



January 27, 2011

Sent by email – [deltaplanscoping@deltacouncil.ca.gov](mailto:deltaplanscoping@deltacouncil.ca.gov)

**TO:** Phil Isenberg, Chair, and Members of the Delta Stewardship Council  
Joe Grindstaff, Acting Executive Director, Delta Stewardship Council

**Re: Comments on the Notice of Preparation for the Delta Plan Draft EIR**

Thank you for providing the opportunity to comment on the Notice of Preparation (“NOP”) for the Delta Plan draft EIR. After reviewing the Notice of Preparation, Antioch has the following comments:

**Improved Water Conveyance and Storage**

Water Code Section 85304 provides that the Delta Plan shall promote “options for new and improved infrastructure relating to water conveyance in the Delta to achieve the co-equal goals.” However, the NOP on pages 18 and 19 focuses primarily on storage and does not address “In-Delta” water conveyance other than the State Water Project, the Central Valley Project and the Bay Delta Conservation Plan – which are all Delta export facilities.

The EIR for the Delta Plan should therefore examine and consider implementation strategies for actual “in-Delta” conveyance facilities that could improve the water quality and water supply reliability for in-Delta water users. Antioch has in the past suggested consideration of Regional diversion and conveyance options for in-Delta uses as part of, or separate from, the conveyance options proposed as part of the Delta Vision and the BDCP. Such options should be considered as part of the EIR for the Delta Plan. In addition, strategies such as desalinization, water transfers and substitute water strategies should also be considered as implementation strategies to improve in-Delta water supply reliability.

The NOP provides for the “prompt” incorporation of the BDCP into the Delta Plan as a possible implementation strategy. As Antioch has previously informed the Delta Stewardship Council, the BDCP as presently proposed would adversely impact water quality in the Western and Central Delta by decreasing outflow and increasing salinity. As such, incorporation of the BDCP into the Delta Plan could adversely impact other implementation strategies of the Delta Plan (e.g. water quality and ecosystem restoration) and prevent the Delta Plan from achieving the co-equal goals. The Delta Plan EIR therefore must include strategies to address and mitigate any potential adverse impacts of the BDCP on the co-equal goals, in-delta beneficial uses, the Delta ecosystem, and Delta water quality.

### **Protect and Enhance the Delta as an Evolving Place**

As noted in some of the White Papers presented to the Delta Stewardship Council, the Delta is a historically fresh water environment. Recreation, cultural values, recreation, economics, and public trust values are all based on a historically freshwater Delta. Therefore, protecting and enhancing the Delta must involve protecting and enhancing that fresh water environment. However, the stated implementation strategies focus on land use, creation of a Natural Heritage Area, and agriculture. Implementation strategies should be included that ensure the protection and enhancement of the Delta's historic freshwater environment.

### **Improve Water Quality**

Restoring and enhancing Delta inflow and outflow is the only implementation strategy that can significantly improve and restore Delta water quality. Therefore, increased Delta flows should be included as a potential implementation strategy in the Delta Plan EIR to improve water quality in addition to an ecosystem restoration strategy.

In addition, physical solutions should be included as an implementation strategy with respect to reducing the impacts of sea level rise in addition to relocation of intakes. Such physical solutions should include but not be limited to channel reconfiguration, increased Delta outflow, and significant restoration of Delta wetlands in the Western Delta.

Further, specific criteria should be included with respect to improving water quality for in-Delta municipal diversions and use and mitigating for any impacts to such uses. For example, Antioch's diversion should be used as a water quality threshold of significance and compliance point.

### **Protection of Water Rights, Area of Origin and Municipal Interests**

Water Code section 85301 provides that the Delta Plan does not diminish or affect in "any manner whatsoever" area of origin protections, pre-1914 appropriative rights or the protection provided to municipal interests provided in Water Code Sections 106 and 106.5. The Draft EIR for the Delta Plan should analyze any potential impacts to in-Delta water rights, area of origin protections and in-Delta municipal interests – and mitigate any such impacts. This should include the potential adverse water quality impacts from the BDCP and any other proposed export facilities.

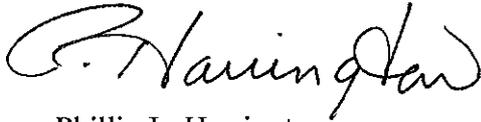
### **Consultation with Local Agencies with Responsibilities in the Delta**

Water Code section 85300 (b) mandates the Delta Stewardship Council to consult with Federal, State and local agencies with responsibilities in the Delta to develop the Delta Plan. The NOP does not provide how the Council will consult with local in-Delta agencies in developing the draft EIR for the Delta Plan. While the Council has consulted with the Delta Protection Commission, not all in-Delta local agency interests and issues are represented by the Commission (e.g. water rights protections). The City therefore

recommends the formation of an in-Delta stakeholders group to help assist the Stewardship Council in developing the EIR for the Delta Plan.

Thank you again for allowing Antioch to provide the above comments and the City looks forward to working with the Council in developing a Delta Plan that will truly enhance and protect the Delta and in-Delta water quality. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Harrington". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Phillip L. Harrington  
Director of Capital Improvements/Water Rights

c: Jim Jakel, City Manager  
Lynn Tracy Nerland, City Attorney  
Matt Emrick, Law Offices of Matthew Emrick