

LO200 SJAFCA



February 1, 2012

Phil Isenberg, Chairman, and Council Members
Delta Stewardship Council
Attn: P. Joseph Grindstaff, Executive Officer
980 Ninth Street, Suite 1500
Sacramento, California 95814

COMMENTS ON THE DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE FIFTH STAFF DRAFT DELTA PLAN

The San Joaquin Area Flood Control Agency (SJAFCA) appreciates the opportunity to review and comment on the Draft Program Environmental Impact Report (Draft EIR) for the Draft Delta Plan. In addition, following the comments on the Draft EIR are our comments on the fifth staff draft Delta Plan. We understand that the review and comment period for the fifth staff draft Delta Plan has past, however, we still wanted to take this opportunity to provide comments in hopes that they can be incorporated in future drafts.

For your information, SJAFCA was formed in the mid-1990s as a Joint Power Authority with member agencies of the City of Stockton, San Joaquin County, and San Joaquin County Flood Control and Water Conservation District. SJAFCA was successful in completing a \$70 million flood improvement project from design through construction in just over three years that assured our community would continue to be afforded a minimum of 100-year level of flood protection. LO200-1

With the passage of SB 5, we had a new mission: to upgrade the flood protection system to the State mandated 200-year standard for our "urban and urbanizing" areas. As a result, in 2009, we partnered with the Corps of Engineers, the Central Valley Flood Protection Board, DWR, local reclamation districts, cities, and San Joaquin County on the Lower San Joaquin River Feasibility Study. This multi-agency, multi-year, multi-million dollar study will provide us with a plan to achieve a minimum 200-year level of flood protection for our area.

Similar to other communities in the Central Valley, it will be difficult for us to achieve 200-year flood protection by the State mandated 2025 deadline. In addition, since much of our "urban and urbanizing" areas are located within the secondary zone of the Delta, we are very concerned about the scope and regulatory effect the Delta Plan will have on our ability to achieve 200-year flood protection. The Delta Plan will increase an already complex process and add cost and time in providing improved flood protection with the involvement of the Council. It is not helpful to our communities for the Council to inject themselves into an ongoing multi-agency effort to improve our flood protection. LO200-2

Response to comment LO200-1

Comment noted.

Response to comment LO200-2

This is a comment on the project, not on the EIR.

Our comments on the Draft EIR are as follows:

Draft EIR

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|-----|---|------------|
| 1. | P. 2A-30, Dredging : Where is "the specific area within Stockton?" |] LO200-3 |
| 2. | P. 2A-34, Lower San Joaquin River Flood Bypass Proposal : It should discuss that there is an existing bypass at the location that has not been adequately maintained. |] LO200-4 |
| 3. | P. 2A-37, line 35: What is "overbite?" |] LO200-5 |
| 4. | P. 2A-46, line 29: Why are the Sacramento Deep Water Ship Channel Maintenance and Stockton Deep Water Ship Channel Maintenance listed under potential projects for Flood Risk Reduction? |] LO200-6 |
| 5. | P. 2A-47, line 8: Define "major development." |] LO200-7 |
| 6. | P. 2A-47, line 30: Define "flood-prone areas." |] LO200-8 |
| 7. | P. 2A-50, line 22: Unclear why levees that protect existing floodplains and provide net enhancement of floodplains is a lower priority. |] LO200-9 |
| 8. | P. 2A-51, line 37: How can the EIR assume all agencies will implement these "types" of programs when the programs are so vague/general? |] LO200-10 |
| 9. | P. 2A-53, lines 6 & 7: Why transfer the responsibility to a regional agency? Which agency? |] LO200-11 |
| 10. | P. 2A-55, lines 6 & 7: 1300 acre site on Wright-Elmwood Tract? What Stockton stakeholders? |] LO200-12 |
| 11. | P. 2A-62, line 8: Should discuss that there is an existing bypass at Paradise Cut. |] LO200-13 |
| 12. | P. 2A-88, line 28: Should include Stockton, the largest municipality in the Delta. |] LO200-14 |
| 13. | P. 2A-94, line 31: What is the basis of "Prevention of further development in areas with flood risks"? There are areas in the Central Valley, outside the secondary zone of the Delta (ie. Natomas), that have far greater flood depth should a levee breach and extensively more "urbanizing" acreage than any community within the secondary zone of the Delta. Also, if urban areas must have 200-year protection, why is it necessary to prevent further development? |] LO200-15 |
| 14. | P. 2A-101, lines 11 & 12: What is the rationale for 6 feet? Our area pales by comparison with other areas in the Central Valley (ie. Natomas, West Sacramento) that have much greater flood depth should a levee breach and significantly more extensive "urban and urbanizing" acreage. Also, since the Conveyance Facility is a development, would it also be prevented? |] LO200-16 |
| 15. | P. 2A-101, lines 13 & 24: Should define "floodplain" (i.e. 100-year, 500-year, etc.) |] LO200-17 |
| 16. | P. 5-3, line 26: Which "two federal flood control projects?" |] LO200-18 |
| 17. | P. 5-8, lines 22, 23 & 24: If each year USACE conducts the inventory, why does the EIR use the December 2008 inventory? |] LO200-19 |

