

July 1, 2015

Delivered via email: DLIS_NOP_comments@deltacouncil.ca.gov

Ms. Cindy Messer
Deputy Executive Officer—Planning
Delta Stewardship Council
980 9th Street, Suite 1500
Sacramento, CA 95814

Subject: Delta Levee Investment Strategy Policy EIR

Dear Ms. Messer,

The State Water Contractors (SWC) appreciate the opportunity to submit the following comments in response to the Notice of Preparation Draft Environmental Impact Report for the Delta Levee Investment Strategy (DLIS) dated May 28, 2015 (“NOP”). The comments below are intended to: (1) help the Delta Stewardship Council (Council) produce a legally adequate Environmental Impact Report for the DLIS; (2) provide an environmental review process that allows the public and stakeholders a meaningful opportunity to participate as required by the California Environmental Quality Act (CEQA), and; (3) provides the Council and responsible agencies with an adequate range of alternatives and the environmental impact analysis needed to reach a fully informed decision.

The SWC is an organization representing 27 public water agencies operating within California who contract with the California Department of Water Resources (DWR) for water supplies from the State Water Project (SWP).¹ The SWP supply delivered through the Sacramento-San Joaquin Delta (Delta) constitutes a significant portion of the water supplies available to SWC members. The SWC are concerned that the planning to date has only evaluated the assets protected by levees, and not the increasing public risks caused by perpetuating existing land uses that contribute to land subsidence below sea level. As stated in our previous comments in the DLIS process, the SWC support strategic, cost-effective investments to improve ecosystem function, water supply reliability and water quality consistent with a sustainable plan that considers all of the overarching physical and economic factors that will drive changes to the Delta. These factors include sea level rise, subsidence, seismic events, and unsustainable land practices. A DSC plan that ignores any one factor will not succeed because any one factor can have significant implications on the Delta.

¹ Alameda County Zone 7 Water Agency, Alameda County Water District, Antelope Valley-East Kern Water Agency, Casitas MWD on behalf of the Ventura County Flood Control District, Castaic Lake Water Agency, Central Coast Water Authority on behalf of the Santa Barbara FC&WCD, City of Yuba City, Coachella Valley Water District, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire West-Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, The Metropolitan Water District of Southern California, Mojave Water Agency, Napa County FC&WCD, Oak Flat Water District, Palmdale Water District, San Bernardino Valley MWD, San Gabriel Valley MWD, San Geronio Pass Water Agency, San Luis Obispo County FC&WCD, Santa Clara Valley Water District, Solano County Water Agency, and Tulare Lake Basin Water Storage District.



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The NOP states that the project is an update to the “Risk Reduction” section of the current Delta Plan, adopted in 2013. It also states that the updated DLIS Policy “will be more specific than the interim policy . . . in terms of primarily *where* in the Delta the State should prioritize its levee investment and, to some degree, *what* types of levee improvements reflect the State’s priorities in those areas.” (NOP at p. 6, emphasis original.) This project description is so abstract that the SWC cannot provide more than five general comments at this stage to help inform the Council’s preparation of the DLIS Program EIR.

First, we urge the Delta Stewardship Council to provide stakeholders an early opportunity to review and comment on administrative drafts that address the EIR’s foundation elements as described below. At a minimum, once the Council has drafted a more detailed project description, including more specific goals and objectives, stakeholders could provide more meaningful comments. The SWC would also welcome the opportunity to propose alternatives and review and comment on those the Council develops for detailed analysis in the Draft EIR. When framing a range of potentially feasible alternatives, the Council should keep in mind that relatively few levees in the Delta need to be improved to protect reliable water supplies. Most important to water supply reliability, the State needs to finish strengthening levees along the Freshwater Pathway to lessen the risk of earthquake initiated slumping. Thus, a reasonable range of alternative investment strategies would include the Freshwater Pathway among the highest priorities for State investment.

Second, DLIS impact analyses should evaluate subsidence impacts associated with land uses derived from reduced public subsidies and flooding potential. Specifically, there are ecological costs associated with the State funding certain levee improvements that may only exacerbate risks to State interests in the long run and indirectly contribute to adverse environmental impacts. For example, continued farming on some Delta islands increases water supply risks by worsening subsidence. Subsidence creates the following risks: 1) increases the size of the “gulp” during an earthquake induced failure of many islands, 2) increases levee vulnerability by increasing the effective height of the levees, 3) increases the head differential which increases the drainage and dissolved organic carbon discharge in the export water supplies, and 4) makes aquatic habitat restoration more difficult as land elevations fall further below the intertidal range. The subsidence process also emits huge quantities of greenhouse gases, which must be analyzed as part of the CEQA process.

Third, the SWC are encouraged to see that the Council appears to include levee-related ecosystem restoration as a component of any DLIS alternative. (See NOP at p. 6 [explaining that the DLIS itself will not require construction of any specific levee improvements or levee-related ecosystem restoration projects, but would change the likelihood of such projects occurring in the Delta region].) To the extent that such restoration exceeds otherwise applicable mitigation or regulatory requirements, it provides a public benefit that merits public funding. However, it is important that any alternatives that prioritize habitat restoration require that such restoration be supported by the best available science and model potential impacts to water quality and water supplies in the Delta.

Fourth, the Council should exercise its discretion to use a dual baseline for the water supply and water quality impact analyses because it is reasonably foreseeable that new Delta conveyance capable of diverting water from the Sacramento River will be constructed and operated as part of the State Water Project. One of the objectives of new conveyance is to reduce risks to water supplies conveyed through the Delta from levee failure. Thus, its completion must be factored into any analysis of each project alternative’s impacts on water supply. A future projected condition baseline will also have the benefit of factoring in climate change and sea level rise, which will give the Council and stakeholders the information needed to make fully informed decisions about potentially significant impacts of each alternative that may be exacerbated by climate change as well as the long-term effectiveness of each alternative and any required mitigation measures.

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Finally, each baseline for water supply and water quality should include a range of water year types, not a “snapshot” or “average” water year. Such analysis is essential to DWR’s ability to use the Program EIR for its purposes as a responsible agency, and it provides water agencies that receive supplies from the Delta to analyze the potential impacts of each alternative on their operations.

Pursuant to Public Resources Code section 21092.2(a), the State Water Contractors request written copies of all notices required for the DLIS, including notices for any additional opportunities for public comment, and any public hearing or hearings required for approval. Please direct all notices to my attention.

Sincerely,



Stefanie D. Morris
Acting General Manager and General Counsel
State Water Contractors

cc: Brenda Burman, Metropolitan Water District of Southern California