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DELTA STEWARDSHIP COUNCIL

A California State Agency

January 27, 2016

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RE: Supplemental Environmental Impact Report for the Yolo Flyway Farms Restoration Project, SCH# 2011032001

Dear Mr. Parfrey:

Thank for you for the opportunity to comment on the Supplemental Environmental Impact Report (SEIR) for the Yolo Flyway Farms Restoration Project. The Yolo Flyway Farms Restoration Project was originally analyzed as a portion of Phase 2 in the Environmental Impact Report for the Lower Yolo Restoration Project completed by the State and Federal Contractors Water Agency (SFCWA) in 2013. Given the current uncertainty of implementation of the Lower Yolo Restoration Project and the continuing interest of the landowner in pursuing tidal wetland restoration of the Flyway Farms property, the SEIR analyzes the effects of the Flyway Farms Restoration Project regardless of whether or not SFCWA eventually proceeds with the Lower Yolo Restoration Project.

As you know, the Delta Stewardship Council (Council) is a state agency created by the California Legislature through the Delta Reform Act of 2009 to develop and implement a legally enforceable long-term management plan for the Delta. The Delta Plan applies a common sense approach based on the best available science to achieve the coequal goals of protecting and enhancing the Delta ecosystem and providing for a more reliable water supply for California in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

As recognized in the SEIR, it is the state or local agency approving, funding, or carrying out the project that must determine if that project is a "covered action" subject to Delta Plan regulations, and if so, file a certification of consistency that describes whether the covered action is consistent with the Delta Plan. Council staff is available for early consultation to help guide Yolo County through the covered action process. Below we have highlighted a few key regulatory policies from the Delta Plan that are particularly germane to the Yolo Flyway Farms Restoration Project.

"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

Delta Plan Regulations

Best Available Science and Adaptive Management

Delta Plan Policy **G P1** (23 California Code of Regulations [CCR] Section 5002) states that covered actions must document use of best available science. Best available science should be consistent with the criteria listed in the table in Appendix 1A of the Delta Plan regulations, available at <http://deltacouncil.ca.gov/docs/appendix-1a>. This policy also calls for ecosystem restoration projects to include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement can be satisfied through the development of an adaptive management plan that is consistent with the framework described in Appendix 1B of the Delta Plan (<http://deltacouncil.ca.gov/docs/appendix-1b>), along with documentation of adequate resources to implement the proposed adaptive management process. We want to offer the assistance of our Adaptive Management Liaisons from the Delta Science Program who can provide further guidance to help the landowner and Yolo County with documentation of use of best available science and preparation of an adaptive management plan. Please contact Darcy Austin (darcy.austin@deltacouncil.ca.gov) of the Delta Science Program to arrange those discussions.

The SEIR mentions that a long-term management plan and associated monitoring program is currently being developed in coordination with CDFW staff and in alignment with the Tidal Marsh Work Group. We support the decision of the landowner to hold off on completion of a long-term management plan for the Yolo Flyway Farms project so that it can better align with the Interagency Ecological Program (IEP) Tidal Wetlands Monitoring Framework, currently in development. In doing so, the Flyway Farms Project will help contribute to a standardized regional monitoring program that will help inform on the effectiveness of tidal marsh restoration projects across the region.

Mitigation Measures

Delta Plan Policy **G P1** also requires that actions not exempt from CEQA and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with or more effective than those identified in the Delta Plan EIR. These mitigation measures can be found in the Delta Plan Mitigation and Monitoring Reporting Program (MMRP) document available at <http://bit.ly/DeltaPlanMMRP>.

Invasive Species

Invasive species are a major obstacle to successful restoration because they affect the survival, health, and distribution of native wildlife and plant species. Although there is little chance of eradicating most established invasive species, management can be designed to reduce their abundance. Delta Plan Policy **ER P5** (23 CCR Section 5009) states, "The potential for new introductions of or improved habitat conditions for nonnative invasive species,

striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem.”

