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VIA ELECTRONIC MAIL: eircomments@deltacouncil.ca.gov

Mr. Phil Isenberg
Chair, Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, California 95814

Re: Draft Delta Plan EIR

Dear Chairman Isenberg and Members of the Council:

Ducks Unlimited has reviewed the 5th Draft of the Delta Plan (the Plan) and the accompanying DEIR. Our comments and concerns are focused on the effect of the Plan and its implementation on the waterfowl that utilize wetland habitats in the Delta/Suisun Marsh, Sacramento Valley and the San Joaquin Valley and the mitigation of adverse impacts, or lack thereof, that is being proposed to offset those impacts.

Generally speaking our concerns can be summarized as follows. First, the Plan indicates that it is not proposing specific projects, but rather, is providing a set of "Policies" and "Recommendations" that will guide the Council in its consideration to approve, for consistency with the Plan, future proposed projects, aka "covered actions." The Plan proposes polices and recommendations that promote the restoration of the wetland habitats, primarily tidal wetlands, needed to fill the deficit of critical fish rearing habitat in the Delta. However, it fails to recognize that much of the land where historic tidal wetlands occurred, after having been "reclaimed" to agriculture for decades, has been restored to seasonal managed wetlands critical to the needs of an entirely different suite of species –birds. Despite the fact that provisions of the Delta Reform Act of 2009 requires that habitat be restored to ensure that there be no net loss of migratory bird habitat, neither the Plan or the DEIR propose measures to avoid such impacts or to mitigate for the likely mass conversion of one habitat (managed seasonal wetlands) to another (tidal wetlands). Second, the policies contained in the Plan to promote the adoption of updated flow requirements by the State Water Resources Control Board could have a significant detrimental impact on water supplies to wetlands and agricultural lands important to migratory birds in various portions of the Sacramento Valley, the Delta and the San Joaquin Valley. While the Plan and DEIS does not describe it, we suspect that updated flow requirements would constitute higher flows through the Delta in the winter months and lower ones in the summer. If so, the increased flow through the Delta would likely result in less water available to, among other purposes, birds both in and outside the Delta. This impact is not described, analyzed or mitigated. Third, the "Delta as a Place" is described and policies and recommendations are proffered to address the economic sustainability of the region. The obvious opportunities to integrate economic values of recreation and agriculture are not discussed or suggested. Fourth, although the Delta Plan does not specifically address conveyance of water, it could and should contain policies that prevent or mitigate for transfer of water supplies from the Sacramento Valley and Delta to other regions of the State to the detriment of valuable private and public wetlands.

Conversion of seasonal managed wetlands to tidal wetlands. In previous correspondence we have stressed the critical nature of the entire Central Valley with respect to supporting breeding, migrating, and wintering waterfowl and other water bird populations. The remaining wetlands –virtually all intensively managed and artificially irrigated- serve as the primary wintering ground for the entire Pacific Flyway. The Delta is one of the Valley’s key areas for wintering migratory birds. The Central Valley once contained over four million acres of wetlands and supported 20-40 million wintering waterfowl annually. Today its wetlands have been reduced by close to 95%. Nevertheless, it still constitutes, quite possibly, the most important migratory bird habitat on the entire planet. Every acre that we are able to protect and restore for this purpose is critical.

Ducks Unlimited, our supporters, allies and partners have protected and restored thousands of acres of wetland habitat in the Central Valley, utilizing literally hundreds of millions of public and private dollars. This work has been conducted over many years but accelerated since the enactment of the North American Waterfowl Management Plan and the creation of the Central Valley Joint Venture. Delta wetlands play a pivotal role in the overall effort, and currently serve a large portion of the five to six million birds that live in the Central Valley from August through April. The Central Valley Joint Venture partnership, on which DU and 19 other NGOs and public agencies participate, has adopted a long- term implementation plan that is based on rigorous science and realistic habitat expectations. In the Delta, this partnership has restored over 8,000 acres of wetlands and enhanced approximately 30,000 agricultural acres for migratory birds. We remain focused on completing our goals for the Delta, which will require restoring another 19,000 acres of seasonal wetlands and enhancing 52,000 acres of agricultural lands.

Much of this work can be undone by converting the thousands of acres of managed seasonal wetlands to tidal wetlands. Historically, the Delta and the rest of the Central Valley supported many times the number of migratory birds it does now, enjoying the more “natural flow regime” where rivers overflowed and wetlands were naturally irrigated by flood waters. Due to the massive conversion of natural wetlands to agriculture and urbanization and the manipulation of the region’s hydrology, it is impossible for the functions and values of these natural seasonal wetlands to exist independently. Therefore, we have created managed wetlands, where land is “farmed” for the food plants needed by the visiting flocks and irrigated through gates and canals. This effort is rewarded by higher values for migratory birds than possible under unmanaged conditions. Tidal wetlands provide some food and other habitat needs for birds, but are less valuable at a ratio of about 7:1. That means that when seasonal wetlands are converted to tidal wetlands and “natural” processes are left to endure, there is a major decline in habitat value for migratory birds. Focusing on just fish, as the Delta Plan does, may result in a significant decrease in the capacity of the region to serve the biological needs of other wintering and resident wildlife.

