

# I110 Sacramento transcript

**No comments**

- n/a -

12/15/2011  
Delta Stewardship Meeting

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DELTA STEWARDSHIP COUNCIL

In Re:  
DELTA PLAN DRAFT  
ENVIRONMENTAL IMPACT REPORT

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PUBLIC HEARING  
CALIFORNIA STATE CAPITOL, ROOM 447  
December 15, 2011  
1:00 p.m.

REPORTED BY: Lauri Gallagher, CSR 8726, RPR

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APPEARANCES

Council Members:

Phillip Isenberg, Chairperson  
Clifford Dahn  
Joe Grindstaff  
Patrick Johnston  
Gloria Gray  
Felicia Markus  
Randy Fiorini  
Don Nottoli

**No comments**

- n/a -

1 (THE FOLLOWING PROCEEDINGS WERE HELD ON THE  
2 RECORD:)  
3 THE CHAIRPERSON: Ladies and gentlemen, the  
4 Delta Stewardship Council is called back from our lunch  
5 recess. As a reminder, this is the public comment period  
6 for the general comments on the activities before the  
7 council, except for the Environmental Impact Report  
8 pending.  
9 Public comments were solicited and received  
10 prior to the recess for lunch. This is file Item No. 10,  
11 members. This is hearing to take oral comments on the  
12 draft Delta Plan Environmental Impact Report.  
13 Mr. Stevens, this is the second or third time we  
14 have had a formal hearing like this, with a court reporter  
15 present. State again the background, the legal  
16 requirements.  
17 MR. STEVENS: You are absolutely right,  
18 Mr. Chair. This is the second hearing on the draft Delta  
19 Plan Environmental Impact Report that was issued by the  
20 council staff on November 4th of 2011.  
21 As many people know, we have actually a fairly  
22 good website that we would commend people to visit with  
23 information on the draft EIR. We have posted all the  
24 chapters that can be viewed and downloaded. We also have  
25 availability through CD's, and we have an opportunity to

**No comments**

- n/a -

1 request hard copies of the draft Environmental Impact  
2 Report as well for a nominal price.

3 As I said, the draft EIR was issued on the 4th  
4 of November. The comment period is now a 90-day comment  
5 period that will end on and concludes Thursday, February  
6 the 2nd, 2012. At our first hearing, I went over some  
7 introductory notes on the nature of this type of hearing,  
8 and I will do that again.

9 THE CHAIRPERSON: I would appreciate that.

10 MR. STEVENS: That will be great. This hearing  
11 is an opportunity for the public to present their comments  
12 in oral format that will be transcribed by a court  
13 reporter. And those comments will go into the official  
14 record of the draft Environmental Impact Report. As  
15 staff, we will then, as part of the sequence process, have  
16 to respond to comments on what's called a final  
17 Environmental Impact Report, which then will be presented  
18 to the full council for what's called Certification under  
19 CEQA.

20 As I explained before, that's when council will  
21 actually take ownership of the document, will be able to  
22 figure out whether or not it suits the council's needs as  
23 an environmental document as intended under CEQA, and that  
24 will lead to final decision on the adoption of the Delta  
25 Plan at the appropriate time. These hearings, as I said,

**No comments**

- n/a -

1 on the draft EIR for purposes of the council are, in fact,  
2 listening sessions. They are opportunities for you to  
3 hear, if you so choose. And we're hardened to see that we  
4 have some council members here to hear the public comment,  
5 but it's a listening session for you, and I would  
6 recommend that you refrain from engaging at this point  
7 because the entire purpose of this EIR hearing is for the  
8 public to give the Delta council staff their comments and  
9 suggestions to actually make this document better.

10 There are several members that have filled out  
11 the blue speakers cards that we would greatly appreciate  
12 that people do to help us with our recordkeeping to make  
13 sure we accurately characterize who was speaking and what  
14 the nature of the comments were.

