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# DELTA STEWARDSHIP COUNCIL

*A California State Agency*

**Chair**  
Randy Fiorini

August 20, 2018

Amy Kreimeier, Associate Planner  
City of Fairfield, Community Development Department  
1000 Webster Street  
Fairfield, CA 94533

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Michael Gatto

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Jessica R. Pearson

Via email: [akreimeier@fairfield.ca.gov](mailto:akreimeier@fairfield.ca.gov)

**RE: The Pacific Flyway Center Initial Study and Mitigated Negative Declaration,  
SCH#2018072043**

Dear Ms. Kreimeier:

Thank you for the opportunity to review and comment on the Initial Study and Mitigated Negative Declaration (IS/MND) for the Pacific Flyway Center project (proposed project). The Delta Stewardship Council (Council) recognizes the efforts by Pacific Flyway Fund (project proponent) to develop a center to broaden public awareness of the environmental and societal importance of conserving habitat for migratory birds within the Pacific Flyway. We appreciate the opportunity for open dialogue with the Pacific Flyway Fund and the City of Fairfield (City) regarding these efforts and look forward to continued coordination.

Based on the project description in the IS/MND, the Council understands that the proposed project encompasses approximately 280 acres in unincorporated Solano County intended for annexation into the City of Fairfield. Approximately 8.3 acres of the project site would be developed as a visitor education and interpretive center, wildlife theater, gift shop and food service facilities, maintenance area, and driveways and parking areas. Approximately 124 acres of the site would be enhanced and restored as an outdoor wildlife habitat viewing area, to be known as the "Walk in the Marsh". Within the "Walk in the Marsh" area, improvements would include creation, restoration and enhancement of approximately 24 acres of new ponds and wetlands for wildlife. This would include creating approximately 17.5 acres of new wetlands by converting upland areas into new wetlands, and restoring and enhancing approximately 6.5 acres of existing wetlands. Restoration and enhancement work would include, among other activities, grading, weeding, revegetation, and salinity control. Within the upland grasslands, weeds would be removed and the area would be revegetated with native species typical of upland grassland habitats.

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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*

The project site is located in the Suisun Marsh. Portions of the project site encompass both the primary management area and secondary management area habitats defined by the Suisun Marsh Protection Act of 1974 and the Suisun Marsh Protection Plan of 1977. Two of the four parcels comprising 280 acres of the project site have been transferred from the State of California to the Pacific Flyway Fund and are proposed for annexation into the City of Fairfield. The annexation is necessary in order to obtain the provision of City sewer and water services to serve the project's utility needs. The remaining 280 acres will not be annexed into the City but remain within the County.

### **Delta Plan Consistency Certification Information**

The Council is an independent State of California agency established by the Sacramento-San Joaquin Delta Reform Act of 2009 (SBX7 1; Delta Reform Act). The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan, regulatory portions of which became effective on September 1, 2013.

As stated in the Delta Reform Act, the State has "'coequal goals' (which) means 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" (Water Code section 85054).

Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of State or local public agencies that take place in whole or in part in the Delta. To do this, the Delta Plan contains a set of regulatory policies with which State and local agencies are required to comply. The Delta Reform Act specifically established a certification process for compliance with the Delta Plan. This means that State and local agencies that propose to carry out, approve, or fund a qualifying action in whole or in part in the Delta, called a "covered action," must certify that this covered action is consistent with the Delta Plan and must file a certificate of consistency with the Council that includes detailed findings.

Based on the project description summarized above, Council staff believes your project meets the definition of a covered action. Generally, the California Environmental Quality Act (CEQA) lead agency, in this case the City of Fairfield, would determine if the project is a covered action, then complete and submit the certification of consistency on behalf of the project proponent describing how the proposed project is consistent with the Delta Plan.

For the purposes of compliance with both the Delta Reform Act and California Environmental Quality Act (CEQA), we offer the following comments below for your consideration in preparation of the Final IS/MND for this project.

### **Comments on the Draft IS/MND**

The following comments address content in the Draft IS/MND relevant to the Delta Plan.

- Please add “Delta Stewardship Council Certification of Consistency with the Delta Plan” to the list of “Other Public Agency Approvals” in the Final IS/MND (see Draft IS/MND, page 4).
- Please discuss the potential for the proposed project to conflict with the Delta Plan within the analysis of Land Use and Planning issues provided in Section X, Land Use and Planning of the Final IS/MND (see Draft IS/MND, page 36-38).

### **Comments regarding Delta Plan Policies and Consistency Certification**

The following section describes Delta Plan policies that may be applicable to the proposed project based on the available information. This information is offered to assist the City to better describe the relationship between the proposed project and the Delta Plan in the Final IS/MND as part of the record supporting the City’s certification of consistency.

The Delta Plan includes regulatory policies that are applicable to all covered actions. Below, we have highlighted key regulatory policies that may be specifically relevant to the proposed project. We encourage the City and project proponent to review the following Delta Plan policies before submitting a certification of consistency.

#### **Mitigation Measures**

Delta Plan Policy **G P1** (23 CCR Section 5002) requires that actions not exempt from CEQA and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with those identified in the Delta Plan Program Environmental Impact Report or substitute mitigation measures that are equally or more effective. See the Delta Plan’s Mitigation and Monitoring Report Program (MMRP) available at: [http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a\\_attach%202.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf).

