COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State Water Contractors	5/6/2011	ALL	THIRD STAFF DRAFT DELTA PLAN: In addition to the comments provided here, the SWC has participated in and fully supports the May 6 coalition letter signed by the State and Federal Water Contractors Agency (SFCWA) and in the separate May 6 comment letter of the SFCWA.	Noted. Thank you for your comment.
Sacramento Regional County Sanitation District	5/6/2011	ALL	THIRD STAFF DRAFT DELTA PLAN: Any language changes that were not made to the Third Draft, as recommended in our Second Draft comment letter still apply.	Noted. Thank you for your comment.
State and Federal Contractors Water Agency	5/6/2011	APs	THIRD STAFF DRAFT DELTA PLAN: Appendix 1, Page 7, Section 23: We reiterate our previously stated objection to the standard of review the Council has asserted for itself for review of the Department of Fish and Game's certification of the Bay Delta Conservation Plan should that certification be appealed to the Council pursuant to section 85320 of the Delta Reform Act. The Council should base its review of an appeal on the Chevron administrative review standard and not the "preponderance of the evidence" standard it has adopted for itself.	Noted; text not modified Council's appeals procedure is available online at: http://deltacouncil.ca.gov/sites/default/files/documents/files/Appeals_Regs.pdf
Stockton, City of	5/5/2011	APs	THIRD STAFF DRAFT DELTA PLAN: Appendix A, P. 11 discusses exception of "covered actions" within the secondary zone when the MPO has determined it is consistent with either a Sustainable Communities Strategy or an Alternative Planning Strategy that would achieve specified greenhouse gas emission reduction targets. The City is requesting that the Delta Stewardship Council explain in detail the process of how "plans, programs, projects, or activities would be exempted from the definition of a "covered action".	Noted; text not modified Council staff is happy to meet to discuss further
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Consistent with California Water Code (CWC) sections 85300(a) and 85067, the Delta Plan should consider each of the strategies and actions identified in the Delta Vision Strategic Plan and the Delta Vision Implementation Report.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: to be consistent with CWC section 85211, the Delta Plan should include quantitative or otherwise measurable assessments that will enable the DSC to track progress in meeting the objectives of the Delta Plan. Numerous Delta Plan performance measures lack measurable assessments that would enable the DSC to track progress in meeting explicit objectives.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 8, lines 1 & 2 Mention should be made here of the Delta Vision process also.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 8, lines 29 - 44 The text should mention the Delta Protection Commission's (DPC) economic sustainability plan and the Delta Conservancy's strategic plan in this section.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 9, line 18 The phrase "water exports from" should be placed after "reliance on".	Text was modified This section was deleted or substantially rewritten in the 4th staff draft
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 9, lines 39 – 40 There are many locally owned and operated water storage reservoirs upstream of the Delta which contribute to the issues described here. These include Pine Flat, Comanche, New Don Pedro, New Hogan, Hetch Hetchy, Cherry Valley, McClure, New Bullards Bar to name a few.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 9, line 38 The plan states there are numerous pipes and canals that carry water from east to west in isolation. The Mokelumne Aqueduct is one such pipe. Please provide examples of the others.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, lines 4 – 6 California also must rely on "large systems of storage and conveyance" because most of the precipitation falls in the northern part of the state, while most of the population resides in the southern part. The text should mention this.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, line 11 The plan states that reduced and variable fresh water flowing into the Delta is degrading water quality and threatening survival of multiple native fish species. Variable fresh water flowing into the Delta is a natural part of the Delta's ecosystem and is not a threat to native fish species. The current variability of the Delta's fresh water supply is less than historic variability. This sentence should be revised to either remove the word 'variable' or be modified to indicate that it is the modified hydrograph that may threaten survival of multiple native fish species, not the variability itself.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, line 32 The plan states that the State Water Resources Control Board (State Board) has no clear authority to manage groundwater. This should be revised to more accurately reflect California groundwater policy. The Porter Cologne Act authorizes the State Board to manage discharges to groundwater that may impact water quality. Note that CWC sections 2100-2101 authorize the State Board to manage groundwater pumping.	Text was modified Information put into groundwater section, Chapter 4
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, line 37 After "catastrophic" add "levee."	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, line 38 Please add "seismic events" to the list provided here.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, lines 42 - 43 The statement that the cost of maintaining or improving levees is sometimes more than the value of the use of the land is not quite accurate. Levee maintenance on an annual basis can be just a few thousand dollars per mile for some islands. For other islands, even $1million per mile for levee improvement may not exceed the value of the land on the island.	Text was modified Added citation
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 11, lines 4 - 5 The plan indicates that by 2100, changes will result from seismicity. This sentence should be modified to state that changes may or are likely to result from seismicity.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 12, lines 3 - 4 The plan states that California will have a fully integrated, "real time system for tracking and evaluating water use and water quality" for both surface water and groundwater supplies but lacks specifics on how that will be achieved. There are significant cost implications associated with real time tracking of water resources that should be discussed in the Finance Framework.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 12, lines 11 - 12 The Plan states that "urban per capita water use is reduced by 50 percent or more statewide." From what base year is the 50 percent reduction made – is that from current conditions?	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 13, line 10 and line 17 Please add "and improvements" after "repairs" on both of these lines.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 13, line 17 A range of sea level rises should be given and a source should be cited. Also, the phrase "sea level rise of more than 55 inches" is contradicted by Table 1-1 on Page 11 of this draft report. These numbers should be consistent.	Text was modified
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 14, Figure 1-1 There have been no State Water Project (SWP) or Central Valley Project (CVP) deliveries to the Coachella and Imperial Valleys, as shown on the map. There have been water exchanges between Metropolitan Water district of Southern California (MWDSC) and Coachella Valley Water District (CVWD), which has allowed the latter to receive indirectly some of its SWP entitlement. The Central Coast area shown receiving Delta water is way too large.	DSC staff to consult with DWR on map
California Department of Water Resources	4/22/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 15, line 2 Delete the word "discretionary" as that term has a specific meaning in CEQA, and replace it with "advisory" or "recommended."	Noted; text not modified
California State Board of Food and Agriculture	5/4/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: This draft continues to rely on the erroneous premise that the Delta Stewardship Council has the statutory authority to regulate actions outside the Bay-Delta proper.	Refer to Delta Reform Act for Council authority Council has authority over covered actions, as specified in statute

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California State Board of Food and Agriculture	5/4/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Clear Statutory Limits of the Delta Stewardship Council's Jurisdictional Scope The Water Code, in section 85057.5(a) (1) provides a geographic scope of "covered actions" that is limited to those that occur at least in part within the Delta. That does not include the ability for the Delta Stewardship Council to regulate integrated water management plans, water-use reporting, groundwater use, rate structures or other actions taken by water agencies outside of the Delta and Suisun Marsh.	Disagree See legal authority attachment to letter: http://deltacouncil.ca.gov/sites/default/files/documents/files/MeralLetter05312011.pdf
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Chapter 1, Geographic Scope and Use of the Delta Plan. Page 13-15. We support your statement that the "geographic scope of the Delta Plan must include areas that divert water upstream of the Delta and those areas that export water from the Delta." We fail to see how a Delta Plan can succeed if it does not consider the significant interconnectedness of our engineered water supply system. Geographic areas that supply water and areas that use the same water in a different geographic area have a direct connection with each other and must be considered as a part of the overall plan. We concur that the Delta Reform Act of 2009 provides the authority to cover certain statewide water issues that are vital to sustainable management of the Delta. We do not agree with the ACWA position that would limit both the geographic area and the Council's authority in the Delta Plan.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Chapter 1, Page 10, lines 22 to 25, "Reliability of the State Water Project" Inclusion of such a chart and accompanying text would only reinforce the false notion that full contract deliveries are a performance measure for water supply reliability. From the inception of the State Water Project and before that the Central Valley Project it was always anticipated that there would be many years when the contracted amounts would not be available. As the draft correctly points out elsewhere, water supply reliability can only be achieved by a mix of strategies that actually reduces reliance on the Delta and brings expectations in line with experience and reality.	Text was modified This section was deleted or substantially rewritten in the 4th staff draft

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Chapter 1, Page 13, line 1, Phasing of the Delta Plan and the First Five Years. It is good to see acknowledgement of the reality of phasing. However after the call out of the First Five Year period in the title of this section, there is no clear articulation of all the activities the plan would encompass in the first five years. That would be a very helpful addition.	Text was modified This section was substantially rewritten in the 4th staff draft
Coalition of Water Agencies that use Delta Water	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The Delta Reform Act (SB X7 1) contemplates that the Delta Plan will serve as a "comprehensive, long-term management plan for the Delta." Water Code §85059. The Council has yet to set forth a program that coordinates and synthesizes the efforts of local, state, and federal agencies in a way that achieves the coequal goals. To the contrary, the Third Draft, like its predecessors, is a long list of proposed regulatory policies that the Council intends to approve and implement. This approach is problematic for several reasons. First, and most fundamental, there is no Plan, but only a series of proposed regulatory acts. Second, this approach effectively ignores the good work in ecosystem restoration, water supply reliability, Delta preservation, and flood control being done by other agencies, and instead requires the Council to "reinvent the wheel" in the form of a wholly new regulatory apparatus. Third, the document lacks cohesion. To create a Plan, rather than a collection of scattered regulatory acts, the Third Draft must include the following three revisions.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Water Agencies that use Delta Water	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: the next draft Plan should more clearly describe its long-term vision for the Delta (pages 11 and 12); consistent with Water Code sections 85020 and 85300-85309. The emphasis must be on a comprehensive approach which includes the necessary investments in the Delta for improving statewide water supply reliability and reducing the multitude of stressors on the ecosystem. Moreover, this must be accomplished in a manner that protects the unique character of the Delta, including enhancing the Delta economy, protecting the quality of the Delta environment, and providing for public safety through improved flood protection. We suggest that the fourth draft identify the elements of a Delta solution that can be achieved by each of the milestones identified on page 13 of the current draft, as well as the "near-term" and intermediate term timeframe discussed at the Council meeting last week. In this way, the revised Delta Plan can identify targets associated with the implementation of the Delta Plan and ways to measure progress towards the coequal goals.	Text was modified Addressed in 4th staff draft: inclusion of performance measures, metrics, more information on phasing
Coalition of Water Agencies that use Delta Water	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: the Delta Plan should identify all of the programs, policies and actions currently being undertaken by various organizations and agencies that could assist or interfere with achieving the coequal goals.	Noted; text not modified
Coalition of Water Agencies that use Delta Water	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: the Delta Plan should identify all of the programs, policies and actions currently being undertaken by various organizations and agencies that could assist or interfere with achieving the coequal goals.	Noted; text not modified Fourth draft Delta Plan contains many agency programs, policies, and actions, and identifies where they should be prioritized or changed Disagree that an exhaustive list should be included

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Water Agencies that use Delta Water	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The Council should help the approximately 200 agencies with authority in the Delta to work better together, not just become the 201st regulatory agency. If additional regulations had been the goal, the Legislature could have easily abolished or transferred those agencies' authority and obligations to the Council. Instead, the Legislature recognized that achieving the coequal goals would only be possible if the Council provided the coordination amongst the other agencies necessary to resolve the problems facing the Delta, not duplicate those agencies' efforts.	Noted; text not modified The legislature directed the Council to develop a legally enforceable plan. The Council also has a coordinating role among government agencies with roles in the Delta.
Coalition of Water Agencies that use Delta Water	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Water Code section 85308(a) requires the Council to base the Delta Plan on the best available science and the independent scientific advice of the Independent Science Board (ISB). Unfortunately, the Third Draft, like its predecessors, does not comply with this direction. In its letter to the Council dated March 22, 2011, the ISB described the problems facing the Delta as "wicked" and admonished the Council for failing to use the best available science as the basis of its policies and recommendations to address those problems. The Third Draft failed to correct this noted deficiency. This represents another failure to satisfy the legislative direction in the Act. Water Code §85308(f). More recently, in a report presented to the Council last week, the ISB noted that the framework and structure of the Third Draft is not consistent with providing the requisite foundation and parameters for an adaptive environmental management program that will be necessary to adequately address the problems facing the Delta. Specifically, the ISB report stated that "new issues of trust and trust-building processes, including adequate monitoring and transparency, need to be addressed to formally set the stage for a clear and successful transition to AEM [adaptive environmental management]." (See Agenda Item 12, Attachment 1 of the DSC April 28-29, 2011 meeting.)	The fourth draft Delta Plan contains many changes in order to address comments from a range of stakeholders and from the ISB. The ISB will also review the fourth draft Delta Plan and can point out any lingering concerns.

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Contra Costa County Department of Conservation & Development	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, line 20. We still disagree with the statement that regulatory and legal constraints on water allocations threaten the state's economy. The plan document provides no source or justification for this statement. It is a prejudicial statement that seems intended to make "reliable supply" a more important goal than "ecosystem health." As we mentioned in our comments on the Second Draft, academic research by the University of the Pacific has demonstrated that regulatory restrictions have not significantly harmed the economy of the Central Valley. If the Delta Stewardship Council (DSC) truly embraces the co-equality of the co-equal goals, then the statement about the economy is inconsistent with that and should be stricken. If the DSC has technical sources for this statement, the source document(s) should be referenced in the plan for peer-review.	Text was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Although there is a section in the current draft of the Delta Plan for "phasing of the Delta Plan and the first five years" (p.l3), there are no milestones or performance measures included for the first five years. The Delta Plan should include performance milestones for the first five years of the Delta Plan such as water supply reliability improvements, ecosystem restoration projects, emergency preparedness improvements, levee improvement priorities, and conveyance and/or storage improvements. The Delta Plan should contain time-bound and measureable milestones for each of these activities.	Text was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: This chapter lacks references and the legislation clearly states that the Delta Plan should be based on the best available science. The references should be peer-reviewed journal sources whenever possible. Please update references in this chapter and throughout the document as consistent with the charge to use the best available science.	Text was modified All references have been revisited and revised, where necessary. Chapter 1 now includes additional references.
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 9 lines 30- 31 - need references for the numbers given.	Section was modified

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Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 9 line 36 - should include a description of the State Water Project and the Central Valley Project with references.	Section was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 9 lines 39-42 - need references	Section was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 10 line 11 - need reference	Section was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 10 line 17 - need reference	Section was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 10 line 36 - should also acknowledge that upstream reservoirs provide flood protection and water supply. Those dual objectives complicate water management and add a degree of operational inflexibility	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 10 line 40 - needs reference	Section was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 11 Table 1-1 - The references for this table are incomplete in the footnotes. The population increase seems too optimistic if it is based on pre-recession data. The probabilistic statements in the table are confusing at best and most likely incorrect, especially for the high water reference. The table could be restructured so that there is a column to quantify the existing or recent historical values and another column indicating values for a future date and a description of the change.	Table was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 12 line 10 - needs a reference	Section was modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 12 line 11 - It is not clear from this description over what period this reduction will be achieved.	By 2100
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: p. 12 line 16 - need to clarify if imported water interruptions are for short or long duration since large percentage of the state relies on imported water.	Noted; text not modified Addressed in Chapter 4

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Performance Measures - The section on page 11 describing what the Delta Plan will achieve by 2100 is the appropriate place to introduce specific performance metrics. For example, what is the current level of state-wide water supply reliability and what should the target goal be in the future. How many restoration projects have been completed to date and how many more are scheduled for completion in the near future. What will the completion of those projects mean in the context of achieving the coequal goals?	Text was modified Addressed in 4th staff draft
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Immediate Actions - This chapter should also include concrete milestones for the first five years as the heading suggests on page 13. Please include a timeline similar to the one provided below in this section. Initial five years (2012-2016) • Develop and implement a strategy to appropriately engage participation of the federal agencies with responsibilities in the Delta (Section 85082) • Review, adopt and implement a coordinated emergency response plan (Section 85309) • Review and consider Delta flow criteria (Section 85084.5) • Review and consider Bay Delta Conservation Plan (Section 85302) • Implement levee improvements to protect key infrastructure • Increase conservation of consumed water • Increase water recycling especially in export areas where wastewater is not returned to Delta tributaries, the Delta, Suisun Marsh or Suisun Bay • Improve treatment and water quality of wastewater discharges and runoff (urban and agricultural) to Delta tributaries, the Delta, Suisun Marsh and Suisun Bay • Implement Two Gates Fish Protection Demonstration Project (Section 85085 (a)) • Evaluate effectiveness of, and implement a viable Threemile Slough barrier (Section 85085 (b)) • Implement Pilot Fish Screen Project at Clifton Court Forebay (Section 85085 (c)) • Implement Dutch Slough Tidal Restoration Project (Section 85085 (d)), including completion of Contra Costa Canal Encasement Project • Implement 8,000 acres of habitat restoration projects, per the existing permit conditions • Complete new storage feasibility studies (including environmental documents where required)	Noted; text not modified

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Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Please include a timeline similar to the one provided below in this section. Near Term (2017-2025) • Implement BDCP if included in Delta Plan • Continue levee and emergency response planning and implementation • Implement storage projects • Continue conservation of consumed water • Continue water recycling especially in export areas where wastewater is not returned to Delta tributaries, the Delta, Suisun Marsh or Suisun Bay • Improve treatment and water quality of wastewater discharges and runoff (urban and agricultural) to Delta tributaries, the Delta, Suisun Marsh and Suisun Bay	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Please include a timeline similar to the one provided below in this section. Mid-Century (2026 - 2050) • Implement additional habitat restoration programs • Continue implementation of other programs (levees, emergency planning, ecosystem restoration, water quality and supply projects) • Continue conservation of consumed water • Continue water recycling especially in export areas where wastewater is not returned to Delta tributaries, the Delta, Suisun Marsh or Suisun Bay • Improve treatment and water quality of wastewater discharges and runoff (urban and agricultural) to Delta tributaries, the Delta, Suisun Marsh and Suisun Bay Long Term (2051-2100) • Restore large areas of interconnected habitat (Section 85302(e))	Noted; text not modified
Delta Wetlands Project	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Clarify the standard of review for determining consistency. Because the Plan is encompassing and ambitious, and because specific covered actions will have more limited goals, it is important that consistency determinations be a balancing process. Most covered actions will address something less than the full set of Plan objectives, and no covered action will address all Plan goals equally. Consistency determination should not require all things from all projects. The fundamental obligation of consistency should be that a project assess its impacts on Plan goals (positive and negative) and not render any of the goals unattainable.	Text was modified Chapter 3 has been updated and revised for greater clarity in the 4th staff draft

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: First, its description of "Current Conditions" on page 9 needs to be clear and accurate. As currently written, it will confuse the readers as to where and how water is diverted. The section suggests that "numerous pipes and canals that carry waterfront east to west in isolation" are responsible for as much as a 30 percent reduction in Delta flows. EBMUD has seen similar inaccurate information in other documents, and we believe it is very important that corrections are made here and anywhere else. As written, the section implies that the Mokelumne and Hetch Hetchy Aqueducts are responsible for as much as a 30 percent reduction in Delta inflows. We have provided specific edits to correct this information to reflect that these two conveyance systems combined divert only 1.3 percent of water from the watershed	Text was modified This section was revised in the 4th staff draft
East Bay Municipal Utility District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: describe the geographic scope of the Delta Plan in a manner consistent with the statutory requirements, including Section 85302(b) of the Sacramento-San Joaquin Delta Reform Act, which states "The geographic scope of the ecosystem restoration projects and programs identified in the Delta Plan shall be the Delta, except that the Delta Plan may include recommended ecosystem projects outside the Delta that will contribute to achievement of the coequal goals." The language in the Third Draft regarding both the scope of the Delta Plan and the scope of the covered actions does not accurately state the Legislature's intended scope of the Delta Plan and its regulatory effect.	Noted; text not modified
East Bay Municipal Utility District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Pg. 9, lines 12- 13 This sentence is confusing and the parenthetical mention of covered actions appears to be misplaced. The parenthetical appears to equate "adverse impacts on the Delta" with "covered actions." Suggested edits are to make meaning clear. Consider a re-write of this sentence, or at a minimum: "... first step toward achieving the coequal goals is to avoid ~~adverse impacts on the Delta ("covered actions") or the coequal goals from:~~"	Text was modified

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East Bay Municipal Utility District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Pg. 9, lines 36-38 While it is true that the average Delta inflow has been reduced by approximately 30 %, the "numerous pipes and canals"', an apparent reference to the Mokelumne and Hetch Hetchy Aqueducts, are responsible for only a very small fraction of that reduction. The Mokelumne and Hetch Hetchy conveyance systems combined divert a total of only 1.3 % of the water from the watershed. In total, municipal and industrial withdrawals upstream of the Delta contribute to about a 10 % reduction in Delta inflow. Most of the Delta inflow reduction is the result of upstream consumptive use, NOT diversion through "numerous pipes and canals that carry water from east to west in isolation." Suggested edits are accurate and less likely to mislead the reader. Alternatively, we recommend deleting the paragraph. "... the average volume of water flowing into the Delta has been reduced by approximately 30 percent in the last 100 years as a result of upstream consumptive use, as well as diversions of water for use outside of the watershed. ~~The Delta now has numerous pipes and canals that carry water from east to west in isolation."~~	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Pg. 13, lines 22-25 The geographic scope of the Delta Plan as written is not consistent with Section 85302(b). This section of the statute defines the geographic scope of the projects and programs of the Delta Plan as the Delta, but further states that the Delta Plan "may include recommended ecosystem projects outside the Delta that will contribute to achievement of the coequal goals." The section should be the reference point for the Plan. Lines 23 and 24 of the draft assert that "the Delta Plan must include areas that divert water upstream of the Delta and those areas that export water from the Delta.'" This is an incorrect statement of the statutory language, and neither section 85302(b) nor the other provisions of the statute that mandate, or even recommend, that all areas that divert water upstream of the Delta be included in the geographic scope of the Delta Plan. Suggested edits ensure consistency with the statute. "The geographic scope of the ecosystem restoration projects and programs identified in the Delta Plan shall be the Delta, except that the Delta Plan may include recommended ecosystem projects outside the Delta that will contribute to achievement of the coequal goals." ~~Because California's water supply reliability and Delta ecosystem concerns are united in the Delta, the geographic scope of the Delta Plan must include areas that divert water upstream of the Delta and those areas that export water from the Delta. This is virtually the same planning area used for the CALFED Bay Delta Program."~~	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Pg. 13, lines 32-35 While the final sentence in the last paragraph references sections 85020, 85302, 85303, 85304, and 85307 as the authority that the Council has used in determining the scope of the Plan and the areas that it will cover, the discussion of the scope and use of the Plan does not include a similar recognition of the language in section 8503 l(c) stating that the Sacramento-San Joaquin Delta Reform Act does not supersede, limit, or otherwise modify the applicability of Chapter 10 of Part 2 of Division 2 of the Water Code, or the language in section 8503 l(d) stating that the Act does not supersede, reduce or otherwise affect existing legal protections, both procedural and substantive, relating to the SWRCB's regulation of diversion and use of water, including, but not limited to, water right priorities, the protection provided to municipal interests, and changes in water rights. The Draft Plan should acknowledge these provisions and should also more explicitly recognize the statements in section 85032 that the Act is not intended to affect state and federal endangered species laws or any water right. Add a paragraph on page 13 that recognizes the provisions of section 85031 and 85032, and specifically notes that the Act is not intended to affect water rights and is not intended to supersede, reduce or otherwise effect existing legal protections, including protections for municipal interests.	Noted; text not modified
Glenn-Colusa Irrigation District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: current underlying theme of the Plan is to create enough inherent risk through the Plan that entities are forced to implement actions to avoid being regulated. Alternatively, and perhaps as more of a business and collaborative approach, the Plan should focus on stability and ensuring that regions remain sustainable and water supplies, regional ecosystems, and investments are respected. With that foundation instead of a threat of risk, regions can then undertake new actions and investments that will keep them sustainable and contribute to improving the Delta.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The 2012 Delta Plan (Page 8) The title of this section is misleading and it is unclear as to what this section is trying to accomplish. At first read, it appears that this section summarizes what the critical components of the first Plan will be for the initial 2012-2017 period. This section could also be read to state that the major components of the initial Plan are actually actions of others that may be included in the Plan, and those actions by others could result in the Plan succeeding in meeting the defined objectives. If the latter is the case, it would seem that a more applicable title to this section would be "Critical Actions by Others," which would allow the reader to understand that the Plan is relying upon other non-Plan actions to meet the goals and objectives of the Legislation.	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Current Conditions (Page 9) This section fails to point out that not only were the mentioned projects built for water supply benefits but most, if not all, included a significant component and benefit for flood control protection. The public demanded that these State, Federal, and even local projects not only have water supply benefits, but significant flood control benefits that have also contributed, for example, to the loss of wetlands and the construction of smaller levees in the Delta. Absent these projects and flood protection, the Delta would have flooded and continue to flood on a regular basis. These projects indirectly allowed for further reclamation of lands within the Delta.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, line 26. The Plan states that, "... California's water managers do not know how much water is being used on an annual basis." This statement is overly broad and doesn't justify some of the other conclusions reached in the Plan. For example, what managers does the Plan refer to, local water managers, the state's water managers, or policy makers? The statement also seems in conflict with the Council's December 8, 2010, Water Resources White Paper which goes into great detail as to how much and where water is used in the State for differing purposes. The White Paper provides a good water budget for the State and regions and, in fact, does show how much water is used on an annual basis. Perhaps a more appropriate statement is that it is difficult to know, on a real-time basis, how much water is being used during a given year.	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Phasing of the Delta Plan and First Five Years (page 13) This section lacks detailed information on what the Plan intends to accomplish in the near term especially given the statement on line 18 that, "the initial five years after adoption of the Delta Plan will be critical to its success." This section should focus on those key actions that will lead to the Plan succeeding. There should be clear performance measures and objectives included in this section that will allow the reader to determine how the balance of the Plan document will define the process to meet these measures and objectives. Also, for agencies that may be subject to covered actions, it will be important to know what the objectives and priorities will be for the next five years. To cite the expression, "if you have nothing to shoot at, you will miss every time."	Text was modified
PAC Environmental and Urban Land Use Planning Consulting Services	4/26/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: I, also, wanted to extend my appreciation to the Delta Independent Science Board (ISB) for their comprehensive and analytical comments on the "findings" section and for going far beyond and above what I would have expected such a board to take on as their responsibilities in reviewing the document.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
PAC Environmental and Urban Land Use Planning Consulting Services	4/26/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: 1) In the sections pertaining to biological populations and sustainability failure and the necessity to address the need as such, I have noted that there is only one map contained within the document as, so far, presented. There are no map views or plan views of population migratory patterns and potential population dynamic failure causal areas. No section views of appropriately engineering designs for redressing the issues such as remedies pertaining to diverting, moving, transferring or pumping water resources around the Delta from the Sacramento River to the transfer pumping stations and the recommendations as to how they should be constructed, or other remedies as to how the current situation could or should be repaired or redressed. For the reasons I have expressed above I believe there should be.	Additional and updated maps and graphics included in the fourth staff draft of the Delta Plan. Revisions are ongoing for inclusion in future drafts.
PAC Environmental and Urban Land Use Planning Consulting Services	4/26/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: 2) In the sections pertaining to potential levee failure and necessity to address the need as such As such, I have noted that there is only one map contained within the document as, so far, presented. There are no map views or plan views of potential levee failure areas. No section views of appropriately engineering designs for levees as they should be constructed, repaired or redressed. For the reasons I have expressed above I believe there should be.	Additional and updated maps and graphics included in the fourth staff draft of the Delta Plan. Revisions are ongoing for inclusion in future drafts.
PAC Environmental and Urban Land Use Planning Consulting Services	4/26/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: 3) In the sections pertaining to economic analysis there are no pie charts or bar graphs representing such economic assertions, observations, explanations and analysis of the economic implications and expectations of the analysis and underlying principals and goals of the programs and policies contained within the document. For the reasons I have expressed above I believe there should be.	Additional and updated maps and graphics included in the fourth staff draft of the Delta Plan. Revisions are ongoing for inclusion in future drafts.