15 You will hear from people, comments on the  
16 environmental assessment that's contained in the  
17 Environmental Impact Report. I raise that because that's  
18 the nature and purpose of this hearing. It really isn't  
19 as you alluded to, Mr. Chair. I think correctly it is an  
20 opportunity to present general comments on areas within  
21 the Delta Stewardship Council's jurisdictions. That's  
22 another agenda item that we did take care of.

23 The council is always receptive to comments on  
24 anything pursuant to this transparent process, but this  
25 Environmental Impact Report hearing is restricted and

**No comments**

- n/a -

1 limited to comments on the environmental assessment in the  
2 draft EIR.

3           So with that, I think when we began this  
4 hearing, our executive officer Joe Grindstaff talked about  
5 a schedule, and I would like to raise that again.

6           THE CHAIRPERSON: This is the additional  
7 hearing.

8           MR. STEVENS: This is the additional hearing.  
9 CEQA does not require that we hold testimony opportunity  
10 hearings, but council has directed staff to do these.  
11 This will be the second that we have held, but Joe said we  
12 have five additional hearings scheduled beginning in  
13 January. The first is January 11th in San Diego; the  
14 second, January 12th in Pasadena; the third would be  
15 January 17th in Ceres; in Clarksburg, January 18th; and  
16 January 19th in Willows.

17           So those again will be opportunities for the  
18 public to come in and provide oral testimony that will be  
19 transcribed by a court reporter that will go into the  
20 official record. All of the comments will be in one way  
21 or another responded to as part of the final EIR that will  
22 be put out by staff and then brought to the council for  
23 certification.

24           So with those introductory comments, I turn back  
25 to you, Mr. Chair.

**No comments**

- n/a -

1 THE CHAIRPERSON: Thank you very much. We will  
2 start now with the formal public comment period. I have  
3 two requests to speak already, and for anyone in the  
4 audience that's not already done so, if you could please  
5 fill out a new form for the benefit of court reporter, and  
6 if you could print your name in a legible fashion, it  
7 would be much appreciated.

8 The first speaker is Nicky Suard from  
9 Snug Harbor Resorts. Grab a chair. The corner microphone  
10 seems to be better than the other ones.

11 MS. SUARD: Nicky Suard, N-i-c-k-y S-u-a-r-d,  
12 and I'm with Snug Harbor Resorts, L.L.C., on Steamboat  
13 Slough in the heart of the Delta.

14 First of all, I want to say I hope you guys have  
15 a peaceful and Merry Christmas and holidays. I know  
16 there's a lot of stress, and we're all under it, and I'm  
17 pretty sure 2012 is going to be an epic year in a lot of  
18 ways. I hope you guys have a peaceful time.

19 I am talking about the Environmental Impact  
20 Report, but I am going to ask for a little bit of  
21 engagement because I can't really do comments or review  
22 because some of the matters in the report right now are a  
23 little bit confusing. So I believe that Mr. Grindstaff  
24 and Mr. Isenberg have said they have flown over  
25 Snug Harbor. I have been to a lot of these meetings, and

I110-1

## **Response to comment I110-1**

The EIR has been revised to correct mistakes in geographic labels specifically identified in comments. Please see the response to comments I93-1 and LO200-24 as examples.

1 I am sure you know where Steamboat Slough is. I'm a  
2 little bit concerned with environmental impact reports and  
3 the Delta Plan that use -- that mistake the name of  
4 waterways. And for example, the Delta Plan as I told you,  
5 Mr. Isenberg, it has a beautiful photo of the Delta, and  
6 it says it is Hawthorne Slough and that's really Steamboat  
7 Slough.

I110-1

8 How can you do environmental impact reports if  
9 you don't know locations? The reason I'm bringing these  
10 up, these can't be innocent mistakes. They have to be  
11 intentional.

