



February 2, 2012

Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814  
Attn: Terry Macaulay

RE: Comments on Fifth Draft Delta Plan Environmental Impact Report (EIR)

Dear Chairman Isenberg and Council Members:

The California Waterfowl Association (CWA), a nonprofit organization dedicated to the conservation of California's waterfowl, wetlands and hunting heritage, would like to take this opportunity to provide input on the Delta Stewardship Council's fifth draft Delta Plan EIR.

First, please note that the Delta Plan is statutorily required to address waterfowl habitat needs. Section 85302 (e) (6) of the Water Code mandates, as part of its subgoals and strategies, that the Delta Plan "*Restore habitat necessary to avoid a net loss of migratory bird habitat and, where feasible, increase migratory bird habitat to promote viable populations of migratory birds.*"

In addition, Section 85302 (c) states that "The Delta Plan shall include measures to promote all of the following characteristics of a healthy Delta ecosystem:

- (1) Viable populations of native resident and migratory species.
- (2) Functional corridors for migratory species.
- (3) Diverse and biologically appropriate habitat and processes."

The Sacramento-San Joaquin Delta, along with the adjacent Suisun Marsh, historically provided key habitat for migratory and resident waterfowl. Despite significant changes in land and water use over the last 150 years, conservation efforts by nonprofits like CWA, state and federal resource agencies, farmers and other private landowners have helped protect and even enhance the Delta and Suisun Marsh's overall waterfowl habitat values. In fact, the Delta and Suisun Marsh of today still support millions of migratory birds while also providing important wildlife-dependent recreational opportunities for the public—chiefly hunting and wildlife viewing.

The land use and conservation efforts most responsible for the Delta and Suisun Marsh's contemporary benefit to ducks, geese and other migratory birds are managed wetlands and associated uplands, as well as wildlife-friendly farming practices. Managed wetlands offer critical winter foraging habitat, while also providing important late winter/spring breeding areas for waterfowl. Upland fields adjacent to managed wetlands are also a key component to waterfowl nesting success. Post-harvest corn fields, as well as some rice cultivation, additionally provide critical food resources for migrating waterfowl and shorebirds throughout much of the Delta. The Delta Plan should support these ongoing conservation efforts.

It should also be noted that managed wetlands, due to the ability of wetland managers to precisely control the flooding and manipulation of the land, tend to be amongst the most biologically productive of all wetland types. Recognizing that California has lost over 90 percent of its original wetlands, it is critical that those wetlands which remain are as productive as possible through biologically proven, active manipulation and management activities.

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Conversely, the tidal wetlands targeted for restoration under the Delta Plan—while used by some diving duck species as wintering habitat—unfortunately offer only limited food resources overall for waterfowl and generally less quality waterfowl breeding habitat than either managed wetlands or pre-harvest, flooded agricultural lands.

With that background, please consider the following comments:

- The draft Delta Plan’s legally enforceable Policy ER P2 states “that habitat restoration actions must be consistent with the habitat type locations based on elevations shown on the elevation map in Figure 5-2 page 117, and accompanying text shown in Appendix D.”

This has the potential to severely limit habitat creation and opportunities, particularly as it relates to managed wetlands and associated upland habitat, since most of the habitat type locations specified on the elevation map within the Suisun Marsh and Delta are labeled as “intertidal” or “subtidal”. It should also be noted that the Fifth Draft of the Delta Plan defines “habitat restoration” as tidal, riparian and floodplain restoration, and does not specifically include managed wetlands or upland nesting habitat as part of that definition.

- The draft Delta Plan’s Policy ER P3 states, “Actions other than habitat restoration, including new or amended local or regional land use plans, shall demonstrate that they have, in consultation with the Department of Fish and Game, avoided or mitigated within the Delta the adverse impacts to the opportunity for habitat restoration at the elevations shown in Figure 5-2.”