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
PAC Environmental and Urban Land Use Planning Consulting Services	4/26/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: I also wanted to extend my appreciation to the Delta Independent Science Board (ISB) for their comprehensive and far reaching review of the document and for going far and above (beyond the call of duty) what I would have expected such a board to take on as their responsibilities in reviewing the document. When I read their comments on the findings I believe they were doing their duty in reviewing the document and making comments however I perceived an aspect of their review to almost encroach on editing the document to the level of which I found commendable. The role of editorship is an exceptional quality of taking on more than what I expected they would be undertaking although I see how that process blended with what I expected of them in that they appeared to be essentially saying either "you can't say this because you can't document what you are saying" or "there is no scientific basis for these comments to be included in the document" or "let's just not go there, but let's go here". The role of the reviewers of the scientific readability, reliability, comprehensiveness, sophistication, analysis and just plain review of the good science of the scientific assertions contained within the document is certainly an admirable one and I congratulate them on their thoroughness.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 13, lines 22-35...the proposed geographic scope and proposed use of the Delta Plan is a serious fundamental flaw. RCRC urges the Council not to follow in the footsteps of the failed CALFED Bay-Delta Program.	Noted; text not modified
Resident of Lafayette	4/25/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: I am disappointed that there is still no coherent plan that addresses all five elements of conveyance and storage, ecosystem restoration, water quality, flood management, and protecting and enhancing the Delta as a Place. In particular, there is not even a hint of a suggested policy on conveyance and storage, which is the key to the Delta Plan as a whole. Without a solution to the conveyance problem that by itself makes a significant contribution to eco-system restoration, there can be no Delta Plan as was envisioned by the Delta Vision Task Force and the 2009 legislation.	Text was modified These policies have been expanded/revised in the 4th staff draft

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Resident of Lafayette	4/25/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Your efforts to date appear to have largely focused on developing an additional regulatory framework, rather than on developing a Delta Plan – with an emphasis on words rather than maps and drawings – an emphasis on legal considerations rather than science and engineering considerations. To be sure, ultimately you are setting public policy, but that public policy has to be based on sound science and engineering and have some real content and a vision for the future.	Noted; text not modified
Resident of Lafayette	4/25/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Many possible measures are now listed but specific targets are not. Such targets, whether quantified or conceptual, are not something that can be added at a later date. If you do not have a clear idea of the current situation and the future goals, how can you construct a plan to move from one to the other?	Text was modified Chapter 1 summary of current conditions has been rewritten/revised in 4th staff draft
Resident of Lafayette	4/25/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: What was needed, and is still needed, is a more succinct and focused quantified summary of the current situation. Then, you need a vision of what the Delta might be in the future and a plan on how to get there. And finally, since you have essentially no power to initiate any positive actions at this time, you need recommendations on the additional legislation and financing to get from the current situation to the future	Noted; text not modified
San Joaquin County	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan should have goals, not specific processes, at least not until the other Plans and processes (such as the Delta Protection Commission's Economic Sustainability Plan, the Delta Conservancy's Strategic Plan, the Bay Delta Conservation Plan, etc), have been completed. A Delta Plan with goals can later be amended, even before the required 5-year review, to include processes which are consistent with the Delta Plan's goals and the goals and processes set forth in the other Plans and processes. Furthermore, any language in the Delta Plan dealing with "beneficiary pays" and/or "stressor pays" concepts should await completion of the legislative process on such bills as SB 34 (Simitian) and AB 576 (Dickenson).	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: the Delta Plan should provide more specific language regarding the Plan's goals regarding reduced reliance on the Delta for future water needs. There is presently some confusion regarding the meaning and reach of the language in Water Code Section 85201. Delta Plan articulation of the understanding of the DSC on this point would be helpful.	Noted; text not modified
San Joaquin County	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The Third Draft Delta Plan has not addressed a fundamental conflict concerning the co-equality of goals. This conflict hinges on the fact that the reality of coequality does not exist as written into the Delta Reform Act of 2009. In fact, the state of this policy is as affirmed by letter dated 18 August 2009 in which Antonio Rossman, Lecturer of Water Resources Law, Boalt Hall wrote in regard to then SB1, "the bill seeks to maintain the Blue Ribbon Task Force policy of pursuing environmental protection and supply reliability as "co-equal goals." Conforming that aspiration to both legal and ecological mandates requires refinement of the Blue Ribbon policy. The California Supreme Court's latest definition of the State's Bay-Delta responsibilities clearly provides that "water exports from the Bay-Delta ultimately must be subordinated to environmental considerations." (In re Bay-Delta Programmatic EIR Coordinated Proceedings (2008) 43 Cal.4th 1143, 1168). He continued, "Stated differently, the goal of securing a reliable supply must in the end be realized by meeting the paramount needs of the environment." In the continued development of the Delta Plan centered on the co-equal goals, the Council must resolve how the Delta Plan will address this conflict of co-equal goals and also how the plan will abide by other laws established to protect the Delta such as the Delta Protection Statute (Wat. Code §§ 12200 et seq.), the Watershed Protection Statute (Wat. Code §§ 11460 et seq.) and the Area of Origin Statute (Wat. Code §§ 10500 et seq.).	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The tenor of the draft Plan is one which appears to embrace a fatalistic attitude toward water scarcity as California's inevitable destiny. The Plan is misguided in pursuing a regulatory approach that will in many ways exacerbate water management challenges and contribute to making the forecast of expected shortage a self-fulfilling prophecy. The Council should be constructing a Delta Plan that highlights what needs to be done to provide a more reliable water supply for California's future, not what needs to be subtracted from California's future to fit a vision that apparently includes, without basis, an aggregate reduction in water supplies from the Delta watershed serving the state as measured against a present day baseline.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The fact is nature provides California with plenty of water to meet its reasonable needs and improve the ecosystem in the Delta, if we manage water better, build facilities necessary to increase system operational flexibility and environmental protection, make local investments to help meet demands of a growing population, increase water use efficiency, address all important ecosystem stressors and adapt to the incremental changes in climate that will result over time in significant change from current conditions.	Noted; text not modified See Chapter 4 – 200 million acre-feet, roughly same amount of precipitation for over 100 years
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: We strongly recommend that the Council reassess the trajectory of all the drafts staff has provided and undertake a change of course, and in some instances a reversal of direction altogether, from what continues to be an overly broad brush regulatory approach lacking any viable central theme, to a Plan that in its initial iteration emphasizes recommendations for integrating current and planned agency actions while also identifying additional strategies that should be implemented to further the achievement of the coequal goals. The Council should then assess progress over its first five year planning horizon and refine the Plan as appropriate at its first update.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The Council does have some regulatory authority regarding consistency determinations of "covered actions", which are partially defined as taking place in whole or in part in the Delta. However, the Plan bootstraps prescriptions regulating local agencies' activities hundreds of miles away in the export service areas by asserting a nebulous nexus to "covered actions" as the authority to do so....The implications of this are not thought through. This approach presumes that the Council has or will have the expertise and resources to objectively assess local agency action remotely connected to "covered actions" and it does not seem to acknowledge that there are literally thousands of actions per year that local agencies take that could be so construed to require conformance review.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Not all "covered actions" should be subject to the adaptive management requirements described in the Plan. There will be "covered actions" that as a practical matter simply won't be able to comply with all the Council is demanding because of the type and size of activity as well as the economic resources available to do so. The Council should require staff to identify which categories of "covered actions" should be exempt from such onerous, expensive and time consuming requirements.	Noted; text not modified Adaptive management is required only of water management and ecosystem restoration projects that are covered actions, as described in the regulatory policy Adaptive management is recommended in other instances where applicable
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: the Council's adaptive management policy presents no criteria or standards by which compliance will be judged. To succeed, adaptive management must be a very well defined and efficient process that eliminates the potential for arbitrary decisions, needless monitoring and/or modeling efforts, and endless submittals. If such a certification process is to be pursued, it needs to have specified review periods and an appeals mechanism. Finally, any contemplated policy or recommendation related to adaptive management should account for a "functionally equivalent" protocol to be deemed acceptable rather than trying to overlay new/different requirements on already developed and permitted adaptive management plans.	Text was modified Revised in 4th staff draft to be more specific

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 8 L 5: "…reducing overall reliance on the Delta in meeting California's future water supply needs."	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P8 L35-39: BCDP is not required to achieve recovery but must contribute towards recovery. Instead of the shorthand description of the BDCP's "purpose" the full text of the Planning Goals from the Planning Agreement is preferred over a synopsis to reflect the numerous outcomes of the BDCP.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: "♦ The Bay Delta Conservation Plan (BDCP): An applicant-driven, multi-stakeholder Habitat Conservation Plan/Natural Communities Conservation Plan process for the Delta has been under way since 2006. As stated in the Planning Goals listed in the BDCP Planning Agreement: "The BDCP is intended to provide for the conservation and management of Covered Species within the Planning Area (Delta and Suisun Marsh); preserve, restore and enhance aquatic, riparian and associated terrestrial natural communities and ecosystems that support Covered Species within the Planning Area through conservation partnerships; allow for projects to proceed that restore and protect water supply, water quality, and ecosystem health within a stable regulatory framework; provide a means to implement Covered Activities in a manner that complies with applicable State and federal fish and wildlife protection laws, including CESA and FESA, and other environmental laws, including CEQA and NEPA; provide a basis for permits necessary to lawfully take Covered Species; provide a comprehensive means to coordinate and standardize mitigation and compensation requirements for Covered Activities within the Planning Area; provide a less costly, more efficient project review process which results in greater conservation values than project-by-project, species-by-species review; and provide clear expectations and regulatory assurances regarding Covered Activities occurring with the Planning Area.~~.and has the dual purpose of achieving greater reliability to the water supplies through an improved Delta export water conveyance system, and required recovery of threatened and endangered species in the Delta.~~ The BDCP Bay Delta Conservation Plan is expected…."	Text was modified This section was rewritten/revised

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State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Alternatively: "♦ The Bay Delta Conservation Plan (BDCP): An applicant-driven, multi-stakeholder Habitat Conservation Plan/Natural Communities Conservation Plan process for the Delta has been under way since 2006. ~~and has the dual purpose of achieving greater reliability to the water supplies through an improved Delta export water conveyance system, and required recovery of threatened and endangered species in the Delta.~~ The BDCP has many goals that are all consistent with and will further the achievement of the coequal goals {insert footnote with text provided above setting forth the Planning Goals listed in the Planning Agreement}, while addressing a number, but not all, of the component parts of the Delta Plan as specified by the Act. The BDCP ~~Bay Delta Conservation Plan~~ is expected…."	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 8 L 39: Statement that BDCP will be "complete by 2012" is wrong. At this time it is not expected BDCP will have its permits and final DFG certification of consistency with the Delta Reform Act until after 2012. Suggest "The BDCP will not be completed until after the first Delta Plan is adopted by the Council. ~~Bay Delta Conservation Plan is expected to be complete by 2012.~~ The Delta Stewardship Council…."	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 9 ¶ starting L 4: Additional plans to include in the listing here are Delta Counties Hazard Mitigation Strategy and the Delta Protection Commission's Land Use/Resource Management Plan.	Noted; text not modified

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State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P9 L 12-16. We suggest reframing this language to focus on the planned positive benefits of the Delta Plan, rather than being couched as preventing negatives, as follows: "Accordingly, the Delta Stewardship Council has determined that the first step toward achieving the coequal goals is to ensure that ~~avoid adverse impacts on the Delta~~ ("covered actions" :) ~~or the coequal goals from:~~ ♦ ~~Actions that further erode~~ Protect the beneficial uses of water and do not hinder the attainment of a more reliable water supply for the state; ~~reliability water quality~~; ♦ Are consistent with the sustainable management of ~~the Actions that further degrade~~ the Delta ecosystem; and ~~or~~ ♦ Reduce risks ~~Actions that increase risk~~ to people, property, or statewide interests."	Text was modified This section was deleted/substantially rewritten in the 4th staff draft
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 9 L 18: Whenever reference is made to the state policy to "reduce reliance" it should always include the full phrase in the statute: i.e., "reduce reliance on the Delta to meet future water supply needs".	Text was partially modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 9 L 37: The statement regarding a 30 percent reduction in average annual flows into the Delta should be replaced with: "At the same time, the natural hydrology of the Delta watershed has been altered through the construction and operation of facilities and reservoirs to provide flood management and protection and to capture and release snowmelt for water supply purposes. This has resulted in diversions of flows for other purposes from less than 10 percent in wet years to about 50 percent in dry years, versus pre development conditions." The blanket 30 percent statement could be read to imply such a reduction in inflow at all times, which is not the case.	Text was modified This section was revised
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 9 L 39: These facilities also provide significant flood protection for the Sacramento Valley and Delta, as well as along the San Joaquin River, which should be acknowledged too.	Text was modified

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State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 10 L 31: "Although groundwater and surface water are ~~part of~~ ~~an~~ interconnected ~~system~~ in some locations, California's system of local groundwater management is exercised independently of the State Water Resources Control Board, which has no ~~clear~~ direct authority to ~~manage~~ regulate groundwater. While groundwater management in the state is often well done, localized areas suffering from unsustainable overdraft and deficient management should be the focus of improved management efforts. Overall, sustainable management of groundwater resources and the potential for increased conjunctive use should be the focus of investments to optimize the state's often limited and variable water supplies to improve water management and supply reliability statewide." Note that the SWRCB has no "authority" to "manage" any water; they regulate its use and are the arbiter of water rights.	Text was modified This section was revised
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 10 L 37: Seismic risk should be mentioned as potential cause of catastrophic failure too.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 12 L 2: "…reasonable water use, ~~and~~ no waste, and maximizing the beneficial uses of the state's waters are fully effectuated ~~enforced~~. California….." It is important to include the Constitutional provision regarding use of the state's waters to their "fullest extent" and the use of "enforced" is a more negative term than the positive and aspirational "effectuated".	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 12 L 7: "…past century. Use of all water for all beneficial uses, in all parts of the Delta watershed, is consistent with the coequal goals and ~~W~~water is exported from the Delta in a manner that has ~~is~~ less impact ~~harmful~~ on the ecosystem, has improved drinking water quality, and is more reliable than at the beginning of the century. Robust, real-time and relevant information about water use…."	Text was modified Entire section was rewritten based upon multiple comments

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State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 12 L 10: An aspiration for leading the nation in water use efficiency and sustainable water use in 2100 is an ambitious target itself. There is no need to arbitrarily "pick a number" as the measure of that success. Designation of a 50 percent reduction in urban per capita water use is simply stated without any analysis of the feasibility or implications of such a goal or the provision of a baseline from which it is to be measured. A better alternative after stating the general goal would be: "~~Water use by all segments of the economy is reduced, and u~~ Urban per capita water use ~~is~~ has continued to be reduced from the levels achieved in 2020 as a result of local water management programs, plumbing code changes and legislation establishing new conservation targets for 2050, 2075 and 2100. Similar efforts have resulted in continued improvements to agricultural water use efficiency reflecting best practices and market conditions."	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 12 L 15: "California is less ~~dependent~~ reliant on water supply from the Delta." This use of "dependent" should be eliminated throughout the document. "Dependent" and "reliant" in the context of water management are not the same thing. An area that is less "reliant" on imported water because of various investments in meeting service area demands is still "dependent" on Delta imports as a key component of an overall water supply portfolio, even though it can manage its system without receiving 100% of imports 100% of the time. The implication of saying less "dependent" is potentially a viewpoint that a reduction in exports from the present baseline, as a predetermined goal, is practical and feasible. This is not the case. Even in the case of West Basin Municipal Water District, which discussed its goal of reducing its dependence on imports significantly over the coming decades, expressed that as a percentage of its overall water supply requirements, not necessarily a reduction in the actual volume of imports it was relying upon in its planning. And, as a MWDSC member agency, any water it decided it didn't need from the Delta would simply go back to the MWD pool for those who do not have physical options such as those in West Basin resulting in no change in Delta diversion, while still, overall, resulting in less reliance on the Delta due to an increase overall in local water resources. And even if all members within MWD were able to mimic West Basin, which is physically impossible, saved water would accrue to other State Water Contractors in all but wet years, not the Delta. Again, reliance on the Delta is reduced but diversions are not and the region remains dependent on supply available from the Delta. Ultimately, use of "dependent" rather than "reliant" creates a false expectation or impression that is not consistent with how water management works in the export service areas. As both Councilmember Fiorini and Chairman Isenberg stated at the Council meeting on 4/29, those imported supplies are foundational to the agencies in the export service areas and are essential to provide the footing upon which to pursue local resource investment such as recycled water projects.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 12 L 23: "…flows ~~following a more natural hydrograph~~ reflecting a more refined, efficient, effective and targeted approach to their volume and timing are ~~now dedicated~~ managed to ~~support~~ contribute to a ~~healthy~~ healthier, more resilient ecosystem."	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 13 L 8: Should insert a "near-near" term timeframe set at 2015.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P13 L 22-35 and P 15 L1-15: The text on Geographic Scope and Use of the Delta Plan is overly broad and does not describe geographic scope within the varying contexts described in the legislation. We propose replacing the existing text with the text below, which is intended to describe the geographic scope of the Delta Plan as addressed in the legislation, as well as the Delta Stewardship Council's scope of authority in a geographic context. "The Delta Reform Act addresses the geographic scope of the Delta Plan in three contexts: a) ecosystem restoration; b) covered actions; and c) promoting statewide water conservation, water use efficiency and sustainable use of water. Ecosystem restoration and covered actions are focused on the Delta and Suisun Marsh, collectively referred to as the "Delta", while statewide water conservation, water use efficiency and sustainable use of water necessarily have a broader geographic setting. Ecosystem Restoration The geographic scope of ecosystem restoration projects and programs is the Delta, but may include projects outside the Delta that contribute to the achievement of the coequal goals (85302(b)). This area is featured on Figure 1- 1 as the "Statutory Delta and Suisun Marsh", or the Primary Planning Area, but may also encompass projects within the "Delta Watershed Area". Covered Actions Covered actions are explicitly limited to certain actions that occur within the boundaries of the Delta. Covered actions must be consistent with the Delta Plan, and are defined as: "...a plan, program, or project as defined pursuant to Section 20165 of the Public Resources Code that meets all of the following conditions: 1. Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh; 2. Will be carried out, approved, or funded by the state or a local public agency; 3. Is covered by one or more provisions of the Delta Plan; 4. Will have a significant impact on the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta." (Water Code section 85057.5) Certain actions are exempted from the definition of "covered action," including a regulatory action of a State agency, routine maintenance and operation of the State Water Project or the federal Central Valley Project, or local public agency routine maintenance or operation of any facility in the Delta (Water Code 15 section 85057(b)). In addition, plans, programs, and projects that are themselves exempt from CEQA would not be considered to trigger a "covered action" certification assessment.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P13 L 22-35 and P 15 L1-15: [Continue to replace text with] Water Conservation, Water Use Efficiency and Sustainable Use of Water. Water conservation, water use efficiency and sustainable use of water have the broadest geographic context. The legislature called for a statewide strategy of investments in improved regional supplies, conservation, and water use efficiency, while calling on regions that receive water exported from the Delta watershed to improve regional self-reliance and thus reduce reliance on those water supplies in meeting future water supply needs (Water Code section 85021). This wider geographic context encompasses the Secondary Planning Area, including the Delta watershed, the Upper Trinity River Watershed, and areas outside the Delta in which exported water is used. Geographic Scope of Delta Stewardship Council's Authority The Delta Stewardship Council is charged with tracking progress in meeting the objectives of the Delta Plan on the health of the Delta's estuary and wetland ecosystem, as well as the reliability of California's water supply imported from the Sacramento River or the San Joaquin River watershed (Water Code sections 85211(a) and (b)). The Council's regulatory authority is restricted to hearing appeals on determinations made by local and state agencies that covered actions are consistent with the Delta Plan."	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 15 L 36: Not all covered actions should have to describe how they will apply the adaptive management framework as they will be small projects with one-time impacts. "Proponents of certain proposed covered actions…."	Text was modified Limited to covered actions that are ecosystem restoration projects/water management projects
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 16 ¶ starting L 11: Suggest including Delta Protection Commission's Land Use/Resource Management Plan too.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P 16 L 23: "If the Delta Stewardship Council, upon appeal of the Department of Fish and Game's (DFG) certification ~~finds~~ that the Bay Delta Conservation Plan ~~fails to meet~~ satisfies the statutory criteria for its inclusion in the Delta Plan, finds DFG's determination unreasonable, then…" The Council's role on appeal, as Chairman Isenberg correctly articulated at the Council meeting on 4/29, is to review the DFG's certification determination, not to undertake its own assessment of the BDCP, which is how this language currently reads and which is inappropriate.	Text was modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: All existing and planned development and public improvements within the City's adopted 2035 General Plan, Urban Service Area, Infrastructure Master Plans, and Sphere of Influence boundaries (including areas within the Primary and Secondary Zone of the Sacramento/San Joaquin Delta as defined by the Delta Protection Act of 1992) and covered by the corresponding certified Environmental Impact Report should be exempt from the Delta Plan.	Noted; text not modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: This Plan just adds another layer of bureaucracy which hinders economic growth. It will add cost and delay any new development which is sorely needed by the City.	Noted; text not modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The reference to a project being consistent with a "Sustainable Communities Strategy" in order to be exempt is too ambiguous, which may lead to litigation.	This exemption is from Water Code section 85057.5(b)(4)
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The definition of "project" should be exactly the same as it is in CEQA, including all the exemptions recognized by CEQA.	Noted; text not modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The Plan could stifle in-fill development in downtown Stockton, which is in the secondary zone. In-fill development should be exempt as it is recognized as a vital part of the Attorney General/Sierra Club/City 2035 General Plan Settlement Agreement.	Noted; text not modified Development in urban areas with adequate flood protection, as defined in the plan would likely be consistent with the Delta Plan

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: All levee improvements and any other flood control projects should be exempt.	Disagree In some instances, flood control projects will be covered actions under the Delta Plan
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Any improvements to existing public facilities should be exempt, especially if the improvements are required by other regulatory agencies.	Noted; text not modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Land use planning should remain with the local jurisdictions.	Noted; text not modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: All projects undertaken to comply with a regulatory action, including but not limited to the anticipated upgrades to the City's Regional Wastewater Control Facility (RWCF) to meet state water quality requirements, should also be exempt from the Delta Plan.	Regulatory actions of a state agency are exempt per 85057.5(b)(1)
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: It is the City's understanding and position that all contemplated and existing development within the adopted 2035 General Plan, Urban Service Area, Infrastructure Master Plans, and Sphere of Influence boundaries (including areas within the Primary and Secondary Zone of the Sacramento/San Joaquin Delta as defined by the Delta Protection Act of 1992) and covered by the corresponding Certified EIR are exempt from the "covered actions" under the Delta Reform Act, as a Notice of Determination was filed prior to the effective date of the Delta Plan. If this is not the understanding of the Delta Stewardship Council, the City of Stockton respectfully requests that any future development activities within the City's adopted 2035 General Plan, Urban Service Area, Infrastructure Master Plans, and Sphere of Influence boundaries (including areas within the Primary and Secondary Zone of the Sacramento/San Joaquin Delta as defined by the Delta Protection Act of 1992) will be considered an exempt activity in the Delta Plan.	See modified Delta Reform Act section 85057.5 and text in Chapter 3 (Governance) for information related to covered actions and exemptions

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Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The only project currently under construction in the Primary Zone of the Delta is the Delta Water Supply Project's intake facility and a portion of the raw water conveyance system. This project should be exempt as it has already been permitted and is underway. However, any changes or enlargements to it after Jan. 1, 2012, could be considered a "covered action" under the Delta Plan. What that means is that the City would have to self-certify that our project is consistent with the Delta Plan. The RWCF is expecting to complete a multi-million dollar upgrade over the next decade. According to the map for the Delta Protection Act of 1992, the RWCF ponds are located in the Primary Zone of the Delta. With this letter, the City formally is requesting that any upgrade related to compliance with a regulatory action to meet state water quality or other regulatory requirements, be considered exempt from the Delta Plan.	DSC staff strongly encourage you to contact the DSC office for an 'early consultation' meeting to further discuss this specific matter and any other proposed projects which may fall into the category of a covered action
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Figure 1-1: Add the City of Stockton to the Delta Plan Study Area map.	Additional and updated maps and graphics included in the fourth staff draft of the Delta Plan. Revisions are ongoing for inclusion in future drafts.
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P.15, line 4: Public Resources Code Section cited should be 21065 instead of 20165 as written.	Noted; text not modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P. 13, 2100 (Long Term): says sea level rise of more than 55 inches. Chart says 40-55 inches.	Text was modified
Stockton, City of	5/5/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: P. 16, The Delta Stewardship Council may incorporate part or all of other plans related to the Delta. This could be contrary to State/Federal/local partnerships for a regional systems approach.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
The Bay Institute	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The draft appears to assume that the description of desired ecosystem, water supply and other outcomes in the authorizing legislation is sufficient for purposes of the draft Plan, rather than serving as a basis for more detailed articulation by the Council. In fact, the draft Plan consistently confuses the very broad narrative goals of the Delta Reform Act (described as objectives in the legislative language, adding to the confusion) with clear, specific, measurable objectives in the sense used in Chapter 2, and defers the establishment of thresholds for success to the subsequent and derivative step of developing performance metrics (which are related, but not identical, to goals and objectives). The problem is that the Act's language is not sufficient, nor was it intended, to serve as fully articulated objectives for purposes of the Delta Plan in determining appropriate policies and regulations. In our view, the Council's role in translating the broad goals of the Delta Reform Act into a set of fully articulated objectives and constructing an integrated vision of the future Delta is one of its most important responsibilities.	Text was modified
The Bay Institute	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The Plan should send the strongest, clearest signal possible to all those parties whose activities it will cover regarding the outcomes in the Delta that the Council hopes to secure over time. A set of overarching objectives (or targets, to avoid confusion with the legislative language) that describe the desired improvements in ecosystem conditions, water supply reliability, and other areas is the most effective way to do so, and forms the basis for developing implementation strategies, prioritizing actions, and providing other guidance to regulated parties on what covered activities will best achieve the Plan's purposes and which actions by these parties should be encouraged. There is a wealth of information available from recovery plans, regulatory decisions, public trust flow criteria, water management plans, and other sources to support the adoption of such targets. To assist the Council in this step, we have provided a draft discussion document on Delta ecosystem targets	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
The Bay Institute	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: In summary, we find that the draft: • Does not translate the broad goals of the Delta Reform Act into specific, measurable objectives that adequately define the Council's desired outcomes for ecosystem restoration, water supply reliability, and other areas. • Provides excellent guidance on adaptive management planning, but fails to incorporate the elements of adaptive management into the Plan itself. • Omits any water supply policies that actually require reductions in Delta export reliance to be achieved and documented. • Fails to describe a desired hydrograph for the Delta ecosystem, mistakenly assuming that other processes will fully address ecosystem flow needs. • Appears very limited in its approach to levee risk reduction. • Is unclear regarding why some elements are policies and others recommendations.	Text was modified
The Bay Institute	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Chapter 2 (Science and adaptive management) correctly identifies the steps necessary for an adequate plan: a) define/redefine the problem; b) establish goals and objectives; c) model linkages between objectives and proposed action(s); and d) select action(s): research, pilot, or full-scale (p. 22). Unfortunately, the draft Plan does not follow its own guidance. The draft appears to suggest that other plans, projects and programs be subject to a consistency determination of meeting these steps while exempting itself from doing so. This is a fundamental shortcoming of the draft Plan.	Disagree The draft plan proposes that the council and council staff utilize principles of adaptive management when updating future versions of the plan

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The Bay Institute	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The draft distinguishes between policies, which function as requirements for consistency determination under the Plan, and recommendations, which do not. While it may be useful to make this distinction, it is not at all clear what the basis in this draft for designating some actions as policies and other as recommendations is. Some policies would clearly appear to be intended to bind other agencies, and many of the recommendations for actions by other agencies would appear to be essential to helping achieve the Plan's purposes. Since the Council is specifically charged with identifying those actions necessary by parties whose actions affect the Delta and successful attainment of the Plan, the reason for excluding actions as policies needs to be better explained and reviewed by the Council.	Noted; text not modified Policies are proposed regulations and would apply to covered actions. Recommendations are only recommendations.
Tuolumne Utilities District	4/29/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: This document proposes a redundant, unauthorized and non-sustainable regulatory methodology that will not solve the problems in the Delta. Instead it will make them worse by impeding progress on many local and regional partnerships and innovative resource management programs.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Tuolumne Utilities District	4/29/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 13, line 29 & 30... It is essential that these terms and definitions be carried throughout the Delta Plan consistently, so that the reader can be assured of the intended meaning. If an action is not a covered action then the Delta Plan and the DSC have no authority. However, on page 45 of the Plan, lines 23 through 28, in the context of the entire State, refer to controlling water demand, dealing with infrastructure limitations, development of local and regional water supplies. Given the limitations of covered actions cited above it is not clear that the narrative background on page 45 is consistent...Any recommended action of the DSC, including implementation of a form of mandatory water rate structure or assessment of a Public Good Charge, must consider the fee approval limitations of the California Constitution...It is clear that the terms covered actions; Delta, Delta-watershed, and State become blurred in their meaning and application, so that an expansive area of anticipated control by the DSC is crafted. In general we believe the DSC Draft Plan #3 far exceeds the actual authority provided by legislation.	Noted; text not modified The Delta Plan's authority is over covered actions, as set forth in statute
Tuolumne Utilities District	4/29/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: There currently exists a delicate water flow balance in many of the Sierra Nevada Foothill reservoir operations. Federal Energy Regulatory Commission (FERC) hydroelectric licenses, SWRCB 401 Water Quality Certification and a variety of local operating agreements all establish in-stream flow and reservoir operating requirements which, in many cases, have been established through years of negotiation among water resource interests, extensive scientific studies and investment of millions of local ratepayer dollars. Such agreements must be consulted and incorporated into any process which may propose to alter flow requirements are increased by mandate of the SWRCB through DSC actions, water agencies will be left completely without water supply due to FERC and State mandatory minimum elevations and flows existing within these permits and authorizations.	Noted; text not modified

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Tuolumne Utilities District	4/29/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 10, lines 26-39. It is not factually correct based upon the present information and science available, that all surface water and deep granitic fracture groundwater within the Sierra Nevada Mountain Range and its foothills are "part of the interconnected system."	Text was modified
Tuolumne Utilities District	4/29/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 12, line3. It is not clear what the term "fully integrated, real time" means.	Noted; text not modified This section refers to the need for more comprehensive and updated information on water supply and use More information in Chapter 4
Tuolumne Utilities District	4/29/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 12, third paragraph. Reference is made to reducing urban per capita water used by 50% or more statewide, but no baseline condition is referenced. This then raises the question of 50% of what? Does this mean the baseline amounts developed consistent with SBX 7-7, the 2015 targets established through Urban Water Management Plans, or perhaps the year 2020 targets?	Text was modified
Tuolumne Utilities District	4/29/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Page 12, line 26. It is not clear what the term "depend on the Delta and its watershed" means. To what degree?	Noted; text not modified
Water Community	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The third draft Delta Plan is not a cohesive plan that will achieve the coequal goals. Instead, the third draft is a series of statewide regulatory proposals that are unrelated to each other or a larger plan to achieve ecosystem restoration and water supply reliability. In order to be successful, the Delta Plan must start by identifying the goal and work backwards to implement the goal with policies and recommendations. Like a complicated puzzle, the full picture must be in place before the pieces are cut up. The Council has yet to identify the full picture; it has yet to identify what steps would contribute to water reliability and what actions would restore the ecosystem. Furthermore, there is no discussion with regards to an integrated approach to address the coequal goals. Instead, the third draft has begun to manufacture pieces, such as groundwater reporting and Delta levee evaluations, in hopes they fit together and somehow resolve the Delta's problems.	Noted; text not modified

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Water Community	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: The regulatory proposals put forth by the third draft have little, if any, geographic limitation. The third draft declared that the "geographic scope of the Delta Plan must include areas that divert water upstream of the Delta and those areas that export water from the Delta. This is virtually the same planning area used for the CALFED Bay-Delta Program." (Third draft, p. 13:22-25 (emphasis added).) In other words, the third draft explicitly adopts the model of the program that the Legislature abolished and replaced with the Council because CALFED had failed. This is inconsistent with the Delta Reform Act, which was clear that the focus of the Delta Plan be on the legal Delta. With the understanding the Delta cannot be viewed in total isolation, the next draft of the Delta Plan must recognize that the Council's authority to act outside the Delta is limited and focus the Delta Plan on actions in the primary Delta in a manner that protects the unique values of the Delta as an evolving place, as stated in the Delta Reform Act. (Delta Reform Act§ 85054 and Public Resources Code § 29702).	Noted; text not modified The Council has authority over covered actions, per statute
Water Community	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Rather than seeking to create yet more regulations, we encourage the Council to identify and adopt, in the Delta Plan, strategic, non-regulatory approaches to advance actions outside the Delta that can contribute to the advancement of the coequal goals. The Council should identify incentives, and improvements to existing state activities, that will catalyze progress involving existing resources. We believe that such efforts represent the true strength of the Council and conform with the intent of the Legislature when it created Delta Stewardship Council.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 1	THIRD STAFF DRAFT DELTA PLAN: Chapter 1: Necessary Changes The Delta Plan should describe clearly its long-term vision for the Delta based, in large part, on a comprehensive strategy for infrastructure and ecosystem investments in the Delta. The Plan should identify the programs, policies and actions currently being undertaken by federal, state and local agencies, as well as non-governmental organizations, and describe how they are consistent or inconsistent with the Council's vision of the Delta. Finally, the Plan should integrate existing policies into a robust plan and, based on the synthesized result, only then identify new policies or modifications to existing policies that would best achieve the coequal goals.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Page 31, lines 1 - 9 Mention should be made here of the importance of inter-governmental communication and coordination of actions for effective governance in the Delta, its watershed, and water export service area. Federal, State, and local government agencies should not work at cross-purposes to each other. Businesses and residents of the study area should not be subject to conflicting governmental laws, rules, and regulations.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: The description of the Adaptive Management Process is missing one Key Step – Deciding (and subsequently Redeciding). The actual step of deciding is not included in Figure 2. The only oblique reference is in the brief paragraph on Effective Governance at the top of page 31 which is too generalized. It glosses over the toughest question of who decides and who can subsequently change decisions.	Text was modified The word "decide" was removed from an earlier version of the figure as recommended by the ISB. Language was added to state more explicitly that decisions are made through the adaptive management process and to clarify who makes decisions for adaptive management related to covered actions and the Council's decision-making role for adaptive management related to revising and updating the Delta Plan
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Chapter 2, Science and Adaptive Management for a Changing Delta. Readers of the Plan would benefit greatly if this read much less like a master's thesis. Also as mentioned above in the general comments, the step of "Deciding (and subsequently "Redeciding") needs to be laid out with specifics.	Text was modified An attempt to adjust the writing style was made where possible. See response above for the second half of this comment.

