

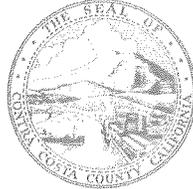
**Department of  
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Development**

**Community Development Division**

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**Contra  
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County**



**Catherine Kutsuris**  
Director

January 28, 2011

Ms. Terry Macaulay  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

**Re: Comments on the Notice of Preparation for the Delta Plan Environmental Impact Report**

Dear Ms. Macaulay:

Contra Costa County Department of Conservation and Development appreciates the opportunity to contribute to preparation of the Delta Plan and its environmental review. These comments begin by addressing the general content of the Delta Plan and its Environmental Impact Report (EIR). These general comments are followed by comments regarding specific issues, policies and strategies to address for the six major objectives specified in the Notice of Preparation (NOP)

**Overall Considerations for the Delta Plan and EIR**

**Consider the California Water Plan, Delta Conservancy Strategic Plan and the East Bay Municipal Park District's Master Plan.** These plans will affect future changes in the Delta. The Park District, in particular, identifies significant facility expansion within the Delta over the long term. These documents are referenced in the NOP. Identify areas of conflict, the potential adverse effects of such conflicts and propose mitigation measures if appropriate.

**Identify and evaluate potential conflicts between the Delta Plan, Delta Protection Commission's Resource Management Plan and local general plans.** The Delta covers over 100,000 acres in eastern Contra Costa County. The development and conservation of resources within the Delta is currently governed by our local general plans which, since 1992, have been required by law to comply with the Delta Protection Commission's Resource Management Plan. The Delta Plan will now supersede both the Resource Management Plan and local general plans.

This can be particularly significant for strategies for improved water conveyance or expanded habitat areas. The EIR should identify how the governance structures will operate given overlapping mandates and specifically identify areas of conflict, the potential adverse effects of such conflicts and propose mitigation measures if appropriate.

**Identify and measure environmental benefits of the Delta Plan.** An effective Delta Plan, if successful, will implement measures that produce environmental benefits, such as improved safety from strategic Delta levee investments, or improved water quality from removal of specific contaminants in our water supply. These outcomes will help support a report card on progress in achieving the co-equal goals. The EIR should quantify environmental benefits using the Delta Plan's performance measures. Such information will help the Council reconcile among possibly competing and conflicting strategies and actions proposed in the Delta Plan.

**Ensure that the data used in the Delta Plan is factually accurate and objective, and utilizes the best science that becomes available over time.** The Delta Reform Act acknowledged the importance of science in developing the Bay Delta Conservation Plan (BDCP) by mandating that the Delta Independent Science Board review the EIR for the BDCP and submit comments. The White Papers recently prepared by the Delta Stewardship Council rely heavily on studies conducted by others. Many of these studies, for a number of reasons, contain biases or inaccuracies. The Delta Stewardship Council should use the Delta Independent Science Board to review the administrative draft of the Delta Plan and its EIR to ensure that its supporting studies are accurate and objective, or that the limitations of such studies are disclosed in the Plan and EIR.

**Costs and funding must be included in the Delta Plan and EIR.** Consider alternatives to and degree of taxpayer-paid restoration of the Delta. A 'beneficiary-pays' formula should be considered to identify and determine the cause of initial and continuing degradation of the Delta ecosystem and subsequent formula for financial restitution. Such considerations are warranted to reduce the burden on the taxpayer for impacts created by beneficiaries. Costs of alternatives and priorities for implementation must be considered, otherwise there is a risk of not being able to achieve the co-equal goals. For example, conveyance facilities as a relatively discrete project would have hard costs associated with it, where ongoing environmental restoration may not be as clear. A conveyance facility could conceivably be built, leaving inadequate funding for an ecosystem restoration component of any merit. Funding for mitigation measures should also be identified.