Again, this policy places unnecessary restrictions on land uses which may be beneficial to waterfowl and other wildlife, such as the cultivation of corn or rice. Seasonal managed wetland activity or agricultural practices that have the potential to cause oxidation or reduce peat soils, for instance, could be considered inconsistent with ER P3 and deemed as not a covered action.

- All actions that meet the requirements of Section 85057.5(a) of the Water Code are covered actions unless the action: 1) falls with the statutory exclusions found in Section 85057.5(b) of the Water Code or 2) is expressly excluded by the Delta Plan.

Section 85057.5(b) states that a covered action does not include “Routine maintenance and operation of any facility located, in whole or in part, in the Delta, that is owned or operated by a local public agency.” Page 54 of the draft Delta Plan also states that “Routine agricultural practices are unlikely to be considered a covered action unless they have significant impacts on the achievement of the coequal goals.”

Many of the levees which protect and support managed wetlands in the Delta and Suisun Marsh are maintained by local districts, while managed wetlands themselves require routine maintenance and operation activities in order to optimize habitat values. Routine agricultural activities include the flooding of post-harvest rice and corn fields for decomposition purposes, which greatly benefit migratory waterfowl and other birds and are supported by the Department of Fish and Game’s policies. Managed wetland activities, as well as post-harvest flooding of rice and corn, should appropriately be considered covered actions because they provide high quality migratory bird habitat, which (as noted above) the Delta Plan is statutorily required to support.

- The impacts implementation of the Delta Plan’s current draft policies—particularly on the Suisun Marsh—will have significant direct and indirect physical changes in the

environment. The following environmental consequences have not been considered, disclosed, or analyzed in the draft EIR and must be addressed:

1. The loss, conversion, or degradation of existing seasonal managed wetland habitats from the implementation of the Council's Policies on the changes in seasonal managed wetlands operations and maintenance.
  2. The loss, conversion, or degradation of existing wildlife species diversity, abundance and presence in the Suisun Marsh from the implementation of the Council's Policies on the changes in seasonal managed wetlands operations and maintenance.
  3. Reduction in existing waterfowl species composition, abundance, and distribution wintering food source availability and loss.
  4. Reductions of wintering waterfowl carrying capacity within the Suisun Marsh, including impacts and loss of resident breeding and migratory waterfowl populations, raptors, water birds, and terrestrial wildlife species.
  5. Impacts and loss of wetland plant communities in the managed wetlands supporting the endangered Salt Marsh Harvest Mouse.
  6. The economic and social impact of changes in existing Suisun Marsh habitats and salinity regimes that could change existing waterfowl hunting and the financial viability of continued wetland conservation activities.
- The draft Delta Plan's focus on a "more natural flow regime" threatens to curtail water diversions for managed wetlands and wildlife-friendly agriculture that depend heavily on surface water supplies, such as Sacramento River flows. This includes National Wildlife Refuges and State Wildlife Areas (many of which a part of the Central Valley Project Improvement Act's Refuge Water provisions), duck clubs and other privately owned wetlands, and lands under rice cultivation. As the draft EIR states, "Under the Proposed Project, the SWRCB would be encouraged to modify Delta flow objectives in order to place more emphasis on creating a natural flow regime in the Delta. Such objectives would likely reduce the amount of water available for municipal, agricultural, and industrial water uses within the Delta and outside the Delta.."

A "more natural flow regime" in the Delta would require reductions in upstream water storage, which, in turn, would affect the availability of critically-needed water supplies for waterfowl habitat. The draft EIR fails to fully analyze and mitigate for this significant effect to the environment.

Thank you for the opportunity to comment. I applaud the Council and its staff's efforts to meet the co-equal goals of a more reliable water supply and protection and enhancement of the Delta ecosystem while balancing the needs of a diverse array of stakeholders. Should you have questions about our input or need additional information, I may be reached at [jcarlson@calwaterfowl.org](mailto:jcarlson@calwaterfowl.org) or (916) 648-1406.

Sincerely,



John Carlson, President  
California Waterfowl Association