One mitigation measure we specifically recommend you considering incorporating into the SEIR is Delta Plan Program EIR’s **Biological Resources Mitigation Measure 4-1**, which calls for an invasive species management plan to be developed and implemented for any projects that could lead to introduction or facilitation of invasive species establishment. The plan must ensure that invasive plant species and populations are kept below preconstruction abundance and distribution levels and be based on best available science and developed in consultation with Department of Fish and Wildlife and local experts (e.g., UC Davis, California Invasive Plant Council). This mitigation requirement also calls for the plan to include the following elements:

- Nonnative species eradication methods (if eradication is feasible)
- Nonnative species management methods
- Early detection methods
- Notification requirements
- Best management practices for preconstruction, construction, and post construction periods
- Monitoring, remedial actions and reporting requirements
- Provisions for updating the target species list over the lifetime of the project as new invasive species become potential threats to the integrity of the local ecosystems

Habitat Restoration

Delta Plan Policy **ER P2** (23 CCR Section 5006) states that habitat restoration must occur at appropriate elevations, and be consistent with Appendix 3 of the Delta Plan regulations, which is an excerpt from the 2011 Draft Ecosystem Restoration Program Conservation Strategy. Since the Flyway Farms property is located either around or above intertidal elevation, it appears able to support freshwater tidal marsh habitat that is closely connected to upland transition habitat; this latter type of habitat is rare in the Delta and will allow for the restored tidal wetland to migrate up in elevation in response to future sea level rise.

The Conservation Strategy though states that a major concern for tidal marsh restoration is the risk for this habitat to be colonized by non-native species (e.g., invasive aquatic vegetation) which would in turn limit its benefits for native species. Design of the constructed subtidal channels to have appropriate water depths and velocities that help prevent colonization by invasive aquatic vegetation and post-construction maintenance (e.g., monitoring and regular removal of pervasive terrestrial and aquatic weeds) will be important to help reduce this risk.

Respect Local Land Use

Delta Plan Policy **DP P2** (23 CCR Section 5011) calls for habitat restoration projects to avoid or reduce conflicts with existing uses and to consider comments from local agencies and the Delta Protection Commission (DPC). As such we ask that you consult with the DPC to ensure that the Flyway Farms project is consistent with its Land Use and Resource Management Plan for the Primary Zone of the Delta. This plan was last revised in 2010 and is current being updated.

General Comments

We encourage you to make a few corrections in the SEIR for Flyway Farms to reflect significant changes in Delta planning processes and objectives since SFCWA finalized the EIR for the Lower Yolo Restoration Project in 2013.

- Please remove all references to the “pending Bay Delta Conservation Plan” (see page 161 of SEIR). The Bay Delta Conservation Plan (BDCP) is no longer being pursued as a habitat conservation plan and as a result, there is currently no longer a target for restoration 65,000 acres of tidal aquatic habitat in the Delta and Suisun Marsh. Consider referencing the Governor’s EcoRestore program, which is currently pursuing a target of at least 30,000 acres of habitat projects (including floodplain, tidal marsh, and carbon sequestration/subsidence reversal) in the Delta and Suisun Marsh by 2020.
- Please note that CDFW finished construction of the Calhoun Cut-Lindsey Slough Tidal Habitat Restoration Project in 2014 (see SEIR Figure 3-1 on page 49, page 161, and page 165).
- Please clarify in the SEIR that the 2009 NMFS Biological Opinion (BiOp) calls for restoration of 17,000-20,000 acres of seasonal floodplain habitat in the lower Sacramento Valley, while the 2008 USFWS BiOp for delta smelt calls for restoration of 8,000 acres of intertidal and associated subtidal habitat (see page 162 and 187 of SEIR). The SEIR sometimes conflates the habitat restoration targets of these two separate BiOps.
- Please make revisions to the SEIR to acknowledge that the Delta Stewardship Council is the successor to CALFED and the Delta Plan is not in draft, but was adopted in 2013 (see page 108 of SEIR). Similarly, please correct the citation on page 194 which references the 2012 Final Draft Delta Plan instead of the Delta Plan adopted by the Delta Stewardship Council in May 2013, available on our website at <http://deltacouncil.ca.gov/delta-plan-0>.

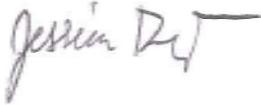
Final Remarks

Overall, we are supportive of the landowner’s and Yolo County’s initiative to proceed with the Yolo Flyway Farms restoration project, regardless of whether or not SFCWA is able to proceed with implementation of the larger Lower Yolo Restoration Project. We look forward to working

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with the Yolo County on this project and providing assistance to you in filing a Delta Plan consistency determination. I encourage you to contact Daniel Huang at Daniel.Huang@deltacouncil.ca.gov or 916-445-5339 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessica Davenport".

Jessica Davenport
Acting Deputy Executive Officer
Delta Stewardship Council

cc Jim Starr, California Department of Fish and Wildlife