

Board of Directors

Linda Adams
Mike Chrisman
Rick Frank (Treasurer)
A.G. Kawamura
Thomas McKernan
Sunne Wright McPeak (President)
William Reilly
Raymond Seed (Secretary)

The Delta Vision Foundation was established by former members of the Delta Vision Blue Ribbon Task Force, the independent body convened under Governor's Executive Order S-17-06. The mission of the Delta Vision Foundation is to encourage implementation and progress by the State of California toward achieving the Two Co-Equal Goals as defined in the *Delta Vision Strategic Plan*:

Restore the Delta Ecosystem
Ensure Water Supply Reliability

The Delta Vision Foundation monitors, evaluates, and provides information to government officials, policymakers, and the public about implementing the *Delta Vision Strategic Plan* recommendations as a set of integrated and linked actions.

Delta Vision Foundation
(415) 419-5133
www.deltavisionfoundation.org



February 1, 2012

Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Comments on the Delta Plan Program Environmental Impact Report, SCH# 2010122028

Dear Chairman Isenberg and Members of the Council:

Congratulations on your work to date on developing a *Delta Plan* and preparing the *Draft Delta Plan Program EIR*. It is a commendable effort in addressing the challenge of achieving the Two Co-Equal Goals.

The Delta Vision Foundation provides the following comments and recommendations on the environmental review, alternatives, and the Delta Plan for your consideration as you review the *Sixth Staff Draft Delta Plan* and *Final Program EIR*.

The Delta Vision Foundation concurs with the overall conclusion of the *Draft Program EIR* that the policy issue before the Delta Stewardship Council is fundamentally a tradeoff between short-term adverse impacts related to construction and long-term environmental benefits accrued with the advancement of the Two Co-Equal Goals.

While we agree that the following statement in the *Draft Program EIR Executive Summary* broadly characterizes the issues before the Council, we are concerned that policies and recommendations in the *Delta Plan* and mitigation measures in the EIR are not sufficient to minimize the adverse impacts and ensure the long-term benefits for the Delta and the State.

An issue to be resolved by the Council, therefore, is what level of *short-term* environmental adverse impact is acceptable in exchange for reducing worsening *long-term* adverse environmental impacts to water reliability, water quality, flood risk, and ecosystem health. In addition, issues to confront include that reducing long-term growing water supply uncertainty impacts could come at the environmental cost associated with new reservoirs, and that meeting the ecosystem restoration goal could come at the cost of lost agricultural land. [Delta Plan Program EIR, p. ES-8.]

The Draft Program EIR does an adequate job of identifying the mitigation measures and best management practices to mitigate adverse impacts (generally construction-related) at the project level. However, there is little or no discussion of the long-term beneficial (or adverse) impacts that will be achieved at the program level. The Council must have a full understanding of program-level impacts and benefits to consider the tradeoffs cited above. For example, are the ecosystem actions that would result from policies and recommendations in Chapter 5 of the *Delta Plan* sufficient to offset the significant and unavoidable impacts to biological resources identified in Chapters 4 and 24 of the *Draft Program EIR*? While this is a challenging policy question for the Council, there is little or no information provided in the *Draft Program EIR* to help Council members consider this tradeoff or combine elements of the Proposed Project and Project Alternatives to improve the *Delta Plan*.

Further, the *Delta Plan* and *Draft Program EIR* are deficient in measures to assure the accomplishment of the long-term benefits (i.e., “long-term reduction in impacts related to water reliability, water quality, flood risk, and ecosystem health”¹). The most effective means to assure the long-term benefits, mitigation of significant unavoidable impacts, and achievement of the Two Co-Equal Goals is to implement *Delta Plan* policies and recommendations that require and encourage linked policies, plans, and actions.

For example, we commend the Council staff for developing Water Resources Policy #1 to establish a regulatory link between the use or transfer of Delta water and compliance with water supply reliability planning, water rates, and state laws regarding water use efficiency. We support adoption of this policy to link these actions. However, additional linkages are needed in the *Delta Plan* to achieve the Two Co-Equal Goals. These types of linkages should also be included in the *Final Program EIR* as program-level mitigation requirements for covered action projects. The following list describes example linkages in Water Supply Reliability that should be incorporated in this way. The Council should develop similar policies and recommendations for each of the *Delta Plan* policy chapters and the Finance Plan.

