February 2, 2012

VIA ELECTRONIC MAIL: srfcomments@deltacouncil.ca.gov

Mr. Phil Isenberg
Chair, Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, California 95814

Re: Draft Delta Plan EIR

Dear Chairman Isenberg and Members of the Council:

Ducks Unlimited has reviewed the 5th Draft of the Delta Plan (the Plan) and the accompanying DEIR. Our comments and concerns are focused on the effect of the Plan and its implementation on the wetlands that utilize wetland habitats in the Delta/Suisun Marsh, Sacramento Valley and the San Joaquin Valley and the mitigation of adverse impacts, or lack thereof, that is being proposed to offset those impacts.

Generally speaking our concerns can be summarized as follows. First, the Plan indicates that it is not proposing specific projects, but rather, is providing a set of “Policies” and “Recommendations” that will guide the Council in its consideration to approve, for consistency with the Plan, future proposed projects, aka “covered actions.” The Plan proposes policies and recommendations that promote the restoration of the wetland habitats, primarily tidal wetlands, needed to fill the deficit of critical fish rearing habitat in the Delta. However, it fails to recognize that much of the land where historic tidal wetlands occurred, after having been “reclaimed” agriculture for decades, has been restored to seasonal managed wetlands critical to the needs of an entirely different suite of species—birds. Despite the fact that provisions of the Delta Reform Act of 2009 requires that habitat be restored to ensure that there be no net loss of migratory bird habitat, neither the Plan or the DEIR propose measures to avoid such impacts or to mitigate for the likely mass conversion of one habitat (managed seasonal wetlands) to another (tidal wetlands). Second, the policies contained in the Plan to promote the adoption of updated flow requirements by the State Water Resources Control Board could have a significant detrimental impact on water supplies to wetlands and agricultural lands important to migratory birds in various portions of the Sacramento Valley, the Delta and the San Joaquin Valley. While the Plan and DEIR does not describe it, we suspect that updated flow requirements would constitute higher flows through the Delta in the winter months and lower ones in the summer. If so, the increased flow through the Delta would likely result in less water available to, among other purposes, birds both in and outside the Delta. This impact is not described, analyzed or mitigated.

Third, the “Delta as a Place” is described and policies and recommendations are proffered to address the economic sustainability of the region. The obvious opportunities to integrate economic values of recreation and agriculture are not discussed or suggested. Fourth, although the Delta Plan does not specifically address conveyance of water, it could and should contain policies that prevent or mitigate for transfer of water supplies from the Sacramento Valley and Delta to other regions of the State to the detriment of valuable private and public wetlands.
Response to comment OR107-2
This is a comment on the Project, not on the EIR.

Response to comment OR107-3
This is a comment on the Project, not on the EIR.

Conversion of seasonal managed wetlands to tidal wetlands. In previous correspondence we have stressed the critical nature of the entire Central Valley with respect to supporting breeding, migrating, and wintering waterfowl and other water bird populations. The remaining wetlands—virtually all intensively managed and artificially irrigated—serve as the primary wintering ground for the entire Pacific Flyway. The Delta is one of the Valley’s key areas for wintering migratory birds. The Central Valley once contained over four million acres of wetlands and supported 20-40 million wintering waterfowl annually. Today its wetlands have been reduced by close to 95%. Nevertheless, it still constitutes, quite possibly, the most important migratory bird habitat on the entire planet. Every acre that we are able to protect and restore for this purpose is critical.

Ducks Unlimited, our supporters, allies and partners have protected and restored thousands of acres of wetland habitat in the Central Valley, utilizing literally hundreds of millions of public and private dollars. This work has been conducted over many years but accelerated since the enactment of the North American Waterfowl Management Plan and the creation of the Central Valley Joint Venture. Delta wetlands play a pivotal role in the overall effort, and currently serve a large portion of the five to six million birds that live in the Central Valley from August through April. The Central Valley Joint Venture partnership, on which DU and 19 other NGOs and public agencies participate, has adopted a long-term implementation plan that is based on rigorous science and realistic habitat expectations. In the Delta, this partnership has restored over 8,000 acres of wetlands and enhanced approximately 30,000 agricultural acres for migratory birds. We remain focused on completing our goals for the Delta, which will require restoring another 10,000 acres of seasonal wetlands and enhancing 52,000 acres of agricultural lands.

Much of this work can be undone by converting the thousands of acres of managed seasonal wetlands to tidal wetlands. Historically, the Delta and the rest of the Central Valley supported many times the number of migratory birds it does now, enjoying the more “natural flow regime” where rivers overflowed and wetlands were naturally irrigated by flood waters. Due to the massive conversion of natural wetlands to agriculture and urbanization and the manipulation of the region’s hydrology, it is impossible for the functions and values of these natural seasonal wetlands to exist independently. Therefore, we have created managed wetlands, where land is “farmed” for the food plants needed by the visiting flocks and irrigated through gates and canals. This effort is rewarded by higher values for migratory birds than possible under unmanaged conditions. Tidal wetlands provide some food and other habitat needs for birds, but are less valuable at a ratio of about 7:1. That means that when seasonal wetlands are converted to tidal wetlands and “natural” processes are left to endulate, there is a major decline in habitat value for migratory birds. Focusing on just fish, as the Delta Plan does, may result in a significant decrease in the capacity of the region to serve the biological needs of other wintering and resident wildlife.

With that in mind, Ducks Unlimited and our CVJF allies sought language and amendments to the originally drafted Sacramento-San Joaquin Delta Reform Act of 2009 (the Act) to ensure that, as policies were developed, actions taken and projects were implemented to protect, restore and enhance the Delta ecosystem, they would not favor one species or group of species over the other and would not adversely impact the ecological values already provided by previous conservation work. According to the Act, the implementation of the Delta Plan shall further the restoration of the Delta ecosystem and include measures that promote, among other things, “viable populations of native resident and migratory species [Section 83502 (a) (1)].” Even more specifically, the Delta Plan was required to contain the following subgoals and strategies for restoring a healthy ecosystem: (i) Restore habitat necessary to avoid a net loss of migratory bird habitat (emphasis added) and, where feasible, increase migratory bird habitat to promote viable populations of migratory birds [Section 83502 (e) (6)]. We intended that language to result in a Delta Plan that addressed this habitat conversion issue, avoided detrimental impacts to migratory birds and contained policies and recommendations to ensure that there would be “no net loss of functions and values” for these species’ habitats. To comply with these legally binding
Response to comment OR107-4

Please refer to Master Response 5.

Response to comment OR107-5

The Delta Protection Commission completed its Economic Sustainability Plan for the Sacramento-San Joaquin Delta (“Economic Sustainability Plan”, DPC 2012) after issuance of the Draft EIR. RDEIR (Vol. 3), p. 2-13; Final Draft Delta Plan, pp. 178-179. The Final Draft Delta Plan incorporates recommendations from this document, which are particularly relevant to discussions of socioeconomic effects in the primary zone of the Delta (see, e.g., Final Draft Delta Plan, pp. 178-179, 211; Economic Sustainability Plan, p. 20-22). Where socioeconomic issues could translate into physical changes, the EIR evaluates the potential adverse environmental consequences of those potential physical changes. Otherwise, social and economic impacts are not effects on the environment under CEQA, and are not analyzed in the EIR (CEQA Guidelines §§ 15064(e) and 15131). See also Master Response 2.
Response to comment OR107-6

As described in Section 2B of the Draft Program EIR and Master Response 2, 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.

To the extent that the comment refers to the proposed BDCP, this 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. See also Master Response 1.

Response to comment OR107-7

Comment noted.