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The Delta Vision Foundation was established by former members of the Delta Vision Blue Ribbon Task Force, the independent body convened under Governor's Executive Order S-17-06. The mission of the Delta Vision Foundation is to encourage implementation and progress by the State of California toward achieving the Two Co-Equal Goals as defined in the *Delta Vision Strategic Plan*:

Restore the Delta Ecosystem
Ensure Water Supply Reliability

The Delta Vision Foundation monitors, evaluates, and provides information to government officials, policymakers, and the public about implementing the *Delta Vision Strategic Plan* recommendations as a set of integrated and linked actions.

April 13, 2012

Mr. Phillip Isenberg
Chairman, Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, California 95814

Dear Chairman Isenberg:

At the Delta Stewardship Council (DSC) meeting March 29 and 30, 2012, the DSC staff presented recommendations and options for revised and additional policies and recommendations to be included in the Sixth Staff Draft Delta Plan. Overall, the staff work was thoughtful and well presented. The options encouraged productive discussion among the Councilmembers. As you requested, this letter provides comments and suggested edits to the DSC staff recommendations from the Delta Vision Foundation (DVF) on five topics:

- Definition of Co-Equal Goals
- Delta Flow Requirements
- Reduced Reliance on the Delta
- New Water Quality Policy
- Delta Levees

The overall thrust of these comments is that proposed language for these policies and recommendations does not provide sufficient policy linkage between the Two Co-Equal Goals, which is necessary to ensure action and progress on both. In addition, current language focuses the policies only on avoiding significant adverse impacts to the Delta ecosystem, which fails to encourage or require ecosystem restoration and enhancement. Policies and recommendations should drive actions that improve the Delta ecosystem and water supply reliability, not just avoid significant adverse impacts.

Definition of Co-Equal Goals

The proposed definitions for the Two Co-Equal Goals and Delta as an Evolving Place will be a significant improvement for the Sixth Staff Draft Delta Plan. These definitions were sorely needed to define objectives and shape performance measures.

Further clarification and expansion of these definitions is needed to reinforce the critical linkages between the Two Co-Equal Goals. The *Delta Vision Strategic Plan* provides excellent guidance for defining water supply reliability, ecosystem restoration, and the linkages between the two.

Our Vision for the Delta included 12 integrated and linked recommendations. The seventh recommendation stated:

A revitalized Delta ecosystem will require reduced diversions—or changes in patterns and timing of those diversions upstream, within the Delta, and exported from the Delta—at critical times.¹

The definitions for water supply reliability and ecosystem restoration on the Delta Plan must include this critical concept of the timing of diversions. Otherwise, the simplified arguments over the amount of water for competing beneficial uses will remain the focus of continued conflict and a barrier to action for the foreseeable future. Specifically, the water supply reliability bullet regarding Delta exports should be modified to be more explicit about the timing and location of Delta diversions to contribute to ecosystem restoration. Suggested edits are shown below.

Water Supply Reliability

- *The timing and location of water diversions ~~Exports from the Delta will be improved to more~~ more closely match more closely water supplies available to be diverted, consistent with the coequal goal of protecting, restoring and enhancing the Delta ecosystem.*

This will be done by improving conveyance in the Delta and by expanding storage both above and below the Delta to reduce dry year diversions, increase diversions in wet years when surplus water is available, and increase seasonal flexibility to avoid impacts to Delta species and habitat. Export operations can also be enhanced through local and regional water efficiency and water supply development projects that shift the timing and increase the flows into the Delta as well as provide more flexibility in diverting water when it is available.

Likewise, similar changes are appropriate in the definition of protecting, enhancing, and restoring the Delta ecosystem to clarify and reinforce the linkages between the Two Co-Equal Goals. Suggested edits are as follows:

Protecting, Enhancing and Restoring Delta Ecosystem

Restoration actions may include, among other things, restoring interconnected habitats within the Delta and its watershed, improving ecosystem water quality, or restoring more natural Delta flows or improving ecosystem water quality by providing additional flows at critical life stages for fish and other species.

The Council interprets the term “protection” to mean prevention of ecosystem harm from various threats and stresses, which could include actions to prevent the conversion of existing habitat, prevent the irretrievable conversion of lands suitable for restoration, or prevent the establishment and spread of invasive non-native species.