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Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Chapter 2, An Adaptive Management Framework, Page 22, lines 12 to 23. This section correctly identifies the steps necessary for an adequate plan: a) define/redefine the problem; b) establish goals and objectives; c) model linkages between objectives and proposed action(s); and d) select action(s): research, pilot, or full-scale (p. 22). Unfortunately, the draft Plan does not take its own advice. The draft appears to suggest that other plans be subject to a consistency determination of meeting these steps while exempting itself from doing so. It consistently confuses the very broad narrative goals of the Delta Reform Act (unfortunately described as objectives in the legislative language) with clear, specific, measurable objectives as used in Chapter 2, and defers the establishment of thresholds for success to the subsequent and derivative step of developing performance metrics. But the Act's language is not sufficient to serve as objectives for purposes of the Delta Plan in determining appropriate policies and regulations, nor does the draft identify how the following steps of adaptive management will be developed within the context of the Plan itself.	Noted; text not modified The draft plan does not state the adaptive management framework that will be used to review and revise the Delta Plan The remainder of this comment is not specific to Chapter 2
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Chapter 2, Page 21, line 4. The Reform Act does not "…seek to provide …" a strong science foundation. It requires a strong science foundation.	Text was modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Chapter 2, Page 21, line 32. Decisions are always (not just usually) made without perfect information.	Noted; text not modified This is an opinion statement and would discount any instance in which perfect information was available to make a decision

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Water Agencies that use Delta Water	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: We urge the Council to focus the component of the Delta Plan addressing "Science and Adaptive Management," not on an "academic description" of adaptive management, but rather on developing procedures to assure all stakeholders that actions will only be included in the Delta Plan or modified over time based on full consideration of the latest scientific information. In addition, we encourage the Council to take advantage of the ISB's expertise to develop methods and measures for evaluating whether actions undertaken in the Delta are successfully advancing the coequal goals.	Noted; text not modified First half of the comment is relevant to Chapter 3 (GP 1) Second half of the comment is a recommendation to the Council to make a request to the ISB
Contra Costa Water District	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: This chapter is well written and utilizes the best available science. However, this chapter does not contain enough specific information regarding implementation and financing of adaptive management. CCWD would like to reiterate that guaranteeing sufficient funds upfront for adaptive management in perpetuity through endowments is not reasonable; this would effectively stop many restoration projects because they would be unaffordable by public agencies. CCWD recommends requiring a guarantee for several years of funding for adaptive management at the onset of a covered action and requirements for continued funding with mechanisms to assure funding that does not insist on endowments to fund all activities forever. The adaptive management plan should identify funding sources for long-term work required but the Delta Plan should provide for reasonable ways to guarantee funding in order to ensure restoration projects can move forward.	Noted; text not modified Comment relevant to Chapter 3 (GP 1)
Delta Wetlands Project	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Clarify the application of best available science and adaptive management to specific covered actions. While the concepts are clear enough, and their application to planning activities such as the Delta Plan and BDCP seems fitting, their application projects with limited purpose and user funding is problematic. As one observer said, "how does best available science apply to a hotel?" We do not believe that the financial capacity of a project proponent is a reasonable or workable criteria for consistency determination.	Text was modified Specific language from the statute was added. Adaptive management is a requirement for "ongoing ecosystem and water management covered actions".

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Figure 2-1. Adaptive Management Framework The Adaptive Management Framework for the Delta Plan is good in principle; however, the balance of the document fails to link Goals and Objectives to Proposed Actions, which is critical to ensure that actions are tied to expected results and outcomes. The Plan contains various levels of policies and recommendations, but there is no discussion on how those actions would ultimately meet the coequal goals of water supply reliability and ecosystem restoration. If the actions and recommendations in Chapter 4 for water supply and Chapter 5 for the ecosystem are implemented, the Plan should identify a response and outcome. Counter to this would be that these actions occur in a vacuum and the Plan "hopes" the system will respond for the better. Clearly, more linkage is required that will identify "how" between actions and responses. This Adaptive Management Framework should provide more of this direct linkage. Box 1, on page 26, should provide examples where this is being practiced in California.	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: As a general comment on this chapter, the Delta Plan should contain language that specifically addresses situations where the model linkages may not indicate clear evidence between actions and results, cases where "no action" or natural attenuation may be the most appropriate action rather than expensive controls or studies. This may be the case for many of the legacy or historically discharged contaminants that are bound to the sediment but are not currently discharged in significant quantities to the Delta or its upstream rivers or tributaries. While this is a requirement of the EIR for the Delta Plan, the Delta Plan should specifically address this type of situation that may result in expensive projects without clear or measurable environmental benefit.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento Regional County Sanitation District	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Page 25, Lines 1-27-The Delta Plan should contain some clear guidelines for measuring achievements including setting and evaluating targets that impact our regional and state economy. An initial cost/benefit analysis or a cost per unit improvement done at the planning phase of a project should be re-checked at implementation to ensure that the costs and benefits are being adequately projected, monitored and evaluated. The projects selected should be those that are both effective and efficient projects, particularly in this economic climate.	Performance measures and targets for the Delta Plan have been revised in the Fourth Staff Draft. Economic/Cost Benefit Analysis is not included in the Delta Plan, although an economic impact study of the Plan will be evaluated in APA process.
Sacramento Regional County Sanitation District	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Page 27, Lines 28-31-Consistency with the scientific process should include the following elements: well-stated objectives; a clear conceptual model; a good experimental design that can reasonably be shown to result in making measurable progress toward meeting the stated objectives with standardized methods for data collection; statistical rigor and sound logic for analysis and interpretation; and clear documentation of methods, results, and conclusions. The best science is transparent; it clearly outlines assumptions and limitations, including our ability to control the natural system and our ability to measure and monitor changes resulting from a designed project or control and to reasonably evaluate and interpret those changes.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Page 27, Lines 43-44-Should this say "These limitations shall be clearly documented when used to influence decisions."? or "when used as the basis for decisions."?	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Page 31, Lines 1-9-Effective governance should include an evaluation of the best expenditure of public funds and the social and economic impacts of utilizing those funds, across all impacted social classes. Actions should be taken to minimize those impacts, including an evaluation of previous plans, policies, and regulatory mandates that are no longer beneficial or necessary, but are still required.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: The scientific research discussion at P 30 doesn't go nearly far enough. Instead of perpetuating the historically myopic scientific orthodoxy of the status-quo , with some possible modifications around the margins, the Council should heed the advice of Dr. Jeff Mount who told the Council on 4/29 that what was needed was a "Science Plan" not just a "Science Program". A "Science Plan" developed with the assistance of the Independent Science Board (ISB) and stakeholders could dramatically increase the shared knowledge base regarding meaningful Delta management questions rather than continuing a smorgasbord approach that over thirty years has produced little to actually improve ecosystem management, and despite improvements of late isn't integrated and doesn't ask or investigate the questions which would lead to more effective management options. The ISB should be charged by the Council to formulate a "science plan" that would develop what would become the "best available science" for placing the value of water flows in their appropriate context among the full range of factors impacting ecosystem health in the Delta, as well as the impact of the latter on the supposed benefits of providing the former.	Text was modified Details on a "Science Plan" were included and the role of the Delta ISB was specified
State and Federal Contractors Water Agency	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: P 28 L 1: "Guidelines and Criteria" Same comment as described for P 15 L 36 i.e. not all covered actions should trigger the adaptive management framework and the Plan should articulate which would and wouldn't.	Text was modified See GP 1. The page and line reference listed is specific to guidelines for best available science, not the adaptive management framework
Tuolumne Utilities District	4/29/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Page 16 & Page 27, Adaptive Management. To be able to deploy and utilize the "best available science" so as to achieve adaptive management, then experts and scientists must have a high degree of knowledge of the resources in question...it is quite probable that the existing Delta scientists are not the right experts to deal with the subject matter of that vast land areas. Thus, the Plan will not be using the best available science, but only the most convenient and available Delta science.	Noted; text not modified See Table 2-2 (criteria for best available science)

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Chapter two of the third draft provides a very good summary of adaptive management as a tool in the abstract. That chapter does little, however, to describe how the concept might actually apply in the Delta. As the Delta Independent Science Board stated in its report (April 7, 2011) and reiterated by the Council's chief scientist, "the [adaptive management] chapter reads like an academic description of adaptive environmental management rather than an integration of the principles of adaptive environmental management into a plan for governing the Delta…." This problem is driven by the third draft's fatal error, which is common to Delta planning and regulatory efforts over the past two or more decades: It focuses on flow as the primary tool to achieve ecosystem benefits. That focus may be convenient, but it is not supported by the best available science.	Text was modified An attempt to adjust the writing style was made where possible. Examples of adaptive management were included to hopefully make the steps of the adaptive management framework less abstract. The latter criticism is not specific to Chapter 2
Water Community	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: California must shift from the flow-based paradigm to one that is based on discovering the mechanisms behind species responses. It can no longer afford to manage its water system by simply regulating hydrodynamics. We need to be confident that critically-important water supply and ecosystem management decisions are supported by an understanding of what is directly and adversely affecting the ecosystem, and what is needed to restore the Delta ecosystem. The Delta Plan can play a critical role, assisting with that shift, by establishing a strong science plan. Unfortunately, the scientific research discussed in the draft Delta Plan does not go nearly far enough. Instead of perpetuating the agency science status-quo with some possible modifications around the margins, the Council should heed the advice of Dr. Jeff Mount who told the Council on April 29 that what was needed was a "science plan," not just a "science program."	Text was modified Details on a "Science Plan" were added

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: The development of life cycle models for each species of concern would begin to uncover the mechanisms for species responses to environmental conditions. The strength of each model would be dependent upon the state of the science. The pursuit of life cycle models can be achieved in the context of a "science plan", which would (1) identify and synthesize statistical analyses to be undertaken of existing data, and make recommendations on the need for additional data; (2) identify hypotheses that require testing, and (3) ensure adequate and reliable funding. Results from those efforts would be used to inform management decisions and would guide any adaptive management plan. In the end, such a science plan will provide agencies, like the State Water Resources Control Board (SWRCB), with the scientific tools they will need to make decisions about the Delta that will be more effective in restoring and maintaining the Delta's resources than past, flow-centric decisions have been.	Text was modified Specifics of this comment were not included because it is too specific for the scope of the Delta Plan Details about a "Science Plan" were included
Water Community	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: While we do not agree with the third draft's approach to scientific issues, we appreciate the insertion, on the third draft's page 28, of the paragraph lines 19 through 26. That paragraph effectively recognizes the concern that experts in some technical fields that will be key to the Council's work do not regularly subject their work to peer review. Given the variety of technical experts that will contribute to Delta solutions, that paragraph is quite important.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 2	THIRD STAFF DRAFT DELTA PLAN: Chapter 2: Necessary Changes The Delta Plan must do two things to provide an appropriate scientific base for future actions. First, for reasons also discussed below, the Council must identify specific in-Delta projects and actions that, based on the best available science, can be conducted in the immediate future, short-term and long-term. After such projects are identified, the Delta Plan should describe those projects' monitoring programs and reporting requirements and establish a framework for reviewing and revising the projects based on analysis of results. We need to recognize the value of early successes, as well as the fact that this plan is envisioned to evolve over decades. The role of the Council, through its periodic review process, is to modify the plan after evaluating actions implemented, and assessing changing circumstances. Second, for the reasons discussed above, the Council must state how life-cycle models for the key species will be developed. Accordingly, we recommend that, in chapter two, the Council: ● Identify, for each in-Delta project prioritized for implementation, how its progress and effects will be monitored, how the effects of that analysis will be reported and how decisions will be made about the project's further implementation. • Direct the Delta ISB to develop, in consultation with the relevant federal, state and local agencies, a scientific plan for identifying the linkages among conditions in the Delta, possible Delta management actions and responses by key species, including delta smelt, longfin smelt, splittail, Chinook salmon, steelhead and green sturgeon. The Council should direct the Delta ISB to present its first draft plan by July 1, 2012 and will assess the schedule for completing the plan at that time. The Council should recommend that, in the draft plan, the Delta ISB identify and prioritize the top ten research tasks for identifying paths to restoring populations of the key species to at least self-sustaining levels.	Text was modified Included language about developing a science plan for the Delta

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 2 & 4	THIRD STAFF DRAFT DELTA PLAN: The third draft still lacks any definition of "water supply reliability." That is problematic for several reasons discernable from other sections of the draft. For instance it is not possible to implement real adaptive management to achieve the co-equal objectives as described in Chapter 2 (see the step, Establish Goals and Objectives, in Figure 2-1 at page 23) when one of the co-equal objectives is not defined. Also without such a definition it is impossible to establish meaningful performance criteria. It must be clear that a reliable water supply does not necessarily mean more water; it means that you can reliably count on what you are promised in your contract. In order to have a reliable water supply, a necessary ingredient is that the State Water Resources Control Board, which has the fiduciary duty to grant and revoke all water rights permits, both state and federal, must bring existing water rights permits into compliance with reality.	Text was modified
California Department of Parks and Recreation	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: To avoid creating unanticipated barriers to outdoor recreation, therefore, it is important that the definition of 'covered action' on p. 36 carefully circumscribe the term 'significant impact on the achievement of one or both of the coequal goals … or the implementation of government-sponsored flood control programs' Routine, low impact activities should be clearly excluded from the definition of 'covered actions' by providing an exclusion for activities that are eligible for statutory or categorical exclusion from CEQA. Routine maintenance and operation of park and recreation areas and facilities should also be excluded, treating them similarly to the water project and flood control project maintenance that are already excluded from 'covered actions'.	Noted; text not modified Express exemption for routine operation and maintenance of Parks is not included in this Draft Delta Plan. However, a covered action must meet the test of significant impact on the coequal goals or flood control and routine O&M would not appear to meet that standard.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Parks and Recreation	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The plan should clarify that covered actions will have a direct physical effect on land or water inside the area. Projects that are tied to the Delta or Marsh only through their purpose or need, that affect air, noise, living resources, the intensities of activity, or other attributes without directly affecting land or water should not be covered actions. Our experience with other agencies' incremental expansion of regulatory oversight of recreation activities emphasizes why it is essential to carefully limit 'covered actions'. On the coast, for example, regulation that was initially limited to development of recreation facilities or significant alteration of natural landforms and vegetation has grown over 30 years so that today coastal regulators claim oversight of park user fees, hours of park operation, recreation activities that occur at long established parks, and special events such as holiday celebrations.	Noted; text not modified According to the definition of covered action as defined by law a covered action must be a plan, program or project, as defined by CEQA. These types of activities would not appear to meet the definition of a covered action.
California Department of Parks and Recreation	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Policy GP 1(3) on p. 36 should be revised to better reflect the situations of park and recreation agencies whose support depends on a general fund or on general obligation bonds...Because Policy GP(1) is vague about what sort of 'financing plan' or 'financial capacity' would be 'relevant' to a covered park or recreation action, it is hard to judge how it would be applied, but misapplication may create significant impediments to recreation improvements or the protection of park resources.	Text was modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The Department recommends the Delta Plan include the figures referred to in CWC section 85057.5 7(c), since the definition of a "covered action" in some instances is dependent on whether the work is in the areas shown in these figures. This includes Figure 3.1 of Chapter 3: Draft Conservation Strategy of the Bay Delta Conservation Plan, August 3, 2009 and Figures 1 to 5, inclusive, of the latest revision of the Final Draft Initial Assessment of Dual Delta Water Conveyance Report.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Will covered actions include entire programs such as the Department's long standing Special Flood Control Projects program for Delta levees or will each project need certification? The Department recommends language to include certification of programs as covered actions.	Text was modified New language added related to possible incorporation of plans or specific projects into Delta Plan Early consultation with DSC is advised for any planned program, project, or plan
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The Department recommends not using language requiring a "guarantee" of continuing legal and financial responsibility or a "guarantee" of sufficient funds. There is no standard for the guarantee, and it is difficult to provide such guarantees. All public agencies (state, federal, and local) are subject to annual budget cycles and rarely can make binding long-term commitments to programs after capital improvements. This becomes especially problematic for bond funds. There also are tax implications associated establishing endowments using bond funds.	Text was modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35, lines 11 - 16 The appeal process as it relates to covered actions is discussed here. It appears that the appeal process could take 150 days before a determination is made by the DSC. The Department is concerned that this could delay critical water supply or levee repair projects and result in an entire construction period being missed. This delay would thereby increase risk to human health and safety. In addition to the early consultation discussed (page 37, line 25), has the DSC contemplated means to mitigate such delays such as allowing a concurrent review during the CEQA process?	Noted; text not modified This is the timeline included in the statute
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35, line 12 Please note that according to section CWC section 85225.10 - "Any person may appeal a certificate of consistency within 30 days to the Council, alleging that…"	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35, lines 20 - 21 The text implies that there is an impact threshold for a "covered action." This concept should be described more fully. The DSC should consider a list of types of projects that are not considered to "have a significant effect on the Delta," much like the CEQA Guidelines' list of categorically exempt projects (with appropriate exceptions).	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35, lines 28 - 32 The regulatory policies in the draft plan need careful consideration in that some of these policies could constitute a temporary or permanent regulatory taking of property by prohibiting actions that interfere with future State actions.	See page 42 of Fourth Draft: *Delta Plan regulatory policies are not intended and shall not be construed as authorizing the Council or any entity acting pursuant to this section, to exercise their power in a manner that will take or damage private property for public use, without the payment of just compensation. These policies are not intended to affect the rights of any owner of property under the Constitution of the State of California or the United States.*
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 37, lines 7 - 10 The text implies that if the plan does not apply to a "covered action," then no consistency requirement exists. Is that a correct interpretation?	Noted; text not modified A project/plan/program must be covered by one or more provisions of the Delta Plan in order to be a covered action, along with the additional requirements of water code section 85057.5
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 37, lines 11 - 16 See comments for page 35, lines 20 - 21 above.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 37, line 22 Between the word "Project" and the word "and" please add "and related mitigation activities such as South Delta tidal barriers and adjoining boat ramps."	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 37, line 23 Please change "reclamation district" to "state or local levee maintaining agency" in this sentence.	Noted; text not modified The Delta Reform Act did not specifically exempt state levee maintaining agencies
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 38, Figure 3.1 The 4th box on left should specify "local or state" agency.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 39, lines 4 - 5 Compared to earlier versions, this third staff draft has an improved explanation of covered actions and how the process will be administered. The DSC proposes to develop a check list which agencies would be able to use to facilitate the process. The DSC has also proposed to develop a list of the types of projects that would be covered actions. It would be helpful to have these available for the fourth staff draft so that reviewing agencies could have a more complete picture of what types of projects would be included as covered actions.	As mentioned in the third and fourth staff drafts, a checklist will be developed, along with additional administrative forms, processes and procedures Chapter 3 has been revised to better explain what may fall under the category of covered action. Early consultation with DSC staff is encouraged.
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: G P1, page 39, line 36 How would the application of best available science be made on covered actions that were not scientifically based? For example, how would best available science be applied to a zoning change? Also, who would make the determination of what constitutes best available science if the scientists disagree? How would best available science be applied to a scientific study such as the Department's carbon sequestration studies? Would the study design be questioned by other scientists? The DSC should include these in the discussion described in No. 2 (line 36.)	Text was modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: G P1, page 39, lines 38 - 41 Demonstration of managerial and financial capacity to implement the covered action could prove problematic for some agencies. Large-scale projects rarely have 100% funding approved before starting implementation.	Text was modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: G P1, page 40, line 17 The Department recommends striking the language requiring release of "all" information developed related to adaptive management of large-scale ecosystem restoration and water management covered actions. Some data may be sensitive or critical for security reasons or simply need additional validation prior to release to the public.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 39, line 42 - 45 The plan should provide a list of the types of laws that they are interested in having discussed. The DSC is probably not interested in prevailing wage laws, workers compensation law, and other similar laws.	Text was modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 40, lines 1 - 3 The plan needs to define “Large-scale ecosystem and water management covered actions” to make this policy more clear.	Text was modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 40, line 28 BDCP is better characterized as an “effort” rather than a “project” at this point.	Text was modified
California Department of Water Resources	4/22/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 40, lines 32 - 33 Please clarify the language in the last sentence of this paragraph where it states that completion and full implementation of the BDCP is not equivalent to satisfying the Act.	Text was modified (section deleted)
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: We remain concerned about in-Delta and up-stream interests and the ability of the Council to mandate their involvement in all restoration efforts. Delta Counties and landowners must be full partners in developing and implementing habitat restoration programs so that a desirable mix of aquatic habitat restoration and sustainable agriculture is achieved. The same holds true for out of Delta counties and landowners where restoration is identified as beneficial to recovery.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Chapter 3, Governance: Implementation of the Delta Plan. As stated in the draft, the Delta Plan is a strategic plan to provide guidance and make recommendations. The water code 85020 places some responsibilities on the Council that are state wide and far reaching. It is important for the Council to establish a structure upon which guidance and recommendations can be provided, both for covered and non-covered actions. It is stated that the legislature requires the Council to establish and oversee a committee of agencies responsible for implementing the Delta Plan. Hence, we make the following recommendations relative to this responsibility:...1. Identify what relevant agencies must be included in the "Governance Committee." 2. It is our recommendation that other interest parties be part of the process of decision making within the Governance Committee to broaden the process to include consideration of non-agency issues....3. Develop an organizational chart which will show clearly the structure of the governance process, and identifies what additional advisory boards, committees, and outside inputs will be associated with the "Governance Committee." 4. Develop a clear and concise list of responsibilities for the Governance Committee, and make clear the difference in process between covered and non-covered actions. Some areas of possible responsibility are: · The guiding principle of any governance committee should be the precautionary principle – First, do no harm...· General operating criteria for water operations, ensuring that appropriate Delta flows are maintained. · Restoration oversight to facilitate and implement restoration projects within the Delta to meet established restoration timing and completion dates. · Work with the Science Advisory team to help manage the adaptive management efforts to ensure species recovery of aquatic resources. · Coordinate with the Delta Conservancy on efforts with Delta communities, counties and landowners. · Establish and manage budgets to secure necessary funding both for the Council and for the other efforts in the Delta Plan. · Oversight and recommendations on implementation of state wide water conservation, water use efficiency and reclamation programs, and ensuring that strategic goals are being both established and met. · Meet with the SWQCB on important Delta issues – tributary flow criteria, Delta flow criteria, pollution issues in tributaries, illegal diversions, etc. · Meet with the Delta Protection Commission on Delta levee repairs and other Delta protection issues, and to ensure that deadlines are being met. · Meet with Delta and watershed communities to understand the best interface with them on local issues of concern, and to take actions necessary to ensure actions of the Council are protecting and enhancing the unique cultural	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: there are other areas of concern that must be articulated within the process of governance, and in some cases, the governance structure must be designed to provide protections against outside interference. There must be a level of independence for decision makers. It must be clear that the science board will have influence on the decision making process, and not be left only as advisors hoping their advice is followed. It is unfortunate, but too many times politics has trumped science in decision making in the Delta, and with water management in particular. In many ways, the success or failure of the Delta Plan may hinge on the ability to design a governance structure that protects decision makers from the impacts of those who have the desire to alter the process based on limited or short term pressures.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Chapter 3. Governance, Consistency Determination. G P1. The draft distinguishes between policies, which function as requirements for consistency determination under the Plan, and recommendations, which do not. It is not at all clear what the basis for this distinction is. Almost all of the recommendations for actions by other agencies would appear to be essential to helping achieve the Plan's purposes, and the Council is specifically charged with identifying those actions necessary by parties whose actions affect the Delta and successful attainment of the Plan.	Noted; text not modified Water code section 85057.5 outlines the definition of a covered action. Regulatory policies/proposed regulations in the draft plan apply to covered actions. To all others, they are recommendations. Additional recommendations are also included in the draft plan, some of which pertain to state or federal agencies.
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Chapter 3, Page 36, line 14. "This policy is not intended to affect the rights of any owner of property under the Constitution of the State of California and the United States." It seems likely that many of the policies and even implementation of the recommendations in the Delta Plan will affect how rights may be exercised.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Chapter 3, Governance: Implementation of the Delta Plan. Page 35, Covered Actions are a Core Responsibility. This section clearly calls out the Council's authority for "Covered Actions" as defined in Water Code section 85057.5. We concur with the approach that this responsibility includes an expansive view of the Council's authority, within legal limits and considering the legal responsibilities of the primary responsible state or local agency. We believe that the Council should go further and include implementation actions and enforcement actions which are consistent with the authorities of the primary responsible state agencies. For example, recommendations in the areas of water rights permit approvals, changes to diversion points, operations of storage and conveyance facilities and over-allocation issues, which are the prerogative of the SWRCB, would be appropriate so long as the SWRCB is specified as the primary implementation and enforcement authority for regulations on these subjects.	Noted; text not modified
Contra Costa County Department of Conservation & Development	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: We believe that Habitat Conservation Plans (HCPs) or Natural Community Conservation Plans (NCCPs) adopted by local land use agencies in the Delta should serve as part of the foundation for the Delta Plan, as suggested on page 16, and that actions of permitting agencies pursuant to these HCPs and NCCPs should be exempt from the certification requirements of the Delta Plan....The individual goals of the HCPINCCP include permanent protection of biologically rich habitat, providing certainty and efficiency in the permit process for both regulators and applicants, and fair compensation to willing landowners for permanent resource protection on their land. This seems entirely consistent with the goals and purpose of the Delta Plan...Nothing in the Delta Reform Act authorizes the DSC to pre-empt the authority of state and federal regulatory agencies to implement provisions of related Endangered Species statutes and related agreements with local permitting agencies. Under state statute, NCCP permittees are not be subject to any changes in the standards they must comply with. Therefore, it is imperative that the Delta Plan not impose any new requirements on NCCP permittees.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa County Department of Conservation & Development	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 37, lines 11-16. The definition of significant impact is vague enough that there likely will be frequent challenges on it. The evaluation of whether an action will "affect the achievement of one or both of the coequal goals", for example, is highly subjective without any qualification, thresholds, or methodology. The suggested checklist on Page 39 makes no mention of the need to coordinate such determinations with existing checklists used for a project's compliance with the California Environmental Quality Act (CEQA). Such checklists already address agricultural resources, biological resources, and hydrology which overlap with the Delta Plan subject matter. We cannot evaluate this chapter without having the checklist so we can understand the certification process being proposed.	Noted; text not modified Project proponents are encouraged to consult with Delta Stewardship Council staff if they have questions or concerns about whether they have a covered action
Contra Costa County Department of Conservation & Development	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 39, lines 17-18. Identifying best available science, and adaptive management, and using them in decision-making on projects, is overkill for a small project like a localized creek restoration. We still believe there needs to be size or scale limits on the projects that fall under this. As stated earlier, actions of permitting agencies pursuant to their HCPINCCP should be entirely exempt.	Noted; text not modified A localized creek restoration would need to comply with the adaptive management provisions of the Delta Plan only if it is a covered action
Contra Costa Water District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: p. 39 line 36 should read ... All covered action must be based on the best available science, information, or engineering standards as applicable.	Text was modified
Contra Costa Water District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: p. 40 lines 1 - 19 - There is no mention of financing requirements of adaptive management which is not necessarily a flaw in the Delta Plan but previous drafts did contain specific language about funding requirements. CCWD appreciates the change if in fact the Council has not made an omission error.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Delta Wetlands Project	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Standard of review (new language added to page 39 line 12): Determination of consistency needs to be done on a "balancing" standard. No specific covered action will be able to meet all Plan objectives equally, and any more rigid standard of review will not work in as complex a setting as the Delta. More than one regulatory policy in the Delta Plan may apply to a covered action. The first obligation of all covered actions is not to render any regulatory policy unattainable. In making determinations of consistency, the Council acknowledges that there is an inherent tension between the coequal goals. The Council recognizes that not all covered actions are equal, that some covered actions will meet some Plan objectives better than others, and that no covered action will be able to advance all Plan objectives equally. Accordingly, in making consistency determinations, the Council will make judgments on the merits of a proposed covered action on balance, and taken as a whole.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Delta Wetlands Project	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: page 39 line 33): Clarifying the application of best available science and adaptive management to specific covered actions. The use of best available science and adaptive management is simple in concept but complex when applied to specific projects. Not all decisions benefit from the same science. Tools must be selected appropriate to the task. And adaptive management measures need to be tailored to the goals of specific covered actions. Consideration of financial capacity is inappropriate and unworkable in this context. G P1 Certifications for consistency with the Delta Plan must address the following:...2. All covered actions must ~~be based on~~ reasonably utilize best available science in project design, environmental review and permitting. Determination of the best available science appropriate to specific decisions will be made through consultation between the project proponent and responsible and permitting agencies 3. All covered actions must demonstrate managerial ~~and financial~~ capacity to implement the covered action over the long term. Managerial capacity includes ~~ownership~~ property interests and water rights relevant to the covered action. ~~Financial capacity includes budgeting, capital improvement planning, and a financing plan relevant to the covered action....5. Large-scale ecosystem restoration and water management covered actions must include adequate provisions to assure continued implementation of adaptive management consistent with the~~ Delta Plan~~specific covered action's goals. This requirement shall be satisfied through: * an adaptive management strategy for the specific covered action consistent with the adaptive management framework of Chapter 2; ...* performance measures and targets relevant to meeting the~~ Delta Plan's objectives enumerated in Section 85302(c), Section 85302(d), and Section 85302(e)~~specific covered action's goals; ... *~~ documentation of delineated authority by the agency responsible for the covered action to support the implementation of the full adaptive management process, including planning, implementation, monitoring, data management, analyses, obtaining the best available science, communicating results, supporting decision making, and full implementation of any changes in implementation of the covered action~~...~~6. Adaptive management, as applied to covered actions, will not substantially alter the project benefits without financial compensation to the beneficiaries who paid for the covered action.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Pg. 37, lines 11-16 According to the statutory language cited on page 36, a covered action is an action that: (1) will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh; (2) will be carried out, approved, or funded by the state or a local public agency; (3) is covered by one or more provisions of the Delta Plan; and (4) will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta. On page 37, lines 11-12, the Draft Plan attempts to elaborate on section 85057.5(a)(4), stating that in order to be a "covered action," a proposed plan, program or project must have a significant impact, which is defined as a "potentially substantial change in existing conditions that is directly, indirectly, and/or cumulatively caused by a project and that will or may affect achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta."	Noted; text not modified This section is an attempt to further clarify that we will rely upon the definition of significant as utilized by CEQA. This is an attempt to respond to concerns about the vagaries of a covered action as defined in statute.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Pg. 37, lines 11-16 (continued) This two-pronged definition of a covered action is not consistent with the statutory language. The language of section 85057.5(a)(4) makes it clear that an action is a covered action only if it will have a significant impact on achievement of one or both of the coequal goals. It does not matter whether the action itself is significant or is making a substantial change. To meet the requirement of the fourth criterion, the impact of the action on achievement of the coequal goals must be significant before the action can be considered a covered action. Thus, a substantial change in existing conditions that occurs, in whole or in part, within the Delta, is not a covered action if it will have only a minor, insignificant impact on achievement of one of the co-equal goals. There is also nothing in the statutory language in Water Code section 85057.5(a) or sections 85225 - 85225.25 to support the assertion that an action that will have a minor, insignificant impact on achievement of one of the coequal goals will fall within the definition of a covered action solely because of the potential for a cumulative impact on achievement of the coequal goals. This result seems to be implied by the language on line 14, but it is not supported by the statutory language. We note that the legislature specifically included projects with individually limited but cumulatively considerable effects within the statutory language of CEQA (See Pub. Res. Code §21083(b)). Similar language does not appear in the provisions of the Sacramento-San Joaquin Delta Reform Act, and it is thus not appropriate to include this in the language of the Delta Plan.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Pg. 37, lines 11-16 (continued) Amend lines 11-16 as follows: In addition, a proposed plan, program, or project must have a "significant impact on achievement of one or both of the coequal goals" under Water Code section 85057.5(a)(4). For this purpose, the Council has determined that "significant impact" means a substantial ~~or potentially substantial~~ effect on ~~change in means a substantial or potentially substantial effect on change in cumulatively caused by a project and that will or may affect~~ the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta.	Noted; text not modified
East Bay Municipal Utility District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Pg. 39, lines 2-12 Transfers that meet the co-equal goal of increased reliability of supply should be encouraged to the extent that the co-equal goal of environmental preservation is not adversely impacted. Current guidelines and approval processes used by the Bureau of Reclamation for transfers involving Central Valley Project facilities and by DWR for transfers involving State Water Project facilities are comprehensive in terms of environmental impact and efficient use of resources. They should not be duplicated through implementation of policies in the Delta Plan. After line 12, add the following paragraph: "The Council will implement a streamlined approach for certification of covered actions that are short-term in nature or have a brief window of opportunity for implementation. The streamlined approach will include a compressed timeframe for any appeals of certifications or a waiver of the appeal process in cases where a transfer has been deemed to be a covered action. A streamlined approach for certification will also be developed to address long-term transfers between contractors of the Central Valley Project and transfers between contractors of the State Water Project that have already been subject to environmental review including the public comment process required under NEPA and/or CEOA."	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Pg. 39, lines 38-41 On page 39, the Draft Plan sets forth a requirement that a certification for consistency must set forth a demonstration of managerial and financial capacity to implement the covered action over the long term and that this capacity includes budgeting, capital improvement planning, and a financing plan relevant to the covered action. Recognizing that the purpose of the consistency process is to determine the consistency of the action with the regulatory policies of the Delta Plan, it is not clear how this broad requirement for financing data is necessary or relevant to an examination of consistency. Edit as follows: "All covered actions must demonstrate managerial and financial capacity to implement <u>any measures included in the proposed action to promote consistency with the co-equal goals</u> over the long term. Managerial capacity includes ownership and water rights relevant to <u>ensuring that</u> the covered action <u>will not have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.</u>	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Covered Actions. While the Plan makes attempts to define what a covered action is and is not, it is still questionable as to what is considered a Covered Action. Figure 3.1 provides a Decision Tree for determining actions, which initially seems to make sense and is helpful; however, later in the Plan there are regulations and recommendations for actions outside the boundaries of the Delta. Figure 3.1 Decision Tree shows that if an action is outside the boundaries of the Delta it is NOT a covered action. Two boxes below states that if it's covered by provisions of the Delta Plan it IS a covered action. Obviously, it cannot be both, clarity is sorely needed. At the Council's April 28-29 meetings, there seemed to be some clarification of covered actions; however, additional examples would be helpful, particularly for those agencies like GCID that are situated outside the Delta but still within the Delta watershed.	According to the statutory definition of 'covered action', a plan, program or project must meet ALL of the tests. This means it must take part in whole or in part in the Delta AND it must be covered by one or more provisions of the Delta Plan, not one or the other.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35 identifies an appeals process for consistency findings that could take as long as 150 days (5 months) for the Council to make a final determination, which is simply too long and result in delays to projects. As explained on Page 36-37, most actions by agencies will be considered a "Project" under Public Resources Code 21065. This will require that agency to complete CEQA compliance, which has its own noticing, commenting, and objection period. If the project is at all controversial, it will likely result in litigation. After completing CEQA and resolution of litigation, if any, it makes no sense to then allow the Council to review the matter for up to five months before issuing a decision. The Council should consider an abbreviated schedule for those projects that have had a previous CEQA and/or NEPA review and approval process.	Noted; text not modified 150 day maximum timeframe is set in statute. See Water Code sections 85225.15, 85225.20.
HCP/NCCP Agencies in Delta	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The third draft of the Delta Plan notes briefly on page 37 that regulatory actions taken by state agencies, such as the issuance of take permits under the California Endangered Species Act by the Department of Fish and Game, are statutorily exempt from the jurisdiction of the Delta Plan. Due to the significance of this issue for HCPs/NCCPs and HCPs/2081 s being developed in the five Delta counties, a more thorough discussion of this issue is warranted and should be included in the fourth draft of the Delta Plan. We think the statutory exemption in the California Water Code applies to all permits issued under the California Endangered Species Act and the Natural Communities Conservation Act and, by extension, to the adoption of an HCP/NCCP by a local jurisdiction. Activities covered under such HCP/NCCPs should also be exempt from the jurisdiction of the Delta Plan, at least to the extent that it pertains to the species and habitats covered in the HCP/NCCPs.	DFG and DSC staff in consultation regarding the interaction of HCPs/NCCPs and the Delta Plan.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Metropolitan Water District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Bay Delta Conservation Plan. The Delta Reform Act provided BDCP with a clear path to implementation by directing its insertion into the Delta Plan if it meets certain clear standards, such as its compliance with the Natural Communities Conservation Plan process. The Draft Plan asserts that 'completion and full implementation of the BDCP is not equivalent to satisfying the Act:' The Legislature's direction to include the BDCP into the Delta Plan was clearly intended to have real meaning - not an illusory one. Metropolitan recommends deletion of this passage and in its place to affirm that actions within BDCP, once they are in the Delta Plan, are consistent with the Delta Plan itself.	Text was modified (section deleted)
Regional Council of Rural Counties	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 27, Lines 11-16 The Delta Plan's proposed definition of "significant impact" is extremely broad...This definition is so inclusive that it provides no guidance whatsoever to entities that may propose a plan, program, or project.	Section has been rewritten.
Regional Council of Rural Counties	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35, lines 28-32 The document states, relating to regulatory policies, that the Delta Plan will "seek to prevent actions that may preclude the future implementation of projects that meet the requirement of the Act" and "protect floodplains and floodways until studies are completed by the Department of Water Resources." Please see RCRCs previous comments on the extent of Council authority and local agency land use control. RCRC supports the comments of the Delta Counties on this topic.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Regional Council of Rural Counties	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 36, lines 1-7 RCRC appreciates the addition of language in the Delta Plan recognizing the Council's role, per the statute, as a coordinator of the agencies who have the regulatory authority to implement the Delta Plan. RCRC believes that it would be appropriate for the Delta Plan to identify the agencies to be included on the committee. Lacking in the document is recognition that other state agencies have responsibilities that extend beyond the more narrow interests of the Council which they are obliged to fulfill, and which may conflict with the guidance and recommendations of the Council. This may be an appropriate location in the Delta Plan to include recognition of this fact.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 36, lines 32-38 The Delta Plan states that various CEQA statutory and categorical exemptions are not cross-referenced in the definition of a "covered action" and that these types of projects therefore fall under the Delta Reform Acts definition of covered action. The Legislature had provided these statutory and categorical exemptions for a reason – and RCRC fails to grasp how the Council can assert jurisdiction (i.e. consistency review) over projects over which other state and local agencies have no discretion (i.e. ministerial projects). If the Council believes that it must assert jurisdiction over these types of projects due to the lack of a cross-reference in the law - RCRC recommends that the Council include in the Delta Plan a recommendation that the Legislature remedy this oversight via legislation.	Noted; text not modified Certain 'ministerial' actions may be inconsistent with the Delta Plan. Therefore, the Delta Plan will not categorically exempt ministerial actions.
Regional Council of Rural Counties	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 39, lines 13-18 The statement is made that a covered action must be implemented as described in its finding of consistency. How and when does adaptive management come into play?	Text was modified
Regional Council of Rural Counties	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 40, lines 1-19 RCRC appreciates that the Delta Plan now makes a distinction as it relates to more comprehensive requirements for "large-scale ecosystem restoration and water management covered actions".	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The policies and recommendations found in Chapter 3 (Governance) of Draft #3 continue to be especially troubling to the County. Many of the comments and recommendations cited in our April 15, 2011 letter on Draft #2 continue to apply	Text was modified
Sacramento County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The need for greater clarity and certainty about the definition and geographic scope of the “covered actions" provision. The County complements DSC staff for the development of the recently released "Covered Actions FAQ" document. The County suggests the DP include this level of clarity and guidance in Chapter 3.	Noted; text not modified
Sacramento County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The DP's ambiguity regarding application/interpretation of the "consistency" threshold required as part of the project certification of consistency process, as set forth in Water Code Section 85225.	Noted; text not modified Council staff is available to consult on consistency and covered action inquiries
Sacramento County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The continued assumption that the Bay Delta Conservation Plan (BDCP) will become part of the DP given that the completion time lines of the two plans differ so greatly and the requisite findings set forth in Water Code Section 85320(b) could ultimately be a difficult test to meet.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan, as currently drafted, still is unclear in its scope. Clearly identifying what is a covered action is important to the Council and to proponents of projects in and around the Delta. However, it must also align with the statutory authority. An initial step to clarify what is or is not a covered action would be to state the statutory exemptions. In keeping with the theme of stating statutory requirements in boxes on opposing pages, a box with the statutory exemptions to covered actions would be helpful. Adding examples of exemptions would also be extremely helpful. We recommend adding the issuance of a NPDES permit as another example of an exemption, and any related activities required as part of that State/Federal permit, as well as the California Endangered Species Act permit example.	Text was modified. See 85057.5 for definition of covered action and list of statutory exemption. Especially see 85057.5(b)(1) for an exemption relating to regulatory actions of state agencies, such as the issuance of an NPDES permit.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento Regional County Sanitation District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The Third Draft indicates that when a covered action "has a connection to an out-of-Delta action(s)", proponents must evaluate whether the out-of-Delta action significantly contributes to the need for the covered action. Even though the definition of significant is attempted in the Third Draft, it is still vague and is overly broad and encompassing, subjecting non-Delta actions to the Delta Plan's regulatory requirements. The authority to extend beyond the Delta is a project specific authorization, not a global authorization resulting in a significant portion of the State being included within the Delta Plan.	Text was modified Early consultation with DSC staff is encouraged if there is doubt about whether a proposed plan, program or project is a covered action and subject to the regulations contained in the Delta Plan See memo attachment on statewide authority: http://deltacouncil.ca.gov/sites/default/files/documents/files/MeralLetter05312011.pdf
Sacramento Regional County Sanitation District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35, Lines 24-25-States "This Delta Plan incorporates and builds upon existing state policies where possible, with the intention of meeting the Act's requirements without establishing an entirely new set of policies." It would be helpful to list the existing state policies that are referenced here for clarity.	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 37, Line 12-States the Council is determining significant impacts. Would the entity performing the covered action determine if there are significant impacts? The definition of what is a significant impact is still unclear.	Yes, the project proponent must determine whether the project would have a significant impact on the coequal goals or flood control programs. Early consultation with DSC staff is encouraged.
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The Third Draft Delta Plan, Chapter 3, states that operation of the SWP and CVP is listed as an action not covered by the Delta Plan. Regulating export operations and changes in export operations are paramount to protecting threatened and endangered species, maintaining water quality and adequate flow in the Delta. Therefore the Delta Plan must include the CVP and SWP as covered actions. In the spirit of a healthy Delta ecosystem as one of the co-equal goals, reductions in exports from current levels to sustainable levels must also to be evaluated as part of the Delta Plan.	Noted; text not modified The Council must adhere to its authorities as described in the Delta Reform Act. See 85057.5

