adjust to conditions as they actually occur.

The notion that other alternatives to reduce flood risk have not been fully evaluated is somewhat misleading. All such other alternatives have been comprehensively evaluated. Alternatives such as better coordination of reservoir releases, better emergency preparedness, stockpiles of Delta materials, increased investment in the Western 8 islands and in levees along the armored corridor are being implemented and have received priority under the DWR administered programs. Upstream flood water retention has also received considerable evaluation. The issue is not necessarily the extent of evaluation but rather, whether and how the decisions based on such evaluation should be changed.

The Delta's primarily rural character in some respects does not assist in flood management. Many aspects of flood management require the expenditure of funds for improvements such as levees and drainage systems, emergency preparedness plans and operation and maintenance. Levee assistance typically requires a local share of the eligible cost and 100% of the ineligible costs. Residential, commercial and industrial development provide a greater economic base and ability to pay.

State and federal assistance for flood control in most cases requires a local cost share and impose other requirements which require local funding. Local funding requires development. The inability of rural areas to provide the necessary funding limits the ability to manage the risks to desired levels. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 established the Delta Protection Commission and defined the primary and secondary zones which are in place today. The plan was to preclude development in the Primary Zone that results in any significant loss of habitat or agricultural land. The Act finds and declares “That the Sacramento-San Joaquin Delta is a natural resource of statewide, national and international significance, containing irreplaceable resources, and it is the policy of the state to recognize, preserve, and protect these resources of the Delta for the use and enjoyment of current and future generations.” The Act recognized the need to retain and continue the cultivation and protection of the agricultural lands for not only the economic value but for the significant value as open space and habitat for waterfowl using the Pacific Flyway as well as other wildlife. The need to improve and maintain the levee system was recognized as a matter of continuing urgency to protect farmlands, population centers, the state’s water quality and significant natural resource and habitat areas of the Delta.

It was clearly recognized that precluding development in the primary zone would retain the rural character but would necessitate the contribution from beneficiaries other than the landowners to improve and maintain the leveed islands and tracts which are deemed areas of critical statewide significance.

Even in the secondary zone additional urban development will be necessary to fund the local share of the desired flood protection for already existing populations and billions of dollars of public and private improvements including highways, railroads, hospitals, jails, police and fire facilities and military facilities and the like.

Managing flood risk in the Delta is not significantly unlike managing risks in other areas including coastal areas from such events as earthquakes, flooding, sea level rise, tsunamis, landslides, wildfires, subsidence, vandalism and even terrorism.

The risk to water facilities from earthquakes and terrorism is far greater along the hundreds of miles of aqueducts, pipelines and the related electrical and pumping facilities than it is in the Delta. Emergency response and ongoing effort to maintain and improve is the reasonable course. Abandonment of portions of the water delivery system including portions of the Delta levee system is not in anyone’s interest.

Part of emergency preparedness is having in place emergency response strategies (Water Code section 85305(b)). Most important is the immediate response to control the proliferation of levee breaks and the spread of flood water by promptly closing levee breaks and dewatering flooded islands. The seepage into adjoining levees and the internal wind erosion of flooded

island levee systems, if not immediately addressed, will cause the spread of flood waters and greatly increase the resulting damage and cost of repair. If in drought conditions the flood water could be saline thereby adversely impacting local and export water supplies. The already existing stockpiles should be maintained and a clear plan of immediate repair should be in place.

The improvement of the armored corridor should continue. Advanced contracting and permitting for immediate levee break and channel closures should be implemented. Funding the specific plans for immediate response should be in place in advance of any disaster. A critical part of emergency response is having contractors with the experience, equipment and access to materials necessary to do the job. The ability to build and maintain levees requires machinery, materials and know-how which has deteriorated over time as regulatory and financial difficulties have increased. To achieve desirable levels of these assets will require steady financing and regulatory streamlining through support of a steady ongoing levee improvement and maintenance program. A major benefit of such support will be the ready capability to respond to levee emergencies when they happen.