12 Other examples, the chapter on land use and  
13 recreation, Hidden Harbor and Snug Harbor are confused,  
14 and actually Snug Harbor is described as Hidden Harbor and  
15 named as Hidden Harbor. So basically does that mean the  
16 State is erasing Hidden Harbor or Snug Harbor or both?  
17 It's a little bit confusing. How can anybody assess the  
18 impact to our own businesses, our own lives, our own  
19 properties if the State doesn't even know that we exist.  
20 I am wanting to ask why? It can't be an innocent mistake.  
21 It has to be intentional. This has happened too many  
22 times.

I110-2

23 MR. STEVENS: I would be happy to engage to the  
24 extent this may -- the nature of this forum allows for it.  
25 I know you come as a vocal advocate, and I speak on behalf

## **Response to comment I110-2**

The terms "Hidden Harbor" and "Snug Harbor" were not used in Section 6, Land Use and Planning, or Section 18, Recreation, of the Draft Program EIR, or in any portions of Sections 1 through 26 of the EIR. See also response to comment I110-1.

1 of the chair and many others, we appreciate it.  
2 With regard to the nature and purpose of this  
3 oral comment period, your comments with regard to whether  
4 or not there's inaccuracies, are entirely appropriate and,  
5 in fact, they are taken down by the court reporter. To  
6 the extent you can be as specific as you can, whether here  
7 right now, or written comment, that points out chapters,  
8 pages, whether or not you think something is intentional  
9 or unintentional or whether or not it does not matter is  
10 entirely up to you. That will be a comment that we will  
11 take a look at as staff. If we got something wrong, if  
12 there are inaccuracies, it will be reflected in the final  
13 Environmental Impact Report.

14 The nature of the document as I described was a  
15 draft prepared by staff with the help of consultants and  
16 the purpose of this comment period is to hear from you as  
17 to what we got wrong.

18 So I don't think it's appropriate to engage on  
19 whether or not there's something intentional or  
20 unintentional, whether there's a conspiracy, whether it's  
21 inaccurate. Submit that.

22 MS. SUARD: I do plan to submit written comment,  
23 but I thought it was appropriate to have it be recognized  
24 despite comments by different people in the Delta, not  
25 just myself. The consultants or whoever is writing these

I110-3

## **Response to comment I110-3**

Comment noted.

1 documents are persisting to provide false information to  
2 the public, and that's inappropriate. You are the one  
3 that uses the word conspiracy. I don't believe in that  
4 kind of stuff. What I am saying is it's intentional.  
5 It's obvious if you track it. I have been tracking the  
6 maps and the documents over the time, and it's a very  
7 clear, intentional mistake, I guess you could say.

I110-3

8 I will be making comments, and it will have to  
9 do with how the State is revising calculating flows, and  
10 I'm going to be talking about how Dreams Report is -- I do  
11 appreciate the State took the time to correct the  
12 incorrect data in Dreams Report, but it's really  
13 frustrating to see time and again the current documents  
14 are referring back to the original raw data and the  
15 original Dreams Report from 2008 when the corrections were  
16 made in December, 2009, and many of the consultants doing  
17 their reports don't even realize that. So I think the  
18 State needs to be more aggressive in letting consultants  
19 know.

I110-4

20 The state, meaning, me and you, the taxpayers  
21 are going to be responsible for the cost of litigation  
22 when false data is used to validate the Delta Plan. So  
23 you have to fix that before that happens.

24 Then the other issue I will address is, the  
25 proposals to limit development. That's condemnation.

I110-5

### **Response to comment I110-4**

These references are related to the Fifth Staff Draft Delta Plan. This is a comment on the project, not on the EIR.

### **Response to comment I110-5**

Comment noted.

1 That's imminent domain. That's taking away people's  
2 property rights. You have to question for what  
3 environmental purposes. I haven't seen that yet. But  
4 those will be my comments.

5 Thank you. And I do hope you have a Merry  
6 Christmas

7 THE CHAIRPERSON: The next person who submitted  
8 a blue form is Mr. Nesmith from California Environmental  
9 Waterways.

10 MR. NESMITH: Good afternoon. My name is David  
11 David Nesmith, N-e-s-m-i-t-h, a co-facilitator for the  
12 California Vernal Water Pockets. We will be printing  
13 significantly detailed comments in written form, but I  
14 just wanted to flag a couple of things for you all to  
15 consider.

