



CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

Sent via E-Mail
interimplan@deltacouncil.ca.gov

July 2, 2010

Delta Stewardship Council
650 Capitol Mall
Sacramento, CA 95814

Re: Comments on Delta Stewardship Council First Draft Interim Plan dated June 14, 2010

To Whom It May Concern:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 85,000 members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

Delta-related planning activities entrusted to the Delta Stewardship Council (DSC) amount to matters of enormous importance and concern to farmers and ranchers throughout California. Farm Bureau appreciates the opportunity to comment at this time on the Delta Stewardship Council's First Draft Interim Plan, dated June 14, 2010.

p. 6 Given the lack of specific statutory direction as to an interim plan, the organizational approach centered around the eight policy objectives identified in Water Code section 85020 is a logical one.

pp. 8-9 (re: Section 85020(a): Managing the Delta's water and environmental resources and the water resources of the state over the long term):

Of the four early actions identified in connection with this objective, only coordination and engagement with federal agencies on the recent federal interim plan is a true interim action properly within the area of responsibility of the Delta Council. Closely related to the recent federal interim plan is the recent directive from Secretary Salazar to initiate consultations on a consolidated biological opinion for the SWP and CVP. Once completed, this plan will, for all intents and purposes, become the default interim plan for the Delta in the area of water operations and species protection (much as the existing biological opinions essentially serve that purpose at the present time). The National Research Council review of the existing biological

opinions relates to this effort and may have some potential, natural linkages to topics which could be explored by the Delta Independent Science Board in greater detail as near-term activities at the Delta Council's direction in response to stakeholder and inter-agency interest (similar to past CALFED Science Program independent reviews and workshops). Also, it is currently anticipated that efforts undertaken under the federal interim plan, elements incorporated in the new consolidated biological opinion, and topics included in the NRC's independent review will all inform or intersect with related activities in the BDCP, so that coordination in all four directions will be a necessary interim action for the DSC.

Science and interagency collaboration was arguably the CALFED program's most notable accomplishment. As the Bay Delta Authorities' successor, it stands to reason that both are areas where the DSC can excel and contribute constructively to many parallel activities, at both the federal and state levels and across the various agencies.

While there may be potential subsequent linkages to the DSC's Delta Plan and eventual consistency review for the BDCP, DFG flow criteria under section 85084.5 and State Water Resources Control Board (SWRCB) criteria under 85086 are activities where the DSC has no active role or statutory mandate in terms of any early action which must be included in its interim plan.

Suggestion #1: Identify as part of the interim plan, separately in an initial draft long-term plan, or in both places those activities seen as relating to post-near-term topics for Delta Plan. This will allow the interim plan to focus more meaningfully and in greater detail on true near-term priorities for the near-term period, while allowing parallel longer-term planning to proceed unencumbered by such content in the interim plan.

Suggestion #2: Do not wait on the Delta Plan. Restrict the near-term plan to near-term matters and get started on long-term Delta Plans as a separate deliverable.

Two-Gates and Three-Mile Slough are projects that currently reside with other agencies (USBR and DWR primarily). Though both may have potential relevance to long-term Delta Plan or BDCP-related activities, the only possible near-term contribution of the DSC in this area is perhaps in the area of the independent scientific input from the Independent Science Board and/or Delta Science Program, coordination among agencies and stakeholders, and possible political intervention in support of near-term implementation and resolution of outstanding concerns.

Three-Mile Slough is a project that may have potential relevance as a possible future salinity reduction measure in the face of possible sea-level rise, restoration, or water quality impacts from long-term water operations with possible new conveyance. It is not currently included in the BDCP, but may warrant consideration at a future date. In any case, however, this would likely be a long-term, as opposed to a near-term Delta Plan action.

The goal related to improved "Delta watershed diversion data collection and reporting" has been addressed legislatively by means of the mandatory new surface water diversion reporting requirements that went into effect this year. No additional action is required in the

area, at least for the time being, pending a reasonable waiting period and chance for a fair assessment of any outcomes associated with this recent legislation.

p. 9 It is not clear what is meant by the phrase “[d]evelopment and acceptance of flow criteria developed by DFG and SWRCB.” The statutory purpose of such flow criteria is to *inform* the Delta Plan and BDCP only. The flow criteria in question will have to be developed, not by the Delta Council, but by DFG and SWRCB, respectively, on an extremely condensed timeframe, which cannot possibly take full account of all of the scientific complexity such a task entails and, so, which cannot satisfy the criterion that information relied upon or included in the Delta Plan be based on the “best available science.” The flow criteria will be a “rough cut” product at best, suitable only for the limited informational and early planning-related purposes for which it is intended. Much more detailed information will come in the form operational plans for the state and federal projects (the new consolidated biological opinion or a long-term BDCP for example) and in full-blown water quality and water rights proceedings or other regulatory proceedings to follow.