Funds available for Delta flood management have since about 1990 been sufficient to significantly raise the level of protection throughout the system even though a significant portion of such funds were directed to purposes other than improving the flood protection. The desired levels of physical improvement can be achieved with steady progress over a reasonable period of time. The goal of 200-year protection for developing urban areas is 2025. Similarly a plan and goal can and should be set for progress to achieve the minimum level for the non-urban non-project levees with preference for progressively widening the base and crown width to better accommodate possible sea level rise and increase earthquake resistance. Levee projects take time to plan, permit, finance and complete. Funding will necessitate progress over a reasonable period of time. A template using the PL84-99 Delta Agricultural Standard or DWR 192-82 Standard with a minimum crown width of 22 ft. should be the current minimum goal for all non-urban, non-project levees.

For non-urban project levees the USACE cost benefit analysis will preclude federal funding assistance for levee improvements and may even impact the decision on providing rehabilitation after a flood event. Even on USACE urban project levees, the USACE role appears to be increasingly uncertain.

USACE project levees have not been built to a single standard and many have been built without compliance to the USACE standards which are imposed on others. For the non-urban projects which were built by the USACE to standards which provide low levels of protection such as 20 year, 30 year or something less than 50 years, an adequate minimum level of protection should be the goal. The failure rate of USACE project levees is quite high, consistent with the low standard of design. Even for urban levees the typical USACE project levee would likely not meet FEMA 100 year requirements.

The minimum standard to be achieved over time for project non-urban levees should provide a comparable level of protection as for the non-project non-urban levees.

Existing levee programs have applied priorities both as to allocation of funding and as to rating individual projects. Much of the prioritization is the result of bond provisions and legislation. We continue to recommend that prioritization be accomplished through allocation of funding to the DWR programs that are already in place. The Urban Levee Programs have historically been funded separately from the Delta Levee Subvention and Special Projects programs and include the urban levees in the Delta which comprise in major part project levees. This separate funding should continue and can adequately reflect priority without abandoning or leaving behind the non-urban levees in the Delta.

When there was supposedly \$760,000,000.00 for the DWR Delta Levee Subvention and Special Projects programs, we and other Delta interests recommended \$100,000,000.00 per year for five (5) years allocated as follows:

Delta Levee Subventions	12 million dollars
State Special Projects	44 million dollars
Local Special Projects	44 million dollars

The detailed recommendation was previously submitted and is attached. This approach provided priorities while still addressing all risks. It was in part implemented with substantial success. An attempt to identify the greatest specific risk involving consequences and probability of failure is at best uncertain. The priority for urban levees in the Secondary Zone, many of which are project levees, should be provided through separate funding and programs as was done in the past.

The concept of no restoration of Delta levees after breach or intentional breaching is in our view reckless and should be carefully reconsidered. The Delta levees are a system and experience has confirmed the inter-relationship and detriments of not maintaining all Delta islands. The legislature has recognized that it may not be economically justifiable to maintain all Delta islands and use of the word “may” is cautionary and merits careful analysis. All the local, State and national interests merit careful evaluation. Often overlooked are some consequences to water quality and supply. The failure to maintain the Little Franks Tract and Franks Tract levees are in major part the reason for the need to construct the False River Barrier to help control salinity intrusion. The failure to maintain the levees at the lower end of the Yolo Bypass, purportedly to provide habitat, have increased the tidal prism thereby increasing salinity intrusion and aggravating the current drought crises. Increased evaporative losses, seepage into adjoining levees and islands, increased wind-driven waves which wash away remnant levees including irreplaceable riparian habitat thereby requiring higher and wider levees on adjoining islands, loss of terrestrial habitat including critical wintering waterfowl food supply and drowning of

terrestrial wildlife among other impacts are all additional significant detrimental results which have economic consequences relevant to justification of maintenance of all Delta levees.

The availability of funds to address the flood risks sought to be managed should not be aggravated by imposing habitat enhancement and other non-flood related purposes onto the levee improvement projects. Addition of habitat enhancement features and levee setbacks greatly increase the cost of the needed levee improvements and should not be included until such time that all levees meet the minimum desired standards. Moving off of the historically consolidated levee foundations requires significantly more fill, utility relocations and right of way. Even the so-called fat levee substantially increases the cost and should be limited.

The Delta already has a huge amount of habitat and it is unwise to sacrifice existing levees, the habitat protected thereby and the habitat thereon in order to enhance habitat on other levees. Habitat enhancement should not detract from the flood control challenge and can be accomplished at less expense without interference with levee maintenance and improvement.