16 It's mainly focused on the California Water  
17 Solutions now alternative which was to our great delight  
18 reflected in one alternative that is dedicated to those  
19 solutions we have been suggesting in a report that we  
20 wrote a couple of years ago. A couple of clarifying  
21 comments in a suggestion in terms of our alternative. On  
22 the ocean Desal, we will be providing more detailed  
23 comments written. Basically there's three things we are  
24 concerned about here. Many of the currently proposed  
25 coastal Desal plans are proposed to be co-located with

I110-5

I110-6

### **Response to comment I110-6**

This is a comment on the project, not on the EIR. In addition, potential future ocean desalination projects were considered in the Proposed Project, Revised Project, and Alternatives 1A, 2, and 3 of the EIR, although neither the Delta Plan nor the alternatives mandate the use of specific technologies at this programmatic level. See Master Response 2.

1 coastal power plants and most, if not all, of those  
2 coastal power plants have one-tier cooling, which is a  
3 cooling method which has now been identified as highly  
4 problematic, and by state regulation is considered to be  
5 phased out. If Desal were to be considered, it should be  
6 very clear that it should not be extending the life of all  
7 power plants, cooling systems, intakes that are one-tier  
8 cooling power plants. These are huge destroyers in green  
9 life, and we have actually changed that regulation in the  
10 state and so Desal must not -- we must have some land to  
11 make sure that extends the life. So no ocean intakes.  
12 There are developed technologies for beach wells and other  
13 indirect methods for taking ocean water in.

I110-6

14 Obviously there are many sources of water for a  
15 reverse osmosis or desalination process -- brine water,  
16 mineral waste water, and we consider these to be much more  
17 appropriate in many cases, and we would also like to see  
18 Desal, ocean or otherwise, relocated in a way that would  
19 be powered in using renewable power because they are a  
20 fairly large user of power.

21 We would like ecosystem restoration of the water  
22 solutions now alternative to reflect the more detailed  
23 ecosystem restoration language that is in the proposed  
24 alternative. We didn't go into detail but we agreed with  
25 proposed alternatives as far as ecosystem restoration. We

I110-7

## **Response to comment I110-7**

Please refer to Master Response 3 for a discussion of alternatives, including proposals that informed each alternative.

1 were a little less specific, but we like the specificity  
2 in the proposed alternative.

3 As far as flood control, we actually do have  
4 language in our response to comments and the previous  
5 drafts for plans that are not reflected in the  
6 environmental documentation. We do support reducing flood  
7 risk, and we recommended immediate planning -- the upgrade I110-8  
8 levees to be beyond the PL 88-99 level. So we want to see  
9 that flood control planning initiated as soon as possible,  
10 and you all could be an important advocate of that.

11 And finally as far as water supply, I know that  
12 we have the State and Federal water contractors in the  
13 audience, and I know they will not agree with me on this,  
14 but the California Water Solutions now has identified many I110-9  
15 actions that can be taken statewide that would reduce  
16 reliance and demands for increased or current level of  
17 supply from the Delta.

18 We think that the boat waterway deficiencies  
19 have been identified. There are adequate things on the  
20 record from organizations and other state reputable  
21 agencies talking about water efficiency possibilities. We  
22 believe a water reduction from the Delta could be reduced  
23 to a less than significant level. That should be in the  
24 Water Solutions now alternative that there are these I110-10  
25 alternatives. Conservation, storm water reuse and capture

### **Response to comment I110-8**

Please refer to Master Response 3 for a discussion of alternatives, including proposals that informed each alternative. In addition, the Delta Plan would provide for more aggressive levee design criteria than provided for under PL84-99 criteria.