Response to comment LO200-3

The referenced permit shows a location on the Port of Stockton land near Rough and Ready Island.

Response to comment LO200-4

Existing conditions of the Delta channels are further discussed in Section 5 of the EIR.

Response to comment LO200-5

The term "overbite" on page 2A-37, line 35, refers to the overbite clam which is further defined on page 4-7 of the Draft Program EIR.

Response to comment LO200-6

As described on page 2B-3 of the Draft Program EIR, analogous information from referenced EIRs and EISs were used to provide information about potential impacts and mitigation measures. The US Army Corps of Engineers Long-Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region and modifications of the Sacramento Deep Water Ship Channel were included as analogous projects to provide information regarding the impacts of channel dredging, because these projects involved such dredging. Although dredging in these analogous projects was not for the same purpose as flood management dredging encouraged under the Delta Plan, they still provided valuable information about potential environmental impacts.

Response to comment LO200-7

Major development is considered the development of five or more parcels. This is further described in Table C-2 of the Draft Program EIR.

Response to comment LO200-8

The Delta was declared by the Legislature to be "inherently flood-prone" in 1992 (Public Resources Code section 29704)."

Response to comment LO200-9

The discussion on page 2A-50, Line 22 of the Draft Program EIR summarizes information of the Department of Water Resources (DWR) FloodSAFE 2011 report, "A Framework for Department of Water Resources Investments in Delta Integrated Flood Management." DWR

presented recommended priorities for funding (page 14 of the DWR report). These recommendations are summarized on page 2A-50.

Response to comment LO200-10

The EIR assumes, as CEQA requires, that the Delta Plan's policies and recommendations will be implemented, as discussed in Master Response 2.

Response to comment LO200-11

The sentence on page 2A-53, lines 6 and 7, of the Draft Program EIR provides a description of the Delta Protection Commission (DPC) October 2011 "Public Draft Economic Sustainability Plan" DPC presented these recommendations on page 273 of the DPC report. These recommendations are summarized on page 2A-53. Similar recommendations are included in the DPC January 2012 "Economic Sustainability Plan" (page 278).

Response to comment LO200-12

The referenced document, "Recreation Proposal for the Sacramento-San Joaquin Delta and Suisun Marsh" did not specifically identify the stakeholders.

Response to comment LO200-13

The existing bypass at Paradise Cut is discussed in the existing conditions subsection of Section 5, Delta Flood Risk, of the EIR.

Response to comment LO200-14

The EIR's description of flood control facilities is sufficient to provide decisionmakers and the public with context to consider the Delta Plan's environmental impacts.

Response to comment LO200-15

Alternative 1A included provisions to reduce future development in areas with flood risks in order to reduce the need for levee upgrades or modifications and/or new levees. Regarding the development and selection of alternatives for consideration in the EIR, please refer to Master Response 3.

Response to comment LO200-16

Alternative 2 was informed by information provided in comments to the Delta Stewardship Council from several environmental interest groups and includes a provision to prevent future development on subsided lands.

Response to comment LO200-17

"Floodplain" is defined in Appendix C, page C-6, as part of the description of RR P2.

Response to comment LO200-18

The two federal projects referred to on page 5-3 of the Draft Program EIR include the Sacramento River Flood Control Project and the San Joaquin River Flood Control Project described in subsequent subsections of this chapter.

Response to comment LO200-19

As is normal under CEQA, the EIR describes existing conditions at the time of the publication of the Notice of Preparation in December 2010 (CEQA Guidelines § 15125(a)). The 2008 report was the most recent USACE report with the largest amount of data for the widest range of geographic locations at the time of the publication of the Notice of Preparation.