With that in mind, Ducks Unlimited and our CVJV allies sought language and amendments to the originally drafted Sacramento-San Joaquin Delta Reform Act of 2009 (the Act) to ensure that, as policies were developed, actions taken and projects were implemented to protect, restore and enhance the Delta ecosystem, they would not favor one species or group of species over the other and would not adversely impact the ecological values already provided by previous conservation work. According to the Act, the implementation of the Delta Plan shall further the restoration of the Delta ecosystem and include measures that promote, among other things, “Viable populations of native resident and migratory species [Section 85302 (c) (1)].” Even more specifically, the Delta Plan was required to contain “the following subgoals and strategies for restoring a healthy ecosystem: (6) Restore habitat necessary to avoid a net loss of migratory bird habitat (emphasis added) and, where feasible, increase migratory bird habitat to promote viable populations of migratory birds [Section 85302 (e) (6)]. We intended that language to result in a Delta Plan that addressed this habitat conversion issue, avoided detrimental impacts to migratory birds and contained policies and recommendations to ensure that there would be “no net loss of functions and values” for these species’ habitats. To comply with these legally binding

requirements the Plan should contain 1. a policy that habitat projects avoid the conversion of managed seasonal wetlands to another habitat type, and 2. a policy that ensures, when wetland habitat conversion is unavoidable, that an evaluation of the functions and values of the converted habitat be conducted and the project components contain measures to replace the lost functions and values. We were unable to find anything in the Plan or DEIR that contained such provisions.

Impacts of an enhanced flow regime in the Delta on Valley wetlands. Policy ER P1 of the Delta Plan states that development, implementation and enforcement of new and updated flow requirements for the Delta and high priority tributaries is key to the achievement of the coequal goals and that the State Water Resources Control Board should update the Bay-Delta Water Quality Control Plan objectives that are needed to achieve the coequal goals. In Section 2.2.4.1 of the DEIR it discusses the potential of such an update to impact water supplies currently enjoyed by water users both in the Delta and outside the Delta. As indicated above, most of the seasonal wetlands of the Sacramento and San Joaquin Valleys and the Delta are irrigated, not by natural flood flows or other processes, but by deliberate diversion of water from the systems, either in exercise of legal rights or as recipients of tail water flows from agricultural activities. In addition and very importantly, the use of diverted water to flood agricultural fields in the late fall, winter and early spring enables the creation of surrogate habitat (e.g., flooded rice fields) that are critical to providing for the nutritional and caloric needs of migratory birds. In fact, flooded rice and corn fields are known to provide more of the food needed by wintering waterfowl, shorebirds and other groups of birds in the Central Valley than does managed seasonal wetlands (Central Valley joint Venture 2006 Implementation Plan, page 46). Therefore, to the extent that water supplies for seasonal managed wetlands in the Central Valley and agricultural and other users providing wintering habitat are reduced by new and updated Delta flow requirements, the migratory bird components of the ecosystem would likely be harmed. Any change in the flow regime should be carefully considered with respect to how that water is currently used to support other terrestrial and even aquatic components of the ecosystem. We have found no indication in the DEIR that these impacts have been identified, considered or mitigation measures identified.

The Plan and DEIR fail to fully discuss the opportunities to integrate recreation, restoration and agriculture into the Delta economy. In Section 2.2.5.1. and Section 2.2.5.2., the DEIS reviews means to encourage economic sustainability in the Delta, including ways to develop economic models that are consistent with and take advantage of the Delta's natural assets, and by making improvements in the physical and institutional environment. The latter section relies on a plan developed by the California Department of Parks and Recreation for concepts pertaining to recreation. However, little is discussed regarding ways of minimizing the economic impacts of habitat restoration and maximizing the possible economic gains that could be realized. For example, the Delta historically has been a concentration area for waterfowl and new seasonal wetlands, and if managed carefully, they could return tremendous economic value to landowners for their recreational hunting. Moreover, a technique developed in the Klamath Basin involving rotational seasonal wetland and agricultural plots (called "walking wetlands") could be combined with tidal restoration on properties with the appropriate physical characteristics. If this were to be accomplished on even a modest scale, the impacts of habitat restoration could be reversed from one that has a net negative effect on property value, regional income and tax revenues, to one that has a net positive effect. In Section 2.2.4.4 Subsidence Reversal, the DEIR should discuss the potential to utilize State lands for subsidence reversal efforts that also include increasing recreational opportunities. Subsidence reversal wetlands can be designed and managed as waterfowl hunting areas. A recent project on Sherman Island at Mayberry Farms was designed specifically for this purpose. The property is currently managed and operated under a private waterfowl hunting lease. Ducks Unlimited designed this project for DWR. This model could be expanded in many other areas on Sherman and Twitchell Islands, as well as other areas of the Delta where subsidence reversal is being pursued. By designing the site appropriately

to meet the goals of both subsidence reversal and recreation, these areas could be leased out and thus be managed with little or no cost to the State.

Enhanced water conveyance can adversely impact migratory birds. Section 4.4.1.3 of the DEIR recognizes that operation of facilities to improve water supply reliability, such as tunnels and canals built to shunt water around the Delta to the export pumps, could have an adverse impact on "habitat for fish and wildlife." Section 4.4.3.1.1 describes the impact of water facilities on sensitive habitat in a similar fashion. In both cases the impact considered is the short term, direct impact of locating, constructing and operating the facilities. We would add that the impacts would be proportionate to the amount of water that could be moved, and there may be indirect impacts not being considered in the DEIR. Sacramento Valley managed wetlands depend heavily on agricultural return flows and on the infrastructure that is constructed and maintained for agriculture. For example, the private wetlands in the Butte Sink rely on drain water that is produced from rice lands within the area. One of the most significant, yet subtle, impacts of enhanced water conveyance is the long-term facilitation of water transfers from the Sacramento Valley to areas south of the Delta. This would impact habitat for both migratory birds and for resident and sensitive species as well. We believe that conservatively sized facilities would result in a lower probability of permanently sending water surplus to agriculture –followed by water directly used by agriculture, to regions where there would be little to no habitat benefit for wildlife.

Thank you for the opportunity to review the Delta Plan and Draft Environmental Impact Report and for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Biddlecomb". The signature is fluid and cursive, with a large loop at the end.

Mark Biddlecomb
Director, Western Region