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# DELTA STEWARDSHIP COUNCIL

*A California State Agency*

August 9, 2017

Juan Mercado, Jr., Chairman,  
Reclamation District No. 341  
P.O. Box 140  
Isleton, CA 95641

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**Executive Officer**  
Jessica R. Pearson

## **Re: Initial Study/Mitigated Negative Declaration for the Flood System Repair Project**

Dear Mr. Mercado:

Thank you for the opportunity to review and comment on the Initial Study and Mitigated Negative Declaration (IS/MND) for the *Flood System Repair Project* (FSRP). Reclamation District 341 (RD 341) proposes to modify approximately 500 feet of levee on Sherman Island along Horseshoe Bend of the Sacramento River. As the project is described in the IS/MND, we understand the project to include placing clean rip rap for slope protection below the mean high tide level, while soil filled rip rap will be used to support waterside habitat above. Additionally, a three-foot habitat bench will be constructed at the mean high water line. The Delta Stewardship Council (Council) supports your efforts to reduce risk to your district, while incorporating habitat as a project purpose, and we appreciate the work that has gone into preparing the IS/MND. Making this work available to a wide variety of stakeholders is important for communicating the project goals and any potential impacts.

As you know, the Council is a State agency created through the Delta Reform Act of 2009 to develop and implement a legally enforceable long-term management plan for the Delta and Suisun Marsh. 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, while protecting and enhancing the unique cultural, recreational, and agricultural values of the Delta as an evolving place.

The Delta Reform Act also called on the Council to lead a multi-agency effort to update priorities for State investments in the Delta levee system. This effort is focused on prioritizing a reduction in the risk from levee failures, including protecting people, property, and State interests. It also aims to advance the coequal goals of improved water supply reliability and restoring the Delta ecosystem, as well as protecting and enhancing the values of the Delta as an evolving place. With these goals in mind, the Council has been developing the Delta

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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

Levees Investment and Risk Reduction Strategy (DLIS)<sup>1</sup> to prioritize levee investment in the Delta and is currently developing a California Environmental Quality Act (CEQA) document for the Delta Plan amendment relating to DLIS. It is with DLIS and the coequal goals in mind that Council staff submits these comments.

For the purposes of compliance with both the Delta Reform Act and CEQA, we offer comments below for your consideration to approval of the IS/MND.

### **Applicable Delta Plan Policies**

#### **Delta Plan Consistency**

RD 341 should consider whether the project is a "covered action" under the Delta Plan. State and local agencies are required to certify their projects' consistency with the Council's 14 regulatory policies if their proposed activity is a "covered action" under the Delta Plan, which includes plans, programs, or projects (as defined in section 21065 of the Public Resources Code) that would occur, in whole or in part, within the Delta or Suisun Marsh. According to the Delta Reform Act, it is the state or local agency approving, funding, or carrying out the project that must determine if that project is a "covered action" and, if so, file a certification of consistency with the Delta Plan. More information on "covered actions" and the certification process can be found on the Council website, <http://deltacouncil.ca.gov/covered-actions>. Council staff is happy to provide assistance to RD 341 in determining whether the proposed Flood System Repair Project meets the statutory definition of a "covered action" and, as such, would require a certification of consistency.

In evaluating whether the project is a covered action, potentially relevant policies include, but may not be limited to:

#### **Coequal Goals**

**Delta Plan Policy G P1** (California Code of Regulations [CCR] 23 section 5002) describes findings to establish consistency with the Delta Plan, including findings related to mitigation measures, best available science, and adaptive management. In some cases, it may not be feasible for a covered action to be fully consistent with all relevant regulatory policies, but it may still be consistent with the Delta Plan if on whole it is consistent with the coequal goals. In any case, it is important to clearly describe how the project contributes to the achievement of the coequal goals, as defined in Water Code section 85054 and the Council's Delta Plan implementing regulations (23 CCR section 5001(h)).

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<sup>1</sup> <http://deltacouncil.ca.gov/delta-levees-investment-strategy>

## **Mitigation**

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

Recognizing that mitigation may not always perform as expected, we encourage you to include an adaptive management plan in the MND for monitoring impacts and progress toward achieving project objectives and modifying mitigation measures if necessary. 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 Flood System Repair 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>). This could allow RD 341 to monitor the effectiveness of mitigation measures and habitat enhancements, and allow for sharing of results so that others can benefit from the district's experience.

The Council strongly encourages all agencies who propose to undertake an action in the Delta, as early in the project's development as possible to, consult with the Council and ensure that project (whether it is a covered action or not) is consistent with the Delta Plan. Delta Stewardship Council staff, including staff from the Delta Science Program, can provide assistance in the use of best available science and adaptive management during this early consultation. State or local agencies may call (916) 445-5511 to schedule a consultation with Council staff, or email at [coveredactions@delta.ca.gov](mailto:coveredactions@delta.ca.gov).

## **Prioritization of State Investments.**

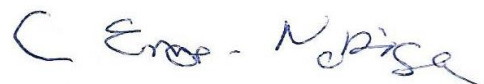
**Delta Plan Policy RR P1** (23 CCR section 5012) requires that discretionary State investments in Delta flood risk management be prioritized to address emergency preparedness, response and recovery. As a non-project levee receiving State funds, funding is linked to benefits provided. It would be helpful to also include the funding source, and if applicable, any project funding agreements.

## **Final Remarks**

Once again, I thank you for the opportunity to review and provide comments on the IS/MND and look forward to continuing to work with RD 341 and its representatives. If you would like to discuss any of the suggestions included in this letter, please contact Erin Mullin at [Erin.Mullin@deltacouncil.ca.gov](mailto:Erin.Mullin@deltacouncil.ca.gov) or 916-445-5459.

Juan Mercado, Jr., Chairman,  
Reclamation District No. 341  
August 9, 2017  
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Sincerely,

A handwritten signature in blue ink that reads "C Enos-Nobriga". The signature is written in a cursive style with a large initial "C".

Cassandra Enos-Nobriga  
Deputy Executive Officer  
Delta Stewardship Council