**Consider the adequacy of monitoring measures used in the Delta Plan.** The Delta Reform Act views performance measures and adaptive management as essential tools to ensure achievement of the co-equal goals. It will become important to know exactly how well environmental restoration projects perform prior to implementing additional projects of the same or similar kind. It becomes important to know when an improvement strategy isn't working and to modify actions on a timely basis. These considerations should be included in defining strategies for implementation and for developing effective mitigations measures.

**Adequately describe the development of alternatives used in the EIR.** The concepts for development of alternatives need to be more fully contemplated, and defined in a manner that would allow for the co-equal goals to be achieved. As written, they appear to describe extremes, many of which would not further the co-equal goals or legislative requirements. For example, the Improve Water Quality scenario, one bookend describes Delta water for ecosystem only, to

the detriment of drinking water and agriculture use: the only circumstance conceivable for this extreme situation would be a new **isolated-only** conveyance facility of 15,000 cubic feet per second (cfs) capacity. That seems inconsistent with the BDCP position describing a **dual** conveyance scenario, and as such appears pre-determinative. This scenario would not provide needed water quality for in-Delta municipal and industrial or agricultural users, and would not protect the Delta as an evolving place. It is the County's expectation that such alternatives would be re elected based on the projects objectives and performance measures described in the EIR.

The Governance concept provides a choice of modifying or keeping existing authority of 'involved' agencies. These bookends should be modified to allow for the formation of additional institutions; an example could be the creation of a separate and independent water authority to oversee the State Water Project.

**Preparation of an environmental document that complies with the National Environmental Policy Act (NEPA) should commence now.** The NOP indicates that NEPA evaluation may be completed at a later date. There is much state and federal coordination relative to California water and environmental issues relevant to development of the Delta Plan. Among other things, federal facilities operate in conjunction with state facilities within the Delta and in the secondary planning area and federal biological opinions influence state water operations. A combined, concurrent CEQA and NEPA environmental review would appear to be in order.

**Include short term actions in the Delta Plan.** The Delta Plan outline prepared by the Council describes two implementation horizons, near term and long term. No detail or definition for these terms is provided. Existing and impending risks in the Delta are well established. It could take decades before an isolated conveyance facility could conceivably begin operation. The Delta Plan should include actions that can be completed in the next several years to begin addressing these risks and achieve a more reliable water supply. Actions to consider include:

- Establish stockpiles of rock of appropriate size and related equipment for emergency levee restoration at appropriate locations throughout the Delta;
- Develop recommendations to improve the process used by the Department of Water Resources to administer the Delta Levee Subventions and Special Projects Programs.
- Investments to levees on the western Delta islands which are strategically located to protect the water quality in the Delta;
- Investments to levees on central Delta islands that convey water to the south for export; and
- Install fish screens on all pumps operating in the Delta.

Existing water bond programs can provide funds to implement such actions. The EIR should attempt to address the environmental impacts of short term actions more completely so as to expedite any subsequent environmental review that may be needed for their implementation.

### **Issues, Policies and Strategies to Improve Water Quality**

**Examine the impacts of debris in the Delta and consider strategies that will remove this debris.** Commercial and recreational marine vessels are often abandoned in the Delta. Many

of the vessels leak fuel and other hazardous materials into Delta waterways. Submerged vessels and abandoned docks also create hazards to recreational users of Delta waterways.

**Examine strategies to improve enforcement of existing water pollution control laws**

State and federal laws protect both surface water and groundwater quality. The state has had difficulty in protecting Bay-Delta surface water and groundwater quality, and is lagging in the development of new standards and pollutant loads needed to ensure the health of the estuary's waters. Contaminants such as salt, selenium, mercury, nutrients and pesticides pollute drinking water and damage the health of the Delta.

**Issues, Policies and Strategies to Improve Water Resources**

**Consider agriculture water use requirements that would be more stringent than the agriculture water use requirement in SB7-7.** The NOP indicates that the Council will consider urban water conservation requirements that would be more stringent than urban water use targets under SBX7-7. A similar alternative strategy is needed for agriculture water use. Agriculture uses most of the water exported from the Delta and has the potential to play a significant role in reducing the reliance on the Delta in meeting the state's water supply needs.

