

LO171 Napa County BOS



A Tradition of Stewardship
A Commitment to Service

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Keith Caldwell
Chairman

January 31, 2012

Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814
Attn: Terry Macaulay

COPY

(transmitted via e-mail: eircomments@deltacouncil.ca.gov and mail)

RE: Comments on the Draft Delta Plan Environmental Impact Report (DEIR)

Dear Chairman Isenberg and Members of the Council

On behalf of Napa County, I would like to thank you for the opportunity to provide comments on the Draft Delta Plan Environmental Impact Report (DEIR). We hope that the Delta Stewardship Council and staff find our comments constructive in your effort to develop a Delta Plan for the Sacramento-San Joaquin Delta and Suisun Marsh

Achieving the Delta Plan's co-equal goals of providing a more reliable water supply for California while protecting, restoring and enhancing the Delta ecosystem is certainly a daunting task, and one that the Fifth Staff Draft Delta Plan (Proposed Project) has gone a long way towards achieving. However, after review of the DEIR and the Proposed Project we find that there are a number of questions that appear to remain unanswered, and would request your consideration of the following comments:

- Please define what it means to achieve the co-equal goals. The Final EIR should provide the quantitative analysis necessary to adequately evaluate the Proposed Project and the Alternative Projects. At present, the DEIR states that the Proposed Project is "the Environmentally Superior Alternative" but it does not contain the quantitative analysis necessary to adequately analyze if, and how, the Proposed Project will meet the co-equal goals. Similarly, the DEIR states that the Alternative Projects will not achieve the co-equal goals, but it does not contain the quantitative analysis necessary to adequately evaluate why the Alternative Projects will not meet the co-equal goals.

Brad Wagenknecht
District 1

Mark Luce
District 2

Diane Dillon
District 3

Bill Dodd
District 4

Keith Caldwell
District 5

Response to comment LO171-1

Comment noted.

Response to comment LO171-2

Please refer to Master Response 3. As described in Section 2B of the Draft Program EIR, the Delta Stewardship Council does not propose or contemplate directly authorizing any physical activities, including but not limited to construction or operation of infrastructure. Rather, through the Delta Plan, the Delta Stewardship Council seeks to influence the actions, activities, and/or projects of other agencies, the details of which would be under the jurisdiction and authority of the agencies that will propose them in the future and conduct future environmental review. Without specific details of future projects, it is not possible for the Delta Stewardship Council to develop quantitative thresholds of significance, conduct site-specific quantitative analyses, and design site-specific mitigation measures. Accordingly, in the absence of specific proposed physical projects, this EIR makes a good faith effort to disclose the potentially significant environmental effects of the types of projects that may be encouraged by the Delta Plan and to identify program-level mitigation measures. Impacts on each of the potentially affected resources areas are analyzed at a program level in Sections 3 through 21 of this EIR.

- The Proposed Project/DEIR lacks adequate specificity as to what is or is not a “covered action.” The Final EIR should clarify what is subject to the DSC consistency review authority as well as what is not subject to the DSCs consistency review authority, such as water projects upstream of the Delta. LO171-3
- The Proposed Project/DEIR governance structure in which the DSC seeks to exert regulatory authority appears to be contrary to the intent of the Delta Reform Act and should be reconsidered. LO171-4
- The emphasis in the Proposed Project/DEIR on “flows” as the primary tool to address the ecosystem, as opposed to the utilization of a combination of management tools to address multiple stressors, does not appear to be consistent with the co-equal goals and should be reconsidered. LO171-5
- The Proposed Project/DEIR regulations (WR P1 and WR P2-Reliable Water Supply) impacting local water management decisions, including the transfer of water, should be deleted and/or revised. LO171-6
- The Proposed Project/DEIR recommendations (WR R5-Reliable Water Supply) and regulations (ER P1-Delta Ecosystem Restoration) that are inconsistent with existing law relating to water right priorities and area-of-origin should be deleted and/or revised. LO171-7

Thank you again for consideration of our comments on the Draft Delta Plan Program Environmental Impact Report (DEIR). If you have any questions or need additional information, please do not hesitate to contact Patrick Lowe, Deputy Planning Director at (707) 259-5937, or Phil Miller, Deputy Director-Public Works, at (707) 259-8620, on our staff. LO171-8

Sincerely,



Keith Caldwell,
Chair

Response to comment LO171-3

The definition of a covered action is established by the Delta Reform Act, as summarized in subsection 2.1.2 of the Draft Program EIR. Please refer to Master Response 1.

Response to comment LO171-4

This is a comment on the project, not on the EIR. Please refer to Master Response 1.

Response to comment LO171-5

Please refer to Master Response 5.

Response to comment LO171-6

This is a comment on the project, not on the EIR. Policy WR P1 has been amended to state that water shall not be exported from, transferred through, or used in the Delta under conditions that include failure of water suppliers to contribute to reduced reliance on the Delta and to improve regional self reliance. Policy WR P2 also has been amended to state that contracting for water from the State Water Project or the Central Valley Project must be done in a publicly transparent manner consistent with applicable Department of Water Resources and federal Bureau of Reclamation policies. The full text of WR P1 and WR P2 can be found in Section 2 of this FEIR, and in the Final Delta Plan.

Response to comment LO171-7

This is a comment on the project, not on the EIR. Recommendation WR R5 has been reconstituted as WR R3 in the Final Draft Delta Plan which recommends the State Water Resources Control Board to evaluate new water right applications for consistency with the existing constitutional principle of reasonable and beneficial use and other provisions of California law. Policy ER P1 has been recategorized as Recommendation ER R1 and has been amended. It states that the SWRCB should adopt updated flow objectives for the Delta by 2014 and flow objectives for high-priority tributaries by 2018. Under ER P1, after the flow objectives are revised, they will be used to determine consistency with the Delta Plan. The former requirement for the Council to request an update from the State Water Resources Control Board by June 30, 2013, regarding its development of flow objectives has been deleted. The full text of ER P1

and WR R3 can be found in Section 2 of this FEIR. Neither the Delta Reform Act nor the Delta Plan affect water rights (Water Code §§ 85031, 85032(i)). Please see Master Response 5 for further discussion of the EIR's analysis of the protections for existing water uses and users. These protections are included in all of the alternatives analyzed in the EIR.

Response to comment LO171-8

Comment noted.