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The Third Draft Delta Plan, Chapter 3, describes a lengthy, complicated, and potentially expensive certification and appeal process. It will be difficult for applicants to understand and follow, and may result in the need for expensive consultants to guide applicants and their projects, both large and small, through the process. It also places a significant burden on local agencies to make “Findings” and certify covered actions.	Text not modified. See Water Code sections 85225.15, 85225.20. Early consultation with DSC staff is encouraged
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: A more suitable approach than that discussed in Chapter 3 would be to require that General Plans of the Delta Counties and Cities include language that speaks to limit certain types of activities in the Primary Zone and the Delta. This approach has been used successfully by the Delta Protection Zone; there has not been inappropriate development within the Primary Zone in San Joaquin County.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: it appears that all discretionary and potentially all ministerial permit applications within the Secondary and Primary Zones of the Delta may be considered to be covered actions. On page 36, lines 36-38, the Delta Plan states that although CEQA exempts ministerial projects (Public Resources Code Section 21080(b)(10) ministerial projects are in fact included in the definition of covered action. According to Policy No. 1, p. 39, lines 34-35, some type of CEQA-like environmental review will be required of ministerial projects subject to the Plan, as all potentially significant adverse environmental impacts and mitigation measures must be disclosed in order to certify consistency with the Plan. The Community Development Department will be required to certify that the covered action is consistent with the Plan prior to the applicant "initiating implementation." In order to certify the covered action, the County will be required to make detailed findings. These findings will be based on information that the applicants will be required to submit, and are specified in Policy No. 3, page 39, lines 38-41. The applicant will be required to demonstrate management and financial capacity to implement the covered action over the long term. This includes ownership, water rights, budgeting, capital improvement planning, and a financing plan. The certification will occur at the end of the typical local permitting process. The certification is then subject to appeal by anyone, including the DSC. The appeal process may take 150 days from start to finish. Additionally, appeals that are granted by the DSC may go back to the local agency and be appealed again, taking more time.	Text was modified Ministerial actions under CEQA are exempt in the fourth staff draft, as long as they are consistent with a local ordinance or plan that already has a certification of consistency on file with the Council. Covered actions must meet the test of having a significant impact on the coequal goals or on flood control programs. The 150 day timeframe for appeal is set in statute as the maximum timeline.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Without a clearer description of what is "significant," we are left to guess what the final administrative decision-maker's understanding is regarding this term. At one end of the spectrum, those governed by the Delta Plan are left to guess whether a large action or project may be deemed by the DSC to be not "significant" because the project is favored by DSC (or staff), even though by any independent, objective, rational view that action or project is indeed "significant". On the other end of the spectrum, those governed by the Delta Plan are left to guess whether a small action or project is deemed "significant" because the action or project is disfavored by the DSC (or staff), even though by any independent, objective, rational view that action or project is indeed not "significant". Dealing with this issue, caused by ambiguous, ill-defined language by saying "Trust us" does not meet reasonable standards of governance.	Noted; text not modified Determination of significant impact is the responsibility of the project proponent. Early consultation is encouraged.
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Appendix A, paragraph 2 and page 37, lines 24-28 state that local agencies may elect to refer covered actions to the DSC early in the process for an "early consultation." The Community Development Department may decide to send all ministerial and discretionary applications within the legally defined Delta for early consultation with the DSC. By allowing the DSC to pre-screen, it will help to ensure that expensive and complicated application materials are only required of applicants whose projects, according to the DSC, are what they consider to be covered actions, and therefore subject to the Plan.	Noted; text not modified Determination of significant impact is the responsibility of the project proponent. Early consultation is encouraged.
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan should have some "bright line" indicators of what is, and what is not, a "covered action" (beyond pointing out what the "covered action" statutory exemptions are). Local permit applicants are numerous and they, and the County, should not have to guess at the meaning of "covered action". It is recommended that the DSC staff be the first step in the process for certification. A potential permit seeker would submit material regarding action which could be a "covered action" to DSC staff for a preliminary conclusion as to whether the action is a "covered action".	Noted; text not modified Determination of significant impact is the responsibility of the project proponent. Early consultation is encouraged.

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The County sees this process imposed by the Draft Delta Plan as unfunded mandates. There should be language in the Delta Plan, which specifically recognizes that the imposition of this process is an unfunded mandate.	Noted; text not modified Preparation of the Delta Plan is required by the Delta Reform Act
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 37, Lines 17 through 23 - This provides examples of covered actions that are “statutorily excluded” from the Plan. Line 23 states: "routine maintenance of levees by a reclamation district (Water Code section 85057(b))." Does this include other local levee maintaining agencies as well? If not, the statute should be amended to include other Local Maintaining Agencies (LMA) or the Plan should acknowledge this.	See 85057.5(b)(5), yes, routine maintenance by an LMA would be exempt.
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 38, Figure 3.1 - How is significance criteria established? Can it be done by the agency making the decision/finding for the covered action similar to CEQA? Also, if an agency is unable to certify consistency with the Plan, then the agency must revise the plan, program or project to achieve consistency. If this isn't feasible, can the agency make a statement of overriding considerations, similar to that allowed by CEQA?	There is no statement of overriding consideration for the Delta Plan.
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 39, Lines 13 and 14 - This states that a covered action must not only be found consistent with the Plan at the time of certification, but must also be found consistent when implemented. Does this mean that a finding of consistency must also be made when an action is implemented? (Are two findings required?)	No. Consistency is determined by the Council only upon appeal, which would occur prior to implementation of said covered action.
San Joaquin County	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 39, Lines 38 through 41 - There appears to be an attempt to parallel CEQA, for example in the definition of Covered Action (same as "project" in CEQA), yet P3 far exceeds that required by CEQA by requiring that financial capacity to implement a covered action be included in the certification. Is this appropriate?	Text was modified In fourth staff draft Policy GP1 requires that a proponent of a covered action demonstrate access to adequate resources related to full implementation of adaptive management.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Another difficulty with the Plan's treatment of "covered actions" is that at P 36 L 29 – 38 the Plan explains that despite the first threshold for being a "covered action" is that it must be a plan, program or project per CEQA, the numerous exemptions to CEQA (e.g. ministerial actions, one-year water transfers) will not be similarly exempt from being potential "covered actions". This is both illogical and counterproductive. A project that is exempt from CEQA does not meet the threshold criterion of a "covered action" that it be a CEQA covered activity. In essence, by adopting this interpretation the Council is rewriting the Act and CEQA by fiat. We object. However, if the Council still feels compelled to reject CEQA's exemptions with regard to the applicability of its "covered action" jurisdiction, an alternative option would be to direct staff to identify and provide the Council a rationale explaining which specific CEQA exempted projects (by statute or category), programs or plans should NOT be exempt from the Delta Plan definition of "covered actions" because of possible detrimental effects countervailing achievement of the coequal goals. The Council could than have a policy discussion about each category of CEQA exempted action and the potential to negatively affect the achievement of one or both of the coequal goals, and deciding to either reject the exemption or define specific parameters of concern related to them that should be addressed when the project, plan or program is implemented. Additionally, the Council, as part of this assessment and delineation could and should determine what "covered actions" would be considered "per se" consistent with the Delta Plan.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: P 35 L 24: Suggest adding either a sentence or adding as a footnote that if the BDCP is incorporated into the Delta Plan then although it would include some actions that would satisfy the definition of "covered actions", because it and they would be a part of the Delta Plan all such activities would be by definition consistent with the Delta Plan and not subject to a consistency determination. This would help define the "interconnections" between the Delta Plan and the BDCP for the reader.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: P 37 L 11-16: The Council's definition of "significant impact" – a "substantial or potentially substantial change in existing conditions that directly, indirectly and/or cumulatively caused by a project and that will or may affect the achievement of one or both of the coequal goals." -- is an extreme embellishment of that Act's simple language regarding this component of the "covered action" criteria that merely includes an action that "will have a significant impact on achievement of one or both of the co-equal goals…." An action's impact must be an impact, not a potential, indirect, or cumulative one and not one that only may occur. This language should be deleted and the focus should be shifted to describe what an actual significant impact would be in relation to the coequal goals. Because the current approach to "covered actions" is being defined in a manner that the Council asserts authority to reach to activities essentially throughout the State, the potential for severe unintended consequences of this "definition" are manifold.	Section has been revised/eliminated
State and Federal Contractors Water Agency	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: P 40 L 31-33: "…have large impacts on the Delta ~~and would affect~~ as it contributed to the achievement of the coequal goals. However, ~~completion and full implementation of the~~ because the Bay Delta Conservation Plan does not address a number of required components of the Delta Plan, its completion and full implementation is not equivalent to satisfying the Act." This change will further and more clearly illustrate the BDCP's interconnection and relationship to the full Plan.	Text was modified
Stockton, City of	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: P. 35 discusses a covered action as "a subdivision in a Delta floodplain ..... Not sure what a Delta floodplain is. Plan should clarify.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
City of Tracy	5/5/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Pages 36-38: Definition of a "Covered Action": The definition provided needs to be clarified as it is a hybrid between the definition of a "project" under CEQA and a broad inclusion of the types of activities that CEQA specifically exempts. Our concern is two-fold. First, who would interpret whether or not one of the many broad regulatory policies of the Delta Plan is applicable in determining whether or not an action is covered or will have a significant effect on achieving the goals of the Delta Plan? As currently written, there is no clear understanding of the threshold of significance that would be used by both cities and the Council in a meaningful way to evaluate discretionary and routine permits. A clear standard of significance, or measurable metric related to achieving the co-equal goals should be developed for agencies that have land use permitting authority. Second, as currently drafted, the process outlined in the Delta Plan adds a new layer of bureaucracy that, in the case of Tracy, will cause 100% of our infill projects which are not located in the 100-year floodplain, to be evaluated against this Plan. Rather, the Delta Plan should exempt such projects that have already been through many layers of planning and CEQA review. A potential solution might include a new definitional exception to the review process if City's can demonstrate or meet a defined threshold. For example, if a City can demonstrate a diverse water supply portfolio, that does not include a high percentage of groundwater pumping, and can withstand total shutdown of the Delta water supply for extended periods of time, coupled with land planning that demonstrates compliance with LAFCo, SB 375, Valley Blueprint planning, then reviews should be limited to existing CEQA processes.	Text was modified A project proponent would determine applicability of the provisions of the Delta Plan to their proposed project/plan/program. Early consultation is encouraged with Delta Stewardship Council staff If Tracy meets 85057.5(b)(4) it would qualify as exempt from the provisions of the Delta Plan

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Tuolumne Utilities District	4/29/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 35, second paragraph. The plan should make clear why the issuance of a building permit issued to expand a house within an incorporated city differs from a building permit issued in an unincorporated city, or portion of a county...The example is more confusing than helpful and raised more issues than it settles. It does however; raise the point of how a ministerial act...must now be subject to a new discretionary level of review to determine if the issuing of a building permit to remodel a home is a "covered action"...The term "likely not a covered action" is less than helpful...and lends to the specter of appeals of home remodeling projects being to the DSC by parties who believe these are "covered actions".	Noted; text not modified Project proponents are encouraged to engage in early consultation with Council staff as to projects that could be considered covered actions
Tuolumne Utilities District	4/29/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 36, last paragraph. The notion that the issuance for a single building permit, a ministerial act by a local agency, now falls under the jurisdiction of the Delta Stewardship Council, potentially anywhere in the export areas or the Delta and/or its watershed is troubling. Such a new regulatory process will add significant local land use permitting costs and time to entitlement actions...The Plan would place a burden on local governments of determining...if they are approving a "covered action". This will undoubtedly drive up local permitting costs and the time required to issue what now is a simple, ministerial, permit and unnecessarily add to the cost of construction.	Noted; text not modified
Tuolumne Utilities District	4/29/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 38. The graphic incorrectly indicates that actions that occur "within the boundaries of the Delta" are one of the criteria, while the narrative within the plan refers to actions that "occur, in whole <u>or in part</u> within the boundaries of the Delta or the Suisun Marsh".	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Tuolumne Utilities District	4/29/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Page 39. Policy GP1. By including single-family home additions as a potential covered action and then requiring that "All covered actions must be fully transparent." the Plan imposes a new level of analysis and scrutiny to all local governments in most of the State. These governments and local agencies must now impose an analysis, equivalent to a full CEQA process, to the issuance of what was a ministerial act. This will add significant time and cost to the process of building or adding onto a home in most of the State. Further, it will expose those permits to potential appeals to the Delta Stewardship Council thereby creating a permitting new hurdle never anticipated in the authorizing legislation. Under this measure of diligence by the DSC it is likely local decisions regarding even the most moderate water supply and quality projects throughout much of the state could be appealed to the DSC.	Text was modified to improve clarity on this issue Policies have been revised
Water Community	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The third draft expands the Council's authority over covered actions beyond the Delta Reform Act. The third draft determines that, although covered actions are defined by the CEQA definition of a "project", the exemptions limiting what qualifies as a "project" under CEQA are not similarly applied to a covered action. Such an expansionist reading would result in the Council reviewing the consistency of, for example, local building permits that are consistent with general and specific plans, use permits, and subdivision maps. Such a reading would grant the Council authority over one-year water transfers that the Legislature has exempted from CEQA under Water Code section 1729. In addition, the third draft states that a project could be significant because it "cumulatively" causes an impact. Under environmental law, this means that the project would contribute – when combined with the impacts of all other reasonably foreseeable projects – to some impact. (See Cal. Code of Regulations, title 14, § 15355 (defining "cumulative impacts" under CEQA.) The third draft's discussion therefore casts an extremely broad net for consistency review. In short, it is very difficult to perceive the geographic and substantive limits of the consistency reviews proposed in chapter three.	Text as modified to address ministerial actions

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: The third draft also expands the geographic scope of covered actions. The Delta Reform Act is clear – covered actions are limited to those actions that take place, in whole or in part, in the Delta. (Delta Reform Act § 85057.5(a)(1).) The third draft includes provisions that suggest that any project that takes water from the Delta or has water pass through the Delta would amount to a covered action. Furthermore, the third draft would obligate a proponent of a covered action to ensure that actions outside the Delta that are related to the covered action comply with specific policies set forth in the draft plan. See pages 47-48 of the third draft. This expansive interpretation frustrates the geographic limitation of covered actions and cannot be interpreted as consistent with the legislation.	Please refer to the memo regarding our statewide authority, available as an attachment to the following letter: http://deltacouncil.ca.gov/sites/default/files/documents/files/MeralLetter05312011.pdf
Water Community	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Chapter 3: Necessary Changes The third draft should limit its discussion of covered actions to the section in which the Delta Plan explains how consistency reviews will be conducted after the Delta Plan is in effect. The Delta Plan must stop using its consistency review as a way to effectuate back-door regulation. The standards for determining consistency reviews under a Delta Plan that is a plan for the Delta, rather than a new regulatory program, would be relatively simple. To be a "covered action," a project occurring at least in part in the Delta or the Suisun March would have to at least potentially impact one of the actions, policies or projects identified in the Delta Plan and the project would be inconsistent with the Delta Plan if it were to interfere with, or hinder, the implementation of the relevant Delta Plan item or items. Such a determination could be based largely on the relevant project's CEQA document, which would need to analyze how the project would impact the relevant resource in the Delta or the Suisun Marsh. Such an analysis would involve few, if any, of the value judgments that are inherent in the third draft's discussion of "covered actions."	See above and revised chapter 3 for discussion of Council regulatory authority

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 3	THIRD STAFF DRAFT DELTA PLAN: Accordingly, we recommend that, in chapter three, the Council: ● Delete proposed policy G P1 and all of its subparts; and ● State that upon appeal, the Council will consider an action to be inconsistent with the Delta Plan if it would interfere with, or hinder, the implementation of a policy, action or program identified in the Delta Plan. If a state or local agency has found that its action will be consistent with the Delta Plan, the Council will uphold that finding if it is supported by substantial evidence.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 44, Inset In the section beginning “Inherent in the coequal goals…” there appears to be an orphan phrase beginning with “Missing self-sufficiency…” after line (f).	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: From a general standpoint, WR P1, WR P2 and WR P3, as recommendations, are reasonable. Regional and local water suppliers should be looking at what steps can be done and should be done to become more self-reliant in the long-term.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: What does it mean to become more self-reliant and less dependent on water from the Delta? Must a water supplier plan for and take actions that reduce their need for Delta water from what they have historically been getting? Or, alternatively, is it sufficient that, taking increased demands into account, the water supplier does not plan for increased water from the Delta to meet its future needs? Hypothetically, it is possible for a particular region or water supplier that only the latter is feasible. Is this acceptable and in compliance with the policies?	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: If a local water supplier that receives water from the SWP does not comply with the WR policies, does the entire SWP operation become inconsistent with the Delta Plan, or is it inconsistent to the extent that water is supplied to the particular water supplier?	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Related to issue 2 above, this policy essentially puts the SWP at risk of being considered inconsistent with the Delta Plan on account of the actions, or inactions, of agencies outside DWR's control.	Text was modified Neither the SWP nor the regions should be placed at risk of being inconsistent if agencies outside their control refuse to cooperate However, see recommendations in Chapter 4 – DWR should require WRP policies as condition of contract or transfer approval
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Department encourages the Council to work on developing more of an incentive-based approach to further the policy of regional self-reliance and decreased dependence on the Delta.	Noted; text not modified DSC supports current array of incentives available to water agencies, including conditioning funding, and providing state assistance (note extensive assistance through GW management plans, conservation, etc.). Also, WRR2 provides additional incentives through revision of grant/loan criteria to provide additional credit within the ranking system for applicants who have complied with the program
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: A discussion of the water transfers program should be provided in this section. This is an important program that would benefit the Delta and result in a more reliable water supply for California. The water transfer program consists of laws, measures, facilities, and administrative actions to encourage, promote, and facilitate water transfers, both short-term and long-term, between willing buyers and sellers in California. More water transfers in California could reduce certain regions' reliance on water exports from the Delta.	Noted; text not modified Transfers are included in WRP2

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 45, lines 19 and 20 The Department recommends the addition of the following paragraph between lines 19 and 20: "One part of the modifications that have taken place in the subsided Delta to shape it into what it is today was the construction of levees around each of the islands and tracts. These levees serve many purposes. In regards to water supply, the levees limit the land area that is subject to tidal flooding and constrains the tide to the volume contained within the levee system. By reducing the volume of the Delta that is subject to tidal flux, the levees limit salt water intrusion, limit tidal mixing, and preserve fresh river water for other purposes, including export to areas of the State that are in need of additional fresh water supply."	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 45, line 32 The Department recommends the insertion of a new subheading and text as follows: Preserve Delta Reliability in Water Delivery "The Delta levee system separates the now subsided lands (once occupied by peat soils) from the surrounding water. The subsided area below the water level on each island represents a certain volume of empty space. The volume of this empty space, in some references called anthropogenic accommodation space (AAS), would be subject to flooding by tidal action. If this space were flooded, the tidal volume would increase and the Delta would turn brackish unless flushed by large volumes of fresh water. The volume of fresh water necessary to flush saltwater from the Delta without the levees in place could exceed the volume of project storage on an annual basis. Because the levee system functions to limit saltwater intrusion, the State and federal water system is able to move export flows south of the Delta for beneficial uses." The Department also recommends the addition of the following problem statement and policy: Problem Statement "Delta islands contain significant volumes of AAS that could impact the ability of the State and federal water project to deliver exports south of the Delta for beneficial use." "Policy WR PX To limit tidal flux volume and preserve fresh water, the levee system should be maintained for its many purposes, including water supply reliability."	Noted; text not modified Flooding issues and water supply implications addressed in Chapter 7

