



February 1, 2012

Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814
(submitted via e-mail to eircomments@deltacouncil.ca.gov)

Re: Comments on Draft Delta Plan and Draft Program EIR

Dear Chairman Isenberg and Members of the Council:

Del Puerto Water District ("District") writes to express our significant concerns with the 5th draft of the Delta Plan ("draft Plan") and the Delta Plan Draft Program Environmental Impact Report ("draft EIR") that the Delta Stewardship Council ("Council") released November 4. These concerns include what the District views as deficiencies under the California Environmental Quality Act (CEQA) and serious policy concerns with numerous provisions of the draft Delta Plan. The District concurs in the comments filed by the State Water Contractors and the San Luis & Delta-Mendota Water Authority and adopts them by reference here, but wishes to emphasize several key points.

The District is a public water agency serving 45,000 acres of highly productive farmland in San Joaquin, Stanislaus and Merced Counties. We serve approximately 150 farm operations. Over the years District lands have produced more than 30 different commercial crops including almonds, tomatoes, apricots, dry beans, walnuts, alfalfa, grains, melons, cherries, citrus, broccoli, cauliflower and bell peppers. District lands provide more than \$100 million in gross economic output to the local economy.

The District's Central Valley Project water service contract provides its sole source of water supply to its lands, though privately developed groundwater is available on a limited basis throughout the District. The District's use of this contractual supply is subject to California Water Code requirements, federal Reclamation law, place-of-use restrictions associated with the Bureau of Reclamation's State-issued water diversion permits and shortages imposed under the provisions of its contract. The District is unique among most water districts in that it has no dedicated delivery system. All water is delivered "canal-side" from the Delta-Mendota Canal through metered turnouts licensed to the District by the federal government. As such, the District is fully dependent upon water released from northern CVP reservoirs such as Shasta and Folsom Reservoirs and pumped from the Sacramento-San Joaquin Delta through the Bureau of Reclamation's Tracy Pumping Plant.

While the District received its full contractual supply for most of its first forty years, beginning with the drought of the early 1990's and followed by legislative and regulatory restrictions

imposed on the Central Valley Project beginning in 1992; it has been subject to ongoing shortages in contract supply over the last twenty years. While a full contract supply provides for approximately 3 acre-feet per irrigable acre, it is now estimated that in normal years, hydrologically speaking, the Project can provide the District with only 50% of its contract supply, or 1.5 acre-feet per acre.

In the Delta Reform Act of 2009 the California Legislature declared that the policy of California would be to pursue the coequal goals of a more reliable water supply for California and the protection, restoration, and enhancement of the Delta ecosystem. It created the Council to develop a Delta Plan that would pursue both of these goals. The District has serious concerns that the draft Plan fails to adequately and appropriately pursue a more reliable water supply for District lands and Californians in general. Moreover, the draft EIR does not provide sufficient information to allow the District, the public or the Council to assess whether the proposed project or any of the alternatives put forth, will accomplish the Legislature's purpose. The draft EIR is lacking in virtually every critical substantive area.

Concerns with the Draft Delta Plan

First, we wish to express our concern with the Plan's approach toward meeting its primary goal of providing a more reliable water supply for California. It is very troubling that the Plan attempts to review and regulate local water management decisions on everything from rate structures to recycling targets. It is clear that the California Legislature did not establish the Delta Stewardship Council to micromanage local water management decisions by public agencies throughout the state. The Council was established to improve the reliability of the State's water supplies and the ecological recovery of the estuary by coordinating the many local, state and federal efforts already underway.

Second, and related, the draft Plan does not clearly and unambiguously support a key objective of the Bay Delta Conservation Plan ("BDCP"), which is the recovery of water supplies lost due to regulatory restrictions currently placed a water conveyance system that BDCP is intended to dramatically improve. The success of the BDCP is further threatened by the draft Delta Plan's proposal to require virtually every significant future BDCP action to undergo an unnecessary review process by the Stewardship Council. The Plan would better serve its purpose by embracing BDCP actions as being consistent with the goals of the Delta Plan.

Finally, the draft Plan fails to appropriately address the need for water export reliability. Instead it implies that in the future, less water will need to be exported from the Delta area. Through the BDCP, the public water agencies that use water exported through the Delta are considering investing billions of dollars restore their water reliability while working towards Delta recovery efforts. The draft Plan and the draft EIR appear to assume that those investments can and will be made when doing so will actually decrease export reliability.