#### **“Goals to Better Protect Life, Property and State Interests in the Delta”**

Principle 1. In our view, the goal of the Delta Plan is to facilitate greater exports of water from the Delta and not to better protect life, property and State interests in the Delta. The Delta levee investment strategy should be focused on priority use of funds for flood risk reduction purposes and not for other purposes. Accomplishment of actual improvement of Delta levees to better protect life, property and State interests in the Delta should be the goal of the Delta levee investment strategy.

Principle 2. “Stop urbanizing flood-prone land.” As clearly demonstrated in flood-prone areas outside the Delta continued urbanization is necessary to fund the local share of the cost of levee improvements. Even with ample funding from the State and federal government, a local share is required. Absent new urbanization there are existing lives, property and State interests that need to be protected. The principle ignores the difficulty in actually achieving the goals. Reclamation Districts do not have land use authority and cannot control the same. The land use agencies do control development however the challenge is funding to accomplish the desired flood protection.

Principle 3. “Expenditures should reduce risk.” Maintenance is a key part of reducing risk and the interests that benefit from levees should bear their fair share of the cost of both improvement and maintenance. The legislature has declared that both improvement and ongoing maintenance of the levee system is a matter of continuing urgency. (WC 29704)

Principle 4. “Beneficiaries Pay” Many of the benefits of improvement and maintenance of Delta levees extend to broad areas and broad interests. The legislature has found and declared

that leveed islands and tracts are areas of critical statewide significance. Past efforts recognized that general taxpayer revenue was the best way to achieve “beneficiary pay” for the broad based benefits. Consideration of a new assessment district is part of the Delta plan yet other alternatives should be considered including continuation of incremental State bond funding and a statewide sales tax, gas tax or the like.

Principle 5. “First Priority for Major Urban Development” The Delta levees are a system. The DRMS determination that over 67 billion dollars of infrastructure are at risk from Delta levee failures at a 100-year flood elevation should be recognized. The Urban levee priority should be met through the separate funding of levee improvements for such areas. The distinction for “Major Urban Development” adds difficulty and at best needs definition. The first priority for the Delta Special Projects Program should be to achieve an acceptable minimum engineering standard for each of the categories of the levee system over other purposes and should continue to be restricted to levees in the primary zone and the limited non-project levees in the secondary zone. The allocation of funding for the various levee programs can be used to provide progress in each of the levee categories over a reasonable period of time. Levee projects take time to plan and construct. A plan for steady and balanced progress to achieve the goals is preferable to imposition of priorities which abandon a portion of the goals at the start.

Lives are threatened to some extent in every levee failure. Those within proximity of the floodwaters whether within the levee system in the adjacent waterways or on adjacent land areas, roadways and railroads are at risk. Depending upon the severity and type of disaster event, interference with local and regional evacuation and transportation could impact hundreds of thousands of lives.

Principle 6. “Water Conveyance Channels and Levees That Protect Water Quality For Water Users Need Protection.” This principle is appropriate and applicable to the entire Delta levee system. The statement that the water contractors and water users should pay for the improvement ignores the possibility that other beneficiaries might appropriately benefit from the increased expenditure to provide the higher level of flood protection than the system-wide minimum acceptable engineering standard. In the past, the general taxpayer contribution was intended to incorporate the statewide benefits including those to the water users.

Principle 7. The principle that State funds must enhance the ecosystem even if projects cost more to the State and to reclamation districts should not be directed at requiring that such enhancement take place through alteration, relocation or breaching of levees or that such cost burden should be imposed on the reclamation districts. Levees protect habitat, fish and wildlife within the islands and tracts as well on the levees and in the adjoining waterways. Enhancement can and should be accomplished without interference with levee improvement and maintenance. The levee program funding for enhancement should be done at the program level rather than project by project and should be kept to a limited level until the minimum level of flood risk

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Deputy Executive Officer - Planning  
Delta Stewardship Council

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June 29, 2015

reduction is achieved. Habitat enhancement can be achieved separately from levees at a much lower cost and without interference with the time-sensitive needs for reduction of flood risk.

The contention that a reliable water supply is only possible when the Delta ecosystem is significantly improved is misleading. It is the huge decline in fisheries that appears to be related in great part to reduced flows, reduced water quality and increased exporting of water that needs to be addressed. The connection of such decline to increased habitat on or related to levees is at best speculative.

