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# DELTA STEWARDSHIP COUNCIL

*A California State Agency*

October 5, 2016

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Randy Fiorini

Shelly Amrhein  
Department of Water Resources  
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Sacramento, CA 95821

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Patrick Johnston  
Mary Piepho  
Susan Tatayon  
Ken Weinberg

**Executive Officer**  
Jessica R. Pearson

## **Re: Notice of Preparation for the Lower Elkhorn Basin Levee Setback SCH# 2016092015**

Dear Ms. Amrhein:

Thank you for the opportunity to provide comments regarding the Notice of Preparation (NOP) for the Lower Elkhorn Basin Levee Setback Project. The Department of Water Resources (DWR) is working jointly with the US Army Corps of Engineers (USACE) to develop a joint Environmental Impact Report (EIR) / Environmental Impact Statement (EIS) for this project. The purpose of the project is to provide regional flood risk reduction for the North Delta/Sacramento metropolitan area primarily by expanding the Yolo and Sacramento Bypasses through use of setback levees.

The Delta Stewardship Council (Council) is an independent state agency and the Council's primary mission is to further the achievement of the coequal goals of water supply reliability for California and protecting and restoring the Delta ecosystem while protecting and enhancing 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. The Delta Plan applies a common sense approach based on the best available science to restore habitat, increase the diversity and efficiency of California's water supplies, enhance floodplains, improve the Delta's levee system, and preserve the Delta's agricultural values.

Generally, the CEQA lead agency determines if a project is a "covered action" subject to Delta Plan regulations, and if so, files a certification of consistency with the Delta Plan. There are multiple conditions that must be met for an activity to be a covered action, one of which is that the activity must occur in whole or in part within the legal Delta or Suisun Marsh. DWR staff should make the final determination of whether or not the project is a covered action based on the scope of the final project description, which could possibly change over the course of the California Environmental Quality Act (CEQA) analysis process (e.g., the footprint of the currently proposed project may not occur at all within the legal Delta, but that could change in the future as a result of evolving circumstances and mitigation requirements).

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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

## **General Comments**

We appreciate that this project will work towards achieving the Delta Plan goals of flood risk reduction and ecosystem restoration. In addition to our role in developing and administering the Delta Plan, the Council also works to foster coordination and collaboration amongst agencies and stakeholders. Within the framework of that latter role, Council staff provides the following suggestions.

### **Coordinate with Ongoing Yolo Bypass Planning Efforts.**

As you know, the US Bureau of Reclamation, in coordination with DWR and the California Natural Resources Agency, is currently developing a suite of projects within the Yolo Bypass. These projects will create seasonal floodplain habitat and improve adult fish passage consistent with the requirements of the 2009 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp). Preliminary proposals under this planning effort include notching the Fremont Weir to facilitate more frequent inundation of the Yolo Bypass at a wider range of Sacramento River flow stages.

In addition to increasing conveyance capacity and reducing flood risk, we hope your efforts with the Lower Elkhorn Basin Levee Setback Project can help bolster the benefits to aquatic species being pursued through the NMFS BiOp-related projects as well as have a net benefit to terrestrial species through creation of riparian habitat within portions of the Lower Elkhorn Basin. We suggest that the hydraulic analysis for the project also take into consideration the effects of increased inundation of the Yolo Bypass from the planned Fremont Weir notching, and how this project would diminish the increase in flood stage in the Yolo Bypass from the aforementioned NMFS BiOp-related projects.

### **Improve Recreational Opportunities**

The Delta Plan contains several non-regulatory recommendations promoting recreational opportunities for the public. These opportunities include constructing visitor facilities on and providing improved access to public lands and habitat restoration sites. In addition, we encourage promotion of opportunities on public lands, where feasible, for bank fishing, hunting, levee-top trails, and environmental education.

California State Parks developed proposals for increasing public access to areas within the upper Yolo Bypass and the Delta that we hope DWR considers for the Lower Elkhorn Basin Levee Setback Project (this document is available at [http://www.parks.ca.gov/pages/795/files/delta%20rec%20proposal\\_08\\_02\\_11.pdf](http://www.parks.ca.gov/pages/795/files/delta%20rec%20proposal_08_02_11.pdf)). One of these State Parks proposals includes establishing a several mile long contiguous recreational corridor along the top of the Sacramento River levee in Elkhorn Basin, so as to promote access for anglers to fish the mainstem Sacramento River and to provide easily accessible trails for bicyclists and hikers.

### **Improving Habitat Along Levees**

As described in DWR's Conservation Strategy for the Central Valley Flood Protection Plan, there are considerable net benefits that can be achieved when integrating habitat restoration with regional flood risk management. In January 2016, the Council endorsed the issue paper *Improving Habitats along Delta Levees: A Review of Past Projects and Recommended Next Steps*, which assessed the effectiveness of different habitat improvement options associated with levee projects in the Delta and nearby upstream areas in benefitting native species (available at <http://deltacouncil.ca.gov/docs/improving-habitats-along-delta-levees-issue-paper>). For example, one of the findings of the report is that constructed vegetated benches along levees can provide similar habitat benefits for rearing salmon as naturally vegetated nearshore habitat. We hope that DWR finds this document useful as it plans implementation of ecosystem improvements in the Lower Elkhorn Basin.

### **Good Neighbor Policies**

Conversion of farmlands for flood protection projects and habitat enhancement efforts can in part contribute to a diminishment of regional agricultural economic sustainability and may generate potential conflicts with neighboring landowners and stakeholders. As you are probably aware, DWR - in collaboration with several other agencies - developed a toolbox of Agricultural and Land Stewardship (ALS) strategies which provide guidance for managers of projects located within agricultural areas. These strategies include good neighbor practices, options for landowner participation, and strategies to support an agricultural economy (all these strategies are available online at <https://agriculturallandstewardship.water.ca.gov/>). To the extent feasible, we recommend DWR utilize these ALS strategies as it works with local landowners and stakeholders throughout the CEQA analysis process.

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

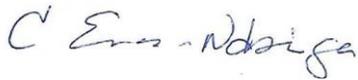
Council staff encourages DWR to consider applying the principles of adaptive management and best available science to project planning and design. Adaptive management is a strategy that allows for making management decisions under uncertain conditions using the best available science; it also increases the likelihood of success in obtaining project goals in a manner that is both economical and effective. We recommend the principles of adaptive management be incorporated into the Lower Elkhorn Basin Levee Setback Project, especially with regards to the ecosystem enhancement component of the project (for more details about adaptive management, please refer to Appendix 1B of the Delta Plan available at <http://deltacouncil.ca.gov/docs/appendix-1b>). Delta Stewardship Council staff, including staff from the Delta Science Program, can provide assistance in the use of best available science and adaptive management in your preparation of the EIR and the long-term management plan for the project area.

Shelly Amrhein  
Department of Water Resources  
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**Final Remarks**

If you have questions or would like to discuss the comments presented here, please feel free to contact my staff Daniel Huang at [Daniel.Huang@deltacouncil.ca.gov](mailto:Daniel.Huang@deltacouncil.ca.gov).

Sincerely,

A handwritten signature in cursive script that reads "C Enos-Nobriga".

Cassandra Enos-Nobriga  
Deputy Executive Officer  
Delta Stewardship Council