Mojave Water Agency

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VIA ELECTRONIC MAIL

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

SUBJECT: COMMENTS REGARDING THE DELTA PLAN DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT

Dear Chairman Isenberg and Members of the Council:

The Mojave Water Agency (MWA) writes to express our significant concerns with the 5th draft Delta Plan and the Delta Plan Draft Program Environmental Impact Report (draft EIR) the Delta Stewardship Council (Council) released November 4. These concerns include deficiencies under the California Environmental Quality Act (CEQA) and policy concerns with provisions of the draft Delta Plan. MWA concurs with the comments filed by the State Water Contractors and the San Luis & Delta-Mendota Water Authority, but wishes to emphasize a few key points as well.

MWA is a public water agency providing wholesale water supplies, including supplies from the State Water Project, to the High Desert portion of San Bernardino County. We serve 450,000 residents, along with commercial, industrial, power generation, and agricultural uses.

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. Then it went further and created the Council to develop a Delta Plan that would pursue both of these goals. MWA has serious concerns that the draft Plan fails to pursue a more reliable water supply for Californians. Moreover, the draft EIR does not provide sufficient information to allow the public or the Council to assess whether the proposed project—the fifth draft of the Delta Plan—or any alternative will accomplish the Legislature's purpose. The draft EIR is lacking in every critical substantive area.

Draft Delta Plan Concerns

First, we wish to address WR P1, the first policy in Chapter Four, A More Reliable Water Supply for California. It is extremely troubling that the plan attempts to review and regulate local water management decisions on everything from rate structures to recycling targets. The California Legislature did not establish the Delta Stewardship Council to micromanage local water management decisions by scores of public agencies throughout the state. It was established to create a plan that could serve to coordinate the many local, state and federal efforts in the

Delta. The Council should redirect its energy on the Delta, improving the reliability of water supplies and the ecological recovery of the estuary.

Second, the draft does not clearly and unambiguously support a key objective of the Bay Delta Conservation Plan – the recovery of water supplies lost due to regulatory restrictions facing a water conveyance system that BDCP intends to dramatically improve. 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 rather than to embrace BDCP actions as being consistent with the Delta Plan.

Third and finally is export reliability. The draft plan seems to imply that in the future, less water will need to be exported from the Delta area. The public water agencies that use water exported through the Delta are considering investing billions of dollars through the BDCP to restore water reliability while working towards Delta recovery efforts. The draft plan and the draft EIR seem to be assuming that those investments will actually decrease export reliability.

Feedback by water agencies has echoed these concerns in voluminous comments, including an alternate Delta Plan approach proposed by various agricultural and urban interests throughout the state. The overly regulatory approach that permeates this draft will threaten the success of the Stewardship Council and detract from prospects of a successful, collaborative approach. We simply must get the Delta Plan right for the sake of our water supply, economy and environment.

Draft EIR Concerns

Failure to Pursue a More Reliable Water Supply or Discuss Practical Impacts of Reducing Water Supply. The draft EIR supports a proposed project that would impede, rather than further, the achievement of the coequal goals. Of great importance to MWA is how the proposed project will achieve the "water supply" element of the coequal goals. The draft EIR clearly states that the proposed project will result in reduced water supplies compared to the status quo (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 beneficially used for municipal, industrial and agricultural purposes. The Delta Plan Draft Program EIR assumes those reductions will be offset by "programs and projects that will improve self-reliance." (Delta Plan Draft Program EIR, p. 2A-6, lines 10 through 12.) The impacts of that paradigm are not adequately presented in the Delta Plan Draft Program EIR and are difficult to reconcile with the legal mandate that the Delta Plan "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).) Most simply put, water supplies conveyed through the Delta were developed because local and regional water supplies were insufficient to meet then existing or projected uses. There is 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 in this document would or would not achieve the coequal goals. This is a glaring omission, leaving MWA, other stakeholders, and the Council itself without information to determine if the proposed project can meet its legislatively-driven objectives

Defective Project Description. The Council is proceeding with the draft EIR knowing the description of the proposed project is unstable and misleading. The Council plans to release two more staff drafts in the coming months. Therefore, elements of the proposed project are not reasonably certain to occur and thus it 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 is stuffed with over 2000 pages of information, but that information is disorganized, inordinately repetitive, and hard to follow. Neither a general reader nor an water expert can gleam from this document the information necessary to determine the environmental impacts of the proposed project.

MWA 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 sixth 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, MWA asks the Council to 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.

MWA appreciates the tremendous effort to get the Delta Plan drafting process to this critical stage and hopes to be an enthusiastic supporter of the final product.

Sincerely,

Kirby Brill
General Manager