

June 10, 2011

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

Re: Request to Include Alternate Delta Plan as a Project Alternative in the EIR

Dear Chairman Isenberg and Members of the Council:

California water policy is at a turning point. The Delta Stewardship Council is poised to make decisions that will affect California's water supply and economic health and the sustainability of the Delta ecosystem for decades. Those decisions will affect how we collectively address the state's water supply challenges and ensure that future generations have the water supplies they need and the sustainable, thriving Delta they deserve.

The Council has an historic opportunity to craft a forward-looking, long-term vision for the Sacramento-San Joaquin Delta, an ecosystem of national significance. As part of the comprehensive package of water reforms enacted in 2009, the Council has been directed by the California Legislature to develop a Delta Plan that furthers the co-equal goals of improved water supply reliability and Delta ecosystem health in a way that protects and enhances the unique values of the Delta as an evolving place.

This letter lays the foundation for an alternative to the Council's latest staff drafts of the Delta Plan to promote a more robust discussion of the choices at hand and the most effective path to truly accomplish the co-equal goals. A coalition of leading water resources managers throughout the state is presenting an Alternate Delta Plan to promote such a discussion and define a path to success for the Council. This Alternate Delta Plan has the strong support of a large and diverse coalition of business and agricultural interests, all of whom are deeply committed to helping the Council fulfill its charge to develop a plan that furthers achievement of the co-equal goals.

To ensure that the Council has a complete range of options to consider as it formulates the Delta Plan that it will adopt by the January 1, 2012 deadline, we request that the Council include our Alternate Plan as a project alternative in the draft environmental impact report (EIR) for the Delta Plan. Approving this request will not require the Council to choose between our proposal and the staff drafts now, but rather will allow the Council to have a robust discussion this fall about what should be in the Delta Plan the Council ultimately approves.

This task could not come at a more urgent time. Water supply reliability has been in steep decline due to regulatory actions intended to protect species, infrastructure deficiencies and increasingly variable hydrologic conditions. The Delta's ecosystem has undergone fundamental changes, putting key species at risk and intensifying conflicts over water project operations. Delta communities have seen tremendous change and unrelenting pressures related to land use,

water rights, economic sustainability and agricultural viability. Climate change, risk of levee failure and sea level rise also require action.

During the past quarter-century, local and regional water agencies have invested heavily in local water supply resources, urban and agricultural water use efficiency, local surface and groundwater storage projects, water recycling, voluntary water marketing and other water management tools. Collectively, these investments have added operational flexibility and improved our ability to meet demands with existing supplies.

These local efforts have mitigated the impact of droughts and regulatory water shortages, but they cannot – in and of themselves – resolve long-term problems in the Delta that are key to improving statewide water supply reliability. As the Delta Vision Blue Ribbon Task Force has noted, California must also invest in well-managed Delta conveyance facilities, storage, and ecosystem restoration as components of a comprehensive plan to meet the co-equal goals.

Key Questions

To formulate a viable plan, the Council must address core questions and define desired goals. These questions, and the goals defined through answering them, are pivotal to the success of the plan and deserve public discussion. We have previously expressed our concerns that drafts of the Delta Plan have exceeded the Council's authority. Our purpose here is not to restate these issues, but instead to frame questions that must be answered before the Council can make the important decisions under its purview consistent with the Delta Reform Act, other existing law, and the co-equal goals. Key questions can be grouped in the following areas:

General Direction. How will the Delta Plan reconcile what otherwise might be conflicting goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem? Inasmuch as the Delta Plan must “promote options for new and improved infrastructure relating to the water conveyance,” will the Council acknowledge the need for conveyance and storage investments as envisioned in the Delta Vision Blue Ribbon Task Force Strategic Plan? Or will it follow a different path that places a much stronger emphasis on flow measures and demand reduction with a necessarily lessened emphasis on other management tools?

Implementation Tools. How will the Council, in the Delta Reform Act's words, “direct efforts across state agencies” to meet the co-equal goals? Should it take a management approach that organizes state and federal agency actions to be complementary in plan implementation? For local agencies that are in the Delta or that propose a covered action in the Delta, will the Council take an approach that focuses on performance-based outcomes, with assurances and other incentives to achieve statutory and regulatory goals within a framework of accountability? Or

will it, assuming it even has such authority, focus on regulatory tools that tell other public entities what to do, with sanctions if they fall short?

