

August 24, 2010

Phil Isenberg, Chairman  
Delta Stewardship Council  
650 Capitol Mall, 5<sup>th</sup> floor  
Sacramento, CA 95814

**Subject: Comments from East Bay Municipal Utility District on the Final  
Draft Interim Plan**

Dear Mr. Isenberg:

The East Bay Municipal Utility District (EBMUD) appreciates the opportunity to provide input on the Final Draft Interim Plan to be considered for approval by the Delta Stewardship Council (Council) at its August 26-27, 2010 meeting. The Final Draft is much improved from initial drafts and we recognize the diligent efforts you and your staff have made to analyze and incorporate public comments to reach this point. With this letter we acknowledge your responsiveness to our input, and suggest several follow-on steps as you begin to prepare the Delta Plan.

**Early Actions**

The enumerated list of early actions in Table 4-1 (pgs. 34-36)<sup>1</sup> is helpful in identifying projects or activities that the Council will be considering in the near term. The addition of emergency preparation and Delta levee programs administered by the Department of Water Resources is a key improvement. The Council's support in this area is appreciated, including support for the Delta Levees Subvention Program and Special Projects Program (pg. 41). As you move forward with preparing the Delta Plan, we again recommend that you consider comprehensive risk analysis as one tool to help formulate a long term levee investment strategy in the Delta Plan.

Although not specifically listed within Table 4-1, the ongoing independent review of the Bay Delta Conservation Plan (BDCP) should be one of the highest priorities for the Council in the upcoming months. Council consideration of the BDCP and its compatibility and consistency with the Delta Plan will be an important topic for all parties. The Council should utilize all available resources in support of its independent consultant (ARCADIS) and the Independent Science Board to gain a more comprehensive and unbiased understanding of the BDCP in coming months. We remain concerned that a continued strict adherence to existing deadlines for completion of the BDCP is leading to a rushed analysis that could compromise the thorough analysis essential for such a complex effort.

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<sup>1</sup> All page references are to the clean version of the Final Draft.

As noted in our July 28, 2010 letter, the Two Gates Project that is listed in Table 4-1 should incorporate a robust fishery monitoring component and a clearly articulated adaptive management program before it is implemented. The effects on migrating salmon need to be adequately monitored and addressed, including predation effects, to ensure that a project intended to benefit Delta smelt does not inadvertently impact other important fish species. Please keep this in mind when you review that project which is listed for potential Council action in September or October.

## Finance

The expanded finance section in the Final Draft Interim Plan provides valuable information for stakeholders, including specific references to the large cost estimates that have been circulated for the Delta Plan and BDCP. We agree that the Council should gather additional information on financing as proposed in the Final Draft Interim Plan. If AB 2092 (Huffman) is enacted, it would provide further direction to the Council on development of a fee system. Regardless of the final disposition of AB 2092, we encourage the Council to take the additional, vital step of identifying prospective beneficiaries from various actions or programs, and developing criteria to help guide your analysis in this area.

Financing of the BDCP ecosystem program is an area of special concern to stakeholders that are not directly involved in or likely to directly benefit from the BDCP. As noted in the Final Draft Interim Plan (pg. 52), the ecosystem program proposed in the BDCP is a multi-billion dollar effort. The BDCP applicants will receive 50-year operating permits as a result of BDCP implementation, yet they have not committed to pay for the program themselves and are actively seeking public funding for that effort. Up to now, there has been no clarification between elements of the ecosystem program that are more fairly characterized as mitigation for SWP/CVP operations, versus restoration with broad public benefits. We believe that the Council has a critical role to review this question in a thorough and transparent manner. Numerous entities will have a financial interest in how these big costs are allocated. Only the Council has the necessary independence supported by their own consultants and scientists to review the elements of the BDCP and consider who benefits from implementation of the BDCP ecosystem program.

We wish to congratulate you and your staff for developing an Interim Plan in a challenging timeframe, one that will provide a foundation for the development of the Delta Plan. Thank you for your consideration of these comments. If you have any questions, please call Rande Kanouse at (916) 443-6948.

Sincerely,



Dennis M. Diemer  
General Manager

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