The Council interprets the term “enhancement” to mean the improvement of existing desirable habitat and natural processes. Enhancement might include flooding the Yolo Bypass more often at times supportive of native species or expanding or better connecting existing habitat areas. Enhancement also includes many fish and wildlife management practices, such as managing wetlands for waterfowl production or shorebird habitat, installing fish screens to reduce entrainment of fish at water diversions, adjusting the location and timing of water diversions, or removing barriers that block migration of fish to upstream spawning habitats.

¹ *Our Vision for the California Delta*, Governor’s Delta Vision Blue Ribbon Task Force, January 2008.

With these revised definitions, the Delta Plan would include more complete descriptions of the linkages between the Two Co-Equal Goals. Filing agencies would be better able to describe proposed actions that contribute to the Two Co-Equal Goals.

Delta Flow Requirements

DVF supports Councilmember Fiorini's suggested improvements to Ecosystem Restoration Policy 1, Update Delta Flow Objectives (ER P1). Acknowledging and supporting the critical linkages among flow, habitat, water quality, and the stressors that affect them is an important function of the Delta Stewardship Council. The DSC should recommend that the State Water Resources Control Board update the Bay-Delta Water Quality Control Plan in a manner that considers and balances the complex beneficial uses and stressors on the Delta and its tributaries.

In addition, the Delta Stewardship Council was established to encourage, coordinate, and require actions that contribute to the Two Co-Equal Goals. The DSC should not avoid this responsibility on the critical issue of Delta flows. As suggested by Councilmember Marcus and Executive Officer Grindstaff, the Delta Plan should include specific language to increase action and accountability. Clarifying the consequences of incomplete action and the steps DSC will take if others do not act is also important for driving progress, agreement, and action.

The Sixth Staff Draft Delta Plan should include comprehensive context language, policies, and recommendations to ensure performance accountability for the State and stakeholders. This language should include discussion of the following: (1) the critical importance of addressing Delta flows; (2) the expected outcomes and benefits toward achieving the Two Co-Equal Goals; (3) how the DSC will support and assist the State Water Resources Control Board in fulfilling its responsibilities; (4) the DSC metrics that will measure progress and accomplishment in meeting the established deadlines; and (5) the consequences for all parties of failing to make progress and reach agreement on action.

Reduced Reliance on the Delta

The DSC staff work on Water Resources Policy 1, Reduce Reliance on the Delta (WR P1) substantially improves the clarity of the objectives to be achieved and how they will be achieved. However, the removal of language regarding the Two Co-Equal Goals eliminates the critical linkage between Delta water management and ecosystem restoration. Just as the DSC policy on Delta flow requirements should require an integrated approach to link flows and ecosystem restoration, the DSC policy on proposed actions to export water from, transfer water through, or use water in the Delta should reinforce that linkage. The current proposed language for WR P1 has the effect of requiring reduced reliance on the Delta only if a proposed action has a "significant adverse environmental impact on the Delta." This language is substantially different from, and less effective than, language that would consider adverse impacts on the State goal to restore the Delta ecosystem. Protecting against significant adverse impact to the Delta does not contribute to the restoration and enhancement of the Delta. This policy as written is exactly the approach that has contributed to the Delta decline—death by a thousand cuts.

DSC staff has not proposed any other water resources policies that would enforce the linkage of the Two Co-Equal Goals for the types of proposed Delta water actions described. It is entirely necessary and appropriate that proposed actions to export water from, transfer water through, or use water in the Delta are directly linked to ecosystem restoration actions to reverse the trend and enhance the Delta ecosystem. The following are two approaches for incorporating the critical linkage of the Two Co-Equal Goals into policies governing proposed actions that export water from, transfer water through, or use water in the Delta.

Option 1 – Modify the proposed language of WR P1 to address ecosystem restoration, rather than simply preventing significant adverse ecosystem impacts.

WR P1 - Reduce Reliance on the Delta.

A proposed action is inconsistent with the Delta Plan if either of the following are true:

(1) one or more water suppliers that would receive water as a result of the proposed action have failed to reduce their reliance on the Delta at critical times and adequately contribute to improved regional self-reliance and; ~~(2) that failure has substantially significantly caused the need for the proposed action;~~ and

~~(2) the proposed action fails to contribute to protecting, enhancing, and restoring the Delta ecosystem. would have a significant adverse environmental impact in the Delta.~~

This policy covers proposed actions to export water from, transfer water through, or use water in the Delta.

Option 2 – Establish two separate Water Resources policies to address reduced reliance on the Delta and linkages with ecosystem restoration.