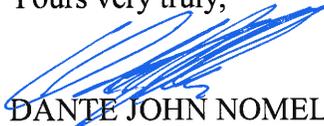
Principle 10. Non-project levee burden of proof reflects an inappropriate bias which is contrary to the numerous legislative declarations of policy and law. As to State liability for Delta levee failures, it should be recognized that the impact of State flood control measures on downstream areas and the planning for routing increased flood flows through the Delta to the bay cannot be ignored.

Before such a conclusion is put forth, a careful evaluation of the impacts of the State Plan of Flood Control should be completed. The failure to establish adequate floodways and protect the same from encroachment, the operation of the flood control systems to enhance water supply rather than provide flood protection and the efforts to provide greater flood protection to some areas to the detriment of other areas all deserve careful legal and engineering review.

Principle 11. The conclusion as to a flood district is premature. The results of the current study by the Delta Protection Commission and the EIR should be considered prior to reaching such a conclusion.

Thank you for your consideration of these comments.

Yours very truly,

  
DANTE JOHN NOMEILLINI, SR.  
Manager and Co-Counsel

DJN:ju

Enclosure

cc: Council Chairperson Randy Fiorini  
Council Member Phil Isenberg  
Council Member Aja Brown  
Council Member Frank C. Damrell, Jr.  
Council Member Patrick Johnston  
Council Member Mary Nejedly Piepho  
Council Member Susan Tatayon



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July 9, 2008

Via email [mikemi@water.ca.gov](mailto:mikemi@water.ca.gov)

Mike Mirmazaheri  
Program Manager  
Delta Levee Program  
Department of Water Resources  
1416 Ninth Street  
Sacramento, CA 94236

Re: Five (5) Year Levee Plan

Dear Mr. Mirmazaheri:

Thank you for the opportunity to provide a suggested five (5) year levee plan. This submittal is intended to provide the overarching plan within which Districts would submit five (5) year plans outlining the intended levee work categories with rough estimates of cost. These work plans will necessarily change with conditions in the field and progress of work. The five (5) years included are 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14. For 2008-09 we suggest the same priorities. For Delta Levees Proposition 84 provided \$275 Million and Proposition 1E \$500 Million for a total of \$775 Million. For the five years it is assumed that at least \$100 Million will be available each year.

Our view of the need to preserve Delta levees extends to all of the present levee systems. The inter-relationship of the various islands and tracts due to seepage, wind wave generation and as habitat for both local and migratory fish and wildlife mandates that the plan should attempt to preserve all levee systems with due consideration of the Legislature's concern that preservation of all may not be economically justifiable. Outlined herein are the priorities and constraints which will provide economic support with appropriate justification.

The Legislature's findings and declarations in Water Code sections 12981 and 12982 provide the guidance in which we concur.

**“§ 12981. Unique resources with statewide significance; preservation**

(a) The Legislature finds and declares that the delta is endowed with many invaluable and unique resources and that these resources are of major statewide significance.

(b) The Legislature further finds and declares that the delta's uniqueness is particularly characterized by its hundreds of miles of meandering waterways and the many islands adjacent thereto; that, in order to preserve the delta's invaluable resources, which include highly productive agriculture, recreational assets, fisheries, and wildlife environment, the physical characteristics of the delta should be preserved essentially in their present form; and that the key to preserving the delta's physical characteristics is the system of levees defining the waterways and producing the adjacent islands. However, the Legislature recognizes that it may not be economically justifiable to maintain all delta islands.

(c) The Legislature further finds and declares that funds necessary to maintain and improve the delta's levees to protect the delta's physical characteristics should be used to fund levee work that would promote agricultural and habitat uses in the delta consistent with the purpose of preserving the delta's invaluable resources."

**"§ 12982. Public benefit from privately maintained levees**

The Legislature further finds and declares that while most of the delta's levees are privately owned and maintained they are being subjected to varied multiple uses and serve to benefit many varied segments and interests of the public at large, and that as a result of the varied multiple uses of such levees, added maintenance costs are being borne by adjacent landowners."

