



State of California - Natural Resources Agency  
DEPARTMENT OF FISH AND GAME  
Ecosystem Conservation Division/Water Branch  
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**EDMUND G. BROWN JR., Governor**  
**CHARLTON H. BONHAM, Director**



June 13, 2012

Mr. Joe Grindstaff  
Executive Officer  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

Subject: Final Staff Draft Delta Plan

Dear Mr. Grindstaff:

The Department of Fish and Game (DFG) appreciates the opportunity to review and comment on the Delta Stewardship Council's Final Staff Draft Delta Plan (Delta Plan). DFG appreciates the tremendous resources expended by you and your staff to develop this important plan for the Delta.

DFG understands the difficulty and challenges associated with developing the Delta Plan to achieve the co-equal goals of ecosystem protection and water supply reliability. As indicated in DFG's September 29, 2011 letter, DFG is committed to fulfilling its ongoing role as the State implementing agency for the Ecosystem Restoration Program to help achieve the ecosystem goals of the Delta Plan. In addition, DFG is committed to providing DSC with monitoring data and scientific information to inform the adaptive management decision-making process during implementation of the Delta Plan.

DFG is providing specific comments on the Delta Plan in an attached table for your consideration. If you have any questions or require clarification of our comments, please contact David S. Zezulak, Ph. D., at (916) 445-3690 or [dzezulak@dfg.ca.gov](mailto:dzezulak@dfg.ca.gov).

Sincerely,

A handwritten signature in black ink that reads "Scott Cantrell".

Scott Cantrell  
Chief, Water Branch

Attachment

| Comment Number | Chapter | Page | Line     | Comment   |
|----------------|---------|------|----------|---|
| 1              | General | n/a  | n/a      | The Ecosystem Restoration Program is currently revising the Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions in response to comments received during a public review period. Information included in the Delta Plan may not be up to date with the current working draft. Suggest adding language that directs the reader to utilize the most current version of the Conservation Strategy, or incorporating language similar to that which was included in the 5 <sup>th</sup> Staff Draft (i.e., "The Delta Stewardship Council may amend the Delta Plan to incorporate revised figures and text from the Ecosystem Restoration Program's Conservation Strategy as the strategy is revised").   |
| 2              | 2       | 50   | n/a      | We appreciate that in the current draft there is a grandfathering exemption for existing Natural Community Conservation Plans (NCCPs); see p 146. However, this does not cover the issue in its entirety. Recommend adding a (partial) administrative exemption for NCCPs. A key factor drawing plan participants to NCCPs is that they can receive "assurances" that they will only be "on the hook" for a defined amount of restoration/mitigation/conservation measures in exchange for agreeing to commit to a higher standard for the species (conservation). If plan participants were aware that they could be subject to more requirements from the DSC, they may not be as inclined to participate in NCCPs. It is important to note also, that NCCPs all have adaptive management components (required in statute). Therefore, we recommend that "covered actions" exclude, for the purposes of the Delta ecosystem restoration policies of the Delta Plan only, landscape level, multi-species Habitat Conservation Plans (HCPs) and/or NCCPs, as well as measures taken to implement the conservation strategies contained therein, developed by local governments in the Delta. We recommend that updates to the Delta Plan shall not trigger mandatory updates to a permitted HCP/NCCP. |
| 3              | 2       | 55   | 4        | Recommend providing additional clarification regarding short-form certification of consistency. The term is never mentioned again.  |
| 4              | 4       | 128  | Text Box | <p>"DFG and DWR are continuing to implement and plan for ecosystem restoration projects begun under the CALFED Bay-Delta Program in Suisun Marsh, at Dutch Slough, at Cache Slough, and at the Cosumnes Preserve's north Delta project."</p> <p>Recommend adding "Yolo Bypass" to the above list and replacing "Cosumnes Preserve's north Delta project" with "McCormack-Williamson Tract/North Delta".</p>   |