WR P1 - Reduce Reliance on the Delta.

A proposed action is inconsistent with the Delta Plan if ~~(1)~~ one or more water suppliers that would receive water as a result of the proposed action have failed to reduce their reliance on the Delta at critical times and adequately contribute to improved regional self-reliance and; ~~(2) that failure has substantially significantly caused the need for the proposed action;~~ and

This policy covers proposed actions to export water from, transfer water through, or use water in the Delta.

WR PX – Contribute to Delta ecosystem (new policy)

A proposed action is inconsistent with the Delta Plan if the proposed action fails to contribute to protecting, enhancing, and restoring the Delta ecosystem.

This policy covers proposed actions to export water from, transfer water through, or use water in the Delta.

For both options, additional context language would be needed describe the important linkages between proposed actions related to Delta water and the ecosystem restoration goals and the objectives of these policies. Additional narrative may also be needed to further expand on the definition of ecosystem protection, enhancement, and restoration as discussed in Definition of Co-Equal Goals (above). With these changes, filing agencies would have a clearer definition of the types of ecosystem protection, enhancement, and restoration actions that should be included as part of proposed actions considered under the water resources policies.

New Water Quality Policy

DVF supports DSC staff policy options to include in the Sixth Staff Draft Delta Plan a policy and recommendations regarding water quality. As DSC staff noted, the Delta Plan can and should acknowledge the water quality responsibilities of the State Water Resources Control Board and Regional Water Quality Control Boards, but a general policy for the Delta may be necessary to fill voids and gaps in water quality authorities. However, as with other policies, the DSC staff has limited the proposed water quality policies and recommendations to the approach that focuses on avoiding or mitigating significant adverse impacts rather than encouraging or requiring improvements. The DSC could include an affirmative approach to achieving the Two Co-Equal Goals with the following edits to the DSC staff recommendations.

WQ P1 - Water Quality in the Delta

Water quality in the Delta should be maintained at a level that supports and enhances beneficial uses as identified in the applicable SWRCB or RWQCB Water Quality Control Plans.

Proposed actions shall identify any significant adverse ~~negative~~ water quality impacts and shall avoid or mitigate those impacts to the maximum extent practicable. For the purposes of this policy, “avoiding or mitigating adverse ~~negative~~ impacts to the maximum extent practicable” may be demonstrated by compliance with applicable RWQCB and SWRCB water quality plans and policies, waste discharge requirements, and waiver conditions. Proposed actions shall also identify and quantify any positive water quality impacts that contribute to the achievement of the coequal goals.

DSC Staff Option 2: New Recommendation

The DSC shall engage the SWRCB and the RWQCBs to develop new language to be placed in the statewide and regional water quality control plans to ensure the contribution to and achievement ~~protection~~ of the coequal goals.

DSC Staff Option 3: New Recommendation

The DSC shall participate in the SWRCB and RWQCB permitting process. Consistent with the coequal goals. ~~t~~The DSC shall make specific recommendations on any discharge permits or waivers the SWRCB or RWQCB may issue within the Delta.

Delta Levees

The Delta Vision Foundation supports recent revisions to proposed policies and recommendations that would speed implementation of levee improvements, improve efforts to prioritize, and commit resources to more effective emergency response planning. There is growing recognition among all interests that prioritizing resources and investments is necessary and appropriate for Delta levees. The staff recommendations and Councilmember Nordhoff’s proposed criteria are an effective first step. Additional work is needed immediately to define how the prioritization process will consider both quantitative and qualitative factors. Based on the proposed criteria, the attached example spreadsheet can be a mechanism for quickly prioritizing islands while considering the full range of issues.

DVF concurs with several Councilmembers who noted that the prioritization process proposed by the DSC staff is too long. As suggested by Councilmembers Nordhoff and Johnston, the prioritization should be completed within a year. DVF suggests that with appropriate management focus and effective communications strategies, initial priorities could be completed in one to two months and more thorough evaluation within a year. As Councilmember Gray has noted, stakeholder and public input on controversial issues is important. The DSC should engage its communications team to work with the engineers and economists on how to promptly gather constructive input from agencies, experts, and interest groups to assist in prioritizing levee investments.