- 18. P. 5-8, line 33: Should Mormon Slough be on the Lower San Joaquin River Control Project? LO200-20
- 19. P. 5-8, line 38+: Should also include existing Paradise Cut bypass. LO200-21
- 20. P. 5-9, **Figure 5-3**: Not the San Joaquin River Flood Control Project. LO200-22
- 21. P. 5-10, lines 17-23: Should be rewritten. The Flood Protection Restoration Project is not a "recently initiated non-project flood protection facilities in the Delta." The Project was completed in the late 1990s and consisted of raising existing project levees upstream of I-5 to correct freeboard deficiencies. It also did not include any new levees. The design and construction of the Project was approved/certified by USACE. As a result of the Project, FEMA did not place the greater Stockton metro area into the 100-year floodplain. LO200-23
- 22. P. 5-13, line 3: FEMA accepted the certification submitted by RD 17. This area no longer has a PAL designation. LO200-24
- 23. P. 5-13, line 39: Same as #22.
- 24. P. 5-14, line 6: Same as #22. Also, typo "Weston Ranch."
- 25. P. 5-14, lines 33-38: Certification documentation for all the PAL levees in San Joaquin County were submitted to and approved by FEMA with two exceptions: i) south levee of Bear Creek west of I-5 adjacent to Twin Creeks; and ii) east levee of San Joaquin River from French Camp Slough to Stockton Deep Water Ship Channel and north levee of French Camp Slough from I-5 to San Joaquin River. LO200-25
- 26. P. 5-15, line 16: FEMA has approved the levee certifications for the Stockton Mossdale areas with the exceptions noted in #25. LO200-26
- 27. P. 5-20, line 8: Should be revised. If you have 100-year flood protection, there is a 26% chance of a 100-year event (not flooding because of the 100-year protection) over the life of a 30-year mortgage. LO200-27
- 28. P. 5-20, line 23: It should mention that strong ground motions will not only affect existing levees but also any new water conveyance within the Delta. LO200-28
- 29. P. 5-24, line 30: Should also include commercial/industrial structures. LO200-29
- 30. P. 5-24, line 43: Need to certify after 2015 that 200-year protection is available or adequate progress. LO200-30
- 31. P. 5-35, line 44: Define "major development." LO200-31
- 32. P. 5-42, lines 1-11: See comment #13 in Delta Plan. LO200-32
- 33. P. 5-69, lines 17 & 18: See comment #13 in Delta Plan. Also, why is a conveyance facility failure "unlikely" and a levee failure around development in the Secondary Zone too risky? LO200-33
- 34. P. 23-2, **23.2 Relationship of Delta Plan to BDCP**: This entire section is very confusing. Should be rewritten. LO200-34
- 35. P. 23-24, **Table 23-1**, Alternative 4A increases Delta outflow up to 1.5 million acre-feet/year. All the alternatives, including the existing, should have this information. LO200-35

Response to comment LO200-20

Mormon Slough is part of the Mormon Slough Bypass Project, not the Lower San Joaquin River Control Project. Please see DWR's *State Plan of Flood Control Initial Status Report* (DWR 2008c).

Response to comment LO200-21

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance.

Response to comment LO200-22

A revised Figure 5-3 was issued as an erratum to the Draft Program EIR on November 4, 2011.

Response to comment LO200-23

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance.

Response to comment LO200-24

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance.

Response to comment LO200-25

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance.

Responses to comments LO200-2-24

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance.

Response to comment LO200-27

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance.

Response to comment LO200-28

The text referred to in this comment is addressing existing conditions, not future facilities.

Response to comment LO200-29

The FEMA 100-year base flood protection standards include commercial and industrial structures.

Response to comment LO200-30

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance.

Response to comment LO200-31

As described on Draft PEIR page 2A-47, the term "major development" means a development that is subject to Delta Plan Policy RR P2: a development of five or more parcels.

Response to comment LO200-32

This is a comment on the project, not on the EIR.

Response to comment LO200-33

The referenced portion of Mitigation Measure 5-4 is intended to help provide protection against flooding in the event of levee failure. The word "unlikely" does not affect the measure's effectiveness.

Response to comment LO200-34

Please refer to Master Response 1.

Response to comment LO200-35

Information for Table 23-1 was obtained from published information by California Natural Resources Agency for the Bay Delta Conservation Plan. As discussed in Master Response 3, CEQA does not require quantitative analysis of alternatives.

