



December 14, 2011

Mr. Phil Isenberg
Chair, Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Delta Protection Commission's Economic Sustainability Plan (Adopted 10/25/11)

Dear Chair Isenberg,

As the Delta Stewardship Council (Council) prepares the Delta Plan, we write to express our continued concerns with the *Economic Sustainability Plan for the Sacramento-San Joaquin Delta* (ESP) adopted by the Delta Protection Commission (Commission) at its meeting on October 25, 2011. Although this plan has been submitted to the Council for consideration, the Council should know that state agency representatives who serve on the Commission abstained from voting on the ESP and its recommendations.

Although the state agencies abstained from the vote that adopted the ESP, we do want to acknowledge our support of several themes explored in several chapters and developed in a few of the recommendations. In fact, there are several strategies that appear feasible and consistent with the objectives of the Delta Plan and should be considered by the Council. These include those strategies that encourage growth in the areas of agri-tourism, recreation and tourism. In addition, some of the recommendations for infrastructure have merit. For instance, planning levee investments should consider the value of infrastructure. Regarding habitat restoration, we believe that it should start on state-owned land, and the next priority would be to use private lands with willing sellers. In terms of water conveyance, we support the full evaluation of alternative options to large isolated conveyance, which is consistent with what is currently being evaluated. We also support the continued viability of agriculture in the Delta. We think that the recommendations for research and monitoring seem appropriate.

However, there remain a number of concerns over other recommendations in the ESP that the state agencies want to bring to the Council's attention. In general, many of the adopted recommendations have significant costs associated with them while no funding source is sufficiently identified, and some recommendations lack a shared responsibility between the parties. In some cases, there are also changes proposed in the regulatory programs that we find problematic. Moreover, the habitat recommendations specifically target the Bay Delta Conservation Plan (BDCP), which is a state and federal initiative we are committed to completing. Finally, some of the recommendations addressing water conveyance are so limiting that they are not acceptable for the state of California.

Our concerns fall into four categories: Delta levee maintenance, improvement, and prioritization; directives designed to maintain the status quo within the Delta rather than guide its evolution over time; determinations regarding the Bay Delta Conservation Plan that are speculative and not supported by the analyses in the ESP; and, technical economic forecasting issues.

Delta Levees and Flood Protection

The ESP recommends all Delta non-project levees be improved to at least the level required by the PL 84-99 standard and that “lowland” levees and others be improved to an even higher standard. The Department of Water Resources’ (DWR) Investment Strategy for Integrated Flood Management in the Delta proposes a minimum levee cross section referred to as the Hazard Mitigation Profile (HMP) for non-project levees in the Delta. This is a less robust cross section than the PL 84-99 cross section proposed in the ESP. The Natural Resources Agency and DWR are not opposed to building levees to the PL 84-99 cross section; however, we request the local districts provide an evaluation illustrating an economic benefit before the State invests a significant amount of funds into the levees of the local districts. Our strategy helps to prioritize the use of limited funding for this purpose consistent with the Delta Reform Act and Section 85306 of the Water Code. The ESP does not include the economic analysis needed to support to their recommendations regarding comprehensive Delta levee improvements. In addition, the costs associated with these recommendations appear to be significantly underestimated, which weakens the conclusion of the ESP that these recommendations are fiscally feasible.

“Status Quo vs. Evolving Place”

The ESP contains three recommendations that are explicitly designed to maintain the “status quo” of the Delta rather than guide the inevitable evolution of the Delta over time. While we support some of these goals, the ESP does not adequately analyze their impact, nor layout a plan for their accomplishment.

The first recommendation is to maintain and enhance the value of Delta agriculture. Although the ESP states that this recommendation can be attained in a way that is consistent with the State’s co-equal goals, the ESP does not adequately address the steps that will be necessary to ensure this in the changing Delta environment.

The other two recommendations are regarding maintaining and improving Delta water quality for agriculture, municipal and industrial uses. These recommendations focus on salinity and define the position that salinity throughout the Delta must be reduced or, at a minimum, not increased. As you know, Delta water quality requirements are established by the State Water Resources Control Board (Board) and implement the State’s policy of putting water to reasonable and beneficial use. Often water quality for Delta supplies is better than the Board’s standards. The ESP recommendations direct Delta water quality levels that are better than the Board’s standards. This position is inconsistent with State policy and significantly restricts the potential actions that can be taken in the future to meet the goals of ecosystem improvement and water supply reliability. We wish to bring to the Council’s attention that any project proposed under the BDCP will be designed to meet the Board’s water quality standards. We also note that the hydrologic changes brought about by climate change, the force of higher sea levels, and the possible use of water resources upstream could affect the ability to meet water quality requirements and will reduce the times when Delta water quality is better than those requirements.

