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January 8, 2013

Cindy Messer
Delta Plan Program Manager
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

RE: Draft Programmatic Environmental Impact Report

Dear Ms. Messer:

Butte County appreciates the opportunity to comment on the Recirculated Delta Plan Draft Programmatic Environmental Impact Report (PEIR) released on November 30, 2012. The Recirculated Draft PEIR was released concurrently with the Final Draft Delta Plan, also referred to as the Project Plan. Butte County submitted comments on the Draft PEIR on January 24, 2012 and on the Final Draft Delta Plan on June 12, 2012. The comments expressed by Butte County in those letters remain relevant.

The Delta Reform Act of 2009 (SB1X 1, Simitian) created a once-in-a-generation opportunity to resolve California's water challenges through the coequal goals of "*providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem.*" Both of the coequal goals "are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." However, what the Delta Plan and the PEIR fail to recognize and address is that California north of the Delta also has unique cultural, recreational, natural resource, and agricultural values as an evolving place. Overall, what the PEIR fails to do is to adequately address the redirected adverse impacts of the Delta Plan on the north of the Delta area and the north of Delta area as an evolving place of its own right. Butte County's comments on specific sections of the PEIR are attached to this letter.

Butte County appreciates some of the positive elements of the Delta Plan. The Delta Plan included statutory language that honors existing area of origin, watershed of origin, county of origin and water right protections pursuant to Water Code section 85031. However, the intent of the statutory language

was not incorporated throughout the Delta Plan or the PEIR. Without full analysis of, and accountability for, project consequences north of the Delta, the Delta Plan will be incapable of delivering on the Delta legislation's cornerstone promise, codified in Water Code section 85031, not to "diminish, impair, or otherwise affect in any manner whatsoever" area of origin or any other water rights protections. To avoid potentially devastating consequences for Butte and other counties and communities north of the Delta, the Delta Plan must safeguard that promise and apply it to both surface water and groundwater. The Delta Plan should have emphasized that a healthy and vibrant California north of the Delta is an important foundation for achieving the coequal goals. A disruption to the delicate balance of the north of Delta watershed would not only be disastrous for the region but will undermine any likelihood of achieving the coequal goals. The failure to fully acknowledge and assess the impacts to the north of Delta watershed will lead to unintended consequences for the Delta watershed and ultimately the entire state.

Although existing levels of exports south of the Delta are recognized as unsustainable, the Delta Plan misuses the coequal goal of "water supply reliability" to facilitate an increase in these exports. The Delta Plan must not simply become the latest opportunity for those users south of the Delta to match or exceed existing unsustainable levels of exports at the expense of holders of north of the Delta water rights and area of origin rights. The Delta Plan must not seek to achieve "water supply reliability" in a way that ignores the statutory requirement for reducing the reliance on Delta exports and increasing the reliability of regional water supplies. The integration of the Delta watershed groundwater basins into the state's water supply runs counter to Water Code Section 85031 related to the protection of area of origin water rights.

Protecting, restoring and enhancing the Delta ecosystem is one of the most complex environmental challenges facing California. The Draft Delta Plan continues to take a simplistic approach by overemphasizing the need to establish Delta flows as a foundation to the Delta ecosystem regardless of other stressors. A significant amount of concern has been voiced to the Delta Stewardship Council regarding the impacts of Delta flows to the northern Sacramento Valley. Decreased surface water diversions north of the Delta would cause an increased demand on the groundwater basin. Butte County has an agricultural-based economy that is dependent upon long standing water rights and a healthy groundwater basin. The local streams and creeks provide suitable fish habitat for the region. Disruption of this balance will devastate the agricultural industry and ecosystem north of the Delta.

The Delta Plan presents the opportunity for actions that could impact the north of Delta watershed through decreased diversions and/or reoperation of Lake Oroville to meet Delta flow criteria. Changes in Lake Oroville operation to meet Delta flow criteria or from Bay Delta Conservation Plan (BDCP) actions will result in economic and social impacts to Butte County. For example, analysis of BDCP implementation has shown that Lake Oroville would remain in a "dead pool" condition in most years. This situation would render Lake Oroville inoperable as a recreation venue, damage the ecosystem and become a visual blight on the region. Lake Oroville is located entirely within Butte County and is integral to recreation, economy and ecosystem for those in its Area of Origin. While the Delta Plan seeks to enhance recreational opportunities in the Delta and to protect Delta legacy towns, the Delta Plan will result in redirected adverse recreational impacts at Lake Oroville and, consequently, to Butte

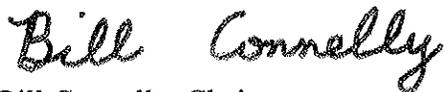
County and to north of Delta legacy towns. The PEIR (Section 18 Recreation) fails to assess the recreational and economic impacts to Butte County from the Revised Project.

Although the Draft Plan has some positive attributes, it and the accompanying PEIR remain flawed, inconsistent and legally suspect. Butte County continues to express concern that the PEIR “fails to either acknowledge or assess” the Delta Plan’s “impacts upstream of the Delta.” The Delta Plan continues that avoidance, ignoring potential interference with water rights and potential devastation of the groundwater basin and waterways critical to the economic and ecosystem health north of the Delta. Avoiding full accountability of the Delta Plan’s north of Delta impacts would also undermine any hope of delivering on statutory commitments relating to water reliability and ecosystem protection. (See, e.g., Wat. Code, §§ 292702, 85022, 85054, 85302.). A disruption of the delicate balance to the north of Delta watershed would not only be disastrous for the region but will undermine any likelihood of achieving the coequal goals. The protection of the north of Delta watershed and area of origin surface water and groundwater rights are foundational to a healthy Delta. The inconsistency and the shortcomings of the PEIR raise serious questions about compliance with the California Environmental Quality Act (CEQA).

