



# DELTA STEWARDSHIP COUNCIL

*A California State Agency*

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December 28, 2015

Mr. Stuart (Greg) Farley  
California Department of Water Resources  
3464 El Camino Avenue, Suite 200  
Sacramento, California 95821  
[Stuart.Farley@water.ca.gov](mailto:Stuart.Farley@water.ca.gov)

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## **RE: Comments on Draft Small Communities Flood Risk Reduction Program Guidelines and Draft Proposal Solicitation Package**

Dear Mr. Farley:

Thank you for the opportunity to comment on the Draft Small Communities Flood Risk Reduction Program (SCFRR Program) Guidelines and the Draft Proposal Solicitation Package (PSP). Delta Stewardship Council (Council) staff appreciates the Department of Water Resources' (DWR's) efforts to support small community flood risk reduction projects for areas protected by State Plan of Flood Control (SPFC) facilities in the Sacramento-San Joaquin Valley. In addition, we appreciate your time conducting a briefing for Council staff on October 29, 2015 regarding the SCFRR Program. The briefing offered a good opportunity for us to understand more about the goals, objectives, processes and timeline of the SCFRR Program and to strengthen the coordination between our agencies.

The mission of the 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 (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. Given the scope of our mission and goals, we are interested in coordinating with your agency through the SCFRR Program to identify State investments in small communities to reduce risks to people, properties, and State interests in the Delta. In addition, Council staff offers the following comments which are intended to promote consistency with the Delta Plan, and encourages DWR to consider them as it finalizes the SCFRR Program's guidelines and future PSPs.

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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."*

### **Delta Plan Consistency**

The Council has specific regulatory and appellate authority over certain actions that take place in whole or in part within the Delta and Suisun Marsh, which are referred to as “covered actions” (Water Code section 85057.5). It is expected that some of the projects that DWR will fund through the SCFRR Program will occur within the Delta and Suisun Marsh, and those projects could be considered “covered actions” subject to Delta Plan regulations. Council staff would like to offer our assistance to your agency and SCFRR Program grant applicants in determining whether proposed activities meet the statutory definition of a “covered action” and, as such, would require a Delta Plan certification of consistency (Water Code section 85022).

### **State Investments in Delta Levees**

The Delta Reform Act of 2009 called on the Council to lead a multi-agency effort to establish and adopt, as a part of the Delta Plan, priorities for State investments in levee operation, maintenance, and improvement for both project and non-project levees in the Delta (Water Code section 85306). The Delta Plan currently contains the policy RR P1 (23 California Code of Regulation [CCR] section 5012) which includes the nine interim priorities to guide discretionary State investments in Delta flood risk management. Most importantly, the policy provides that “it is expected that over time, the California Department of Water Resources must balance achievement of those goals.” Therefore, we recommend your guidelines and PSPs clearly state the roles and responsibilities of DWR through the SCFRR Program including DWR’s funding decisions. This information will assist local agencies in providing the factual basis for determining consistency with Delta Plan Policy RR P1.

In addition, the Council is now engaged in updating these priorities through development of the Delta Levees Investment Strategy (DLIS; <http://deltacouncil.ca.gov/delta-levees-investment-strategy>) pursuant to Water Code section 85306. The updated strategy may incorporate information on proposed projects that will be funded through DWR’s SCFRR Program.

### **Integrated Planning Efforts for Future Funding**

According to DWR staff, phase one of the SCFRR Program grant (approximately \$20 million) will fund feasibility studies for eligible local agencies to identify flood risk reduction alternatives, and phase two of the grant (approximately \$30 million) will select some of the identified projects to receive additional funds for design and construction.

Given the foreseen scenario of insufficient funding for all projects, we suggest that DWR should require the applicant, in addition to referencing DWR’s *Guidance for Development of a State-Led Feasibility Study*, to consult with other possible State and federal funding agencies (e.g., Federal Emergency Management Agency, U.S. Army Corps of Engineers

[USACE], California Department of Fish and Wildlife, etc.) to identify multiple objective alternatives as an outcome of interagency coordination efforts. These efforts will not only identify additional State and federal interests, but will also help local agencies to maximize the possibility of receiving future funds for their projects.

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

The Delta Plan requires that water management 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 as appropriate to the scope of the project. The Delta Plan contains a detailed explanation for what is meant by “best available science (23 CCR section 5001(f))” and “adaptive management (23 CCR section 5001(a))” (see Delta Plan Appendices 1A and 1B, available at <http://bit.ly/DeltaPlanAppendix1A> and <http://bit.ly/DeltaPlanAppendix1B>, respectively).

We recommend that all projects funded by the SCFRR Program should be developed and guided by best available science and incorporate an adaptive management plan. 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.

### **Suggested Document Edits**

#### **Edits for the Draft SCFRR Program PSP**

We suggest adding the following language to the end of page 23, under Appendix 6 of the PSP. We also recommend including this reminder within the Commitment Letter sent to applicants notifying them that their proposal was selected for funding.

“Note to CEQA Lead Agencies Regarding Delta Plan Consistency Regulations.” If the proposed project will occur in whole or part in the Delta, you should determine if it meets the definition of a “covered action” under Water Code Section 85057.5 and 23 California Code of Regulations Section 5001(j). If the project is a covered action, prior to commencing implementation, you must file with the Delta Stewardship Council a certification demonstrating consistency with the regulatory policies of the Delta Plan. (For additional information regarding the Certificate of Consistency and the Covered Action process, please visit the Delta Stewardship Council’s website: <http://deltacouncil.ca.gov/covered-actions>).

### **Edits for the Draft SCFRR Program Guidelines**

The following changes are for page 3, under the heading “Program Description”:

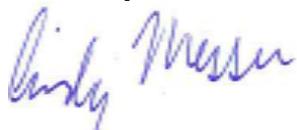
*Supplemental documents will be available to assist the applicants to prepare their applications. These documents include:*

- *SCFRR Proposal Solicitation Package (PSP);*
- *Guidelines for Development of State-Led Feasibility Study;*
- *State Systemwide Investment Approach (SSIA) in the CVFPP;*
- *Cost Share Guidelines for State-Local Cost Shared Flood Programs and Projects; ~~and,~~*
- *Draft Central Valley Flood System Conservation Strategy (and amendments thereto); ~~and,~~*
- *Delta Plan*

### **Final Remarks**

Council staff welcomes any opportunities, such as the December 15, 2015 public workshop for the SCFRR Program in Courtland, to coordinate with DWR staff in achieving the Delta Plan’s coequal goals and to reduce risk to people, property, and State interests in the Delta. If you have questions or would like to discuss the comments presented here, please feel free to contact me or my staff, You Chen (Tim) Chao (916-445-0143) at [YouChen.Chao@deltacouncil.ca.gov](mailto:YouChen.Chao@deltacouncil.ca.gov) or Daniel Huang (916-445-5339) at [Daniel.Huang@deltacouncil.ca.gov](mailto:Daniel.Huang@deltacouncil.ca.gov).

Sincerely,



Cindy Messer  
Deputy Executive Officer  
Delta Stewardship Council