Bay Delta Conservation Plan

The third area of concern is regarding recommendations on the development of habitat or the methods of water conveyance being analyzed as part of the Bay Delta Conservation Plan. (Specifically, the third and fourth bullets listed under “Recommendations for Habitat and Ecosystem Improvements” and the first and

second bullets listed under “Recommendations for Water Supply Reliability”.) The habitat recommendations are more restrictive than in the draft ESP in that they recommend significantly reducing any planned tidal marsh habitat or open-water habitat throughout the entire Delta, rather than limiting the recommendation to the Central Delta as previously drafted. These restrictions would impact important habitat development including development of habitat that is critical to a successful levee rehabilitation program (as mandated by the legislation governing the Delta Levees Program) and development of habitat as proposed in the BDCP. The development of habitat in the Delta is ultimately dependent on site specific conditions and should be considered in a site specific manner in the context of an overall habitat development plan. A wholesale recommendation to reduce the development of habitat in the Delta is contrary to good science and good planning.

With respect to the recommendations on water conveyance, the ESP recommends the through-Delta conveyance alternative as very important to the sustainability of the Delta however only speculative concerns are given to support this conclusion. It also states a large, 15,000cfs facility has large conflicts with Delta economic sustainability, but no specific analyses are done to support this conclusion. The impacts of the proposed alternative for the BDCP will be fully analyzed in the Draft EIR/S planned to be released in 2012. In addition and consistent with a related ESP recommendation, we are fully and consistently analyzing alternative options to a 15,000cfs conveyance facility as we develop the Draft Environmental Impact Report for the BDCP. The state and federal agencies working to complete the BDCP expect the DEIR to be available to the public by mid-2012.

Technical Economic Analysis Concerns

While several state departments provided corrections and comments in writing for the various drafts produced by the Delta Protection Commission’s consultants, we have several concerns with the adopted ESP.

- The ESP inaccurately estimates the regional economic impact of Delta agriculture;
- The ESP forecasts future increases in the acreage of high-value truck crops in the Delta inaccurately due to unreliable forecast assumptions;
- The ESP models a huge economic impact on Delta agriculture of a hypothetical (and highly unlikely) tripling of south Delta salinity levels;
- The ESP inaccurately estimates the economic impacts on Delta agriculture of the environmental and habitat restoration provisions of the proposed BDCP, which lack specific details and thorough cost-benefit analysis; and
- Given the importance of agriculture to the Delta region (primary and secondary zones) as well as to the state – the ESA would have been significantly strengthened through a peer review process inclusive of University of California, Agricultural and Natural Resources Division as well as the California State University’s agricultural colleges.

Because of these technical concerns, we are unable to accurately assess the value of agriculture in the Delta today or in the future, thus undermining the value of this section of the ESP.

Transportation and Infrastructure

The ESP contains findings on infrastructure needs and presents policies and actions to ensure funding of infrastructure improvements. We agree that the Delta’s transportation infrastructure allows for the movement of

people and goods through the Delta and this continued access requires maintenance and investment, however our concern lies with the recommended policies and actions contained in the ESP to address the funding shortfall for levee maintenance. State agencies, such as Caltrans, owner and operator the State Highway System (SHS), may be heavily impacted by the recommendations.

The ESP recommends for owners and/or users of the levees to contribute to a funding stream to pay for levee maintenance. The ESP fails to clarify and expand on the legal basis on charging fees to state agencies for levee improvements. We can find no SHS precedent for this concept, and in fact this type of concept may not be allowable without Legislative action. The recommended policies and actions have not been fully vetted with Caltrans, including impacts on State Route 160 which is situated, in large part, on a levee. The ESP also fails to clearly outline the breadth, scope, schedule, and cost burden to all impacted public agencies of the proposed policies and actions.

Furthermore, Caltrans has no funding source to pay additional fees to support the Delta levee infrastructure. In fact, annual state expenditures for SHS maintenance are below required levels to maintain the existing SHS. In addition, it may not be legally permissible to use Caltrans maintenance funding sources for levee maintenance.

Other recommendations included in the draft report include items related to economic sustainability of agriculture, recreation, and tourism. All of these depend extensively on the SHS for access and success. Therefore, it seems contradictory to request payment from the SHS. Also, any required contributions may detract from SHS maintenance and decrease the quality of services provided by the facilities and required to fulfill other Commission plans.

Closing

The Delta Stewardship Council's responsibility in crafting the Delta Plan is considerable. Thank you for the opportunity to express our continued concerns about the Delta Protection Commission's Economic Sustainability Plan with you and the members of the Delta Stewardship Council. While some ESP recommendations have promise, we are concerned that several of the Commission's recommendations are not feasible and are not consistent with the objectives of the Delta Plan. Please contact our offices if you have any questions about our positions.

Sincerely,



John Laird
Secretary for Natural Resources



Karen Ross
Secretary for Food & Agriculture



Traci Stevens
Acting Secretary for
Business, Transportation & Housing

cc:

Joe Grindstaff, Executive Director Delta Stewardship Council
Mike Machado, Executive Officer of Delta Protection Commission
Delta Protection Commission
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