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 46, lines 4 - 18 An important example of "local and regional water supply development" that should be mentioned here is improved forestry management. According to a recent statement by a California Forestry Association official, California could increase our State's water supply by 1-to-3 Million Acre-Feet per year (through delayed runoff and ground water recharge) by improving the management of our public forests. Page 46, line 6 Please add "emulates the natural system where water is reused many times as part of the water cycle. Specifically, it…" after recycled water.	Text was modified Page 46, line 4-18 – example included in footnote Page 46, line 6 included
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 46, line 7 Please add "additional" between "several" and "times."	Text was modified Several deleted
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 46, lines 8 - 11 Is there money allocated for developing/expanding facilities to treat groundwater and for desalinization? These are typically not efficient or cost-effective options with available technology. Focus should be to better control discharges that contaminate water and enforce proper waste disposal regulations. Improved storage is also a good option to focus on because it is a one-time cost, as opposed to an ongoing treatment cost.	Noted; text not modified Agree that controlling discharges and source protection is an essential and usually the most cost effective strategy. Choices among other options depend upon the local conditions and challenges facing the water supplier. Membrane technology is rapidly changing, making package plants and other treatment facilities more cost effective than ever before
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 46, line 29 Please verify and provide a reference for the statement that over $2 billion in state bond funds have been made available.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 46, 4th footnote The fourth footnote states that, "An Integrated Regional Water Management Plan (IRWMP) must be approved by DWR to receive bond funding for implementation of identified projects." However, DWR does not approve IRWMPs. To be eligible for bond funding, an IRWMP, approved by the local or regional agencies, must be in place.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47, line 36 Please insert "sustaining or" just before the word "improvement."	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1, page 47, lines 23 - 29 Some urban and agricultural water suppliers which deliver water from the Delta or diverted from streams flowing into the Delta may be too small to produce the required water management plan. Such small suppliers should be allowed to form regional water supply associations, which would cooperatively produce a water management plan for their region.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1, Page 47, lines 30 - 33 Please clarify the planning period and criteria for the possibility of interruption of Delta water supply.	Text was modified Inserted footnote referencing SWP Reliability 2009; page 32
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1, page 47, line 34 to Page 48, line 2 The text should make clear that not all of the seven listed programs or projects will be feasible within the service area of each water supplier, and that other programs or projects to increase local and regional water supplies, such as improved forestry management, may be feasible, and worthy of inclusion in the management plan.	Text was modified Inserted footnote
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 48, lines 3 - 11 The text implies each region has to demonstrate a water balance. This could have the effect of eliminating all Delta diversions. A definition for “water balance” is necessary...This section requires regions to assess long term water supply sustainability by demonstrating a positive projected regional water balance. Regions showing an imbalance must demonstrate activities through their IRWMP to bring their region into balance. Asking regions to quantify their regional water balances is much needed step that is missing in many IRWMPs. However, there are a couple of problems with how this section introduces the concept of regional water balances that contradict the strategy developed for the California Water Plan.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Regional water imbalance - The first problem is introducing the term water imbalance. This leads to the conclusion that regions should consider a single view of the future to quantify their regional water balance and avoid a future that shows a mismatch between water demands and water supplies. In contrast, the Water Plan has introduced the concept that the future is inherently uncertain. Future population growth, land use changes, regulatory requirements, and climate change will all affect how regions respond. Beginning with Update 2005, the Water Plan has introduced the concept of scenarios to consider these uncertainties to test the robustness of potential water management strategies. In Update 2009, the Department used 3 growth related scenarios and 12 future climate scenarios to identify a range of future water demands for California's 10 hydrologic regions.	Noted; text not modified Concept of water balance is tied back to groundwater management and overdraft conditions. A region needs to take responsibility for understanding and developing programs to reduce the mismatch between water demands and supplies so that groundwater can be sustainably managed
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Water Supply Sustainability - The second problem with the section is that it links the term water supply sustainability narrowly to meeting future water demands without considering the broader usage of the term water sustainability to include environmental, economic, and social equity factors. Matching future water demands strictly by looking at water supply could likely prove to be an unsustainable course of action without considering the broader use of the term water sustainability. As part of Update 2013, the Department is working through our open and collaborative process to develop an analytical framework to help regions to quantify water sustainability indicators. The Water Plan seeks to quantify how regional water management responses can meet multiple objectives including supply reliability, provide environmental benefits, protect against drought, improve water quality, and many others.	Text was modified Emphasized reliability

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Department recommends that the plan introduce the need to quantify regional water balances, but not use the water balances themselves as the mechanism to prompt water management actions. Also, the Department does not recommend the use of the term water supply sustainability as a narrow concept focusing on water supply. Instead regions should be encouraged to evaluate potential water management actions that are robust across multiple future scenarios that meet multiple water management objectives including water sustainability in the broad sense.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1, page 48, lines 3 – 11 This provision recommends using Integrated Regional Water Management Plans as a mechanism for identifying steps to bring the "hydrologic region" into balance. Most IRWMPs that have been developed and/or approved, however, cover a geographical area that is only a portion of a given hydrologic region. To recommend these IRWMPs be responsible for identifying steps to bring the entire hydrologic region into balance may be unreasonable.	Text was modified The IRWMPs are now included as an option for compliance but not a requirement. Agree that most of these plans are in the early planning phases. This could become a requirement in future versions of the plan
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1, page 48, line 6 The Department recommends using the term 'demand exceeds supply' rather than 'the region lacks balance'.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1 page 48, lines 12 & 13 The Department is not clear on the term "Sustainable Water Rate Structure." A more correct term is a "conservation-oriented water rate structure" or "water rates which encourage conservation." Also, "sustainably" should be removed from "Evaluate the degree to which the supplier's current rate structure sustainably encourages and supports water conservation." (How can water conservation not be sustainable?)	Text was modified Note: Rate structures that promote water conservation may not be sustainable if they are poorly designed and cause a shortfall in system revenue when implemented
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1, page 48, lines 15 - 23 Option A See Comments above regarding IRWMPs to include a provision for covering "region" and DWR approving IRWMPs.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1, page 48, lines 21 - 23 The DSC should note that determining compliance under Option A would require accurate data from the regulated agency and lengthy analysis on the part of the Department. There are considerable costs associated with this option.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P3, page 48, lines 36 & 37 The word "sustainably" should be removed from this statement "rate structure that sustainably encourages and supports water conservation".	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 49, line 2 Consider adding the following recommendation: "WR RX Water exporters from the Delta or Delta watershed should support funding from multiple sources for maintaining, repairing, restoring and, in some cases relocation of delta levees as a primary means to preserve fresh water quality in this estuary."	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 49, Lines 22 – 26 This statement does not accurately reflect what has occurred. Over the years, the State Water Board has made several decisions, in the forms of water quality control plans and water rights orders implementing those plans, that were based on the balancing of all the competing interests and making determinations on what the reasonable levels of protection were for each beneficial use. The decisions were based on the current understanding of the needs of each beneficial use and what was in the public interest at the time. Based on our current understanding of the Delta, we may find the past decisions inadequate and not currently in the public interest, but it is incorrect to state that those decisions were not made.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 49, lines 27 – 35 Put simply, the flow issue will never be (and perhaps never should be) resolved. The State Water Board, in its water quality control planning process, will develop water quality objectives that, based on the current understanding, will attain the highest reasonable protection of the Bay-Delta's beneficial uses. As time progresses and circumstances and understanding change, what is protective and what is reasonable will change; and, thus, the objectives should change as well. The State Water Board's water quality control planning process already takes this possibility of change into account in that there is an already in-place review process that takes place every three years. (See CWC sections 13170; 33 USC section 1313(c)(1).) During the review, the State Water Board investigates and considers any new information relevant to setting and implementing water quality objectives, and makes any necessary changes. While this program of consistent updates does not allow for much certainty, the uncertainty it creates is tempered by the fact that in whatever changes the State Water Board makes, those changes must be reasonable. In sum, the Council's focus on getting the flow issue resolved both misunderstands the water quality control planning process and undermines the fact that water quality objectives should change as circumstances and public interest change.	Noted; text not modified SWRCB, through its statutory authority, always has the ability to reopen and reconsider water quality and flow objectives based on new information, changing circumstances, etc.
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 49, lines 36 - 45 The...statement in incorrect in stating that the Flow Criteria Report was the first step in the State Water Board's work plan and schedule for reviewing and potentially modifying the current water quality objectives. Actually, the State Water Board committed to the process review and potentially modify the current water quality control plan for the Delta (Bay-Delta Plan) in 2008 and began the process in early 2009. (See Resolution 2009-0065.)	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P4, page 50, Lines 10 – 29 In the first bullet, the June 2, 2014 date to both adopt and implement flow objectives for the Delta is ambitious. Conducting the necessary balancing to determine, (1) what the highest reasonable level of protection is for various beneficial uses, and (2) who should be responsible for implementing that protection is a complicated and time-consuming process. It is also a process that should not be short-cut or rushed. If the State Water Board attempts to meet the proposed deadline, the end result may be based more on what is easily accomplished in such a short time frame and not what is most reasonable. The DSC should consider eliminating the implementation language from the policy and focus more on having the new objectives adopted. All of the options for Council consideration listed in lines 21 to 29 to some degree constrain covered actions and future covered actions until the State Water Board adopts and implements revised water quality objectives. The Department questions this approach. The DSC should consider revising WR P4 to a recommendation. This is especially true for the inclusion of option A, which would use the Flow Criteria Report to determine consistency of covered actions. This report was an unbalanced look at what the Delta ecosystem needed and did not consider the impacts or needs of any other beneficial use. This approach does not harmonize with the policy of "coequal goals." Just as the Council would not and should not consider using a report describing the full needs of export users as the baseline to determine consistency, the Council, for the very same reasons, should not use the report. Option B would find inconsistent any action that could increase water diversion or storage from the Delta until the Board developed new flow objectives. First, the consequence ignores the fact that any new diversion for use or storage or any new point of diversion would have to be approved by the State Water Board. As such, the Board could and likely would include terms and conditions in any permit that would require the action to comply with relevant objectives and any changes to those objectives. Also, the State Water Board would not likely make any decision on such requests until it has completed its water quality control planning process.	Text was modified Options (lines 21-29) modified WRP4 is a recommendation. Options A-C revised and included to provide an indication of the types of actions that DSC may consider if SWRCB fails to act by the deadline cited Lines 10-20 were provided by SWRCB and were not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 11-29 The Sacramento-San Joaquin Delta Reform Act of 2009 requires the State Board to develop flow criteria to meet the coequal goals, but may not supersede federal requirements. In 1995 the Federal Register promulgated salinity (X2) requirements into the Code of Federal Regulations (CFR) Title 40 Part 131.37. These federal X2 requirements should be addressed in the Delta Plan. If the State Board's study indicates different flows are needed to meet the coequal goals, then the Delta Plan need may need to propose a procedure to come into compliance with federal law.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 17 - 19 Please clarify what is meant by the existing Delta flow objectives. Are these the criteria established by the State Board in 2010?	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 21 - 23 The State Board's criteria report is not designed to be enforced as it does not evaluate the impact of the proposal upon the other public trust resources. This report only evaluates the effects upon fish and the ecosystem as the title states. Using this report to evaluate covered actions will not balance the co-equal goals of water supply and the ecosystem improvement.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 24 - 26 Projects which increase the flexibility of conveying water and would be beneficial to the ecosystem could be excluded by this option because such projects may involve increasing conveyance capacity. This option could inhibit the DSC from meeting the coequal goals of water supply and ecosystem improvement.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 27 - 29 Clarification of this complex sentence is needed.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 31 - 32 The first sentence oversimplifies the design and use of multi-purpose reservoirs.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 32 & 33 Contrary to the statement made, the State Water Project was "originally designed to protect ecosystem values." This can be seen on Page 18 of DWR Bulletin 160-66, Implementation of the California Water Plan (DWR, 3/66) where the text indicates that the SWP was designed to improve conditions for fish and wildlife, and improve water quality. On Page 64 of that report it states, "to leave for future generations as much of the natural heritage of the State as possible, it is important that fish and wildlife resources be preserved and enhanced."	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 35 - 36 The first sentence is unclear. Should the word 'match' be changed? Also, the word 'pumped' should be changed to 'exported from the Delta.'	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 51, lines 4 - 6 The issue is not that SWP operates the lowest elevation dams; it's that the watersheds behind those dams are at lower elevations. These watersheds are particularly vulnerable to the impacts of a warming climate. As such, SWP dam operations will have to adapt to the impacts more than USBR dam operations.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 51, line 5 Also note that the SWP has only one reservoir (Oroville Reservoir) that captures water supply from the Sierras. Since the SWP and CVP are both very vulnerable to changes that may result from climate change, the Department recommends replacing this sentence with "The State Water Project and the Central Valley Project both rely on reservoirs which capture precipitation and snow melt from the Sierras and both export this water supply from the Delta. Both systems are very vulnerable to these changes."	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 51, Lines 31 - 34 The Department suggests the following revisions to this paragraph: Despite the importance of improving water supply reliability to the state and its economy, California has limited information on which to base sound water management decisions. California's water information infrastructure has not kept pace with the today's complex water problems. A large amount of information is needed not only to analyze water demands and supplies, but also to evaluate ecosystem restoration options, adapt to long-term climate change, and implement integrated regional water and flood management solutions (California Water Plan Update 2009). Due to the lack of comprehensive and standardized monitoring and reporting requirements, the state does not know how much water is available or used on a real time basis. This is particularly true for groundwater extraction, which is unregulated in many areas of the state. The California Water Plan has identified the following categories where important information is not available or difficult to compile for many areas of the state: • Statewide land use—native vegetation, urban footprints, nonirrigated and irrigated agriculture • Groundwater total natural recharge, subsurface inflow and outflow, recharge of applied water, extractions, groundwater levels, pumping-induced land subsidence, and water quality • Surface water—natural and incidental runoff, local diversions, return flows, total stream flows, conveyance seepage and evaporation, runoff to salt sinks, and water quality • Consumptive use—evaporation and evapotranspiration from native vegetation, wetlands, urban runoff, and nonirrigated agricultural production • Soil moisture characteristics—water saturation, porosities, and field capacities • Environmental/biological data—species monitoring and their habitat and water requirements • Land elevations and channel bathymetry • Current and future price of water by supply source	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 51, lines 36 - 42 The Department recommends the following language starting on line 36: "…over-allocated (State Water Resources Control Board 2008b). In other regions of the state, water is pumped more quickly out of the ground than it is replenished (Department of Water Resources 2009). Chronic groundwater overdraft has been estimated by the Department of Water Resources to be as high as 2 million acre-feet statewide. This overdraft is mostly in Tulare Lake Hydrologic Region. A recent NASA study using data from the Gravity Recovery and Climate Experiment (GRACE) satellite mission further suggests that 16.5 million acre-feet were taken out of groundwater storage in the Central Valley between October 2003 and March 2010 (Famiglietti et al. 2011.) Again, the groundwater depletion was mostly in Tulare Lake Hydrologic Region."	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: DWR defines groundwater overdraft as the condition of a groundwater basin in which the amount of water withdrawn by pumping exceeds the amount of water that recharges the basin over a period of years, during which the water supply conditions approximate average conditions. To calculate overdraft, the average annual change in groundwater storage must be calculated over an extended period that includes a varied hydrologic regime, in order to approximate average conditions.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 52, lines 13-15 The Department suggests the following revisions to the text in lines 13 to 15: But even mandatory sources of local and regional water supply and use data, such as the Urban Water Management Plans that urban retail and wholesale water agencies (serving more than 3,000 customers) are required to update and submit to the Department of Water Resources every 5 years, do not use consistent and transparent assumptions nor are they compiled electronically in a central data base. The information from these plans is important, but it is extremely time consuming or impossible to aggregate information from individual plans within a region to evaluate regional water conservation and local water supply development trends that will contribute to the improvement of the state's overall water supply reliability.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 52, lines 16 - 20 Contrary to the statements provided here, the CEQA process does provide an early, detailed public notice of the SWP water transfers. Public negotiations are also a part of the process for permanent water transfers. Also, the Monterey EIR is intended to and does provide a transparent process for DWR water supply contract amendments.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 52, line 17 Please add "or the use of SWP facilities" after "State Water Project" at the end of this sentence.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR R5, Page 52, lines 35 – 45 The Delta Plan states the information collected through the Water PIE should be published in the California State Water Plan Update every five years. Consider modifying this to state "a summary of the information collected" since there is a considerable amount of data collected.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 53, lines 2 through 3 Please add (Department of Water Resources 2009) to the citation list with (Hanak et. al. 2011.)	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 53, lines 3 - 6 Please note that groundwater is managed at the local level, generally the groundwater basin or subbasin, and the degree of management and reliability of the resource varies throughout the state.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 53, lines 9 - 12 Please add that there are currently 22 adjudicated groundwater basins in California.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 53, line 23 Please add “for groundwater elevation data” after first reporting deadline.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 53; lines 24 through 25 and lines 30 - 31 Please use the term ‘decline in groundwater storage’ rather than ‘overdraft.’	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 53; lines 34 - 38 Please revise this section to note that the state has not conducted a comprehensive assessment of California’s groundwater basins using field data since Bulletin 118-Update 2003 and that this was published in 2003— eight years ago.	Noted; text not modified B118-2003 is very clear about limits of information in evaluating groundwater basins and that they did not update the information on chronically overdrafted basins
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 54, line 2 Include the Central Valley Project along with the State Water Project in this line.	Text was modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR R6, page 54, lines 10 – 15 Text should be re-written to apply only if adequate funding is provided.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR R8, Page 54, lines 26 – 31 The DSC may also want to consider approaches different from having SWRCB taking action as described. An additional recommended approach could be to work with locals and follow a systematic path to effective local management.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 54, line 33 To be consistent with the rest of this draft, the line should read “Improved Regional Self-Reliance” rather than Improved Regional Self- Sufficiency.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California State Board of Food and Agriculture	5/4/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Third Staff Draft Delta Plan also identifies actions to expand groundwater monitoring (Chapter 4) through actions taken by local agencies, the California Department of Water Resources and the State Water Resources Control Board in context of Chapter 3 of the Third Staff Draft Delta Plan allowing the Council to determine if activities meet the definition of "covered actions." Once again, by over-stating the statutory authority of the Delta Stewardship Council, the effect of the plan is to create the potential appearance of duplication and unpredictable regulatory burdens that may discourage proactive actions.	Noted; text not modified
California State Board of Food and Agriculture	5/4/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Already in preparation for the 2013 Water Plan Update, the Department of Water Resources' Water Plan Steering Committee has compiled comprehensive profiles of 86 current water related projects by various state, federal, local, and non-government entities in California. Nothing in the Third Staff Draft Delta Plan accounts for these activities, reconciles their scopes with those of improving the Delta, or foresees disputes arising from the general assertion of jurisdiction stated in the Third Staff Draft Delta Plan. In fact, the Third Staff Draft Plan makes only one reference to DWR's water plan update with respect to groundwater although the water plan overlaps into most areas that the Third Staff Draft Delta Plan claims potential jurisdiction over.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California State Board of Food and Agriculture	5/4/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: While proposing the need to levy a list of fees and assessments, the Third Staff Draft Delta Plan does not define how the Delta Stewardship Council would impose, replace and/or share financial resources with other state agencies and local government, as well as the economic impacts related to uncertainty, dislocations, and incentives - resulting in potential disincentives. Excessive emphasis on regional water self-sufficiency fails to acknowledge that there are economically vital regions of the state that simply cannot be self sufficient in water supply. While it is appropriate to maximize management of regional water supplies, establishing a goal of regional self sufficiency is no more logical than calling for Los Angeles to be food self sufficient or the Sacramento basin to be petroleum self sufficient.	Text was modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The draft gives needed attention to the requirement for Delta Instream Flow Criteria and the Setting of Flows. As the draft correctly points out, any action that potentially increases the amount of water diverted from the Delta is vulnerable to challenge over the question of whether there are sufficient flows to protect and restore the environment (draft at page 49, lines 33 to 35). To be meaningful the draft's discussion of the need for flow standards should be followed by a policy at least as effective as options A, B and C on page 50, lines 21 to 29...In addition the Delta Plan should explicitly state a finding and recommendation that providing adequate Delta inflows and outflows is not just the responsibility of those who divert directly from the Delta. It also is a responsibility of those who divert water from the Delta watershed before it gets to the legal Delta.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: However, none of the policies, options or recommendations in Chapter 4 actually require water supply agencies to achieve and document actual or projected reductions in export reliance – let alone establish a specific target for achieving such reductions – but are limited to promoting actions that could reduce reliance. The Council should not assume that actions intended or represented as intending to reduce reliance will actually achieve real reductions, nor should it assume that real reductions will not be offset by increasing demand or capacity. WR P1 should require water suppliers to document actual or projected net reduction in reliance as part of their reporting obligations on total water use. In addition, WR R3 (p. 49) appears to be directly inconsistent with Sec 85021, by allowing water suppliers to increase Delta diversions and demands without regard to the total Delta water budget, i.e., without ensuring that total Delta diversions and demands decrease to an acceptable level.	Text was modified Included documentation of actual or projected net reduction in reliance on Delta exports
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: It is well known that both the SWP and CVP have contractual obligations that cannot be met in most years. Under your mandate to achieve water reliability as a part of the coequal goals, it is the responsibility of the Council to attempt to have contracts modified in order to bring balance to what is promised and what can actually be delivered. That would go a long way toward achieving water supply "reliability."	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4, Page 50, lines 13 and 14. "♦ By June 2, 2014, adopt and implement flow objectives for the Delta that are necessary to achieve the coequal goals." Considering that the State has announced that the BDCP application and EIR/EIS will not be completed before 2013 and that it will then be subject to a comprehensive regulatory proceeding at the SWRCB, the policy should state that the flow objectives to be developed by June 2, 2014 are for the existing system of conveyance.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4, Page 50, lines 20 to 29. As discussed in our general recommendations these three items identified as options should all be included as policies. Unfortunately repeated experiences amply demonstrate that the hard work of establish new flow standards will come only if there are significant forcing mechanisms.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4, Page 50, lines 37 to 38... With the exception of expansions of Los Vaqueros and San Vicente Reservoirs, we are unaware of any proposals for increased surface water that could be implemented in the time frame BDCP projects for its completion.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4, Page 54, lines 16 to 22...This WR R7 recommendation should be converted into a policy and rolled into WR P1 as an element of their Water Sustainability Plan. In the conversion, one amendment should be made as shown here in underline, ""WR R7 To be consistent with the Delta Plan, water suppliers that receive or deliver water diverted or exported from the Delta or the Delta watershed…"	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4, Page 54, lines 22 to 31. The first part of WR R8 "Local and regional agencies in groundwater basins that have been identified by the Department of Water Resources as being in chronic overdraft should develop a sustainable groundwater management plan, consistent with both the required and recommended components of local groundwater management plans identified by the California Department of Water Resources (Bulletin 118, Update 2003), by January 1, 2015:" This recommendation should be converted into a policy and rolled into WR P1 as an element of their Water Sustainability Plan.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4, Pages 54, lines 32 to 39 and Page 55, lines 1 to 9, Performance Measures. The vacuity of this section stems directly from the lack of definition of the co-equal objective of "Water Supply Reliability." They are poor measures of activity, not performance.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: To address the legal requirement to achieve the co-equal objective the draft needs a policy, not just recommendations relative to providing safe drinking water to rural communities including many that are disadvantaged communities. This could be accomplished by expanding Water Resources Policy 1 to require Water Sustainability Plans to specifically include plans, programs and funding to provide drinkable water to rural communities including many that are disadvantaged communities.	Noted: text not modified
Contra Costa County Department of Conservation & Development	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 45, lines 20-30. This section provides a very good discussion of the variety of planning and improvements that are needed in the Delta.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan should recommend that any new conveyance facilities improve water supply reliability while protecting the environment consistent with the coequal goals. One way this can be accomplished is by diverting more water during the wet periods and less water during the dry periods. As this wet year has demonstrated, a large new intake would not have enabled the Bay Delta Conservation Plan (BDCP) proponents to take more water because there is nowhere to store the water. Increased storage, as groundwater or surface storage, is the most effective way to increase water supply reliability for the state of California.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: There are only three highly unlikely circumstances in which pumping in the south Delta could be forced to stop permanently: a. Climate change significantly alters the patterns and quantity of precipitation, essentially eliminating the river system as we know it. This situation would mean a permanent drought and any alternative conveyance regardless of size or location would not improve water supply reliability. b. Regulations, and there are none to suggest that is necessary. c. An oversized peripheral canal is built and operated so that the Sacramento River is completely diverted before it reaches the Delta, allowing sea water to intrude far upstream and eliminating the existing agricultural, municipal and industrial beneficial uses in the Delta.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Based on the BDCP results to date, none of the conveyance alternatives will produce more water during dry periods. During wet periods, a large intake facility in the north is unnecessary because a smaller facility can be operated in conjunction with the existing pumps in the south Delta. As noted above, a large new intake would not enable the BDCP proponents to take more water during the wet periods because there is nowhere to store the water, therefore the only time more water could be diverted by a large facility would be during normal and dry times which would further exacerbate the existing problems in the Delta.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan should recommend that local agencies identify investment opportunities for improving regional water supply, conservation and water use efficiency consistent with Water Code Section 85021. The Delta Plan should not mandate that all water suppliers include investment plans for each activity currently listed as part of water resources policy # 1 (p. 47). Each region should optimize the suite of strategies that are most regionally appropriate as some of the listed elements will not be relevant to a specific region or as effective as other strategies.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The performance measures are vague and the existing conditions are not quantified therefore quantifying progress or improvements will be impossible. For example, the Delta Plan should quantify the existing water supply reliability for the state of California, identify the problems and limitations of the current estimate, identify how the estimate can be improved in the next update of the Delta Plan and set a target level of water supply reliability by the end of the Delta Plan planning horizon either by a percent increase or an absolute level.	Text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan policies should be well supported by the best available science and currently they are not. There is a lack of references throughout the document (with the exception of the adaptive management chapter) and an overreliance on material that has not been peer reviewed. The independent science board has explained to the Council on numerous occasions that peer reviewed journal articles are the best available science and should be used whenever possible. For example, of the 13 references in Chapter 4 A More Reliable Water Supply for California, only three of the references have been peer reviewed and Hanak's 2011 report was cited eight times.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: This chapter lacks references and the legislation clearly states that the Delta Plan should be based on the best available science. This chapter needs significant improvement in referencing the best available science. There are unfounded opinions throughout this chapter and an overreliance on material that has not been peer reviewed. Please update references in this chapter and throughout the document as consistent with the charge to use the best available science.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 45 line 19 - This is a strong statement and not well supported, specific measures of the ecosystem decline should be supported by peer reviewed journal articles not Hanak's most recent report.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 45 line 25 ... 'deal with infrastructure' is not a specific action that the council will take so the policy should be refined so as to describe action.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 46 lines 23-30. In this paragraph, the nexus with the IRWMP is not clear and if there is a connection, it should be identified and expanded.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 47 lines 27- 28 and 37 - The Delta Plan should use the legislative language contained in section 85021; the term 'reducing dependence on the Delta' is not included in the legislation so that term should be replaced with the legislative language 'reduce reliance' or 'improve regional self-reliance'.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 47 line 31 should read ... 'will be provided for a minimum period of at least six months in the event Delta diversions ... 'In Delta users would be severely affected by any catastrophic event in the Delta that disrupts export pumping.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 47 lines 34 through line 37 should read... 'Evaluation of Planned Investments in Regional Self Reliance: Identify specific programs and projects that will be implemented over the twenty year planning period to improve regional se1f.reliance which may include one or more of the following activities: '	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 47 line 38 - Water conservation and water use efficiency should be separated into two distinct bullet points as they do not mean the same thing. Conservation generally means using less water but water use efficiency often means using the same amount of water but getting more out of that water (especially in agriculture).	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 48 line 3 through II - It is not clear what is meant by water balance. A mathematical definition or an example should be included so the policy can be understood. Is this policy for regions that have groundwater overdraft or rely on imported water? The concept of water balance as it appears in this section may not be relevant to upstream or in-Delta users even though the Council has jurisdiction over covered actions within the Delta. The usefulness of this requirement as it would be implemented should be considered in the context of the Council's jurisdiction.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 48 WR P3 It is not clear that the Council has the authority to mandate changes in water suppliers' rate structure nor does the policy contain any repercussions if there is failure to comply. CCWD recommends changing this from a policy to a recommendation and that water resources policy #1 already provides agencies with an opportunity to improve regional self reliance through changes in the rate structure if that is feasible for that agency.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 49 Delta Instream Flow Criteria and the Setting of Flows This section should start with line 36. All language prior to that is not relevant.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p.50 WR P4 - As noted by Les Grober from the State Water Resources Control Board (SWRCB) during the April workshop, the schedule currently outlined in the Delta Plan for implementing flow objectives is unrealistic. Line 13 should read ... 'By June 2, 2014 adopt flow objectives for the Delta that are necessary to achieve the coequal goals '. The Delta Plan should omit any implementation schedule at this point.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 50 WR P4 - Another bullet should be added that the Council will work with the SWRCB to develop the implementation of the flow objectives.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 50 WR P4 line 15 - The date seems unrealistic, the Council should work with SWRCB to identify a feasible schedule.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 50 WR P4 lines 17-19 - This portion of the policy should be deleted as there is no sense in stopping projects that will advance the coequal goals as a way to encourage SWRCB. The policy could indicate that once flow criteria have been adopted and implemented, any covered action shall be consistent with those objectives.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 50 lines 21 through 29 - None of these options promote collaboration or provide concrete pathways to improve water supply reliability. Option B eliminates any increases in storage which is counter to the legislation and intention of the Delta Reform Act.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 50 lines 35 through 38 are overly general and should be deleted.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 51 line 24 should read ... The Delta Plan recommends incentive based programs that would increase local or regional storage, including groundwater recharge. The Delta Plan recommends that operation of new storage projects focus on long-term reliability rather than annual yield such that more water is diverted to storage during wet periods so that water is available during dry periods.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 54 lines 38-39 - There should not be a performance measure for reduced dependence on the Delta as that is not included in the statute.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 55 line 1- As noted earlier, the concept of water balance is poorly defined and may not be applicable for in-Delta users. This language should be recast in terms of regional self reliance, regional self-sufficiency or water supply reliability.	Text was modified
Contra Costa Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: p. 55 line 5 - The Delta Plan should expand this recommendation to statewide water supply reliability.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Delta Wetlands Project	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Make sure that covered action project approvals and consistency determinations are not put on hold due to the SWRCB not meeting its Plan goals. We have recommended language that we believe addresses the Council's concerns without the potential for unintended consequences associated with a de-fact moratorium on covered actions	Text was modified
Delta Wetlands Project	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: (revisions to Policy WR P4 starting on page 50 line 11): In the event that the SWRCB fails to meet the Plan's deadlines for setting flow objectives, individual covered actions should be able to proceed in a manner that anticipates the SWRCB's future action and adapts to it. It should not be possible for the SWRCB's failure to meet the Plan's deadlines to bring work in the Delta to a halt. WR ~~P4~~Rx * Prior to the dates indicated in (a) and (b), existing Delta flow objectives shall be used to determine consistency with the Delta Plan. If the State Water Resources Control Board fails to act by the dates indicated, the Council will ~~XXX~~recommend that the Board should reserve jurisdiction to amend (after notice and opportunity for hearing) water right approvals granted prior to adoption of the flow standards to be consistent with such flow standards.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Pg. 47, lines 11-12 The Problem Statement on page 47 states that additional local and regional conservation and water supply development is needed to improve regional self-reliance, but because this is not linked to any policy in the Act, the full extent of this "problem" is not clear and the means of solving are equally unclear. The statement should clarify whether it is referring to a need for local and regional conservation beyond the conservation mandated by Water Code sections 10608.16 - 10608.50. In addition, if the intent is to eventually mandate local and regional conservation beyond the conservation required by the 2009 Water Code amendments, the Plan should cite the statutory basis for including any regulatory policies that would require this action. The Act states in section 85303 that the Delta Plan shall promote statewide water conservation, water use efficiency, and sustainable use of water. The intent to apply requirements exceeding current statutory requirements should be explained. Amend the problem statement on page 47 to clarify the intent.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Pg. 47, lines 14-22 On page 48, ADDITIONAL OPTIONS FOR COUNCIL CONSIDERATION, Option B, namely "Convert regulatory policy stated above into a recommendation," is an appropriate and more reasonable approach for addressing water transfers that are covered actions. In many cases, water transfers are short-term in nature (e.g., for only one year during droughts) and implementation of WR PI, WR P2, and WR P3 as policies would be excessively burdensome -- to the extent that beneficial transfers consistent with both of the coequal goals would be discouraged. To the contrary, transfers that meet the co-equal goal of increased reliability of supply should be encouraged to the extent that the co-equal goal of environmental preservation is not adversely impacted. The following policies (WR PI, WR P2, and WR P3) ~~only apply as regulatory policies as follows~~ are recommendations: A. In determining whether a ~~A~~ covered action involving the export of water out of the Delta, or involving the transfer of water through the Delta, is inconsistent with the Delta Plan, the Council will consider a recipient's region's compliance with Recommendations WR PI. WR P2 and WR P3 only in the context of a recipient's region ~~if the need for that covered action is significantly caused by a recipient region's failure to comply with policies WR PI, WR P2, and/or WR P3.~~ B. The Council will consider compliance with Recommendations WR PI. WR P2 and WR P3A in determining whether a ~~A~~ covered action involving the use of water in part or in whole in the Delta is ~~in~~consistent with the Delta Plan ~~if the need for that covered action is significantly caused by the water using region's failure to comply with policies WR PI, WR P2, and/or WR P3 In all other situations, WR PI, WR P2, and WR P3 are recommendations.~~	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Pg. 50, lines 11-29 While we agree with the need for the development of revised Delta flow standards before the imposition of any new Delta flow related regulations, we believe that it is inappropriate to use the flows in the SWRCB's 2010 report in the interim. We have the following specific concerns regarding the "OPTIONS FOR COUNCIL CONSIDERATION" set forth in lines 21 through 29. Option A, which would establish that the Council will use the flow criteria identified by the SWRCB in the 2010, is not recommended because the Delta Flow criteria did not balance public interest concerns or consider certain factors that impact public trust resources. Implementation of the coequal goals requires careful balancing of many significant public interest concerns and these flows must be further refined before they can be properly used to satisfy the SWRCB's public trust obligations. Option B is not recommended because it further confuses the scope of actions included within the definition of a "covered action" and the concerns that should be addressed as part of the consistency review process. It is not clear that many actions that would divert, move, or export water from the Delta Watershed would fall within the definition of a covered action, and there should be no presumption of a significant impact on either of the coequal goals. This approach also conflicts with the statutory obligations of the SWRCB to ensure that water is put to maximum beneficial use. Option C, which would have the Council recommend that the SWRCB cease water right approvals, is not recommended because this action may not be consistent with section 85032(i), and it is not clear that the failure to develop justifiable flow standards warrants this action, particularly with regard to the issuance of water rights permits outside of the Delta, which may be beyond the scope of the Council's jurisdiction.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Pg. 50, lines 11-29 WR P4 should be modified as follows: The State Water Resources Control Board should update the Bay Delta WOCP standards and develop and establish flows as follows:...(c) Prior to the dates indicated in (a) and (b), the SWRCB's existing Bay-Delta WOCP standards ~~existing Delta flow objectives~~ shall be used to determine consistency with the Delta Plan. By June 30, 2013 the Council will request an update from the State Water Resources Control Board on item (a), ~~fails to act~~ If the SWRCB indicates the dates in (a) or (b) cannot be met by the dates indicated, the Council will consider and may adopt actions into the Delta Plan to achieve progress on the coequal goals in place of the updated flow objectives.	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 45, Line 24. The Plan now includes an action to "control water demand." The Plan should elaborate on what actions the Council foresees that water agencies should implement to control water demand and cite what authority both M&I and ag agencies should rely upon to enforce demand controls.	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47. line 13. Policies. The application of these policies to a region is understandable, but how the Council defines a region, how expansive or small, is critical to meeting the policies within the Plan. Additionally, this will be a significant issue as it relates to a party requesting the Council to make an inconsistency finding based on a region not complying with the Plan. Defining a region improperly could have the unintended consequences of penalizing agencies that are in compliance with the Plan, even though a part or the entire greater region may not be. If a water agency or small part of a region has not or has yet to comply with the WR policies, does that mean the entire region is out of compliance? The interpretation is too broad and should be narrowed.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR PI. These recommendations are in addition to the requirements of SBX7-7, Water Conservation. DWR, together with stakeholders and formed Committees, is still in the process of developing the requirements to comply with the conservation legislation. The actions in WR Pl are not legislated and clearly expand the SBX7-7 plan requirements. The Council should be coordinating with DWR to ensure the recommendations in this section are consistent with SBX7-7 and the DSC should participate in the workgroups that DWR has convened to implement the Water Conservation Planning effort. Failure to do so will result in local agencies having to complete multiple plans.	Noted; text not modified
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 48. Option A. Not all regions have a completed an IWRMP. In our region, the Northern Sacramento Valley Integrated Water Management group is still formulating a governance and working structure and has not begun to develop an actual plan. In fact, it is uncertain if there will be a plan developed, and if it will be developed by the 2015 date in the Delta Plan. Again, the issue is that if there is no IWRMP in place, are the agencies in a region that may be covered by that IWRMP deemed inconsistent with the Plan, and then have potentially covered actions challenged, although a local agency may be in compliance with all requirements of the Delta Plan?	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 48. WR P2. Many water agencies will not be able to comply with the SBX7-7 timelines (10608), based on regulations that DWR is in the process of developing or may develop. As an example, agricultural water suppliers are required to complete some actions such as measurement and volumetric pricing by July 31, 2012. However, DWR has not completed final regulations nor has the Water Commission approved any new regulations. Given that regulations may not be final for another six months, it will be impossible to comply with the dates in the legislation, even though water agencies are willing to implement these new regulations. The Plan cannot take the position that ag water supplies are deemed to be inconsistent with the Delta Plan when agencies are attempting to comply with the SBX7-7 regulations and implementation timelines. The Plan needs to recognize and agencies that have identified a schedule and timeline to implement the new regulations in their plans that would be deemed consistent with the Delta Plan.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: In some regions, conservation, here defined as a reduction in direct consumption, can free up supplies that can be used for additional demands or needs. In the urban export area, holding exports constant and having one region implement conservation may make additional water supply available for future growth or for transfer to other neighboring regions. However, in our region upstream of the Delta, conservation will not result in any new additional water being available for other uses or users. The fact is that downstream users already make use of water that may not be consumptively used within our region as that water enters water pathways through surface or subsurface flows to those downstream users. During the April 28-29 Council meeting, staff made the statement that if upstream water users implemented conservation that conserved water could then be transferred. Unfortunately, that statement is incorrect. In our region, conserved water is not transferrable. The only water that can be transferred is water made available through land fallowing or groundwater pumping. Land fallowing directly reduces consumption, groundwater pumping could only occur if pumping is shown not to injure other water users or the environment.	Noted; text not modified
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Delta Instream Flow Criteria and Setting of Flows It is interesting that the Council chose to place the SWRCB Flow Criteria report in the water supply reliability section. Our modelers determined that if the Board were to implement the criteria, there would be approximately six million acre-feet of additional outflow required. This would cripple water supply reliability and availability both upstream of the Delta and in the export region. Further, it is difficult to surmise what the Council is actually trying to implement in this section. Is it to increase flows to the Delta or additional outflow that would be implemented by 2014, or would it be to set targets or objectives that would be used for further development of the Plan? The SWRCB placed ...limitations in Section 1.1 of the report the SWRCB identified the flow criteria as a limited process and the Board must complete a full and comprehensive review of all public trust resources if it is going to change flows within the Delta.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: (Page 50. lines 9-29) This problem statement overly simplifies the process that the Board must complete in order to change flows within the Delta. As stated above, the Board must perform a balancing of public trust resources, which can only be done through a public hearing and proceeding process that allows all legal users of water to participate in a process similar to the last Delta water quality control plan proceedings for D-1641. The problem statement could be to direct the Board to conduct new water rights proceedings for the Delta to update D-1641, based on current conditions in the Delta and improving conditions in the Delta as a direct result of the BDCP and implementing the Delta Plan.	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: (Page 50. lines 9-29) The policies in this section should be directly tied to policies and recommendations in Chapter 5. In reality, the solution to the Delta ecosystem will be coequal based solutions of water supply reliability that could make additional water available for the ecosystem and habitat improvements in the Delta that will directly benefit the species. Simply implementing the policies in the Plan and from the Flow Report will result in a direct reallocation of water supply from current users to the environment that will erode Water Supply Reliability. For the Plan not to identify this outcome is irresponsible and akin to the CalFed failure of "get better together" and not being honest in the public debate of potential impacts. Certainly, the environmental impact report for the Plan should identify these negative impacts.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Statewide Storage and Conveyance The Council should seriously consider whether to even include this Section in the Plan: the language in this section does nothing but reiterate the status quo and echoes the current dialogue regarding storage and conveyance. It is an apathetic approach. This section seems to imply that whatever happens in other venues, such as the Water Commission, will happen and there is no benefit or consequence if new storage and conveyance is constructed or not. The hope would be that, in fact, the Council and staff view storage and conveyance as critical tools to improving water supply reliability. If this is the case, the Plan should advocate for new facilities and identify how new facilities would meet the coequal goals. If the BDCP is successful, it could improve habitat and flows in the Delta that would meet the coequal goals. New storage could increase flows and/or improve timing of flows to the ecosystem and provide additional water supplies to water users.	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The problem statement could be that new storage and conveyance are critical tools to meeting the coequal goals and the State, Federal government, and locals need to expedite studies and implement projects consistent with the coequal goals and Plan. The policies could reiterate the language in SB7X-2 which provides the "ground rules" the legislature put on projects, those particularly seeking public cost shares.	Text was modified
Glenn-Colusa Irrigation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The recommendation defers to the California Water Commission, which is appropriate for those projects that need to go the Commission for approval or funding. However, many projects will be locally implemented and do not need approval from the Commission. The Council should exercise leadership and advocate storage and conveyance projects in order to meet the coequal goals.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Metropolitan Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Regional Water Self-Reliance. Metropolitan is concerned with the Council's proposal to deem future water operations in the Delta inconsistent with the Delta Plan if a “recipient region" fails to comply with “water sustainability policies" of the Council. The Draft Plan offers no definition of failure. It seeks to review local water rate structures and their role in promoting conservation; review a region's decisions with respect to meeting the 20 Percent By 2020 Legislation; and decide whether the region has complied with a new Council requirement to add elements to urban and agricultural water management plans. If the Council decides the region has not satisfied these new requirements, it proposes to impose the draconian penalty of summarily vetoing water operations actions as inconsistent. In Metropolitan's service area alone, there are more than 300 such local rate structures. There are approximately 120 urban water management plans as well. It is unworkable for the Delta Stewardship Council to collect and review all these documents as part of a process to examine future actions in the Delta itself. The regulatory approach put forth in the Draft Plan to promoting regional self-reliance simply will not work under the weight of the paperwork bureaucracy that it would create. Moreover. the Council's proposal to veto otherwise legitimate covered actions because it is not happy with decisions made at the local level on actions taken outside of the Delta is not authorized by the Delta Reform Act. The Council's consistency authority applies only to actions 'occurring in whole or in part within the boundaries of the Delta or Suisun Marsh:' and only if the action within that geographic area has a "significant" adverse impact on achievement of one or both of the coequal goals. On this area, a reasonable and achievable first step would be to recommend that urban and agricultural management plans articulate how they plan to address the statewide policy of improving regional self- sufficiency. Such legislation to require this articulation is now pending before the Legislature, where it should be.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Metropolitan Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Water Transfers. Metropolitan is concerned that the economic impact in California of future drought cycles could be worsened by the Council intervening in the future water market. Water transfers already are often subject to the CEQA public environmental review process; the public approval process of the governing bodies of both selling and buying water agencies; and most undergo a thorough review process by one or more other state and federal agencies, including the California Department of Water Resources, the State Water Resources Control Board (SWRCB), and the fishery management agencies. The Draft Plan calls for an additional review of these transfers by the Council, and their rejection as being inconsistent with the Delta Plan if recipient regions "fail" terms of water sustainability. Sellers, particularly farmers who need to make crop decisions, have a limited window to decide whether to engage in any transaction. An additional layer to the transaction process is a threat to these crucial transactions and a threat to improving water supply reliability for California. Metropolitan recommends that you remove this requirement in order to promote a more robust future water market rather than to discourage it with a new regulation.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Metropolitan Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Delta Flow Criteria. The Draft Plan includes a proposed policy regulation to alter the Bay-Delta Strategic Workplan of the SWRCB. The SWRCB has wisely decided to review water quality objectives relating to the operation of the State Water Project and Central Valley Project when the Bay Delta Conservation Plan (BDCP) is completed. BDCP will include a comprehensive package of new water operation criteria, flow regimes. habitat restoration and a strategy to address other stressors. Once the comprehensive nature of BDCP is known, SWRCB will be able to address the needs for water quality objectives and flow requirements in their proper context. The Public Policy Institute of California in December 2009 eloquently described the "California Water Myth" that "More Water Will Lead to Healthy Fish Populations" The package of habitat and water conveyance/operations improvements within BDCP will provide the SWRCB with the necessary context to make accurate, informed decisions on now requirements and water quality objectives. Calls for SWRCB to make these decisions outside of this context poses a threat to achieving the co-equal goals and violates the Delta Reform Act's specific preservation of SWRCB's authority over water rights and water quality. Metropolitan encourages that you support and urge the SWRCB to expeditiously complete its existing Bay-Delta Strategic Workplan and incorporate its timetable and strategy as part of the Delta Plan.	Noted; text not modified
Metropolitan Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Future Water Contracts. Metropolitan supports transparent public processes, yet objects to the Draft Plan's efforts to specify a particular public process for “future contracts and agreements to export water from the Delta" The current proposal could lead to key water decisions being deemed inconsistent with the Delta Plan because of the Council's dissatisfaction with the process that led to a decision, not the substance of the decision itself. This should be more generally stated to call for compliance with relevant existing public processes without reference to a particular process.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Metropolitan Water District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Metropolitan has taken considerable strides in advancing regional self-sufficiency through an Integrated Resources Plan (IRP). It elevates conservation to Southern California's largest future supply" If successfully implemented in conjunction with the other actions contemplated by the Delta reform legislation, Metropolitan's average-year water sales to its 26 Member Agencies will remain essentially flat for roughly half a century. But the completion of the Delta Plan, BDCP, and the Bay-Delta Strategic Workplan of the SWRCB are all crucial to meeting the IRP and should not be thrown into conflict by an overly expansive and regulatory Delta Plan.	Noted; text not modified
Natural Resources Defense Council	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Improving the reliability of water supplies from the Delta means decreasing the vulnerability of Delta water supplies to disruption from natural disasters (e.g. earthquakes, sea level rise, floods and levee failures) and increasing the predictability of those supplies. Improving water supply reliability does not require increasing, or even maintaining current, levels of diversions. As a -result, it is perfectly possible to increase the reliability of supplies from the Delta, reduce diversions, reduce reliance on Delta supplies and restore the Delta ecosystem.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Natural Resources Defense Council	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: In developing water supply reliability recommendations that reach beyond the Delta, the Delta Plan should include provisions that reflects the following:• It is not possible for the Delta alone to meet the state's water needs. • The state's aquatic ecosystems and fisheries also need reliable water supplies....• Improving water supply reliability begins with a responsibility to 'use water reasonably, efficiently and to increase that efficiency over time. • Although the state must plan for a water supply adequate supply to meet the needs of Californians and the state economy, the state itself does not have the obligation to provide all of those supplies...• The state has a responsibility to work closely with disadvantaged communities to ensure that their water needs (quality and quantity) are met. • Climate change is likely to reduce the amount of water available from existing surface and groundwater sources. • Ongoing and historic contamination threatens ecosystem health, human health and the reliability of water supplies. • Planning a more reliable water supply requires a focus on cost-effectiveness and a "beneficiary pays" approach to financing. • Planning a more reliable water supply means planning for periods of shortages...• Different uses require different levels of reliability. • There is no silver bullet to providing a reliable water supply. The winning approach will include a portfolio of investments, emphasizing tools such as efficiency, water recycling, improved groundwater management and Low Impact Development.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: As noted in my original comments, the use of irrigation technologies in California varies substantially by crop type...and region... Drip and sprinkler systems are increasingly common on orchards and vineyards, but penetration rates of these efficient technologies are not as high as some commonly believe...the most recent comprehensive statewide survey of irrigation technology indicated that substantial areas of orchards and vineyards are still using flood irrigation (around 20%) (Orang et al. 2005). Flood irrigation is employed on a far higher percentage of vegetable and field crops, with more than 40% of vegetable and 80% of field crops still using this method...these data are for 2001 – the most recent survey conducted by DWR. We strongly urge that DWR conduct a new survey – the cost is low and the need for good data is critical.	Noted; text not modified
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: For all crop types, there is more acreage using flood irrigation in the San Joaquin River and Tulare Lake hydrologic regions than in any other region throughout the state. As the Pacific Institute clearly states in our reports, some crop types can only be grown effectively and economically using flood irrigation. But nearly 300,000 acres of vineyards – largely appropriate for sprinklers and drip systems – are still grown using flood irrigation in the San Joaquin River and Tulare Lake hydrologic regions. In comparison, fewer than 4,000 acres of vineyards in the rest of the state are grown using flood irrigation. Of all regions in the state, the Central and South Coast hydrologic regions have the least amount of acreage using flood irrigation. The Colorado River hydrologic region still has a significant field and vegetable acreage under flood irrigation, but has largely converted what little orchard and vineyard acreage they have to drip irrigation.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: For all crop types, there is more acreage using flood irrigation in the San Joaquin River and Tulare Lake hydrologic regions than in any other region throughout the state. As the Pacific Institute clearly states in our reports, some crop types can only be grown effectively and economically using flood irrigation. But nearly 300,000 acres of vineyards – largely appropriate for sprinklers and drip systems – are still grown using flood irrigation in the San Joaquin River and Tulare Lake hydrologic regions. In comparison, fewer than 4,000 acres of vineyards in the rest of the state are grown using flood irrigation. Of all regions in the state, the Central and South Coast hydrologic regions have the least amount of acreage using flood irrigation. The Colorado River hydrologic region still has a significant field and vegetable acreage under flood irrigation, but has largely converted what little orchard and vineyard acreage they have to drip irrigation.	Noted; text not modified
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Irrigation technologies, however, are only methods to distribute water, not measures of efficiency. A recent University of California Cooperative Extension study, for example, showed that vineyards using drip irrigation systems varied widely in the amount of water applied per acre (from 0.2 acre-feet to 1.3 acre-feet), suggesting that management practices are an important determinant of applied water (Lewis et al. 2008).	Noted; text not modified
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Irrigation scheduling is an additional essential element of effective water management. Irrigation scheduling provides a means to evaluate and apply an amount of water sufficient to meet crop requirements at the right time. While proper scheduling can either increase or decrease water use, it will likely increase yield and/or quality, resulting in an improvement in water-use efficiency or overall productivity measured as yield per unit water (Ortega-Farias et al. 2004, DWR 1997, Dokter 1996, Buchleiter et al. 1996, Rijks and Gbeckor-Kove 1990).	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Soil or plant moisture sensors, computer models, daily evapotranspiration (ET) reports, and scheduling services, which have long been proven effective, are still fairly uncommon, suggesting there is significant room for improvement in management practices.	Noted; text not modified
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Another key issue raised during the discussion was how fast water conservation and efficiency could be implemented. The short answer is that it depends. Historically, irrigated acreage using drip or microsprinklers has increased by about 20% percent over 10 years, or around 2% per year. This is during a relatively wet period (1991-2001) in the absence of a concerted effort to promote water conservation and efficiency within the agricultural sector...Within the urban sector, there have also been a number of highly successful programs that have achieved significant savings over a relatively short time period...We also note that temporary 10 to 20% or greater water-use reductions during droughts can be achieved through combinations of higher rates, education programs, and voluntary restrictions. These are not true “efficiency” improvements, but provide some insight into the substantial reductions that can be achieved quickly when necessary.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Pacific Institute	4/22/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: As the recent report, California Farm Water Success Stories (Christian-Smith et al. 2010), documents, quantitative targets are extremely useful for accelerating the adoption of sustainable management practices statewide. These targets can be driven by the private sector or the public sector. For instance, the California Sustainable Winegrowing Program is an industry-driven initiative to expand the use of best practices from the vineyard to the winery...As the recent report, California Farm Water Success Stories (Christian-Smith et al. 2010), documents, quantitative targets are extremely useful for accelerating the adoption of sustainable management practices statewide. These targets can be driven by the private sector or the public sector. For instance, the California Sustainable Winegrowing Program is an industry-driven initiative to expand the use of best practices from the vineyard to the winery.	Noted; text not modified
Planning and Conservation League	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: "Water supply reliability" means feasible levels of certainty in providing water for reasonable and beneficial consumptive and non consumptive uses, using a combination of water supply and water use efficiency. It includes provisions for reasonable reductions in use during times of drought or other periodic shortages. It also recognizes that differing types of uses should have appropriate levels of water quality and differing levels of certainty.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47, lines 13-21 As the Council knows, the export/transfer of water is within the jurisdiction of the State Water Resources Control Board (State Water Board). It is therefore unclear to RCRC staff how the Council envisions this proposed regulatory policy would work. Is the Council proposing that they make a finding of consistency, for example, prior to the State Water Board considering/approving a water transfer and that the State Water Board cannot take action until the Council has determined consistency? Or, that once the State Water Board approves a water transfer that the Council has the authority to stop the transfer if they make a finding of inconsistency? Further clarity as to process and a discussion of the Council's authority to impose new requirements is requested.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Regional Council of Rural Counties	5/5/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 48, lines 14-38 Please refer to RCRC's previous comments relating to excessive proposed requirements.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 49, lines 14-45 RCRC agrees with other commenter's regarding the use of the correct terminology in order to avoid confusion when discussing flows i.e. "water quality objectives" v. "flow standards".	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 11-19 Placing in the Delta Plan dates by which a sister agency should accomplish certain actions comes across as rather high-handed, and the statement "If the State Water Resources Control Board fails to act by the dates indicated, the Council will XXX" is even more so. The State Water Board has their own multiple responsibilities and priorities, and is not subservient to the Council. The State Water Board staff has informed the Council that in order to meet the proposed dates in the Delta Plan that they would have to significantly redirect their efforts from other State Water Board priorities. It would be of great interest to RCRC to know the specifics as to what other programs would have to be reprioritized if the State Water Board were to redirect their efforts. Another very important detail is funding or the lack thereof. Water right fee payers would rightly object to the redirection of their fees for purposes other than what was intended. As it is, water right fee payers have considerable angst at the high level of fees currently being paid as the result of the elimination of general fund support for the Water Rights Program. As noted earlier, the State Water Board's fees are the subject of litigation. Additionally, RCRC notes that the Council expects the State Water Board to set flows that "are necessary to achieve the coequal goals". The State Water Board has responsibilities that extend beyond the narrow focus of the Council (i.e. balancing of competing needs), and flows are not the sole solution to achieving the coequal goals. The Council should not presume to instruct the State Water Board on how they should fulfill their responsibilities.	Noted; text not modified SWRCB provided language