- 36. P. 23-25, line 1: Define "non-habitat restoration." LO200-36
- 37. P. 23-29, line 40: Define "Fall X2." LO200-37
- 38. PP. 23-31, **23.6.3 Delta Flood Risk**: See comment #33. LO200-38
- 39. P. 23-31, lines 39-41: How can conveyance facilities not have a permanent impact to agriculture? LO200-39
- 40. P. 23-33, **23.6.9 Geology and Soils**: See comment #33. It discusses "reduce" the risk where previous descriptions said failure was "unlikely." LO200-40
- 41. P. 23-34, line 42: Displaced residents are to be "accommodated within the Delta area." How can this be done if development is not allowed in the Delta? LO200-41
- 42. Page 8-44: Section 8.4.3.6.1 Mitigation Measure 8-1, Bullet # 7 should read: Proposed planting vegetation on slopes of canal levees shall conform to existing and proposed Vegetation Policy. LO200-42

The following comments on the 5th Draft of the Delta Plan are provided in hopes that they can be incorporated in future drafts: LO200-43

Fifth draft --- DELTA PLAN:

- 1. P. 6, **Reduce Risk**, 2nd paragraph: It notes that "...it is unlikely that much new large-scale development outside of the existing urban areas will occur in the Secondary Zone of the Delta." If "existing urban areas" means the General Plan or Urban Service Area, then the statement is okay. The plan needs to be more specific on this matter. LO200-44
- 2. P. 22, **Table 1-1**: It notes that Bureau of Reclamation maintains 700 miles of Delta levees. This should be checked and if accurate, shown on a map. 700 miles of "Bureau of Reclamation" levees plus 400 miles of Corps levees equals 1,100 total miles of Delta levees. Where are the locally maintained levees? LO200-45
- 3. P. 23, 6th paragraph: If precipitation ranges from 100 MAF in dry years and 200 MAF in wet years, how can the average be 200? LO200-46
- 4. P. 38, **A Nine-step Adaptive Management Framework**: Will the Conveyance Facility be required to follow this framework for adaptive management? LO200-47
- 5. P. 59, **Figure 3-2**: Is the Conveyance Facility a "covered action"? If so, P. 60 requires that it be "...fully transparent, disclosing potential environmental impacts and identifying how best available science will be used in decision-making and adaptive management." LO200-48
- 6. P. 69, 6th paragraph: 300 MAF in a wet year conflicts with P. 23. LO200-49
- 7. P. 70, 1st paragraph and P. 71, 2nd paragraph: States that over half evaporates. P. 23 adds "flowing out to sea." LO200-50
- 8. P. 82, footnotes 20 and 21 should be 22 and 23. Typo in footnote 22 Urban water supplier---"annually." LO200-51

Response to comment LO200-36

The term "non-habitat restoration" is defined based upon the description of ER P3 on page 117 of the Fifth Staff Draft Delta Plan. This term would include any plan or construction project that was not specifically designed for habitat restoration, including "new or amended local or regional land use plans."

Response to comment LO200-37

Comment noted; the requested change would not affect the evaluation of impacts and determination of significance. Fall X2 is defined in Component 3 of the Reasonable and Prudent Alternative in the 2008 USFWS biological opinion related to delta smelt. Fall X2 criteria would require SWP and CVP to maintain a salinity equal to or less than two parts per thousand at a location no greater than 74 kilometers from the Golden Gate Bridge in September, October, and November of years when the preceding water year was wet; and 74 kilometers in September and October and 81 kilometers in November when the preceding water year was above normal.

Response to comment LO200-38

The risks associated with flooding due to levee failures are considered to be unlikely because all construction would be required by federal and state requirements to be designed to avoid these risks. Therefore, the risks are defined as being "unlikely."

Response to comment LO200-39

In response to this comment, please see text change(s) in Section 5 in this FEIR.

Response to comment LO200-40

The referenced sentence in section 23.6.9 notes that the application of state and federal standards will reduce the risks associated with exposure of people or structures to seismic hazards, unstable geological conditions, or expansive soils. The analyses in Chapter 5 assume, as they must, that structures will, in fact, be constructed to such standards and that risks will consequently be reduced. In other words, it is the state and federal standards that make exposure to these dangers unlikely.