The SWRCB flow criteria will be the result of an abbreviated “informational hearing,” which can take no account of water rights or the public interest as necessary components of the balancing and public interest functions embedded in the state’s administration of the public trust. The SWRCB will be “predecisional” and without legal or regulatory effect with respect to subsequent water rights proceedings or any actual flow *standards* set in connection with the BDCP, or in other water rights proceedings or subsequent basin planning activities of the SWRCB. It is also an inherent limitation that was noted and remarked upon repeatedly by a number of parties in the SWRCB’s related three-day flow criteria informational proceeding, that the Legislature’s charge to the SWRCB artificially restricted the SWRCB’s review to focus solely on flows (and particularly Delta outflow), as opposed to all of the many other stressors and factors affecting fish species and the public trust. In any case, as noted, the SWRCB flow criteria are meant only to “inform” the DSC’s longer term Delta Plan and do not, therefore, relate to any *early action* to be taken by the DSC that warrants inclusion in the interim plan.

pp. 9-12 (re: Section 85020(b): Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place)

Deliverables relating to tasks assigned by the Legislature to the Delta Protection Commission (concerning economic sustainability plan, preservation of existing values in the Delta, a potential natural heritage area designation, and recommendations concerning potential expansion of the primary zone) and the California Department of Food and Agricultural (market incentives and infrastructure to protection Delta agriculture) are, as with the DFG and SWRCB flow criteria above, near-term activities by the those agencies that require no near-term action on the part of the DSC *per se*. Nonetheless, all of these deliverables are important products that will embody critical local and agricultural stakeholder input and will require eventual adoption and consistency findings from the DSC for eventual incorporation in the DSC’s larger Delta Plan. Looking ahead to such eventualities, near-term activity by the DSC in this area should include close coordination and communication and DSC-level direction to help ensure, as nearly as possible, some maximal level of consistency and direct adoption of local and agricultural perspectives in the DSC’s Delta Plan. Without such communication, there is a risk that local and

agricultural views in the Delta could diverge so sharply from the state's objectives in the DSC Delta Plan as to be wholly inconsistent (or vice versa). In this respect, it is probably generally true that the state must come some considerable distance closer to local interests in recognizing that many values existing in the Delta deserve long-term preservation and protection for their own sake and need not crumble unavoidably into the sea; at the same time, however, local interests may have some of their own "stretching" to do in recognizing that not all portions and existing conditions in the Delta can necessarily continue wholly unchanged into the future and that significant statewide interests depend just as critically on the Delta as local interests themselves. With or without a plan, the Delta *will* change. The trick is to ensure maximum long-term compatibility among statewide and local objectives, as well as basic equity. These are areas where meaningful communication between local interests and the DSC can perhaps help, both near- and long-term.

p. 14 (re: Delta Watermaster) Section 85230 of the Water Code is unclear as to the intended scope or content of the SWRCB "consultation" with the DSC concerning appointment of a Delta Watermaster—and, also, as the timing of said appointment. Accordingly, this may or may not be a near-term activity and is, in any case, a duty of the DSC which must be further clarified.

General Comment regarding "Performance Measures": "Performance measures," as described in Water Code section 85211, are a required component of the long-term Delta Plan—not of the Interim Plan.

pp. 15-20 (re: Implementation of the Sacramento-San Joaquin Delta Reform Act of 2009): Many, if not all of the items discussed in this section concern long-term content for the Delta Plan, as opposed to matters appropriate for inclusion in the interim plan (i.e., Delta flow plan, ecosystem restoration plan, levees plan, and land use). While *planning for the plan* may be an appropriate interim plan topic, actual statutorily required components of the long-term Delta Plan should be developed directly in the context of the longer-term plan itself. Financing (p. 18-19) is a near-term priority and necessity for the DSC and is, therefore, an appropriate topic for the interim plan.

p. 19 (re: 'Regional Self-reliance'): Activities to promote "regional self-reliance" and "reduced reliance" on the Delta through efficiency measures and local supplies are already underway under the responsibility of the Department of Water Resources and the State Water Resources Control Board primarily (and ultimately of the local agencies) and are addressed by virtue of the water efficiency measures included in last fall's Delta Package. Water Code section 85021 is a statement of state policy and does not assign any express power or authority or duty to the DSC, either on an interim or long-term basis, although tracking statewide progress on efficiency as it relates to the Delta might be an appropriate role. Aside from this, the long-term Delta Plan under Water Code section 85020 is, ultimately, to "[p]romote statewide water conservation, water use efficiency, and sustainable water use." What this means for the DSC, however, or just what it might encompass, is again unclear. As it stands, initiatives for actual implementation of the state's general policy goals relating to efficiency appear to lie primarily with DWR, SWRCB, and the local entities in each region as opposed to the DSC.

p. 22: Concerning consistency and coordination of planned actions in the Delta, the Draft Plan states on page 22 that “[n]o state or local agency should undertake or approve a project that is potentially a covered action until the Delta Plan is adopted.” Given the virtual paralysis that has these last many years halted and prevented progress of any kind in the Delta, and given the tremendous urgency, not of waiting for a completed Delta Plan, but rather of implementing various near-term actions as quickly as possible, Farm Bureau submits that this direction in the draft plan is quite inappropriate. The text goes on to mention the need for possible ‘early consultation’ on proposed projects in the Delta. Unless a project would cause some major disruption in the Delta or preclude future actions, some form of tentative approval for potential beneficial projects, that are otherwise fully permitted and shovel-ready, is necessary to allow urgent projects to proceed before completion of a final Delta Plan. An absolute bar on *all* projects in the Delta is, of course, excessive and, instead, individual projects should be considered during this interim period on a case-by-case basis, along with potential early consultation and coordination as appropriate.

pp. A-13 through A-15: Concerning the draft language and content described in this section of the text with respect to the ecosystem restoration objectives embodied in Water Code sections 85020(c) and (e) and long-term performance measures, the scope of the what is described here far exceeds the scope of an interim plan and should instead be developed directly in the long-term Delta Plan separately required of the DSC. Regarding DFG and SWRCB flow criteria, see the related comments above.

This concludes these comments on the DSC’s June 14, 2010 First Interim Draft Plan. Farm Bureau greatly appreciates and looks forward to continuing opportunities to provide additional input on the future DSC planning efforts and activities.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin E. Fredrickson", with a long horizontal line extending to the right.

Justin E. Fredrickson
Policy Analyst