Various agricultural and urban water agencies throughout the State have echoed these concerns in voluminous comments. They have even offered an alternate Delta Plan approach for the Council's consideration. The overly regulatory approach that permeates this current draft will threaten the success of the Stewardship Council and undermine the prospects for a successful, collaborative approach. For the sake of our water supply, our economy and environment, it is imperative that we get the Delta Plan right.

Concerns with the Delta Plan Draft EIR

Failure to Pursue a More Reliable Water Supply or Discuss the Impacts of a Reduced Water Supply.

Of great importance to District is how the proposed project will achieve the “water supply” element of the coequal goals. The Delta Plan Draft EIR supports a proposed project that would impede, rather than further, the achievement of this coequal goal. It clearly states that the proposed project will result in reduced water supplies compared to the no project alternative. The proposed project encourages substantial reductions in the water supplies developed in the watersheds of the Sacramento and San Joaquin rivers that are currently being beneficially used for municipal, industrial and agricultural purposes. The Draft EIR assumes that these reductions can and will be offset by “programs and projects that will improve self-reliance” without identifying what or how. The impacts of this paradigm are not adequately presented in the draft EIR and are difficult to reconcile with the legal mandate for the Delta Plan to “include measures to promote a more reliable water supply that [meets] the needs for reasonable and beneficial uses of water.” (Water Code, § 85302(d)(1).) Simply put, water supplies conveyed through the Delta were developed because local and regional water supplies not insufficient to meet then existing or projected uses. There is currently no basis to assume sufficient actions can be taken, particularly within the time periods suggested, to offset the water supply reductions or to meet the needs of reasonable and beneficial uses of water, specifically to “sustain the economic vitality of the state.” (Water Code, § 85302(d)(2).)

Defective Project Objective

The Project objectives do not adequately reflect the Legislature’s requirement that implementation of the Delta Plan further the restoration of the Delta ecosystem and work toward a more reliable water supply—the coequal goals. The Delta Plan is a key document to achieve the co-equal goals, yet the draft EIR explicitly avoids any analysis as to how the alternatives outlined in this document would or would not achieve the coequal goals. This is a glaring omission, leaving the District, other stakeholders, and the Council itself without the information needed to determine if the proposed project can meet its legislated objectives.

Defective Project Description

The Council is proceeding with the draft EIR knowing the description of the proposed project is unstable and, therefore, misleading. The Council plans to release two more staff drafts in the coming months. Elements of the proposed project are not reasonably certain to occur and as a result the Project is not likely to satisfy the project objectives.

Defective Impact Analysis

The draft EIR fails to properly assess how the proposed project will impact resources. The analysis should be focused on the strategies, policies, and recommendations in the Delta Plan as an integrated management plan. Instead, it focuses on project-specific examples of existing EIRs to demonstrate project-level physical impacts. In this way, the draft EIR fails to evaluate the environmental consequences of the proposed project (or the alternatives) as a whole.

Defective Structure

The draft EIR provides over 2000 pages of information, but it is disorganized, extremely repetitive, and difficult to follow. Neither a general reader nor a water expert can glean from this document the information necessary to determine the environmental impacts of the proposed project.

The Del Puerto Water District understands that the Council intends to release a sixth staff draft Delta Plan for public comment sometime this spring. We have seen progress since the first draft and we offer these comments in the hope that the next draft will promote a water supply that meets the needs for reasonable and beneficial uses of water at the same time that it promotes a healthier Delta environment. Given the changes to the draft Plan that are needed, we believe the Council must also release a new amended draft EIR that reviews these changes. As the Council begins drafting the next documents, we would ask that the Council focus on the key areas mentioned in this letter and in the comments submitted by the State Water Contractors and the San Luis & Delta-Mendota Water Authority. The District appreciates the tremendous effort the Council has taken to get the Delta Plan drafting process to this critical stage and we sincerely hope to be an supporter of the final product.

Sincerely,

A handwritten signature in black ink that reads "William D. Harrison". The signature is written in a cursive style with a long horizontal flourish extending to the right.

William D. Harrison
General Manager