| Comment Number | Chapter | Page | Line       | Comment  |
|----------------|---------|------|------------|--|
| 5              | 4       | 133  | 14         | Suggest adding more discussion on impacts to public trust resources and adding authorities of the different agencies/departments that address these impacts. Specifically a reference to Fish and Game Code 5937. "The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. During the minimum flow of water in any river or stream, permission may be granted by the department to the owner of any dam to allow sufficient water to pass through a culvert, waste gate, or over or around the dam, to keep in good condition any fish that may be planted or exist below the dam, when, in the judgment of the department, it is impracticable or detrimental to the owner to pass the water through the fishway." |
| 6              | 4       | 136  | 11         | <p>"Restoration of the Yolo Bypass can create conditions to recover spring-run and winter-run salmon, among other species, and can benefit other migrating salmon."</p> <p>It is unlikely that activities in the Yolo Bypass alone will be capable of creating "conditions to recover spring-run and winter-run salmon, among other species..." Recommend revising to read "...can create conditions that promote enhanced growth and survival of juvenile spring-run and winter-run salmon..."</p>  |
| 7              | 4       | 136  | 22         | <p>Cosumnes River–Mokelumne River confluence. Projects in the planning stage include DWR's North Delta Flood and Ecosystem Restoration Project on McCormack-Williamson Tract.</p> <p>The McCormack-Williamson Tract Flood Control and Ecosystem Restoration Project is a component of the North Delta Flood and Ecosystem Restoration Program. The island was purchased by The Nature Conservancy (TNC) in 1999 using federal funding granted from the U.S. Fish and Wildlife Service to TNC through the CALFED Bay Delta Program. The McCormack-Williamson Tract Project is currently being funded by Department of Water Resources, U.S. Army Corps of Engineers, and the Ecosystem Restoration Program.</p>   |
| 8              | 4       | 155  | Figure 4-5 | <p>The timeline for ER R6 (Prioritize and Implement Actions to Control Nonnative Invasive Species) only identifies the near term (2012-2017).</p> <p>Recommend also including the intermediate term (2017-2025), given that the implementation of the Stage 2 actions for non-native invasive species will require a long-term commitment on the part of responsible entities.</p>   |
| 9              | 4       | 155  | Figure 4-5 | <p>The timeline for ER R8 (Implement Marking and Tagging Program) only identifies the near term (2012-2017).</p> <p>Recommend also including the intermediate term (2017-2025). In addition, securing long-term, stable funding for this program will be critical to continued implementation.</p>   |

| Comment Number | Chapter | Page | Line | Comment  |
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| 10             | App C   | C-5  |      | <p>ER R1: Prioritize and Implement Projects that Restore Delta Habitat. The administrative performance measure calls for "100% of proposed habitat restoration projects are within the five priority areas and consider landscape elements and improvement to water quality."</p> <p>While the five priority areas are an appropriate focus for restoration efforts, it seems too restrictive to stipulate that 100% of restoration projects will occur within these areas. Recommend incorporating the following text into the performance measure: "OR, if outside those five priority areas, sufficient scientific rationale for habitat restoration at alternative locations has been provided."</p>                             |
| 11             | App C   | C-6  |      | <p>ER R5: Regulate Angling for Nonnative Sport Fish to Protect Native Fish. The administrative performance measure reads as follows: "The Department of Fish and Game proposes new or revised fishing regulations designed to increase populations of listed fish species through reduced predation by introduced sport fish to the Fish and Game Commission."</p> <p>Recommend revising language to be consistent with Recommendation ER R5. Suggest changing to read "The Department of Fish and Game develops for consideration by the Fish and Game Commission proposals for new or revised fishing regulations designed to increase populations of listed fish species through reduced predation by introduced sport fish."</p> |
| 12             | App C   | C-6  |      | <p>ER R8: Implement Marking and Tagging Program. The administrative performance measure reads as follows: "The Department of Fish and Game, in cooperation with the. Fish and Wildlife Service and the National Marine Fisheries Service develop a plan for marking and tagging hatchery salmon and steelhead to improve management of hatchery and wild stocks by December 2014."</p> <p>Delete "." between "the" and "Fish and Wildlife".</p> <p>Recommend revising language to be consistent with Recommendation ER R8. Suggest changing to read "...National Marine Fisheries Service revise and begin implementing its program for marking and tagging..."</p>  |