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Regional Council of Rural Counties	5/5/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 50, lines 20-29 RCRC objects to the three options presented for consideration by the Council "for consequences if flows not adopted". The Council is aware of the flawed nature of the 2010 Development of Flow Criteria for the Sacramento-san Joaquin Delta Ecosystem report. To propose that the Council use this report to determine consistency of covered actions is not reasonable. The Council is well aware that the State Water Board made it clear that the flow criteria do not consider the balancing of public trust resource protection with public interest needs for water. Additionally, the flow criteria did not consider other public trust resource needs such as the need to manage cold-water resources in reservoirs tributary to the Delta. Also objectionable are the proposals to determine inconsistency of covered actions that would increase the capacity to store water, etc., and to recommend that the State Water Board cease issuing water right permits in the Delta and the Delta watershed. The adversarial and punitive nature of these (and other) proposals in the Delta Plan are, in the opinion of RCRC staff, counter-productive and should be deleted.	Text was modified
Regional Council of Rural Counties	5/5/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Pages 53-54 As it relates to groundwater, groundwater overdraft is not a statewide problem but a localized one. RCRC supports local management of groundwater resources as groundwater resources are best managed by local jurisdictions, and opposes state interference in local groundwater management. A productive recommendation would be that groundwater management in the state would benefit from increased state and federal funding for groundwater research, monitoring, and other management programs.	Text was modified
Regional Council of Rural Counties	5/5/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Additional Suggested Language The Delta Plan contains select language from the Delta Reform Act, which is appropriate. RCRC urges the Council to additionally include in the Delta Plan, at a minimum, a reference to the following code sections, if not the specific language, taken from the Delta Reform Act: [Section 85301 and 85302]	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Resident of Lafayette	4/25/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: 1. Missing studies...A simple study to address the question previously posed by both Tom Zuckerman and by Chair Isenberg: How much water is surplus to the legitimate needs of upstream and Delta users that is available for export on a sustainable basis?	Noted; text not modified
Resident of Lafayette	4/25/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: I believe that it is appropriate to include the watershed as a secondary planning area for the Delta Plan although I agree with SFWCA and others that W.C. 85304 means what it says, which is that “the Delta Plan shall promote statewide water conservation, water use efficiency, and sustainable use of water”, rather than regulate those things, and that the areas outside the watershed that use water from the Delta should not be included as a secondary planning area. A Delta Plan that includes rules for a conveyance and storage solution that effectively guarantee minimum annual developed water out of the conveyance and storage solution, that is paid for by the beneficiaries, and that has greater capital and operating costs as the guaranteed minimum increases, will automatically promote all three of these good, green things.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 54, Line 37-The Council members should keep in mind that the cost of all utilities are impacting California's residents and businesses and affect the State's ability to recover economically. While the Sacramento San Joaquin Delta is an important asset to the state, there are many other competing interests that place demands on our personal, local and state budgets. The costs of utilities, including water, sewer, energy, and the costs of increasing related regulation in our state place a tremendous burden on our communities. The Delta Plan should consider not only the retail water rate structures that promote water conservation, but also examine any additional fees or rate tiers added by this plan to ensure that the entire water rate structure for normal, required household, business and industry water usage does not place a significant burden on our citizens and our economy.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: under the Draft Delta Plan no mention has been made regarding the protection and observance of the State water right priority system...The Delta Plan must recognize that shortages of water within the Bay-Delta are resolved by applying the law and not by the use of a regulatory process where in covered actions form the basis of water rights priority.	Noted; text not modified
San Joaquin County	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: In addition, the Watershed Protection Act (Wat. Code, § 11460, et seq.) and the Delta Protection Act (Wat. Code, § 12200, et seq.) impose fundamental limitations on the State Water Project and federal Central Valley Project's ("Projects") ability to transfer "surplus" water from the Delta watershed to water-deficient areas to the south and west of the Delta...the proper interpretation of these acts is of paramount importance to San Joaquin County and its many water users, both human and environmental, that depend on water from that watershed and must be integrated into any discussion or plan regarding reliable water supplies.	Noted; text not modified
San Joaquin County	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The concept of covered actions for projects that seek to divert water either from the Delta or from its tributaries and the water rights process as administered by the SWRCB is not well defined. Does the legislation empower the DSC to make any determination with regards to water rights? Will the DSC have the authority to make a water right determination based solely on stipulations regarding a "covered action?" Will the current water rights system still be relevant when the Delta Plan is implemented? These are questions that could reflect the concerns of the most senior riparian and pre-1914 water rights holders in the County.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Future projects contemplated in the Eastern San Joaquin Region and defined by our Community's adopted Integrated Regional Water Management Plan (IRWMP) will seek to divert water from Delta tributaries in years and months when water is available in order to conjunctively manage groundwater and surface water sources as part of our effort to achieve greater regional self-sufficiency. The Delta Plan should state explicitly that tributaries outside the Delta are not considered covered actions. Diversion and beneficial use of water within the Delta and its tributaries must be a priority over exports as established in existing law defining area of origin protections that place Northern California community's needs ahead of Delta exporters in terms of water rights. The Draft Delta Plan makes no mention of honoring existing water rights or area of origin protections as part of greater regional self-reliance.	Noted; text not modified
San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Flow Policy Mischaracterizes the Process to Review Flow Objectives The policy states the State Board must set flow objectives. The State Board has already set flow objectives - they are in place and being met. The process underway at the State Board is the review of existing flow objectives. This review requires the State Board to determine whether the current objectives provide sufficient protection for fish and wildlife in the South Delta. Setting new flow objectives can only be done after the State Board has balanced the various competing beneficial uses of water, including recreation, municipal water use, and agricultural water use. If the Board determines that the current flow objectives at Vernalis do not reasonably protect fish and wildlife, then the Board may amend the flow objectives. If other reasonable and beneficial uses are determined to be of a "higher priority" or "greater significance," the State Board may set flow standards that do not fully/optimally protect fish and wildlife.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Flow Policy Marginalizes the Process to Review Flow Objectives The flow policy marginalizes the State Board process to review the existing flow objectives. More specifically, the flow policy incorrectly assumes the Board will determine (1) water quality objectives need to be amended, and (2) this amendment will require a regime of increased flows. Although historically the Board has used flow as a means of protection, the State Board is not limited or otherwise required to use flow and could conclude reasonable protection of fish and wildlife is best achieved through non-flow related measures, such as reducing predation or establishing discharge control programs. The third draft's assumptions are pre-decisional and disregard an on-going process in which water rights holders have invested significant time and resources. More importantly, it totally disregards the State Board's required mandate and jurisdiction to weight and balance competing water needs when setting water quality objectives.	Noted; text not modified
San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Flow Policy Goes Beyond the Authority of the Council The flow policy in the third draft amounts to the Council regulating in place of the State Board. By mandating the State Board review of existing water quality objectives result in the setting of new flow objectives, the Council is attempting to perform the regulatory duties assigned to the State Board. This amounts to a super regulatory act, which is outside the authority of the Council.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Flow Policy is Overused The third draft includes the proposed flow policy in three of the five substantive chapters, relying on it to ensure water reliability, restore the ecosystem, and improve water quality. The third draft's reliance on such a flow policy is misplaced. For example, the flow policy first appears in the chapter on water supply reliability. The third draft fails to address how water supply reliability will be promoted by increasing flow demands, nor does the draft explain how increased flows will ensure regional self-sufficiency. The Council's reliance on the flow policy also compromises other non-flow solutions. For example, the chapter on ecosystem restoration relies on the flow policy, while failing to address issues that more directly impact habitat, such as predation, food web, channelization, temperature, contaminant issues, levees, and dredging.	Noted; text not modified
San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The third draft promotes returning to a more "natural" flow regime. This approach is over simplistic, based on nostalgia, not science. As the third draft correctly recognizes, nothing in the Delta is similar to what it once was - the geography has changed with reclamation, levees, and dredging, the geomorphology has changed with channelization and flood control measures, turbidity has changed with altered sedimentation and dams, the food web has changed due to nutrient ratios, the fish communities have changed due to invasive species and predation, the quality of water has changed due to toxins and contaminants, the influence of the tides has changed due to levee infrastructure and climate change, and the floodplain and marsh habitat has changed due to development. The proposition that a "natural" flow regime will provide benefit in such an unnatural system is not defensible. Science simply does not support the idea that returning one component to its "natural" condition, while ignoring the other multitudes of change, will benefit the existing unnatural environment or otherwise restore the ecosystem.	Noted; text not modified