**Examine the following alternative strategies for achieving sustainable water use:**

- Water transfers from agriculture to urban uses, including policies for improved oversight and accounting of impacts to water supplies;
- Retirement of drainage-impaired farmland in export areas;
- Modifications that state and federal agencies should consider for long-term water contract renewals;
- Alternative crops and/or crop patterns;
- Market incentives or grant opportunities for improved agricultural irrigation facilities/equipment/technology; and
- Incentives or mandates for wastewater agencies and water supply agencies with overlapping service areas to cooperate in evaluating the feasibility of water recycling opportunities.

**Evaluate the impacts of meeting existing long-term water contracts of the State Water Project and Central Valley Project.** Such an evaluation would help bookend a broad range of alternatives for achieving the co-equal goals. The outcome of this evaluation should be compared to the water diversions possible under the eco-system related flow recommendations prepared by the State water Resources Control Board and the Department of Fish and Game in accordance with requirements in the Delta Reform Act. Such an evaluation will also help identify measures to consider when revising/renewing contracts to more accurately reflect what the state and federal water projects can reliably deliver.

**Provide guidance to the BDCP for incorporation into the Delta Plan.** The NOP calls for the incorporation of the BDCP into the Delta Plan, but it is not clear how and to what degree this incorporation will take place. The BDCP will address some issues relevant to the Delta Plan (e.g. conveyance and environmental restoration), but will not likely fulfill those mandates completely and may not ultimately be consistent with the co-equal goals. For example a 15,000 cfs facility remains as the conveyance priority, even though a range of alternatives has not been examined. In addition, ecosystem restoration contemplated in BDCP is mitigation for new

conveyance, but mitigation for past export pumping or other impacts appears to be outside its scope. The Delta Plan should consider standards of conduct for BDCP. Use of an open process, consensus decision-making, and broad and scientifically developed thresholds should be required before the BDCP could be considered for incorporation. Issues of redundancy, scale and mechanics of incorporation should be addressed.

### **Issues, Policies and Strategies for Ecosystem Restoration**

**Water flow must be the primary component of any ecosystem restoration strategy in the Delta Plan.** Because of the oversubscription of water resources, there is a great deal of pressure to prioritize other forms of ecosystem restoration over the need for flows to restore fish species. The importance of flow must not be overlooked. There have been well documented scientific correlations between fish abundance and flow, most recently chronicled in the Delta Flow Criteria Report prepared by the State Water Resource Control Board. The Delta Plan's performance standards for water flow should consider the volume of water, how fast it flows, when it flows and its quality and temperature.

### **Issues, Policies and Strategies for Reducing Risks in the Delta**

**Delta Plan should support the Delta Long Term Management Strategy (LTMS) for dredging and beneficial reuse activities.** The LTMS, a state and federal process, encourages the reuse of dredged material for environmental and levee restoration projects. We suggest that the Delta Plan further the use of dredged material in the Bay and Delta as part of a regional sediment management strategy. This is particularly important as sediment will be in high demand for all types of Delta restoration activities.

**Integrate water supply and flood control facilities in the Delta Plan for optimal benefit.** The Delta Plan should develop a truly integrated flood control and water supply delivery system that starts with water retention in the upper watersheds. This approach would have multiple benefits, could address many of the legislated mandates and would make use of the broad scale of planning area, longer implementation timeframe and address climate change. Storage options should be considered in conjunction with the integrated flood/water system and should incorporate multi-purpose objectives, rather than the single-purpose storage areas of yesterday.

Contra Costa County hopes these comments are considered constructive. You can contact me with any questions you may have on this transmittal.

Sincerely,



Steven L. Goetz, Deputy Director  
Conservation and Transportation Planning Programs

cc: Contra Costa County Legislative Delegation  
Contra Costa County Board of Supervisors  
Delta Counties Coalition  
Contra Costa Council  
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