Response to comment LO200-41

As described in Section 16 of the Draft Program EIR, adequate potential exists to accommodate housing for projected populations through 2030 within the Delta and Suisun Marsh as described under existing general plans. Consistent with Delta Plan Policy DP P1, development is anticipated to continue in accordance with current general plans within incorporated cities and their spheres of influence and specified growth areas (as shown in Attachment C-2 in the Draft Program EIR) under the Delta Plan and all alternatives considered in the EIR.

Response to comment LO200-42

Comment noted. The measures listed in the EIR sufficiently cover this suggested action; the suggested change is not necessary compared to what the EIR already lists as mitigation.

Response to comment LO200-43

This is a comment on the project, not on the EIR.

Response to comment LO200-44

This is a comment on the project, not on the EIR.

Response to comment LO200-45

This is a comment on the project, not on the EIR.

Response to comment LO200-46

This is a comment on the project, not on the EIR.

Response to comment LO200-47

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Response to comment LO200-48

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Response to comment LO200-49

This is a comment on the project, not on the EIR.

Response to comment LO200-50

This is a comment on the project, not on the EIR.

Response to comment LO200-51

This is a comment on the project, not on the EIR.

9. P. 87, 3rd paragraph: States that "BDCP will include a scientifically based adaptive management program to ensure incorporation of new scientific information into decisions on water management and conservation measures." Does that mean that it will be used on the Conveyance Facility? LO200-52
10. P. 88, 3rd paragraph: States that "The SWP, which owns and operates the dams in the state's lowest-elevation watersheds." This is inconsistent with the Central Valley Flood Protection Plan. LO200-53
11. P. 162, Figure 7-1: It is accurate that risks can increase after flood control improvements, if development increases. But the facts should be corrected. To meet NFIP regulations, the urban development must be protected from the 100-year flood event (1% event). Therefore, a 1% event would be contained within the leveed channel and would not cause \$1 million/year in damages. LO200-54
12. P. 165, RR P1: There should be no exceptions for encroachments in the floodway (i.e. ecosystem restoration) that decrease the existing level of flood protection. LO200-55
13. P. 166, **Levee Classifications for Protection of Land and Resources Uses**, 4th paragraph: States that "...flood hazards in the Delta cannot be eliminated... Therefore, to be assured consistency with the Delta plan, future land use decisions should not permit or encourage construction of significant numbers of new residences in the Delta in the face of the flood hazards." This conflicts with the EIR, PP. 23-30 & 23-31, which states that BDCP-related ecosystem restoration and enhancement and Delta conveyance "are not likely to expose people or structures to flood hazards...because the design of levee modifications...would be required by federal and State law to be completed in accordance with the requirements and guidelines of the U.S. Army Corps of Engineers,...Federal Emergency Management Agency,...Central Valley Flood Protection Board, DWR and local flood management agencies." Why are these levees "not likely to expose people to flood hazards", but levees built to the same standards to protect residences should not be permitted? LO200-56
14. P. 172, 1st paragraph after the bullets: The "200-year design standard" must be in place by 2015 and the improvements completed by 2025. LO200-57
15. P. 173, RR R4: What authority would allow a local agency to prohibit the "siting of future permanent structures...to accommodate future setback levees?" LO200-58
16. P. 182, RR R10: There are too many unknowns/questions on the role and responsibilities of the Delta-wide benefit assessment district for flood management LO200-59
17. P. 191, 1st paragraph: Should be clarified to state that much of Stockton is a Delta community. LO200-60
18. P. 193, **Figure 8-1, Legend**: What is "Urban Interface Zone"? Why only in the Stockton area? LO200-61
19. P. 196, **Economic Sustainability**: Is Stockton a "legacy community"? LO200-62
20. P. 211, **FP R4**, What is the funding source for the non-General Fund and non-general obligation bonds? LO200-63

Response to comment LO200-52

This is a comment on the project, not on the EIR.

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Response to comment LO200-58

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Response to comment LO200-61

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Response to comment LO200-62

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Response to comment LO200-63

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Delta Stewardship Council
February 1, 2012
Page 6

21. P. 211, **FP R6**, 3rd bullet: Should discuss the role/responsibilities of the "fiscal partner."] LO200-64

We look forward to providing input on any revisions to the EIR or Delta Plan. If you have any comments or would like to discuss further I can be contacted at (209) 937-8339 or by email at jim.giottonini@stocktongov.org.] LO200-65



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Response to comment LO200-64

This is a comment on the project, not on the EIR.

Response to comment LO200-65

Comment noted.