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San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The third draft should be revised to balance its isolated focus on flow. Concentrating on flow, while refraining from seriously addressing other stressors, has and will continue to result in throwing water at the problem in a wasteful, inefficient, and ineffective manner. A comprehensive plan that furthers the coequal goals must include evaluation and suggested action on other stressors and nonflow mechanisms to address water supply reliability and ecosystem restoration.	Noted; text not modified
San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The flow policy must be revised to be compliant with the authority of the Council. To do so, the Council may recommend and encourage the State Board to review its water quality objectives; it may not step in the place of the State Board and mandate the results of this review. Further, it would be helpful for the Council to undertake a science plan that would provide the State Board with the supporting science, such as biological or life-cycle modeling, it needs to support any amendment of the water quality objectives to protect fish and wildlife.	Noted; text not modified
San Joaquin River Group Authority and State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: the third draft section on a "natural" flow regime must be revised. Rather than maintaining and echoing the misguided focus on returning to the natural hydrograph, the Council should determine how to optimize the existing Delta system. There are several projects that are scientifically supportable, affordable and likely to be effective in the current system, such as predator removal programs. The Council should identify and recommend such projects be undertaken.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Solano County Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The California Department of Water Resources is developing an Environmental Impact Report and the permitting of the North Bay Aqueduct Alternate Intake Project that will be part of the State Water Project. The Alternate Intake Project consists of a new pumping plant on the Sacramento River just south of West Sacramento and an underground pipeline to a location near Fairfield...My question is whether the Delta Plan should consider the Alternate Intake Project in the Delta Plan. I believe the project will be a covered action and will need a consistency document. Is it the intent of the DSC to include such proposed facilities in the Delta Plan at this time?	Noted; text not modified
Solano County Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: I would suggest that the Delta Plan should include a short description of the North Bay Aqueduct Alternate Intake Project with a finding that acknowledges the benefits of the project and incorporates it into the Delta Plan. I believe an appropriate location to do this is in Chapter 4 (A more Reliable Water Supply) under the heading "Statewide Storage and Conveyance". Suggested language: The North Bay Aqueduct Alternate Intake Project consists of a new pumping plant on the Sacramento River just south of West Sacramento and an underground pipeline to a location near Fairfield. The project has the benefit of providing an alternate location to withdraw water for the North Bay Aqueduct of the State Water Project that has much less impact on endangered species (delta and longfin smelt) and provides improved drinking water quality (reduced organic carbon and turbidity).	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 44 Citation to §85302(c) is incorrect; it should be 85302(d). In addition, at the bottom of the page, the quotation from Article X, Section 2 of the Constitution should include its entirety, i.e. including "It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water…." This Constitutional provision is not solely focused on preventing unreasonable use but also on the "beneficial use to the fullest extent of which they are capable", a directive too often forgotten.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: decades of flow management alone has been proven ineffective as a regulatory approach and shows no promise of a miraculous turnaround, especially if continued in a vacuum where no other actions are taken to reduce other ecosystem stresses on the system.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Plan's comments regarding the Board's standard setting process promote, without any analytical basis whatsoever, a management approach that would seek to re-establish the, or a, "natural hydrograph". This presumption as described is directly at odds with improving water supply reliability. Various alterations over the years in the watershed and the Delta, including significant human development and wastewater outfalls, terminal reservoirs to provide flood management and water conservation, multiple large upstream diversions, thousands of diversions within the Delta, and the large export facilities in the southern Delta, have made the notion of returning to a "natural hydrograph" a simplistic policy oasis that is really a mirage. The concept taken in any significant measure is incompatible with improving water supply reliability and should be discussed as only a concept to be evaluated for its compatibility with the co-equal goals. Instead, investment in new scientific understanding, facilities, reduction of stressors, habitat investments, and adaptive management of all of those tools, and others, should optimize variability in flow and salinity to the benefit of ecosystem functions while also meeting the coequal goal of improved water supply reliability, as well as contributing to enhanced water quality to protect human health and the environment.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Plan also evidences its bias regarding the flow issue by asserting that "the average volume of water flowing into the Delta has been reduced by approximately 30 percent in the last 100 years" *P 9, L 36- 38]. The obvious implication of this statement is that flows should be restored to or nearer to historic levels as a strategy for improving fishery and ecosystem conditions. This ignores the need to address all stressors, which in percentages terms such as this have changed in orders of magnitude greater than flow, and assumes more flow is the answer, despite the fact that regulatory requirements that have significantly increased flows into the system over the last two decades have not resulted in the expected ecosystem or fishery population improvements. Even more problematic, is the statement is wrong. Modeling analyses built upon an historic static condition that overlay annual diversions over time can result in a skewed result, such as the 30% reduction over baseline cited in the third draft. However, if one simply looks at the actual measurements of annual inflow year to year, they show little reduction in the long term average trend line over the last fifty years...during the months of July, August and September, Delta outflow since 1920 has actually increased significantly as a consequence of project reservoirs holding runoff in the system when it would otherwise have washed out to sea as spring melt leaving much less to flow into and through the Delta.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Thus, ecosystem issues are more about how the State has managed the flow through the Delta, not the gross amount of flow moving on average.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Food web changes include the virtual disappearance of key species to be replaced by invasives that now dominate the ecosystem. These changes show little relationship to changes in flow and strong relationships to changes in nutrients, which now appear to be the fundamental driving factor at the base of the food web. Basing development of a Delta Plan on the idea that flow is the fundamental factor when it is not will result in a complete failure to reach the co-equal goals.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Council should develop targeted investment priorities for increasing scientific understanding, facilities, reduction of stressors, habitat restoration, and adaptive management of all of those tools, and others to improve flow and water quality management while also furthering the achievement of the coequal goals. In addition, the Council could and should contribute to the overall effectiveness of the Board's ultimate determinations by championing stressor reduction – i.e. identifying recommendations and actions that can be taken by other agencies (e.g. RWQCB, DFG, DBW, etc.) to supplement the benefits to the ecosystem of a potentially revised operational regime and other water management improvements.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Flows are a factor no doubt, but they are just one factor interacting with others in a complex system. Concentrating on flow, while refraining from seriously addressing other stressors will perpetuate thirty years of flow management failure and continue to have, the effect of throwing water at a problem that is ultimately wasteful, inefficient, ineffective, and counterproductive as it will result in a loss and diversion of resources more effectively directed toward a comprehensive solution.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: with regard to the issue of transparency and the SWP, the contractor agencies' governing boards approve these agreements in public during noticed meetings and all contract amendments are required to go through the CEQA process that provides openness and transparency at its core. Furthermore, DWR plans additional public meetings regarding the contract amendment process.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Another very problematic aspect of this proposed policy is the potential chilling effect and operational hindrance to water transfers, particularly short-term transfers, which are a critical tool for ensuring water supply reliability statewide, especially during periods of scarcity.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 45 L 5-6: "A few areas of ~~T~~the state unsustainably use~~s~~ more groundwater than nature replenishes (Department of Water Resources 2009)."	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 45 L 17-19: "…and agricultural areas that have water needs. These systems were designed during the mid 20th century with a societal focus on meeting the needs of an expanding population and economy of the state, with little or no consideration of the impacts ~~minimal consideration of the harm that this~~ ~~water storage and delivery system were not these water diversions could cause~~ to the environment and native fisheries. ~~As a result,~~ Along with many other stressors, this has contributed to the alteration of California's native Delta ecosystem to the detriment of various species of concern ~~is in decline.~~	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 45 L 23: "…regional reliance on Delta exports to meet future water supply needs (Water Code section 85021)."	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 45 L 24: We object to the use of the term “control water demand” and making an unsubstantiated and blanket determination that that would be part of a “responsible plan to improve water supply reliability.” This is overreaching through inventive terminology that is inconsistent with the language of the Act, which simply said to “promote” water conservation. Frankly, the plain meaning of ”control water demand” turns the coequal goal of improving water supply reliability on its head. The Legislature’s intent in the Delta Reform Act was not to deliver less water “reliably”, we can do that already; the intent was to increase the capability to deliver more water more often (see Water Code 85302 (d)(1)) while still “protecting, restoring and enhancing the Delta ecosystem” as a consequence of investments in infrastructure and facilities to increase operational flexibility, as well as habitat expansion and comprehensively attacking stressors on the Delta. The notion of “control” of water demand is illusory and smacks of the regulate-first approach the Third Draft still represents too often. Working with water agencies to implement improved “demand management”, which is not a stand-alone strategy but one of many tactics in integrated resources planning, is vastly different than trying to proscribe uses of water to “control water demand.” This term should not be used. If the concept is indeed something other than or seeks to go beyond traditional “demand management” it should be more clearly defined, along with what actions the Council believes would be appropriate to achieve it, and the legal basis for such an intrusive approach.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 45 L 28: “Ultimately, water supply reliability for ~~the state~~ California will be ~~achieved~~ improved in most locations through primarily local investments in ~~at the regional level through a combination of~~ enhancing sustainable water management and where local resource options are available, regional self reliance. ~~and water balance, and~~ However, improving conveyance and expanding storage capacity (surface and groundwater) throughout the State must also be achieved to facilitate and optimize these local investments.”	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 46 L 18: "…improve regional self-reliance and ~~help achieve~~ contribute to the coequal goals in the near term."	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 46 L 21: Per previous comment, use of "dependency" rather than "reliance" is inappropriate. Additionally, the notion of "self-sufficiency" in areas of the state utilizing imported water supplies is nonsensical considering the level of development already in place and consequently the term should not be used. In addition, the concept is inapplicable in the upstream areas because virtually all consumptive uses of water will affect Delta inflows. While water management actions in these regions may reduce diversions which would otherwise reach the Delta, they will not change relative reliance.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 46 L 31: Estimates are that local water resource investments over the last couple of decades, including those resulting from various bond expenditures leveraging local dollars, has yielded approximately 2 million acre feet of "new" water supplies. This should be noted in the Plan.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 47 L 12: "…self-reliance in order to reduce reliance on the Delta to meet future water supply needs ~~and achieve the coequal goals.~~" Because the Act does not link § 85021 to those activities "inherent" in achieving the coequal goals (§ 85020), such a linkage should not be made in the Delta Plan.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 47 L 15: As written, this reflects significant overreach with regard to the asserted relationship of "covered actions" to activities taken outside the Delta and the "policy" should be deleted. The concept of using IRWMP and UWMP processes to gauge water supply reliability and process toward development of local capacity to meet future water supply needs could be useful if carried forward as a recommendation. However, in the context of the Council's authority pertaining to "covered actions", the "action" involving exports and transfers is the movement of the water itself which is subject to the regulatory purview and approval of the SWRCB and thus explicitly exempt from the definition of "covered actions" under the Delta Reform Act. Furthermore, the assessment of the appropriateness and efficacy of local investments are not within the scope of the Council's authorities or expertise. It is also important that whenever the "export of water" is mentioned as a potential "covered action", the Plan must differentiate between exports authorized under existing contracts and any that might be sought to occur above and beyond the levels contracted for, subject to SWRCB and ESA limitations. In addition, such a condition, if it were to be maintained, must include increases of water exported from the watershed and not just from the Delta. The inclusion of transfers as a trigger is also quite problematic because all transfers are intended to help achieve improved water supply reliability, while permit conditions imposed by the SWRCB or a CEQA review are designed to ensure mitigation of environmental impacts, thus resulting in no detrimental impact to the other coequal goal . An unintended consequence, as well, would be to prohibit transfers or delivery of supplies in the Delta to serve habitat and wetland restoration projects. Consequently, it is unclear why even the mention of transfers needs to be included and should be deleted. Of additional concern is that this policy represents an unfortunate example of the Council's attempt to bootstrap asserted covered actions in the Delta to reach into the decisions of local agencies hundreds of miles away, which was not authorized by the Delta Reform Act and is at its core detrimental to achievement of one of the co-equal goals.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 47 L 23: The development of a "Water Sustainability Element" to be reported as part of agency planning has merit. Before jumping to trying to "enforce" some vague level of achievement by tying such efforts to covered actions related to moving water through and from the Delta, which could very well have the effect of chilling activities related to furthering the water supply reliability prong of the coequal goals even when the ecosystem prong isn't implicated because of permitting requirements, the Council should instead limit itself to the recommendation that DWR work with stakeholders to develop the guidelines for such an element, include this data in the State Water Plan updates as a way to measure progress to reducing reliance on the Delta to meet future water supply needs [Delta Reform Act § 85021], and revisit the issue during a Delta Plan update to determine if further actions are necessary.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 47 L 27: "…are improving regional self-reliance ~~and reducing dependence on the Delta~~ through…"	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 47 L 31: Instead of using "six-months" as some magic term without any basis of analysis of the implications of such a standard, the fact is that if there is a disruption in deliveries from the Delta because of a catastrophic failure, such an outage could last much longer. The consequences of such an outage would vary widely depending on location within the export area. Most, if not all, agencies in the export service areas already undertake contingency planning. It would make better sense to seek a regular reporting as part of UWMPs and IRWMPs as to expected agency actions in the event of an outage of more than a 50% reduction in imported water deliveries lasting six, twelve or eighteen months.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 47 L 37: "…to the improvement of regional self-reliance ~~and reduced dependence~~ on the Delta, including…"	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 47 L 39, 40, 42: The groundwater and related activities in particular, as well as the other listed infrastructure dependent actions, are not going to be applicable everywhere so it would make sense to add "where applicable". This is also true for lines 1 and 2 on page 48.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 48 L 3: We are skeptical that the "water balance" concept as envisioned here would actually contribute much to water management and would not be simply redundant to regular and contingency planning that already occurs at water agencies throughout California. If carried forward, this concept needs additional specificity and particularly must identify how imported water supplies are expected to be incorporated into the "regional water balance" evaluation and what level of "sustainability" will be applied to such supplies. Any assessment program must acknowledge and allow for the fact that certain regions of the state are not capable of achieving a "regional water balance" unless supplies imported from the Delta are included in the definition of supply within the particular hydrologic region being assessed. It would be helpful as well, if the Plan would articulate the purpose of the exercise, which will not be cheap or quick to undertake. This comes across as an unnecessary academic exercise and it should be removed.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 48 L 13: Is the expectation that these rate structures will be in place at all times or able to be enacted during times of shortage or drought? Based on differences in water supply portfolios there will be different pressures on supplies and pricing as a tool in different agencies at different times. As a recommendation this is something the Council can urge the Legislature to consider, however, as a proposed policy mandate with ramifications for non-compliance, is another example of a level of intrusiveness into local agency decision making and independence that is unauthorized by the Delta Reform Act. In addition, what do the words even mean?	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 48 L 26: "…self-reliance ~~and reduced dependence~~ on the Delta."	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 48 L 31: "…self-reliance ~~and reduced dependence~~ on Delta diversions)."	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 49 L 10 WR R3: Assuming for the sake of argument this is more than a recommendation in search of a problem, why is this limited to the SWP rather than any potential user of water within the watershed? A new point of delivery within the SWP is not the same as an increased demand. New points of diversion may be necessary to execute conjunctive use programs, assist with system hydraulic issues, provide agency interconnections and otherwise increase system reliability – a coequal goal. In addition, this needs clarification as to applicability to water delivered under current contracts or if this is only intended to be applicable to new demands on the system beyond present contract amounts. What's the baseline? What is the definition of "increased demand"?	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 50 L 13: We agree the Board should carry out its process to update the WQCP for the Bay Delta. However, all of these "policies" should be deleted or be revised to be recommendations, consistent with the reservation of all Board authorities to the Board and no delegation to the Council whatsoever. Even as recommendations, the language must be revised: "…adopt ~~and implement flow~~ water quality objectives ~~that are necessary to achieve~~ to contribute to the achievement of the coequal goals." While the SWRCB may complete an update to the Bay Delta WQCP by 2014, history demonstrates it is highly unlikely (impossible?) that it could complete the water rights decision necessary to "implement" it by that date. They are two different and distinct processes. In addition, much more will be necessary than a potential revision of the SWRCB's WQCP to "achieve the coequal goals". The Council should be recommending to the Board that it use its full array of powers to address all stressors on the ecosystem within its scope of authority. The problematic and inaccurate use of the words "flow criteria" and "flows" also applies to lines 15 and 16.	Text was (partially) modified SWRCB provided language

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 50 L 20: All three "options" are inappropriate and inconsistent with the Council's mandate and authorities, as well as an intrusion into SWRCB jurisdiction which is explicitly prohibited by the Delta Reform Act. They should all be deleted from the next draft.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 51 L 38: The discussion of overdraft is overblown. There is not chronic overdraft "statewide". There are localized areas of overdraft (as noted on page 53, line 25) and most of the 2 million acre-feet cited occur in the Tulare region. The satellite measurements referenced only reflect space in the aquifers as determined by gravity measurements; they do not reflect subsidence or overdraft necessarily. The USGS data is more refined than the Famiglietti report.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 52 L 16-26: This discussion misrepresents the process related to contracts involving water from the State Water Project, when it is asserted that "These documents are not developed through an open and transparent public process." In fact, DWR issued "Principles Regarding Public Participation in State Water Project Contract Negotiations"...in July 2003, which establishes the following requirements related to SWP Contract Negotiations: 1. "Negotiations will be conducted in public. 2. The public will be provided with advance notice of the time and place of the negotiations. 3. The public will be provided the opportunity to observe negotiations and comment in each negotiating session." These requirements are in addition to the public review process that occurs when Contract Amendments require review under the California Environmental Quality Act (CEQA). We believe that these principles, combined with CEQA review, are functionally equivalent to the public process employed by the U.S. Bureau of Reclamation for Central Valley Project water supply contracts. In any case, there is no reason for California to follow a process developed by the federal government, for federal contracts, when the state has an existing process for its contracts.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 52 L 30 WR P 5: The basis of this policy as applicable to contracts and transfer agreements as “covered actions” is unclear and in our view nonexistent. The “action” is the movement of the water itself which is subject to regulatory action of the SWRCB and thus explicitly exempt from the definition of “covered actions” under the Delta Reform Act. Even assuming some legitimate basis for even recommending this redundant and unnecessary process, the Council has no authority to make a “policy” regarding such contracts. This policy should be deleted.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 54 L 9: We encourage additional review of the recommendations made in the Association of California Water Agencies’ Groundwater Framework for inclusion in the Delta Plan. There are many other obstacles to be removed and potential opportunities to be promoted for improving groundwater management throughout California, which would contribute to the achievement of the coequal goals. As one powerful example, the Council should recommend that the SWRCB consider the recharge of surface water as a beneficial use of water, or alternatively that the Legislature declare it so.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 54 L 33: “Improved Regional ~~Self-Sufficiency~~ Self-Reliance:” There’s no such thing as regional self sufficiency in the export areas, nor is there in the upstream areas that does not affect the Delta.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 54 L 38: Reduced ~~dependence~~ reliance on the Delta	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 54 L 39: “…reducing ~~dependence~~ reliance on the Delta”	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: P 55 L 7: Suggest adding SB 1938 plans to the mix along with AB 3030.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State Water Contractors	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The discussion on Page 52 of the Third Draft of the Delta Plan misrepresents the process related to contracts involving water from the State Water Project. As characterized in the document, “These documents are not developed through an open and transparent public process.” In fact, DWR issued “Principles Regarding Public Participation in State Water Project Contract Negotiations” in July 2003, which establishes the following requirements related to SWP Contract Negotiations: 1. “Negotiations will be conducted in public. 2. The public will be provided with advance notice of the time and place of the negotiations. 3. The public will be provided the opportunity to observe negotiations and comment in each negotiating session.”	Noted; text not modified
State Water Contractors	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: As stated in the May 6 comment letters of SFCWA and other agencies, our overarching concern is that the Third Draft of the Delta Plan generally contains inappropriate regulations that are beyond the authority of the DSC and, in this case, unnecessarily duplicative of principles and requirements that are already well established.	Noted; text not modified
The Bay Institute	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The draft Plan recognizes that the Delta Reform Act established a new state policy of reducing reliance on the Delta for future water supplies. However, none of the policies, options or recommendations in Chapter 4 actually require importing water supply agencies or importing regions to achieve and document actual or projected reductions in export reliance – let alone establish a specific target for achieving such reductions – but are limited to promoting actions that could reduce reliance. The Council should not assume that actions intended, or represented as intending, to reduce reliance will actually achieve real reductions, nor should it assume that real reductions will not be offset by increasing demand or capacity.	Text was modified
The Bay Institute	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR P1 should require water suppliers and/or regions to document actual and projected net reduction in export reliance as part of their reporting obligations on total water use.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
The Bay Institute	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: WR R3 (p. 49) appears to be directly inconsistent with Section 85021, by allowing water suppliers to increase Delta diversions and demands without regard to the total Delta water budget, i.e., without ensuring that total Delta diversions and demands do not increase but rather decrease export reliance. To avoid this particular problem and better implement the new state policy, the Council should define compliance with Section 85021 as achieving net reductions.	Noted; text not modified
The Bay Institute	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: A further critical question is whether net reductions in Delta export reliance should be measured at the level of importing regions or individual importing water supply agencies. We would support measuring reductions at the regional level if adequate mechanisms for coordinating regional water management actions and documenting such reductions can be developed.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
The Bay Institute	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The draft acknowledges the critical ecological importance of improving the amount, timing and other attributes of flow into, through and from the Delta, but appears to defer serious consideration of a desired Delta hydrograph to the SWRCB and BDCP processes. (The disparity between the cursory discussion of more natural flow regimes and lack of new policies on pp. 64-5 and the richer discussion of improving habitat and development of new policies on pp. 65-8 is striking). Restoration of a more natural hydrograph is fundamental to achieving the Council's co-equal goal of ecosystem restoration. The draft Plan mistakenly assumes, however, that ecosystem flow needs will solely be addressed through the State Water Resources Control Board's establishment and implementation of flow objectives and through no other mechanisms. While the SWRCB's timely action to issue new, more protective regulatory requirements for ecosystem flows is central to the Plan's success, the Plan should not limit itself to the flow objectives established pursuant to the SWRCB's authority. Rather, the Plan should describe the desired hydrograph for the Delta ecosystem, that is, include a more detailed description of the causes and magnitude of hydrologic alteration and of the basis for and magnitude of flow improvements necessary to support ecosystem restoration. The desired hydrograph may very well involve improving flows over and above those flows required by the SWRCB in its upcoming water quality and water rights rulemakings, and the Plan should promote actions by parties to improve flows over and above those regulatory requirements as necessary and appropriate, using a mix of regulatory and incentive-based mechanisms.	Text was modified
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 45, third paragraph. The language in this paragraph is inconsistent with the language within SBX 7-1. Terms such as "deal with infrastructure" and "control water demand" are, within the statute, "improve...infrastructure" and "promote statewide conservation". The Plan should not attempt to blur and expand what authority it was provided by overreaching terminology.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47 first paragraph. This paragraph is factually incorrect. Local water agencies are required by law to submit Capital Improvement Plans to local governments for an affirmative finding of consistency with mandated local general plans...each five years all urban water suppliers are required to develop Urban Water Management Plans that identify water sources, supply and proposed water use efficiency measures...These plans are now required (SBX 7-7) to meet new, more stringent, standards of reporting and analysis regarding achieving a 20% (statewide) reduction in water use from defined baseline conditions by year 2020.	Noted; text not modified
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47. The problem statement is either wrong or sufficiently vague to render it meaningless. The term "Additional local and regional conservation" makes no reference what it is additional to.	Text was modified
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47, policy B. It is not clear what a covered action would be that involved water used "in part" in the Delta. Examples would be helpful in determining how this policy would apply.	Noted; text not modified
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47, WRP1. It is not clear what the term "To promote statewide accountability" as it is applied to water delivered "from the Delta, in the Delta and in or from the Delta watersheds" means. The term statewide is not consistent with the terminology to the preceding terms to which it is directed. Please clarify.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 47 last paragraph. Please not that not all regions and localities in California can develop and use local groundwater storage, as much of the state has no groundwater basin or water table. Similarly, desalination projects are quite limited geographically in their feasibility in the state and storm water collection projects suffer from economy of scale costs limitations in many rural areas.	Text was modified
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 48, second bullet item. It is unclear what the term "sustainable encourages" means.	Text was modified
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 48. This page is not accurate regarding the role of Integrated Regional Water Management Plans (IRWMP), their defined regions, hydrologic regions and local resource planning. Not all of the state's landscape is currently within the boundaries of an IRWMP. Further not all IRWM plans are completed, even in those areas that have an IRWM region. IRWM regions are most often smaller than the state's defined hydrologic regions. Local agency planning is primarily focused on those areas that the agency serves. It would be quite difficult and costly for a local agency, or even an IRWM region to determine if the entire hydrologic region was "out of balance". It is strongly recommended that the DSC staff work with the DWR IRWM program staff on developing more coherent language for this entire section.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 49, second to last paragraph. It is not reasonable to expect that there will be 100% certainty regarding what exact flows are needed "to protect and restore the environment." ...The various ecosystems of the state are quite diverse and the presumption that "every action that potentially" could increase the diversions from the Delta (it is not clear if the author meant the statutory Delta or the Delta watersheds) should not take place until 100% certainty of the needs of the system are determined by the SWRCB would mean no action would take place for quite some time. Under those conditions of restriction it would seem the DSC would see no immediate need for any further regulation as it would have imposed a moratorium on new water supplies that would have significant and far reaching socioeconomic impacts to much of the state and chilling effect on the state's economic recovery. This excessive regulatory approach is echoed on page 50 items B and C.	Text was modified
Tuolumne Utilities District	4/29/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Page 53. Please note that not all the lands of the state are located within a groundwater basin. Please see Bulletin 118 (DWR) to clarify. This same fact applies to page 54 WR R7.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The Delta Reform Act defines the "coequal goals" as meaning "the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem." (Delta Reform Act § 85054.) The Act therefore requires the Delta Plan to "promote statewide water conservation, water use efficiency, and sustainable use of water." (Delta Reform Act § 85303 (emphasis added).) Chapter four's policies and recommendations, however, almost uniformly seek to impose more obligations on local water suppliers. (Third draft, WR P1, WR P2, WR P3, WR R2, WR R3.) These policies go so far as to seek to control local water suppliers' water rates, which, under Article XIIID of the California Constitution (Proposition 218), are subject to limits tied to those suppliers' individual costs of water and related facilities. (Third draft, WR P1, WR P3.) Even where chapter four proposes that state agencies undertake tasks, those tasks involve state agencies' exertion of more control over, or imposition of more constraints on, local water suppliers, as with the chapter's proposals for California Water Commission hearings, more elaborate processes for negotiating State Water Project contracts, local agencies' participation in DWR's Water PIE program and for State Water Resources Control Board proceedings concerning groundwater basins. (Third draft, WR R4, WR P5, WR R5, WR R7, WR R8.)	Noted; text not modified
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The state, however, already requires that local water suppliers implement large numbers of planning, reporting and transparency requirements, including preparation of urban and agricultural water management plans (which themselves must comply with very detailed requirements), water conservation plans, water-supply assessments for significant new developments, specific requirements to seek state funding under integrated regional water management plans, groundwater monitoring and water-right reporting, among other things. In addition, if a local water supplier obtains supplies from the federal government, there are additional federal requirements. Finally, there is already a statewide system for monitoring streamflows.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Instead of adding another layer of regulation, the Delta Plan should focus on resolving a crucial statewide water management problem, namely the state's failure to integrate, assess and disseminate all of the information that flows from existing local agencies and state programs. This failure prevents the state from assessing the sustainability of California's water supplies as a whole and identifying ways that state agencies can assist local water suppliers in taking steps to improve their supplies.	Noted; text not modified
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter four emphasizes "improving regional water self-reliance" as the primary tool for achieving the water-supply coequal goal. That chapter, however, does not acknowledge that such a policy involves the necessary corollary that, in order to make the necessary investments, local communities require assurances that they will be able to reap those investments' benefits. Rather than giving any such assurances, the third draft only exacerbates concerns that the Council's activities will reduce, not enhance, water suppliers' ability to improve their self-reliance. Specifically, that draft: (1) questions whether water suppliers should make new investments until the SWRCB completes new streamflow objectives; (2) fails to recognize that state-of-the-art streamflow measures are already being implemented in many parts of the Delta watershed; and (3) suggests that the California Water Commission should take the lead in identifying projects to enhance regional self-reliance. Instead of making these statements, the Council should simply make a statement in the Delta Plan that reflects the Delta Reform Act's express statements about: (A) its effect on the rights and laws that provide water suppliers the assurances they need to make investments; and (B) the potential incorporation of the Bay-Delta Conservation Plan (BDCP) into the Delta Plan.	Noted; text not modified Note that this is the reason for including the summary of all the state funding that has been made available

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The third draft's focus on flow is unbalanced. The third draft includes policies that would seek to require the SWRCB to set flow objectives as its main policy objective in three of its five substantive Chapters. This flow-centric focus is not balanced, does not reflect an integrated approach to the coequal goals, and will not be effective. The best available science (as recited by the Council's lead scientist Cliff Dahm on many occasions) concludes that addressing flow in isolation of the other stressors on the Delta system will not restore the Delta ecosystem.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: In addition, the third draft's focus on flow is not legally supportable. The third draft seeks to create unjustifiable regulatory constraints if the SWRCB does not set flow objectives according to the Council's proposed schedule. These statements ignore the fact that the SWRCB's task is to consider impartially whether to change current flow objectives and prejudges the outcome of that process. Not only would the third draft's proposed flow policies marginalize the SWRCB's process underway, but it would overstep the Council's legal authority under the Delta Reform Act, which left the SWRCB's authority unchanged. (Delta Reform Act §§ 85031(d), 85032(d).) The specific options for Council action if the SWRCB does not meet the requirement to set flows are similarly flawed. Option A – the Council would apply the SWRCB's 2010 Delta flow criteria report in consistency reviews – would violate the Act because both the Act and the report itself indicates that the report is not appropriate for project-specific decisions. (Delta Reform Act § 85086(c)(1)(SWRCB criteria not "predecisional" concerning any water-right permit); SWRCB, Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem, pp. 2-4 (2010).) Option B – any project that would increase diversion capacity in the Delta or Delta watershed would be inconsistent with the Delta Plan until the SWRCB adopts new flow objectives – would violate the portions of the Delta Reform Act that state that the Act does not impact the SWRCB's authority over water-right permitting. (Delta Reform Act § 85031(c)-(d).) For the same reason, Option C – the SWRCB should stop issuing water-right permits in the Delta and Delta watershed until it adopts new flow objectives – would be illegal.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: The requirement to set flows also should not be included in the Delta Plan's section on water reliability. Flow objectives will not result in achieving the water-supply coequal goal; flow objectives are set in the context of water quality in attempts to address ecosystem habitat issues, not water supply issues. In fact, given California's variable Mediterranean climate, it is difficult to guess how reliable water supplies could be provided to the 96% of Californians who rely, at least in part, on water from the Delta watershed if dam owners were required to release water to mimic the natural hydrograph. The third draft's discussion of flows therefore would fail to reflect the coequal goals.	Noted; text not modified
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: the third draft says nothing about eliminating illegal diversions of water, which should be assessed and terminated before any determination is made as to whether any legal users of water must contribute to any new Delta streamflow objectives. The state's commitment to ensuring that all uses of water are legal demands nothing less.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4: Necessary Changes As with the other chapters of the draft plan, chapter four would be improved significantly if the Council were to identify how federal, state and local actions related to the Delta could be integrated to promote the coequal goals. This sort of discussion would "promote statewide water conservation, water use efficiency, and sustainable use of water," as required by Delta Reform Act section 85303. We recommend that, in chapter four, the Council: ● Delete: (1) paragraphs A and B concerning "covered actions" on page 47; (2) policies WR P1 (and all of its subparts); (3) paragraphs A and B on page 48; (4) policies WR P2 and WR P3; (4) recommendations WR R1, WR R2 and WR R3; (5) policy WR P4; (6) paragraphs A, B and C on page 50; (7) recommendation WR R4; (8) policy WR P5; (9) recommendations WR R5, WR R7 and WR R8. ● Retain recommendation WR R6. ● Recommend that at least the Bureau of Reclamation (Reclamation), DWR, the SWRCB, the Regional Water Quality Control Boards, the Department of Public Health, the U.S. Geological Survey and the California Urban Water Conservation Council coordinate the information reported to them by local water and wastewater agencies to create a statewide system of integrated water information. ● State that the Council will consult with DWR concerning its grant-funding processes with the goal of reducing the costs associated with grant applications and increase the per-dollar water yield of grant-funded projects.	Text was modified Page 47: paragraphs A and B modified Page 48: paragraphs A and B modified Page 50: paragraphs A, B, and C modified WR R4 modified WR P5 modified WR R6 modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 4	THIRD STAFF DRAFT DELTA PLAN: Chapter 4: Necessary Changes (cont) ● Recommend that the SWRCB identify groundwater recharge as a beneficial use for water-right permitting or, if the SWRCB determines it cannot do so under current law, propose legislation to correct the problem. ● State that the Council will consult with DWR, Reclamation, university engineers and scientists and private experts to improve the state's understanding of the benefits and detriments of increased storage and, in particular, new storage. ● Recommend that DWR complete its pending storage investigations by December 31, 2012. ● State that the Council will consult with DWR, Reclamation, the U.S Corps of Engineers, the Federal Energy Regulatory Commission and other dam operators concerning whether new flood-control rules can be developed that would allow reservoirs to be operated more flexibly in light of current weather-forecasting technology to increase water storage without compromising flood control. ● State that the Council will consult with DWR, the SWRCB and other state agencies to identify funding and regulatory incentives to catalyze individual local agencies to implement projects that will help the state achieve the coequal goals, including water conservation, water use efficiency, conjunctive use and other projects that improve regions' self-sufficiency. • Recommend that the SWRCB seek to terminate all illegal diversions of water as rapidly as possible and that it direct the Delta Watermaster to identify all illegal diversions in the Delta by January 1, 2013 and seek to terminate those diversions as rapidly as possible thereafter. ● Make the following statement to provide local water suppliers the assurances they need to make investments to improve their self-reliance: Pursuant to the Delta Reform Act, nothing in this Plan will be applied or interpreted to impair any water right, any water right priority, any area of origin protection or any protection provided to municipal water suppliers under Water Code sections 106 and 106.5. (Delta Reform Act §§ 85031(a), 85031(d), 85032(i).) In addition, also under that Act, if BDCP is certified by the Department of Fish and Game as satisfying the pertinent statutory criteria, then BDCP will be incorporated into the Delta Plan. (Delta Reform Act § 85320(3).)	Text was modified Included language on improved understanding of benefits

