



DELTA CAUCUS

CONTRA COSTA - SACRAMENTO - SAN JOAQUIN - SOLANO - YOLO

July 8, 2011

Ms. Terry Maccaulay
Deputy Executive Officer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Submitted via email: deltaplancomment@deltacouncil.ca.gov

Re: Delta Plan, Fourth Staff Draft

Dear Ms. Maccaulay,

The Delta Caucus (Contra Costa, Sacramento, San Joaquin, Solano and Yolo County Farm Bureaus) appreciates the opportunity to comment on the Fourth Staff Draft Delta Plan and acknowledges and appreciates changes which have been made to prior drafts.

The Delta Caucus remains concerned that some of the policies and recommendations could negatively impact the resiliency of Delta agriculture. It is clear from the following excerpts that one of the required objectives of the Delta Plan is to achieve the coequal goals in a manner that protects and enhances Delta agriculture.

Page 3, Lines 26-30: *"...in a manner that protects and enhances the unique cultural, recreational natural resources and agricultural values of the Delta as an evolving place (Water Code section 85054)."*

Page 5, Lines 44-46: *"Specifically, the Plan promotes the protection of floodplains and lands with recognized habitat values, and includes strategies to preserve the Delta's current rural and agricultural base."*

Page 9, Lines 17-18: One of the inherent objectives in achieving the coequal goals is *"(b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place."*

Page 15, Line 22: One of the intended outcomes of the Plan is *“Delta agriculture remains an important and dynamic part of the Delta.”*

Page 156, Lines 38-39: *“...the Legislature has directed State agencies to assist with maintaining the socioeconomic sustainability of agriculture...”*

Page 158, Lines 22-23:*“...the Delta’s landscape should continue to be dominated by agriculture, habitat and recreation...”*

Because protection and enhancement of Delta agriculture is a core objective of the Delta Plan, normal agricultural activities should not be considered covered actions. While exemption from covered action status might be the intent of the definition and explanation of covered actions on pages 43, 44 and 45, there is a nagging concern that while most normal agricultural operations would not result in “substantial change from existing conditions” (Page 44, Line 20) and would not rise to the level of significant impact on the coequal goals or flood control programs, some operations which require federal, state, county or public agency approval could be challenged as covered actions. *“The Delta Plan may exclude specified actions, therefore, those actions would not be covered by one or more provisions of the Delta Plan.”* (Page 44, Lines 15-17). Because protection of Delta agriculture is one of the key components of a successful Delta Plan, normal Delta agricultural operations should be exempted as covered actions. Exempt status would help ensure that the coequal goals are achieved in a manner that protects and enhances Delta agriculture.

At the very least, Delta agricultural operations should be **exempt** from the following policies:

1. Page 91, Lines 14-16 *“ER P3 Actions other than habitat restoration, including new or amended local or regional land use plans, shall demonstrate that they have avoided or substantially minimized the adverse impacts to the opportunity for habitat restoration at the elevations shown in Figure 5-3.”*

Please note that Figure 5-3 is not in the Plan or Appendix D.

ER P3 could broadly restrict Delta agriculture, diminishing its ability to react to evolving conditions. Furthermore, agricultural operations should not be restricted during what could be lengthy processes to consider and develop habitat restoration plans. The Delta Caucus recommends adding the following language to ER P3

“This policy does not pertain to normal agricultural activities.”

2. Page 136, Lines 18-30 and Page 137, Lines 1-8: “RR P2 The following areas shall not be encroached upon because they are critical floodplains and may also provide ecosystem benefit. This policy would not pertain to ecosystem restoration projects or any ongoing agricultural or flood management activities...”

The Delta Caucus recommends that the exemption for agriculture be changed to:

“This policy does not pertain to normal agricultural activities...”

Because RR P2 is applicable to any land area susceptible to being inundated by floodwaters from any source, this policy could limit agricultural activities throughout the Delta. Furthermore, discussions with regards to the creation of bypasses, floodways and setback levees must include all stakeholders, including landowners, and must be the subject of public planning processes before restrictions are applied.

The above comment also applies to RR R1, Page 137, Lines 12-15, “The Legislature should fund and the Department of Water Resources and the Central Valley Flood Protection Board should complete their investigation of the bypass and floodwaters in the San Joaquin River to reduce potential flooding near Paradise Cut, as required by the Water Code section 9613(c)”.

In addition to exempting Delta agriculture from either all or some of the policies and recommendations of the Delta Plan, the Delta Caucus offers the following suggestions:

Page 92, Lines 26-43, and Page 93, Lines 1-14: “ER R3 As part of the Strategic Plan, the Delta Conservancy should...”

1. Add another bullet requiring landowner participation during all phases of ecosystem restoration planning. The bullet should require that:
 - a. Landowners be involved in all phases of planning and implementation of habitat restoration areas.
 - b. Ecosystem restoration plans provide the following:
 - Buffers within the restoration area
 - Identification and mitigation of negative impacts to adjacent and nearby property owners
 - Safe harbor agreements for adjacent and nearby property owners

2. Bullet number 5 (Page 92, Lines 38-41) should be modified to include the provision that eminent domain will not be used for acquiring land for ecosystem restoration, and that wherever possible, ecosystem restoration will be accomplished by acquiring easements from willing sellers.

Thank you for your consideration.

Sincerely,



Russell van Loben Sels, Chair
Delta Caucus