Although the smallest of islands may at first blush appear to be expendable, the habitat value (which in many cases is supported with private funds) would be lost. Such habitat value is extremely difficult to replace especially in terms of supporting habitat for waterfowl in the Pacific Flyway and providing meandering shoreline. With increasing development along the entire west coast of the United States, the opportunity to preserve supporting habitat for the Pacific Flyway is greatly diminishing. It is also extremely difficult to replace the meandering shoreline habitat and meandering waterway recreational opportunity provided by even the smallest levee systems. The impacts of seepage and wind-generated waves on surrounding levees and lands are assumed to be less critical with the flooding of smaller islands however, significant impacts can still result. Scour in adjoining channels resulting from levee breaks or even from the ongoing tidal flow of water in and out of the flooded area, scour from rerouting of channel flow (including the flow of water to the export pumps) and changes to the land surface such as from oxidation of organic soils can result in major long lasting adverse impacts to adjoining areas.

Limited Ability to Generate Local Revenue for Cost Share and Project Funding

The limited ability to generate revenue from local assessments to meet cost-sharing requirements and to fund the levee work in advance of reimbursement is a primary constraint under the Levee Subvention Program. Local assessments are based on allocations of the benefits derived from the levee-related services provided by the local levee maintaining districts. In most cases these are reclamation districts. Pursuant to California Constitution Article XIII D increases in assessments must be submitted to an assessment ballot proceeding where a majority protest based on the maximum dollar amounts to be assessed will stop the assessment. The benefit allocations are typically based on land use where the ratios for allocation from one use to another are fairly well bracketed and the constraint is the agricultural use ability to pay. Further consideration of ability to pay for districts which have significant agricultural use is unnecessary as the limitations are clearly demonstrated by previous analysis. As to urban levee systems, it is important to continue to recognize that State funding is intended to provide contribution from beneficiaries of the levee system other than the landowners within a particular district and to in part compensate for damages to the levee system caused by users of the Delta other than the landowners. We believe the funding priorities and cost shares set forth herein adequately account for ability to pay for all eligible districts including those with urban levee systems.

As presently structured, the Delta Levee Subvention portion of the Delta Levee Program cannot facilitate timely completion of urgently needed levee work. The substantial under-funding of the Delta Levee Subvention Program in recent years coupled with substantially increased cost of meeting regulatory requirements has left most participating districts with very little capability to fund additional levee work.

FEMA Eligibility

FEMA is applying a very rigid interpretation of the requirements under the so-called Delta Hazard Mitigation Plan (HMP). Instead of the good faith progress approach applied in previous years, FEMA has denied eligibility if any part of a levee system fails to meet HMP requirements. For the 2005/06 flood event, the one (1) foot above the 100 year flood elevation requirement was the greatest constraint. Portions of the Delta levees are settling and can be expected to continue settling for many years to come. The crowns of levees on which county roads and State highways are located are typically raised less frequently to reduce disturbance of costly road surfacing. Changes in historical benchmark elevations have added to the non-compliance. Although federal funding has not been made available to support the Delta levee programs, federal Disaster Assistance has at times been substantial. Priority funding is needed to re-establish and maintain HMP compliance to help assure future FEMA assistance. HMP compliance with a robust levee program should demonstrate a good faith effort on the part of the State and locals towards reasonably reducing the threat of future flooding. We would expect such effort to be recognized by FEMA.

HMP is not an acceptable levee standard but rather a means of measuring progress to satisfy FEMA. The PL 84-99 agricultural standard is viewed as the minimum acceptable level of protection against failure due to flooding. Any other higher levels of protection should be determined and prioritized by DRMS, Delta Vision, etc. and funding for those more expensive fixes would be expected to come from other sources of state money and other beneficiaries.

### 5-Year Plan

Definitions - Urban Islands and Tracts are those with levee systems which protect areas with existing and ongoing urban development where the levees have at one time been accredited or are in the process of being accredited as meeting FEMA requirements for urban development.

Non-Urban Islands and Tracts are those other than Urban Island and Tracts.

Project levee and non-project levee shall be as defined in WC 12980.

Special Project Program - The Special Project portion of the Delta Levee Program should incorporate broader funding of needed levee work throughout the Delta. We suggest that the Special Levee Project program be separated into two parts: State Special Projects and Local Special Projects.