Finance Plan. What authority does the Council have to formulate a finance plan? Will it propose a finance plan that will be broadly supported by those asked to pay for it, consistent with the beneficiary pays principle, and capable of adjusting to changing circumstances? Or will it seek the adoption of a financing package that is widely opposed by the entities that might be required to contribute funds?

Bay-Delta Conservation Plan. What is the Council's role relative to the Bay-Delta Conservation Plan? Assuming the BDCP is consistent with the co-equal goals, will the Delta Plan provide a path that allows the BDCP to meet its water supply and ecosystem goals? Or will the Delta Plan contain policy criteria that are obstacles and constraints that make success less likely for the BDCP?

Water Supply Reliability. How will the Delta Plan provide for "meeting the needs for reasonable and beneficial uses of water?" (Water Code section 85302(d)(1).) Is it intended that the Delta Plan will try to meet the co-equal goals by compelling the state to adapt to continued reductions in available water supplies – whether tributary to or exported from the Delta watershed? Inasmuch as it is the state's policy "to reduce reliance on the Delta in meeting California's future water supply needs," (Water Code section 85021) would a Delta Plan that fails to meet existing needs for reasonable and beneficial uses of water be consistent with the Delta legislation?

Comprehensive Ecosystem Solutions. How will the Delta Plan promote a comprehensive approach that, in the context of the co-equal goals, integrates flow with other measures to promote diverse and biologically appropriate habitats and ecosystem processes and reduce threats and stresses on the Delta ecosystem? Is it intended that the Delta Plan will emphasize only flow-related measures?

Agricultural Economy. How will the Delta Plan promote a long-term, viable agricultural economy throughout California? Would a Delta Plan that puts California on a path where many farms' most viable option will be to stop growing food and fiber be consistent with the Delta legislation?

The Delta as a Place. What tools will best protect and enhance the culture and values of the Delta as we cope with physical changes due to rising sea levels and seismic vulnerability?

Water Quality. How will the Delta Plan promote improved water quality for drinking water and the ecosystem? Will it emphasize new approaches to reduce pollution and improve water quality

through Best Management Practices and incentives to reduce pollutant loads? Or will it rely on the current strictly regulatory approach?

The Alternate Delta Plan

We are presenting the Alternate Delta Plan to answer these questions in a straight-forward manner. The following section describes key features of the plan:

Implement a Comprehensive Program. While the Alternate Plan calls for heavy investment in agricultural and urban water use efficiency and local resource development to reduce reliance on the Delta for future water demands, a plan that relies solely on these tools cannot succeed, as the past two decades verify. As the work of Delta Vision concluded, we need storage, Delta conveyance improvements, and ecosystem restoration investments to achieve the co-equal goals.

Use a Performance-Based Management Approach. Accomplishment of the co-equal goals will require unprecedented levels of partnership and collaboration. These complex relationships and successful partnerships cannot be created through regulation. The Alternate Plan places maximum reliance on a business model that provides assurances and other incentives for agencies that meet performance-based goals designed to meet statutory and regulatory requirements.

Assure Accountability. The Delta Plan must be a comprehensive plan with performance goals and measures for agencies and participants and mechanisms to hold them accountable. The Alternate Plan calls for the identification of clear and attainable ecosystem and water supply reliability goals, as well as measurement and monitoring of outcomes. When goals are not being accomplished, the plan allows for changing strategies with a new round of quantification and monitoring.

Provide a Path for a Successful BDCP. The Council can take actions that help ensure the BDCP successfully meets its goals. The Delta Plan should not effectively preclude achievement of the BDCP's purposes. The Alternate Plan is predicated on the success of the BDCP in a manner that promotes the co-equal goals and protects the interests of those who are not at the BDCP table.

Improve Statewide Water Supply Reliability. The Alternate Plan intends to significantly improve water supplies for all areas of the state compared to current available supplies. Such a result is necessary for accomplishment of the co-equal goals. Storage, conveyance and restoration actions must be implemented to solve existing physical problems and protect fisheries. The Alternate Plan calls for a corresponding improvement in the amount of supply available to those paying for the solution. Without improvements in water supply, there is no economic justification to invest in costly conveyance, storage, and additional ecosystem restoration actions.