The Draft IS/MND proposes mitigation measures related to air quality, biological resource, cultural resource, geology/soils, hydrology/water quality, and noise impacts intended to reduce the subject impacts to a less-than-significant level. Council staff recommends that the City determine if additional, applicable, and feasible mitigation measures addressing these impacts are identified in the Delta Plan MMRP that are not already proposed in the Draft IS/MND. If such mitigation measures are available, please incorporate those measures in the Final IS/MND.

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

Delta Plan Policy **G P1** (23 CCR Section 5002) states that actions subject to Delta Plan regulations must document use of best available science as relevant to the purpose and nature of the project. The regulatory definition of “best available science” is provided in Appendix 1A of the Delta Plan <http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%201A.pdf>. Continued coordination between Council staff and the established advisory team for the Center is advised to ensure that best available science is consistently applied to the planning, construction, and operation of the Pacific Flyway Center.

Delta Plan Policy **G P1** (23 CCR Section 5002) requires that ecosystem restoration and water management covered actions include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through a) 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/sites/default/files/2015/09/Appendix%201B.pdf>, and b) documentation of adequate resources to implement the proposed adaptive management plan.

In the case of the construction of the Pacific Flyway Center, Council staff recommends that the City monitor the success of proposed mitigation measures to inform potential additional actions. It may be helpful to begin identifying adaptive management pathways that ensure management practices can respond to changed conditions for the new ponds and wetlands when the need arises.

The Delta Science Program's Adaptive Management Liaisons are available to provide further consultation and guidance to help guide project proponents with the appropriate application of best available science and adaptive management. Please contact Eva Bush ([eva.bush@deltacouncil.ca.gov](mailto:eva.bush@deltacouncil.ca.gov)) of the Delta Science Program for additional information.

### **Restore Habitat in a Manner Consistent with the Delta Plan**

Delta Plan Policy **ER P2** (23 CCR Section 5006) states that habitat restoration must be consistent with Appendix 3 <http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%203.pdf> of the Delta Plan regulations and that restoration must occur at appropriate elevations. Appendix 3, which is an excerpt from the 2011 Draft Ecosystem Restoration Program (ERP) Conservation Strategy, provides a vision for a mosaic of different habitat types within the Delta including open water, subsided lands, floodplains, and upland areas.

As the project site, currently managed by the Department of Fish and Wildlife, is located at intertidal elevation, it is presumed to have the ability to support brackish tidal marsh habitat with associated sloughs, channels, and other open water features appropriate to that elevation.

### **Protect Opportunities to Restore Habitat**

Delta Plan Policy **ER P3** (23 CCR Section 5007) requires that, within the priority habitat restoration areas (PHRAs) depicted in Appendix 5 of the Delta Plan <http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%205.pdf>, significant adverse impacts to the opportunity to restore habitat must be avoided or mitigated.

There is overlap between the project site and the Suisun Marsh PHRA. The final IS/MND should analyze the extent to which any project activities may have significant adverse impacts to the opportunity to restore habitat within the Suisun Marsh.

## **Invasive Species**

Delta Plan Policy **ER P5** (23 CCR Section 5009) calls for avoiding introductions and habitat improvements for invasive nonnative species or mitigating these potential impacts in a manner that appropriately protects the ecosystem. Analysis on this matter should address both nonnative wildlife species as well as terrestrial and aquatic weeds. To the maximum extent practicable, covered actions should avoid or mitigate for conditions that would lead to establishment of nonnative invasive species. In the event that mitigation is warranted, mitigation and minimization measures should be consistent with the Delta Plan Mitigation Measures 4-1 available at [http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a\\_attach%202.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf).

## **Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats**

Delta Plan Policy **DP P2** (23 CCR Section 5011) states that plans for ecosystem restoration must be sited to avoid or reduce conflicts with existing uses when feasible, considering comments from local agencies.

Solano County Water Agency (SCWA) is in the process of completing a Habitat Conservation Plan for Solano County. As noted in the IS/MND, the City is currently cooperating with SCWA to identify and protect federally listed endangered species. The Council advises continued coordination with SCWA on this matter relative to the proposed project.

We appreciate the willingness of the City and project proponent to engage with us and look forward to continued coordination as the project proceeds toward consistency certification. Please contact Ron Melcer at (916) 445-5339 ([ronald.melcer@deltacouncil.ca.gov](mailto:ronald.melcer@deltacouncil.ca.gov)) or Megan Brooks at (916) 445-5656 ([megan.brooks@deltacouncil.ca.gov](mailto:megan.brooks@deltacouncil.ca.gov)) with any question.

Sincerely,



Jeff Henderson, AICP  
Deputy Executive Officer  
Delta Stewardship Council

Cc: Steve Chappell, Suisun Resource Conservation District ([schappell@suisunrcd.org](mailto:schappell@suisunrcd.org))  
Claude Grillo, KHH Trust ([cgrillo@khhtrust.com](mailto:cgrillo@khhtrust.com)), Erin Beavers ([erinbeavers@icloud.com](mailto:erinbeavers@icloud.com))  
George Kammerer ([gkammerer00@att.net](mailto:gkammerer00@att.net))