The State Special Projects would continue the past practice with emphasis for the eight (8) western Delta islands thought to be most important to restrain salinity intrusions, assistance for levees protecting the towns of Thornton and Walnut Grove and for other levee projects. For the 5 year planning period, the expenditures should be focused on levee improvement. Other expenditures including habitat enhancement should not exceed ten (10) percent of the amount of funding for the State Special Projects.

The Local Special Projects would be applied throughout the Delta to the non-project, non-urban islands and tracts other than the eight (8) western Delta islands. The first priority for the local special projects should be funding of work necessary to achieve and maintain HMP requirements on the non-project, non-urban islands and tracts and achieving and maintaining minimum project levee standards on project levees. This work should be funded 100% by the State. The non-project levee work should be designed to raise crown elevations to one (1) foot above the 100 year flood elevation plus an additional one-half (1/2) foot to account for periodic levee settlement. For areas with public roadways the design should include the one (1) foot above the 100 year flood elevation plus an additional one (1) foot. For non-project levees, the crown width should at a minimum meet the HMP required sixteen (16) feet but should seek to achieve a minimum of twenty-two (22) feet on levees without public roadways and the then current crown width or twenty-eight (28) feet (whichever is greater) for levees with such roadways. The HMP required all weather road on the levee crown must be included. The second

priority should be funding ninety percent (90%) of the cost of habitat mitigation related to non-urban islands and tracts for all priorities of work including PL 84-99 and DWR Bulletin 192-82 agricultural standards. The third priority should be funding ninety percent (90%) of the cost of work on non-project, non-urban islands and tracts to reach the PL- 84-99 or DWR Bul. 192-82 agricultural standard with a height of eighteen (18) inches above the 100 year flood elevation plus one-half (1/2) foot of additional elevation for levees without public roadways and one (1) foot of additional elevation for levees with public roadways. Crown width should be twenty (20) feet on levees without public roadways and the then current crown width or twenty-four (24) feet (whichever is greater) for levees with such public roadways.

#### Levee Subvention Program

\$1,000.00 per mile deductible.

First Priority - 75% reimbursement up to \$20,000.00 per mile for annual levee maintenance.

Second Priority - 75% reimbursement for habitat mitigation.

Third Priority - 75% reimbursement for all levee work in excess of First Priority work up to an additional \$20,000.00 per mile including HMP work and work to meet the PL 84-99 or DWR Bul. 192-82 agricultural standards with an additional one-half (1/2) foot of crown elevation to account for periodic settlement on levees without public roadways and an additional one (1) foot on levees with public roadways. Crown width should be twenty-two (22) feet on levees without public roadways and the then current width or twenty-eight (28) feet (whichever is greater) for levees with such public roadways.

Fourth Priority - Third priority work in excess of \$20,000.00 per mile.

#### District Five Year Plans

Each participating district should provide a five year plan setting forth the general description and estimated dollar amount of work proposed for each of the categories set forth above assuming advances for the Subvention Program as currently applicable and payments by the State for Special Projects as invoices are received. Special State Projects and Special Local Projects will require specific plans and project review consistent with current practice. Local district development of plans, conduct of soil investigations and preparation of project documents will be funded through the Local Special Projects at a cost share of 90% State, 10% Local.

Additional Priorities Established Through the Annual Allocation of Funding to the Following Categories: (assumes One Hundred Million Dollars per year)

Delta Levee Subventions	12 million
State Special Projects	44 million
Local Special Projects	44 million

If funding is insufficient to fund all acceptable projects in the Delta Levee Subvention and/or the Local Special Projects Categories for the particular fiscal year, the funding will be allocated within each category first, based on the specific priorities and second, prorated within the underfunded priority to fully fund a segment of qualifying work in each applying District. The proration will be based on the total lineal feet of acceptable levee work within the underfunded priority which is included in the application of a particular district as compared to the total lineal feet of acceptable levee work included in all applications for the particular fiscal year in the specific priority. The District may elect to receive the funding available to provide maximum State cost share for a segment of the work and defer the remainder of the work in the priority to a subsequent year. Any excess of funds within the Delta Levee Subventions or Special Local Projects Categories shall be applied first to fund any shortfall in the other category within the particular fiscal year and second to supplement funding in the particular category in the subsequent fiscal year.



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DANTE JOHN NOMEILLINI  
Manager and Co-Counsel

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cc: David Mraz via [dmraz@water.ca.gov](mailto:dmraz@water.ca.gov)  
Locals