Pursue All Important Ecosystem Stressors. The Alternate Plan calls for accelerated creation of habitat to continue reversing the loss of wetlands in the system, strong predation and poaching control programs, improved protection of salmon runs, pollution control programs to reverse nutrient imbalances and prevent further degradation of water quality, screening of unscreened diversions, and other actions that are determined to be substantially beneficial to the ecosystem.

Improve Water Quality for the Ecosystem and People. The Alternate Plan sets forth a framework to coordinate regulatory agencies and improve their regulatory approaches. It calls for mechanisms to address the most pressing ecosystem pollutant issues and for establishment of a drinking water policy to ensure water quality for future generations.

Promote A Healthy Economy in the Delta. The Alternate Delta Plan will support a healthy and sustainable Delta economy that protects and enhances the unique values of the Delta consistent with the Delta Reform Act.

Comparing Approaches

The Alternate Delta Plan differs in some key ways from the latest staff drafts of the Delta Plan. Key contrasts are identified below.

Contrasting Visions. The Alternate Delta Plan is consistent with the comprehensive approach outlined in the Delta Vision Blue Ribbon Task Force's Strategic Plan and the 2009 legislative package. Its implementation would lead to improvements in water supply reliability for all areas of the state, improved ecosystem health for the Delta, and protection of the Delta's unique values as an evolving place. In contrast, the latest draft plan appears aimed at reducing water supplies and augmenting flows for fish through an approach that relies on regulations to force reductions in demand, with dire consequences for the state's economy. Such an approach is contrary to the co-equal goals and would eliminate the economic justification for local water agencies to pay for key elements of a comprehensive solution.

Collaborative and Enforceable vs. Regulatory Approach. The Alternate Delta Plan seeks to be enforceable in the same way that general plans of cities and counties are enforceable. Actions covered by the plan must be consistent with the plan itself. An enforceable plan such as this requires sophisticated, collaborative relationships. Assurances and incentives within a regulatory framework are effective tools to achieve such partnerships. As stated above, the latest staff drafts do not contain a plan for the Delta, but rather sets of prescriptive regulatory approaches to reduce Delta water supplies. This path will not lead to collaborative partnerships or incentives to pay for necessary investments. Such a path could be fatal to the BDCP and its critical restoration efforts.

One Dimensional vs. Comprehensive. The Alternate Delta Plan employs an array of management tools including local resources development, conveyance improvements, steps to address Delta stressors and other strategies to achieve the co-equal goals. In sharp contrast, the

latest staff drafts appear to focus on reducing Delta exports from current levels and augmenting flows to attempt to benefit fisheries. The one-dimensional approach that will inevitably result from this strategy ignores lessons learned over the past 20 years from similar policies that have failed to achieve results.

Elements of a Physical Plan. The Alternate Delta Plan recognizes the need for elements such as conveyance improvements, additional groundwater and surface water storage and ecosystem restoration investments through the BDCP to address physical and environmental problems in the Delta and to help restore and protect fisheries. These elements of a comprehensive approach are unlikely to be achieved by the strategy in the latest staff drafts of the Delta Plan because those drafts lack economic justification for such investments.

The Future of Agriculture. The Alternate Draft Plan recognizes the value of sustaining California's agricultural economy, which is particularly vulnerable to the effects of water supply reductions. The long-term result of policies that reduce available water supplies to agricultural regions would negatively affect groundwater basins, communities and the state's economy.

Moment of Decision

The Delta Plan presents a once-only opportunity for the Delta Stewardship Council. The Council can provide much-needed momentum and collaboration to further the achievement of the co-equal goals. Or it can promote discord and delay improvements by driving stakeholders away from the process.

We are presenting our Alternate Delta Plan as an alternative to the staff drafts to frame key choices for the Council and promote further consideration. We request that the Alternate Delta Plan be included as a project alternative for analysis in the draft EIR that the Council must prepare for the Delta Plan, as mandated by the California Environmental Quality Act. Including the Alternate Delta Plan as a project alternative in the draft EIR will provide the Council with an appropriate range of options that we believe reflects a more effective and ultimately successful approach.

Very truly yours,

Signatures on attached pages

cc:

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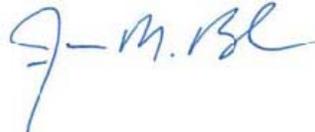
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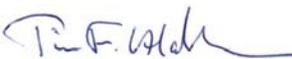
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