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DELTA STEWARDSHIP COUNCIL

A California State Agency

October 8, 2018

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City of Stockton
Community Development Department
345 N. El Dorado Street
Stockton, CA 95202

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Via email: Juan.Chavez@stocktonca.gov

RE: Comments on Notice of Preparation of an Environmental Impact Report for the Proposed Regional Wastewater Control Facility Modification Project, SCH# 2018092017

Dear Mr. Chavez:

Thank you for the opportunity to review and comment on the City of Stockton (City) Regional Wastewater Control Facility (RWCF) Modification Project (proposed project) Notice of Preparation (NOP) of an Environmental Impact Report (EIR). The Delta Stewardship Council (Council) recognizes the City's goals to improve reliability of existing wastewater treatment processes and to upgrade facilities to accommodate future projected flows, improve energy efficiency and increase the use of alternative energy sources, and to reduce nitrate and nitrite concentrations in final effluent.

Based on the project description in the NOP, the Council understands that the proposed project consists of demolition of certain treatment process components and buildings, rehabilitation and repurposing of some existing components and buildings, and construction of new treatment process components and buildings. Project components include preliminary, primary, secondary, and tertiary treatment facilities; effluent disinfection and discharge facilities; solids handling facilities; flow diversion and storage facilities; personnel and security buildings; and other types of improvements. The proposed improvements would not provide additional wastewater treatment capacity at the RWCF beyond the existing permitted discharge capacity of 55 mgd.

The project site is located west of Interstate 5 and north of State Route 4 within the Sacramento-San Joaquin Delta. Portions of the project site located west of the San Joaquin

"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

River are located within the Delta Primary Zone. Portions of the project site located east of the San Joaquin River are located within the Delta Secondary Zone.

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, a legally-enforceable plan effective as of September 1, 2013.

As stated in the Delta Reform Act, the State has coequal goals for the Delta: 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).

Covered Action Status

Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh, which are referred to as "covered actions". The Council exercises that authority through development and implementation of the Delta Plan. State and local agencies are required to demonstrate consistency with 14 regulatory policies identified in the Delta Plan when carrying out, approving, or funding a covered action.

Based on the project location and scope, the proposed project meets the definition of a covered action. The City must determine if the project is a covered action, and if so, submit a certification of consistency with the Delta Plan to the Council prior to project implementation. As the City proceeds with design, development, and environmental impact analysis of the project, we invite you to engage Council staff in early consultation to discuss project features and mitigation measures that would enable consistency with the Delta Plan. More information on covered actions, early consultation, and the certification process can be found on the Council website, <http://deltacouncil.ca.gov/covered-actions>.

For the purposes of compliance with both the Delta Reform Act and California Environmental Quality Act (CEQA), we offer the following comments for your consideration in preparing the EIR for this project.

Comments on the Notice of Preparation

Regulatory Setting

Please identify the Delta Plan in the EIR's description of the regulatory setting for each applicable resource section. Where possible, please reference specific applicable regulatory policies as described below.

Comments regarding Delta Plan Policies and Consistency Certification

The following section describes Delta Plan policies that may apply 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 Draft EIR as part of the record supporting the project's certification of consistency.

The Delta Plan includes regulatory policies that apply to all covered actions. Below, we have highlighted key regulatory policies that may be specifically relevant to the proposed project. We encourage the City to review the following Delta Plan policies prior to completing the Draft EIR and in anticipation of submitting a certification of consistency to the Council at a later date.

Mitigation Measures

Delta Plan Policy **G P1** (23 CCR Section 5002(b)(2)) 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 EIR or substitute mitigation measures that are equally or more effective. Mitigation measures in the Delta Plan's Mitigation Monitoring and Reporting Program (MMRP) are available at: http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf

Council staff recommends that the City review the Delta Plan MMRP to determine if feasible mitigation measures related to significant impacts identified in the City's RWCF EIR would apply. If Delta Plan Program EIR mitigation measures are applicable and feasible, please incorporate such measures in the Draft EIR.

Best Available Science and Adaptive Management

Delta Plan Policy **G P1** (23 CCR Section 5002(b)(3)) 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>).

Coordination between Council staff and the City is advised to ensure that best available science is consistently applied to the planning, construction, and operation of the proposed project.

Delta Plan Policy **G P1** (23 CCR Section 5002(b)(4)) 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 1 B 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.

The Delta Science Program's Adaptive Management Liaisons are available to provide consultation and guidance to help project proponents with the appropriate application of best available science and adaptive management during early consultation in advance of a certification of consistency with the Delta Plan. The Delta Science Program is also interested in providing consultation and guidance as a partner in documenting improvements to the Delta ecosystem from water quality improvements resulting from the proposed project.

Avoid Introductions of and Habitat Improvements for Invasive Nonnative 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. Supporting documentation 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.

Please consider the applicability of this policy as it relates to abandoned facilities and continued landscape maintenance practices on the site. Previously disturbed land that is no longer being maintained can potentially provide improved habitat conditions for invasive nonnative species. Exhibit 3 of the NOP identifies several facilities along the San Joaquin River that will be abandoned.

In the event that mitigation for invasive nonnative species is warranted, mitigation and minimization measures should be consistent with Delta Plan Program EIR Mitigation Measure 4-1

(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 water management facilities, ecosystem restoration, and flood management infrastructure must be sited to avoid or reduce conflicts with existing uses or those uses described or depicted in city and county general plans for their jurisdictions or spheres of influence when feasible.

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Please consider the applicability of this policy related to any changes to existing uses in and land use jurisdiction of the City of Stockton, or any anticipated changes in traffic, noise, odor, or effluent discharge conditions attributable to the project that would affect disadvantaged communities or other nearby existing or planned land uses. Exhibits 2 and 5 of the NOP identify new and improved facilities running adjacent to and crossing the San Joaquin River.

The Council would appreciate an opportunity to work collaboratively with the City during early consultation prior to submittal of a certification of consistency of the proposed project with the Delta Plan. We are available to discuss the issues outlined in this letter as you proceed in the next stages of your project design and approval processes. The Delta Science Program's Adaptive Management Liaisons are also available to provide further consultation and guidance to the City regarding appropriate application of best available science and adaptive management. Please contact Andrew Schwarz at (916) 445-2168 (Andrew.Schwarz@deltacouncil.ca.gov) with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Henderson", with a long horizontal flourish extending to the right.

Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council