- **Updating Delta Flow Requirements** – Recommend that the Department of Fish and Game (DFG), the Delta Conservancy, and others update the “Multi-agency Ecosystem Restoration Program (ERP) and Delta Conservation Strategy” on a prompt timeline linked to State Water Resources Control Board actions on Delta flow requirements.
- **Incorporation of BDCP into the *Delta Plan*** – Recommend that DFG, the Delta Conservancy, and others update the “Multi-agency Ecosystem Restoration Program (ERP) and Delta Conservation Strategy” on a prompt timeline linked to completion of BDCP and its incorporation into the Delta Plan.
- **Existing Storage and Conveyance Facilities** – Require that existing facilities be operated to achieve the Two Co-Equal Goals for any covered actions related to Delta export, conveyance, and storage.
- **Regional and Local Storage Projects** – Require that covered actions related to Delta export and conveyance document or implement projects to increase storage (or other actions that increase temporal flexibility) before or as part of proposed covered actions.

¹ Delta Plan Program EIR, p. ES-7.

- **Surface Water Storage Investigations** – Amend WR R6 regarding Department of Water Resources (DWR) storage investigations to include dates by which the Council will assume responsibility if DWR fails to complete storage plans (similar to ER P1 and ER R8).
- **Groundwater Management** – Require groundwater management plans and overdraft recovery plans for critically overdrafted basins benefiting from covered actions related to Delta export, conveyance, and storage.

These and other policy linkages and recommendations will strengthen the Delta Plan and advance the Two Co-Equal Goals.

Regarding alternatives, we appreciate the effort to define alternatives that meet the interests of various stakeholders and characterize the implementation implications. However, we are concerned about the description and analysis of Alternative 1A regarding levee modification and maintenance. The *Draft Program EIR* erroneously states that this alternative would result in less aggressive levels of flood risk reduction. This alternative suggests a prioritization of the investment in Delta levees to focus on those levees that protect through-Delta conveyance for in-Delta and export water supplies. To date, the Council has failed to “recommend in the Delta Plan priorities for state investments in levee operation, maintenance, and improvements in the Delta...” as required by the Delta Reform Act [Water Code section 85306] (the *Delta Plan* relies instead on poorly defined DWR funding criteria for projects proposed by local entities). Consequently, stakeholders have suggested priorities and a reasonable rationale for those priorities. In fact, investing in levees that protect Delta water supplies may result in more flood risk reduction when all risks and consequences are considered.

The *Draft Program EIR* appears to assume that setting priorities would somehow result in other levee activities not being implemented over the long term. This assumption is an inappropriate comparison with the Proposed Project. In all other policy areas, the *Draft Program EIR* assumes all activities resulting from the *Delta Plan* would be implemented, but “the number and location of all potential projects that would be implemented is not known at this time.” The *Final Program EIR* should also assume that all Delta risk reductions would be implemented, but in a different order.

The Delta Vision Foundation supports and encourages the Council and the State to set priorities. The Delta Plan should be clear about priorities and linkages that will advance the Two Co-Equal Goals. We further support this specific priority to invest in levees that are critical for through-Delta conveyance, provided that levee modifications can be linked to high priority ecosystem restoration actions.

We see high value in several features of the alternatives to the Proposed Project and encourage the Council to draw on these alternatives to improve the Delta Plan. For example, it is sensible and appropriate to include policies and recommendations that prioritize initial Delta ecosystem restoration on public lands and areas where restoration is compatible with agricultural activities (Alternative 3). Also, more aggressive dredging in certain areas of the Delta can provide flood management and water conveyance benefits and support ecosystem restoration (Alternative 1B).

We continue to support the Council in its efforts to achieve the Two Co-Equal Goals. We look forward to the *Sixth Staff Draft Delta Plan* with improved linkages, priorities, and mitigation. Please do not hesitate to contact Charles Gardiner at (415) 419-5133 or charles@deltavisionfoundation.org if you have any questions about our comments.

Sincerely,



Sunne Wright McPeak
President



Charles L. Gardiner
Executive Director