DVF also strongly recommends that levee improvements in the form of a “strategic levee system” using Proposition 1E bond authority be linked to improved through-Delta conveyance and fish habitat improvements as an integrated approach to the Near-Term Recommendations in the *Delta Vision Strategic Plan* and set forth in the DVF 2011 Report Card. In response to questions from Councilmember Notolli on September 22, 2012, we explained how the Two Co-Equal Goals can be advanced in the immediate future with this kind of strategic action.

On March 30, 2012, Chairman Isenberg suggested that potential State of California liability for flood damage limits efforts to set levee priorities in the Delta or establish policies that commit State resources to protecting resources of statewide importance. If this is indeed the case, the Sixth Staff Delta Plan should illuminate this issue and provide policies and/or recommendations to address it. As currently drafted, the Fifth Staff Draft Delta Plan discusses the liability issues as they relate to Central Valley project levees, but is silent on implications for non-project levees (two-thirds of the levees in the Delta) and for levee investment priorities. Current Delta levee programs include hold harmless agreements. Immediate additional investments could be addressed in the same manner. If this limitation is indeed a barrier to immediate, specific investments to improve levees on islands that are critical for protecting the water supply infrastructure or are not eligible for federal disaster assistance, the DSC should explain this limitation in the section on levee investment priorities and include policies and recommendations to address the issue.

DVF recommends that the DSC refine the proposed staff language on Delta levee investment priorities to specifically state that the immediate priorities are to get all islands eligible for federal disaster assistance and protect the State's water supply infrastructure from seismic and flood risk. The DSC should recommend legislation to commit Proposition 1E dollars to these priorities and implement a "beneficiaries pay" program for the local cost share.

Incorporating these DVF recommendations into the DSC staff recommendations will provide further clarity of purpose and intent, support proactive action to achieve the Two Co-Equal Goals, and reinforce the critical linkages among goals, policies, and actions.

We look forward to the Sixth Staff Draft Delta Plan. Please contact Charles Gardiner if you have any questions or additional needs.

Sincerely,



Sunne Wright McPeak
President, Delta Vision Foundation
Former Secretary, California Business, Transportation,
and Housing Agency



Charles L. Gardiner
Executive Director

Attachment: Delta Levees Investment Priorities -- Preliminary Assessment Matrix and Methodology

Cc: Joe Grindstaff, Delta Stewardship Council
DVF Board of Directors

Delta Levees Investment Priorities -- Preliminary Assessment Matrix and Methodology

Island	Total Score	Weighted Score	1. Population	2. Failure Risk	3. Productive Land Value	4. Electricity and Telcomm	5. Natural Gas	6. Roads/Highways	7. Shipping/Boating	8. Water Supply	9. Delta Quality of Life	10. Ecosystem	11. Levee System	12. Ecosystem Opportunity	13. To Achieve HMP	14. To Achieve PL 84-99	15. Fat or Seismic Levee	16. To Add Ecosystem
			Levee Value for Protecting Infrastructure/Economy/Ecosystem											Construction Cost				
Criteria Weight			5	5	4	3	2	3	2	4	4	3	2	1	4	4	4	4
Example #1	48.8	162.4	2.2	4	3	1	3	4	2	2	5	3	3	5	0	3.3	4.2	4.1
Example #2	42.9	131.7	1.1	2	1	1	4	2	4	1	3	5	2	5	2.5	2.8	3.3	3.2

1. Each island receives a score from 1 to 5 for each criterion (cost set on a 0 to 5 scale)
2. Quantitative criteria (population and cost) assigned proportional score within the range of actual results
3. Scores for criteria 2 through 11 reflect risk/value/importance of that island, considering available information about risk, response, recovery.
4. Preliminary analysis will not have sufficient data available to determine actual cost-benefit ratios or expected value
5. Criteria 2 through 11 scored by issue experts:
 2. DWR, USACE, and Delta levee engineers
 3. DPC ESP team
 4. CPUC, California Emergency Utilities Association, and facility owners
 5. CPUC, CEUA, and natural gas facility owners and operators
 6. Caltrans and County DPWs
 7. BTH, Dept. of Boating and Waterways, USACE, and Ports
 8. DWR, Reclamation, SFWCA, and other Delta and urban water agencies
 9. DPC
 10. DFG, DWR, USFWS, Delta Conservancy
 11. DWR, USACE, Delta levee engineers
6. Criteria weights would be established by the Delta Stewardship Council, considering actual ranges of impact/benefit for each criterion.
7. In addition to total and weighted scores, results would array island ranking graphically on various parameters to identify which islands rank highly on multiple criteria.