### **Response to comment I110-9**

The assumes that water supply agencies would be encouraged to reduce reliance on the Delta water through implementation of local and regional water supplies, including water use efficiency, water recycling, desalination, water transfers, and groundwater conjunctive use programs to meet water demands projected in existing general plans. As discussed in Section 3 of the EIR, such programs should offset reductions in water diverted from the Delta. The Proposed Project and Alternatives 1A, 2, and 3 of the EIR also considered potential actions to encourage development of local and regional water supplies, ocean desalination, and increased water use efficiency and conservation.

### **Response to comment I110-10**

Please refer to response to comment I110-9. As described in Section 3 of the EIR, the Delta Plan will have less than significant impacts on water supplies due in part to measures including those identified in this comment.

1 and so forth are detailed. And those are my comments.

2 Thanks for your good work and I'm very impressed  
3 by your very short lunch. No wonder you are a slim man.

4 THE CHAIRPERSON: Any more blue slips?

5 Anyone in the audience who would like to speak  
6 on the draft Environmental Impact Report?

7 In the chair and fill out your form.

8 If anyone else is in the audience, there are  
9 blue forms up here in front. So you can fill them out.

10 MR. BROOKS: William Brooks.

11 Can I hand these out?

12 THE CHAIRPERSON: Sure.

13 MR. BROOKS: I have three questions concerning  
14 this. Why is the pollution to the -- why is the pollution  
15 to the environment caused by the new power stations that  
16 will have to be constructed to power the single water  
17 event system not mentioned in the Environmental Impact  
18 Report? The current biggest user of electricity in the  
19 state is the state aqueduct. Pumping water to Southern  
20 California over 2,000 feet over the Theracap, this is over  
21 2,200 kilowatt hours per acre foot of water. The plans  
22 for the new proposed project indicate a total pump  
23 capacity five times the current values. That's the  
24 equivalent of the newer power stations and five times  
25 current pollution, which is a significant concern to most

I110-10

I110-11

## **Response to comment I110-11**

The EIR does not analyze Delta conveyance options. The proposed BDCP is a reasonably foreseeable future project that is being evaluated by the Department of Water Resources as the CEQA lead agency. The cumulative impacts of the proposed Delta Plan, in combination with the impact of the proposed BDCP, are described in EIR Sections 22 and 23. The Delta Plan must be reviewed at least once every five years and may be revised as the Council deems appropriate pursuant to Water Code section 85300(c). Hence, the Delta Plan would be amended when the BDCP is ready for incorporation. Please refer to Master Responses 1 and 5.

1 Californians.

2           The EPA currently states the following  
3 concerning 12 trojan gas power plants, which make up 40  
4 percent of California's energy producers. The power  
5 plants are the nation's biggest producers of toxic waste  
6 water. These include aluminum, all the things on the list  
7 you are seeing there. They are contributors to cancer,  
8 and other diseases according to state documents.

9           EPA also states that air emissions from these  
10 power stations cause nitrogen and sulfur oxides,  
11 particulate matter. Again, I see no mention of carbon  
12 monoxide, carbon dioxide, nitrogen oxide, hydrocarbons  
13 anywhere in this environmental report.

14           Furthermore, what about the extraction of gas,  
15 the 300 plus carcinogenic chemicals from gas fracking  
16 industry already polluting the ground water in the Delta.  
17 There's no mention of this in an environmental report.  
18 That seems crazy. You think something like this should at  
19 least get a mention.

20           My second question is, my understanding is these  
21 pumps pump five times the current aqueduct water capacity,  
22 and they have the capacity of actually draining the  
23 Sacramento River in the summertime. Where is the mention  
24 of the impact of this on the environment?

25           And finally how could the removal of so much

I110-11

I110-12

I110-13

## **Response to comment I110-12**

Please refer to the response to comment I110-11.

## **Response to comment I110-13**

Please refer to the response to comment I110-11.