Butte County maintains that the Delta Plan must equally recognize that a healthy and vibrant north of Delta watershed is an important foundation for achieving the coequal goals. A disruption of the delicate balance of the north of Delta watershed would not only be disastrous for the region but will undermine any likelihood of achieving the coequal goals. The failure of the PEIR to specifically identify, assess, and address the water supply, socioeconomic, environmental and recreation impacts of the Delta Plan to the north of the Delta watershed and to the long-term reliability of north of Delta surface water and groundwater supplies does not fulfill the legal obligations under the Delta Reform Act or CEQA.

If you have any questions regarding this matter please feel free to contact me or Paul Gosselin, Butte County Department of Water and Resource Conservation at (530) 538-3804.

Sincerely,



Bill Connelly, Chair
Butte County Board of Supervisor

Cc: Butte County Board of Supervisors

**Attachment: Specific Comment on the Delta Plan Draft Programmatic
Environmental Impact Report
Butte County Board of Supervisors
January 8, 2013**

PEIR Page	PEIR Reference	Comment
ES-14	Mitigation Measure 3-2	This mitigation measure only pertains to mitigating groundwater impact during construction of an actual project. The Revised Project and the PEIR fail to identify and address the mitigation of impacts from groundwater projects, including groundwater substitution project, within the north of Delta area.
ES-58	18-1. Impair, Degrade, or Eliminate Recreation Facilities and Activities	The description of impacts and mitigation measures fails to recognize the economic and recreational impacts to Butte County from the drawdown of Lake Oroville.
3-2 lines 29-37	“The Revised Project would apply to areas of the Delta watershed located upstream of the Delta...”	The narrative fails to describe the impact to reliable north of Delta water supplies from surface water projects, groundwater projects and water transfers. The narrative claims that “impacts related to groundwater projects would not increase over the Proposed Project” but that statement appears to be based only upon an assessment of impacts during construction and during the operation of such projects and those latter impacts need to be identified and addressed.
3-3 lines 29-34	Impact 3-1a: Violate Water Quality Standards	The narrative proposes that post-transfer impacts from decreased stream flows would be mitigated to “less than significant following implementation of mitigation measures by the water purchases to purchase additional transfer water that would be released from upstream reservoirs during drier periods to mitigate water quality impacts.” The PEIR fails to acknowledge the increased adverse water supply impacts to north of Delta storage from additional releases during droughts to implement this water transfer mitigation measure.

3-4 lines 24-31	Impact 3-2a: Substantially Deplete Groundwater Supplies	The PEIR fails to describe potential impacts to the Delta watershed from groundwater storage facilities and from recommended water transfer process streamlining.
3-4 lines 42-46, continuing on 3-5, lines 1-8	“The influence of water transfers on groundwater levels...”	The narrative justifies groundwater substitution water transfers in the Sacramento Valley by the benefit resulting from increased groundwater recharge due to application of the transferred Sacramento Valley water in a Delta export area. This is a blatant example of the Delta Plan’s bias against the north of Delta area.
3-4 to 3-5	Impact 3-2a: Substantially Deplete Groundwater Supplies	The Delta Plan calls for evaluating groundwater storage and conjunctive use programs in the Delta watershed that could lead to incorporating region’s groundwater basin to enhance the reliability of the state’s water supply. The PEIR is flawed to conclude that these types of water supply projects would result in less than significant impacts to groundwater supplies within the north of Delta watershed.
3-7 lines 27-35	Impact 3-1b: Violate water quality	The PEIR fails to recognize the impacts to the north of Delta watershed, including groundwater basins, tributaries, and recreation from increased Delta flows in the winter, spring, and fall months.
3-8 lines 27-40	Impact 3-2b: Substantially Deplete Groundwater Supplies	The PEIR fails to recognize impacts to the north of Delta watershed from reduced surface water deliveries. Those impacts should be considered significant.
3-9 lines 3-33	Impact 3-3b: Substantially Change Water Supply Availability to Water Users that Use Delta Water	The PEIR focuses impacts to south of the Delta water supply impact but ignores impacts to the north of Delta watershed.
4-2	Section 4: Biological Resources – Reliable Water Supply	The PEIR fails to recognize that the Delta Plan will impact habitat along tributaries in the north of Delta watershed from water projects and other recommendations.
4-3 lines 40-46	Water transfers and other water supply projects	The PEIR fails to recognize biological impacts to the north of Delta watershed from water transfer programs.

4-4 lines 25-30	“increased number and severity of actions in the Delta watershed under the Revised Project, the overall adverse biological resource impacts resulting from the Revised Project would be greater than the Proposed Project”	The PEIR does not address or consider the specific impacts to the north of Delta watershed including potential impacts to habitat in north of Delta tributaries and streams.
18-2	Section 18: Recreation	The Revised Project impacts to Butte County are ignored.
18-3 line 5	“within the Delta”	The PEIR must identify and assess recreation impacts outside of the Delta
18-3 lines 32-47	“Changes in flow patterns ...”	Delta water quality and flow objectives could significantly impact recreational opportunities in Lake Oroville. The PEIR fails to recognize or assess these impacts.
22-1	Section 22- Cumulative Impact Assessment	Section 22 fails to assess the cumulative socioeconomic impacts to the depletion of groundwater resources, stream flow and recreation to the north of Delta watershed.