1 water possibly enhance the Delta ecosystem in the  
2 environment? Please someone explain this to me. I think  
3 all Californian's have a right to water, and I support the  
4 necessary sustained water production, but how about an  
5 environmental report looking at the spending of the same  
6 taxpayers money on some other alternatives. How about  
7 giving every Southern Californian a free, low flush toilet  
8 and every farmer a free drip feed system, and spend the  
9 rest of this money on water conservation projects --  
10 efficiency, storm water capture, drain water treatments  
11 and water assessment help and the subsequent jobs this  
12 could create. It could save the same amount of water and  
13 cost the taxpayers much less in the long-term.

I110-13

14 THE CHAIRPERSON: Mr. Brooks has also submitted  
15 to us a one-page printed paper, and our staff will give a  
16 copy to court reporter for her records. The title of it  
17 is "Requested Addition Inclusion in the Environmental  
18 Impact Report" and carries today's date, December 15th,  
19 2011.

20 And. Mr. Brooks, I believe those are your  
21 initials. The record will reflect the submission of that  
22 document.

23 Is there anyone else that wishes to speak on the  
24 draft Environmental Impact Report?

25 Ladies and gentlemen, as we did in our first

**No comments**

- n/a -

1 meeting, and Mr. Stevens pointed it out this morning, we  
2 have noticed this hearing to last until 4:30 today. We  
3 will, since currently there is not anyone willing to  
4 speak, we're going to recess in place, where I or other  
5 council members will be here the entire time. The minute  
6 somebody wants to talk to us, we will reopen the hearing.  
7 We will activate the court reporter and our electronic  
8 simulcast on that, and I believe we will post a notice on  
9 the simulcast board that you folks have worked out, and  
10 perhaps we will take a look at it so it will be helpful.

11 It is now 1:27. So we will recess in place  
12 right here. The staff and council, at least a single  
13 council member or maybe more, will be here during this  
14 time. So any of you that want to speak during this time  
15 period, be sure to notify one of us of that fact and be  
16 sure to get everybody back in place.

17 So we are in a temporary recess, members, staff.  
18 Thank you very much

19 (Whereupon a recess was taken from 1:28 p.m.  
20 until 4:01 p.m.)

21 THE CHAIRPERSON: Ladies and gentlemen, the  
22 Delta Stewardship Council is, as you know, in recess. On  
23 the other hand, and to explain, we have been here since  
24 1:00 o'clock, the scheduled time for our Environmental  
25 Impact Report comment period. We received certain reports

**No comments**

- n/a -

1 and comments from individuals at that time and went into  
2 recess from hearing upon nobody else in the audience that  
3 wished to testify.

4           However, we noticed this hearing process to  
5 adjourn at 4:30, and accordingly, we will go back into  
6 recess, but we will remain here until 4:30 to receive  
7 comments.

8           Mr. Stevens, anything else we need to add?

9           MR. STEVEN: No, sir

10           MR. CHAIRPERSON: Let's go back into recess, and  
11 if our technicians will post the previous notice that  
12 we're in recess again.

13           Thank you.

14           (Whereupon a recess was taken from 4:01 p.m.  
15 until 4:28 p.m.)

16           MR. CHAIRPERSON: Ladies and gentlemen, the  
17 Delta Stewardship council is called back into session. It  
18 is now 28 minutes after 4:00 on Thursday, the 15th of  
19 December. Our meeting is scheduled to adjourn in two  
20 minutes, and we will at this time, ask if there are any  
21 people in the audience that wish to speak to us on the  
22 draft Environmental Impact Report?

23           And for the record, the court reporter, staff,  
24 and myself, council, have been present. Other council  
25 members were present during times of this hearing when we

**No comments**

- n/a -

1 have been in recess, and at least as of this time, no  
2 individuals have come forward during that entire time  
3 period and indicated they wished to address the council on  
4 the Environmental Impact Report.

5 30 seconds more to go.

6 4:30 has arrived. Is there anyone in the  
7 audience who would like to address the council on the  
8 Environmental Impact Report?

9 Seeing no one appearing who wishes to do so,  
10 this meeting is adjourned.

11 Thank you.

12 (Meeting adjourned at 4:30 p.m.)  
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**No comments**

- n/a -