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
The Bay Institute	5/6/2011	CH 4 & 5	THIRD STAFF DRAFT DELTA PLAN: The identification of the desired hydrograph is also important for providing guidance to other planning processes such as the Bay Delta Conservation Plan process. In developing a desired hydrograph, the Plan should defer to the SWRCB's 2010 Delta public trust flow criteria as representing the best scientific evidence regarding ecosystem flow needs (without attempting to balance these needs against other uses). There is a wealth of scientific information available to document these ecosystem flow needs and set hydrograph restoration targets	Noted. Thank you for your comment.
The Bay Institute	5/6/2011	CH 4 & 5	THIRD STAFF DRAFT DELTA PLAN: WR P4 Option A should be modified to require parties to show demonstrable progress toward improving flows consistent with the SWRCB's 2010 Delta flow criteria, until such time as new flow objectives are established and implemented per WR PR 4. Furthermore, the Council should not only adopt WR P4 options B and C (p. 50), which would prevent the status quo from being degraded, but include additional actions to improve flow conditions in the interim (i.e., prior to the adoption of new flow objectives) by conditioning declarations of surplus conditions in the Delta, long-term renewal of CVP and SWP contracts, and other relevant actions not only on the adoption and implementation of new flow objectives but on demonstrable progress toward achieving flow improvements consistent with the 2010 SWRCB criteria, absent new objectives.	Text was modified
The Bay Institute	5/6/2011	CH 4 & 5	THIRD STAFF DRAFT DELTA PLAN: SEE ATTACHMENT 1 TO THE LETTER - 40 PAGE PAPER ON "DEVELOPING ECOSYSTEM TARGETS FOR THE DELTA PLAN"	Noted. Thank you for these comments.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
The Bay Institute	5/6/2011	CH 4-7	THIRD STAFF DRAFT DELTA PLAN: Chapter 2 contains an excellent description of the conceptual framework for an adaptive management plan. However, as someone once observed, a plan that has a chapter on adaptive management is not the same as an adaptive management plan. The draft Plan is not yet an adaptive management plan. Consistent with Chapter 2's guidance on the elements of an adequate plan, Chapters 4 through 7 should be extensively revised to better describe the problems or stressors that need to be addressed; establish specific, measurable objectives that define desired outcomes; explain the basic assumptions underlying the Plan's broad (and in our view appropriate) strategies for restoring the ecosystem, making water supplies more reliable, etc; and identify the highest priority actions for implementation to achieve Plan objectives and support Plan strategies by parties active in the Delta and covered by the Plan. Again, there is a wealth of existing information available to allow such a revision in the near future.	All chapters have been extensively rewritten to include these elements, among others
The Bay Institute	5/6/2011	CH 4-7	THIRD STAFF DRAFT DELTA PLAN: Chapter 2 contains an excellent description of the conceptual framework for an adaptive management plan. However, as someone once observed, a plan that has a chapter on adaptive management is not the same as an adaptive management plan. The draft Plan is not yet an adaptive management plan. Consistent with Chapter 2's guidance on the elements of an adequate plan, Chapters 4 through 7 should be extensively revised to better describe the problems or stressors that need to be addressed; establish specific, measurable objectives that define desired outcomes; explain the basic assumptions underlying the Plan's broad (and in our view appropriate) strategies for restoring the ecosystem, making water supplies more reliable, etc; and identify the highest priority actions for implementation to achieve Plan objectives and support Plan strategies by parties active in the Delta and covered by the Plan. Again, there is a wealth of existing information available to allow such a revision in the near future.	Text was modified (CH 6)

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Parks and Recreation	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: The term 'floodplains" in policy ERP4 should be defined. Almost any property in the Delta and Suisun Marsh is on a floodplain of some recurrence. Referring to a flood interval, such as 100 years, that is already mapped through FEMA or some other standard practice would ease compliance with this policy.	Section was revised substantially
California Department of Parks and Recreation	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: In Policy ERP5, the term "increased connectivity between land and water" needs definition. It is unclear whether this policy is encouraging removal of levees, increased stormwater discharge, or some other type of connection between land and water. Local and regional land use plans ought also to be defined as general plans adopted pursuant to Government Code Section 65350 or the Delta Protection Commission's Land Use and Resource Management Plan.	Section was revised substantially
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 63, lines 13 - 19 Text from two sources is quoted without citations, citations need to be provided.	Text was modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 64, lines 18 - 21 Does the phrase "changing amounts of rain and snow" refer to total precipitation amount or to the ratio of rain to snow (i.e., that more precipitation falling as rain than snow at the lower elevations)? This statement needs more clarification.	Text was modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER P2, page 66, lines 42 - 45 DSC needs to clearly summarize what contents from those sections of the Draft DFG report need to be addressed. As is, it would fail the CEQA test for incorporating by reference. Also, consider adding the phrase "or subsequent updates" to the end of this sentence.	Map undergoing technical revision and will be updated/included in 5th staff draft

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California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER P2, page 66, lines 42-45 and page 67, lines 1-5 The figures referred to are not readily accessible for review. For the purposes of this plan consider adding Figure 4, "Land Elevations in the Delta Ecological Management Zone" and adding Figure 5, "Map of Ecological Management Units within the Delta Ecological Management Zone" These figures are on pages 35 and 47 of the Draft Ecosystem Restoration Program's Conservation Strategy for Stage 2 Implementation for the Sacramento-San Joaquin Delta Ecological Management Zone (Draft ERPCS) to the Delta Plan. Please include the accompanying text also.	Text was modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER P4, page 67, lines 23 - 26 As written, this is an overly strict regulation, which must be tempered by feasibility and practicability.	Text was modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER P4, page 67, lines 27 – 30 In the comments to the second staff draft of the Delta Plan, the Department asked for a clarification regarding what was meant by the term "where feasible". The third staff draft of the Delta Plan removed the phrase "where feasible" and simply required the evaluation and incorporation of alternatives that would increase the extent of floodplain and riparian habitats. The Delta Plan should include a note that these alternatives may not always be incorporated. Consider using the language in the Draft 2 Delta Plan, with a clarification of the term 'feasible.'	Text was modified Term "where feasible" inserted into text
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER R1, page 67, line 39 The phrase "and its watershed" should be placed after "the Delta."	Text was modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER R1, page 67, lines 39 - 44 and page 68, lines 1- 2 Please include Dutch Slough and Meins landing in this list of important habitat restoration projects. Also, the project referred to as Cosumnes River/Mokelumne River Confluence; is this the same projects as the North Delta Flood Control and Ecosystem Restoration Project?	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER R2, page 68, lines 9 – 10 This recommendation discusses "Payment in Lieu of Taxes" to replace lost local government revenues resulting from the removal of properties from property tax rolls for ecosystem restoration or water supply purposes. This may be contrary to State policy and this potential change in State policy and how it may affect any lands the State holds should be evaluated before "Payment in Lieu of Taxes" is included in the public draft(s) of the Delta Plan.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER P6, page 68, lines 38 - 40 Some actions may be neutral with respect to non-native invasive species. For example, a levee rehabilitation project that increases the erosion protection on a levee would be neutral. How would compliance with this policy be demonstrated? The Department recommends that a sentence or wording be added to this policy that compliance does not need to be demonstrated for projects that are neutral to invasive species.	Noted; text not modified Covered actions must demonstrate that they are neutral with respect to non-native invasive species
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER R3, page 69, line 6 Consider adding the phrase "or subsequent updates" to the end of the sentence.	Text was modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER R3, page 69, lines 2 - 7 The language recommends that the California Department of Fish and Game (DFG) fully implement the list of potential Stage 2 Actions for Non-Native Species. Please note that many of these projects are being developed by a consortium of agencies and not just DFG. Since this is simply a list of potential actions, DFG should carefully considered and prioritize implementation of these actions and fully implement all of these actions.	Text was modified
California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ER R5, page 69, lines 28 - 33 This recommendation states that the Council will proceed with the ecosystem and conveyance planning independent of the BDCP process if the BDCP process is not complete by 31 December 2014. This action should be consistent with ER R3 and ER R4 listed above.	Text was modified

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California Department of Water Resources	4/22/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 70, line 30 - 36 and page 71, lines 1 - 8 While it is important to develop performance measures for this topic, the list of performance measures is too broad, appears somewhat redundant in scope, and is not measureable as written. There needs to be an effort made in this plan to match these measures with the objectives of the Act using a logical and hierarchical framework. There has been considerable work on this topic that could be referenced (see CALFED ERP literature, Environmental Protection Indicators for California (EPIC), The Bay Institute Scorecard, and other sources).	Text was modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: The new format is a significant improvement. It does a much better job laying out the background, what needs to be done and why, and begins to address the key issue of financing. However some sections still need significant editing if they are to communicate effectively to the public and decision makers. For instance much of Chapter 5 reads more like a master's thesis than a restoration plan. As just one example, see these two sentences from page 62, lines 44 to 47	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Chapter 5, Restore the Delta Ecosystem. We were struck by the Palmer, et al 2005 criteria for successful ecosystem restoration, and their first recommendation, “The project should be based on a clear guiding image of the type of dynamic and healthy ecosystem to be achieved.” We agree that knowing where you want to go before you start is critical to the outcome. We feel that the comment on lines 30 and 31 of the restoration section can be the focus of the guiding image for the delta, at least early in the restoration process. “Improved flow regimes, greater habitat diversity, and better water quality are key characteristics for achieving a healthier Delta.” These three areas of focus can be measured for a baseline, altered in knowable ways, and evaluated following actions. Additionally, if baseline measures are done prior to altering these three variables, we will be able to demonstrate the impacts on ecosystem residents. We recognize that this is a long plan with multiple projects over time, but starting with a focus on these areas is critical to restoring some balance in the system, and should be at or near the top of the list for early actions.	Noted: text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Chapter 5, Flow Regimes. 1. We agree that altered flow regimes have led to degradation of the Delta aquatic ecosystem. 2. We would note that flows, or lack thereof, can contribute to success of invasive species, nutrient composition and water quality. These are not independent of flows, as the state Resources Control Board states. 3. Creating a more natural flow regime in the Delta is critical to improving the Delta ecosystem, but since the Delta is a fully managed aquatic system, it will require a managed approach to establish both needed tributary in-flow and timing, as well as how much of that in-flow must pass through the Delta to San Francisco Bay. We would suggest that this is an ever changing process, determined by aquatic species needs, time of year, as well as water year type, among others. 4. ER P1: WR P4. We would agree totally with the first 2 bullets. Bullet 3 should reference consistency with the current Biological Opinions flow requirements for both Delta Smelt and Salmon/steelhead. 5. We would recommend adding “establish an enforceable mechanism to ensure water exports from the Delta and water transfers are consistent with the flow standards established in WR P4.”	Section was modified

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Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Chapter 5, Improving Habitat We would recommend that the Council recognize that habitat restoration upstream of the delta is a necessary component for restoration of species dependent on the Delta and its watershed. As such, clear recommendations for habitat restoration upstream should be part of the Delta Plan...ER P4 – Bullet 2 – we agree that maintaining or expanding large blocks of intact habitat is important, but equally important is to provide for connectivity between these blocks such that species can easily move between these areas without risk. · ER P5 – We agree. We ask for upstream recommendations for habitat restoration be made to other agencies that have that ability, as it will bring greater species recovery success and resiliency, and reduce overall in-Delta recovery needs. · ER R1 – We agree with this listing of priority locations · ER R2 – Delta Conservancy – we agree with nearly all of the stated tasks and goals. We would add one additional necessary funding need, and that is maintenance of established restored areas. It may be thought that this is covered in “long-term operation and management “, but experience in other HCP and NCCP efforts has shown that unless funding for maintenance is established, restored and protected areas that are no longer actively being worked on degrade.	Noted; text not modified Operations and management includes maintenance
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Reducing Threats and Stresses We agree that invasive and/or non-native species can be a threat and must be addressed appropriately. We also agree that some now established in the system have been here for well over 100 years, and as such, do not pose a threat to survival or recovery of the native species now existing in the Delta ecosystem. · ER P6 – Appears to be a fair and balanced position...· ER R4 – We agree with this recommendation	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Bay Delta Conservation Plan We generally agree with the Council recommendations in the draft. However, more is required than simply including the scientifically based adaptive management program. In addition to this, the key issue of a scientifically based water management and diversion plan should be noted in this section. Restoration and associated adaptive management alone cannot meet the legislative mandate of a restored Delta ecosystem. Appropriate water management, including reduced reliance on the Delta, is a necessary part of the process. · ER R5 – We agree with this recommendation, but it puts added responsibility on the Council to be prepared to take action on the areas now left to BDCP.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Performance Measures The listed performance measures are a good start, but more definitive goals and objectives for specific species are needed, as well as specific target dates for Delta inflow and outflow criteria. We feel generally that it will take some time to really develop this area, and it should be done in consultation with the science advisory board, and based on scientifically derived expectations. We do feel that performance measures are critical to meeting the legislative mandates for ecosystem recovery, as well as recovery to self-sustaining populations of aquatic species, both pelagic and anadromous. Hence, we fully support the Council for including this in the Plan, and request the Council to provide a public opportunity to hear from the science team on how performance measures can and should be established for the Plan.	Section was augmented and modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Chapter 5, Restore the Delta Ecosystem. Delta Counties and landowners must be full partners in developing and implementing habitat restoration programs so that a desirable mix of aquatic habitat restoration and sustainable agriculture is achieved. The same holds true for out of Delta counties and landowners where restoration is identified as beneficial to recovery. At no point in this Chapter or in Chapter 3 do we see a firm commitment – which is needed – to meaningfully involve Delta residents in the development of the Delta Plan.	Text was modified See Chapter 3 (Governance)

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: We see no conflict with incorporating Delta County personnel and Delta landowners as an integral part of the Delta Plan process with our statements in Chapter 3 which reinforce the expansive view of the Council's authority.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: p. 61 line 26 - The term' spatially quite stable' should be defined.	Text was modified
Contra Costa Water District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: p. 61 lines 27 through 29 should read ... 'The historical Delta can be divided into three primary landscapes; 1) flood basins in the north Delta, 2) tidal islands in the central Delta, and 3) distributary rivers (multiple branches flowing away from main channels in the south Delta'	Text was modified
Contra Costa Water District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: p. 62 line 1 - The spring-neap tidal cycle is based on the lunar cycle and in the Delta the largest difference in daily water levels typically occur during the spring tides, but there is always two high and two low waters every day. Is this paragraph suggesting that those areas were inundated once a month, every day at high tide, or somewhere in between? If the areas were only inundated at the highest water level, then that would most likely be less frequently than once a month. The paragraph should be updated to accurately describe how frequent these areas were inundated.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: p. 67 ER P3 - All covered actions should seek to avoid and minimize impacts to any beneficial use and any remaining impacts should be mitigated. The Delta Plan should broaden the language to include impacts from restoration projects, not exempt them. Restoration projects may impact water quality and consequently agricultural, municipal and industrial beneficial uses. Those water quality impacts must be avoided, minimized and any remaining impacts need to be mitigated. Any covered actions must be consistent with the Delta Reform Act which includes numerous references to improving water quality to protect human health and the environment. Is the intent to promote only restoration activities within certain areas? What actions is this paragraph referring to? Covered actions?	Noted; text not modified Will be considered in preparation of EIR

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: p. 67 ER P4 - This policy should define the design flood (i.e. 10 year, 100 year storm) so that a geographic area can be determined. If the Delta Plan intends to extend the design floodplain to the 1,000 year storm, this policy would be inconsistent with protecting Delta as a place as it would mean that existing towns and farms within the Delta could not repair their levees.	Section was revised substantially
Contra Costa Water District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: p. 67 line 27 - Setback levees are not always appropriate so the policy should state ... construction of new levees, substantially rehabilitating, or reconstructing existing levees in the Delta and Delta water shed shall reduce risk to people to the extent feasible and evaluate alternatives that would increase the extent of the floodplain and riparian habitat.	Text was modified Added “where feasible”
Contra Costa Water District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: p. 67 ER RI - The Delta Plan should identify the specific projects in those areas that are already underway in some cases and include those specific projects as milestones in Chapter 1.	Noted; text not modified
Delta Wetlands Project	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Modify the use of the Ecosystem Restoration Program Conservation Strategy for Stage 2 Implementation to fit with its nature as a concept document rather than a prescriptive plan. Some of the strategy recommendations are mutually exclusive, so it is not possible for proposed covered actions to incorporate all elements of the strategy.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Delta Wetlands Project	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: ERP Conservation Strategy is too vague and contradictory to be used as a basis for consistency determinations (revisions to ER P2 and ER P3 starting at page 66 line 42): The Conservation Strategy is a very high level exploration of possibilities. Its recommendations are in some cases contradictory (e.g., you can't grow tulle's for land accretion on islands that have been breached to create deep water habitat) so it is not possible to be consistent with the Strategy per se. ER P2 Actions that include ecosystem restoration ~~shall be consistent with the following sections~~ , where consistent with project goals, incorporate elements from the Draft Ecosystem Restoration Program's Conservation Strategy for Stage 2 Implementation for the Sacramento-San Joaquin Delta Ecological Management Zone (California Department of Fish and Game 2010)...ER P3 Actions other than ecosystem restoration ~~shall determine if the action would adversely impact~~ disclose whether the action may positively or negatively affect the opportunity for ecosystem restoration at the elevations shown in Figure 4 and in the Ecological Management Units shown in Figure 5, and as explained in the accompanying text of those figures. These actions shall demonstrate that any ~~such~~ adverse impacts will be ~~fully~~ avoided or minimized where practicable. Certification of consistency associated with these actions shall consider the habitat values described generally in Section 2 of the Draft Ecosystem Restoration Program's Conservation Strategy for Stage 2 Implementation for the Sacramento-San Joaquin Delta Ecological Management Zone (California Department of Fish and Game 2010) and subsequent revisions of this document.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Glenn-Colusa Irrigation District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Chapter 5 - Restore the Delta Ecosystem This Chapter fails to link how the ecosystem will recover through yet to be defined actions by others, provided those actions are consistent with the Plan. Unfortunately, hope will not get the job done. In reality, the Plan should introduce, propose, and plan measures and actions in accordance with Water Code Section 85302 that details specifics of a healthy Delta ecosystem. In the Performance Measures section, the Plan refers to progress toward achieving these goals, yen he Plan includes no specific actions to attain these goals or the outline of a framework for restoring the ecosystem. Again, the Council and Plan should assert some leadership in beginning to craft what the Plan for the Delta ecosystem should be based upon, the best available science and the Council's own Independent Science Board. There may be obvious limitations to implementing the actions identified, but other parties may or would be willing to pursue those actions. Certainly, the Independent Science Board should be providing some input and guidance to the plan that would begin to lay the framework of a functioning ecosystem.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
HCP/NCCP Agencies in Delta	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Our organizations are in the process of preparing or implementing landscape level multispecies Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) in four of the five Delta counties. A fifth plan is underway in Sacramento County...We are concerned that the Delta Plan could present an obstacle to the success of these efforts if it imposes new conditions or requirements for their implementation or approval. These conservation plans represent the combined efforts of local, state and federal government agencies, are carried out in an open and transparent way, and are subject to extensive environmental review. We think that additional procedural or substantive requirements are unnecessary and could be counterproductive-redundant or conflicting requirements could make it more difficult for these conservation planning efforts to succeed and to realize their contributions to the long-term sustainability of the Delta...New conditions or requirements imposed under the Delta Plan could weaken or undermine these regulatory assurances and reduce the benefit of an HCP/NCCP to local governments and other plan participants.	Noted; text not modified Continuing discussion; may be considered for 5th staff draft
HCP/NCCP Agencies in Delta	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: The five Delta County HCP/NCCPs have been developed on a foundation that mirrors the core principles articulated in the Third Staff Draft Delta Plan. These include the need for a governance structure that is transparent and accountable; guaranteed financing to undertake the tasks committed to; a strong science information base that incorporates adaptive management and monitoring; and commitment to the preservation of unique natural, agricultural, and cultural resources. Because the HCP/NCCPs already reflect the core principles of the Delta Plan, and because the Delta Plan could complicate or interfere with their development and implementation, we strongly urge you to make it clear in future drafts of the Plan that these HCP/NCCPs are exempt from Delta Plan requirements.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Regional Council of Rural Counties	5/5/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Pages 64-65 The Delta Plan states that altered Delta flow regimes are detrimental to native aquatic species, and under "Policies" refers the reader to WR P4 (page 50) which states that the State Water Board should develop flow criteria and establish flows by certain specified dates. See RCRC's earlier comments under Chapter 4. The Delta Plan, it appears, is not only stating that the State Water Board should develop flow criteria and establish flows, but that when doing so that the State Water Board should create a more natural flow regime. (Page 64, line 42) As RCRC has previously stated, the State Water Board must by law balance a number of considerations when establishing new objectives. The Council has no authority to tell the State Water Board what it should do and how it should do it.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 67 Please see RCRCs previous comments relating to local land use control. RCRC supports the comments of the Delta Counties on this topic.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 69 The Delta Plan proposes that if the Bay Delta Conservation Plan (BDCP) is not completed by a date certain that the Council will proceed with ecosystem and conveyance planning recommendations independent of the BDCP process. RCRC finds this proposal objectionable given the narrow focus of the Council. Decisions of this nature must be made by agencies that are required to balance competing needs like the Department of Fish and Game (DFG). For example, the DFG must consider in its decision-making process within the BDCP process the potential for negative impacts on upstream ecosystems from proposed actions to benefit the Delta.	Section was rewritten

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Resident of Lafayette	4/25/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: [I] think that there is a persuasive argument to go the extra miles and seek state and federal legislation that gives the Council one-stop permitting authority for all dredging, levee construction, and eco-system restoration activities in the Delta. The ecosystem restoration activities would include but not be limited to restoration of flooded islands, other strategic dredging, construction of water-side eco-berms on existing levees and enhancement of mid-channel berms in the dredger cuts, possible conversion of some islands and tracts to managed wetlands or tidal marshes, possible consolidation of some islands or tracts into larger polders, and possible modest changes in channel geometry in order to add more complexity in flows and retention times.	Noted; text not modified
Sacramento County	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Policy ER PI (Page 65, line 24), which references Policy WR P4 (Page 50, lines 11-29) Flow Criteria: This policy states that the SWRCB should develop flow criteria by a date certain. Failure to do so could result in the Delta Council taking one of three actions. The first option seems reasonable in that the Council can simply default to the flow criteria established in 2010 until new criteria are established. The next two options seem overly restrictive especially since the local jurisdictions have no control over whether SWRCB meets the established deadlines. One option states that the council could deny any covered action that would increase the capacity of any water system to store, divert, move or export water from the Delta or Delta Watershed. Another option is that the Board cease issuing water rights permits in the Delta or the Delta watershed. Given the consequences should SWRCB not meet the established deadlines it seems that the policy should be written to require SWRCB to develop flow criteria by a date certain and if they fail to do so the Council should not be able to deny projects initiated by local jurisdictions. The use of "should" in the policy makes it sound weak considering the consequences if SWRCB does not act in a timely manner.	Section was rewritten

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento County	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Policy ER P3, Ecological Management Units (page 67, lines 8-16): This policy will require avoidance and mitigation based on a properties potential to be used as restoration. This policy will impose a new layer of questionable regulation that is sure to be burdensome to landowners. The County recommends the DSC delete this policy.	Noted; text not modified
Sacramento County	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Policy ER P4, Floodplain Protection (Page 67, lines 17-30): It appears as if the first bullet contradicts the statement that this policy is a recommendation for actions outside of the Delta by stating that projects within the Delta watershed must demonstrate impacts have been considered and avoided or minimized. While the "California Essential Habitat Connectivity Project" is a laudable planning tool it was written without any regard to local land use policy. Guidance documents that are narrow in scope and written absent other considerations should not be used to establish policy that has the potential to impact land use. The first and third bullet points are sufficient to support this policy.	Text was modified
Sacramento County	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Policy ER P5. Regional Land Use Planning and Impact on Ecosystem Restoration (Page 67. lines 31-37): To provide greater certainty and predictability, the term "substantially reduce" must be defined/quantified.	Text was modified
Sacramento County	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Recommendations ER Rl and ER R2, Prioritization of Restoration Projects (Pages 67 and 68): These recommendations should acknowledge that conflicts may arise between existing and future HCPs/NCCPs and the Delta Plan and there should be a mechanism to resolve any conflicts.	Noted; text not modified Continuing discussion; may be considered for 5th staff draft

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento Regional County Sanitation District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: A general comment on the subsection "Reducing Threats and Stresses" is that some of the stresses to the ecosystem are the result of historical choices made related to infrastructure construction, and public safety. The Delta plan should allow adequate time to correct these types of issues so as to avoid placing an undue and unrealistic economic burden on the local economies. The Plan should properly prioritize changes to infrastructure and public works or publically funded capital improvement projects or other projects that place a significant financial burden on California residents and businesses by allowing appropriate phasing, timing, and providing funding assistance as required. All required projects or activities should be evaluated to determine whether reasonable proof exists that the project will result in a measurable and significant benefit or improvement to the Delta ecosystem. The plan should not impose artificial deadlines on projects but rather should consider that improvements to the Delta ecosystem will take many years.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento Regional County Sanitation District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 69, Lines 9-13-ER R4- Authority to regulate stressors resides with the State and Regional Water Boards, therefore they should be involved with any workshops that are developed to provide recommendations to minimize their impact. Additionally other stakeholders should be included in these workshops as they can bring their expertise, adding value to any recommendations that would be developed. Prioritizing the measures to minimize stressor impacts should be decided upon collectively, so that anyone interest does not dominate the prioritization decisions. A good example of how these workshops could be conducted is the Ammonia Workshop from March 2009, where CalFED, the Water Boards, DFG, State Water Contractors (or their representatives), and SRCSD collaboratively planned the workshops that included participation by well respected members of the scientific community. We recommend the following language changes. "By January 1, 2013 the Delta Science Program, in conjunction with the Department of Fish and Game, the Department of Water Resources, State and Regional Water Boards, and other ~~relevant agencies~~ interested stakeholders should conduct workshops with the objective of providing specific recommendations to the Council for measures to minimize stressor impacts on the Delta ecosystem and on the prioritization of such measures.	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 71, Lines15-16-We recommend the following language change regarding performance measures for threats and stressors. "Progress toward understanding ~~Reducedconcentrations~~ the role of nutrients (nitrogen and phosphorus compounds) in ~~that support~~the growth of undesirable algae or excessive growth of nuisance aquatic plants in the Delta." This language would be consistent with the performance measures for the rest of the threats and stressors listed, and the change identifies an outcome as opposed to measuring things simply because they can be measured.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento Regional County Sanitation District	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: A general comment on the subsection "Reducing Threats and Stresses" is that some of the stresses to the ecosystem are the result of historical choices made related to infrastructure construction, and public safety. The Delta plan should allow adequate time to correct these types of issues so as to avoid placing an undue and unrealistic economic burden on the local economies. The Plan should properly prioritize changes to infrastructure and public works or publically funded capital improvement projects or other projects that place a significant financial burden on California residents and businesses by allowing appropriate phasing, timing, and providing funding assistance as required. All required projects or activities should be evaluated to determine whether reasonable proof exists that the project will result in a measurable and significant benefit or improvement to the Delta ecosystem. The plan should not impose artificial deadlines on projects but rather should consider that improvements to the Delta ecosystem will take many years.	Noted; text not modified
Sacramento-San Joaquin Delta Conservancy	5/9/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 68, lines 3 – 17, ERR2 – Reference to economic sustainability has been removed from previous drafts. Given that economic sustainability is included in our legislation we recommend that it be included here. “Develop and adopt criteria for prioritization and integration of large-scale ecosystem restoration in the Delta, with economic sustainability and use of best available science as foundational principles.”	Noted; text not modified
San Joaquin Council of Governments	5/2/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Certain proposed activities and oversight of the Delta Plan such as the extent of restoration areas, may have a negative impact on existing preserves and our ability to acquire future preserves within San Joaquin County.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin Council of Governments	5/2/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: a further concern...is all the Delta counties which have or are developing HCPs are the same and can be treated the same. This should not be assumed. Except for the East Contra Costa Coast Habitat Conservation Plan/Natural Communities Conservation Plan, the other Delta plans are still in development and can adapt more readily to the impacts of the Delta Plan. This is a major difference between SJMSCP and the others. Therefore, our agency strongly recommends all aspects of the SJMSCP (present and future) should be incorporated in the Delta Plan as part of the existing baseline conditions and the concerns will be fully addressed in the future Environmental Impact Report for the Delta Plan.	Noted; text not modified Continuing discussion; may be considered for 5th staff draft
State and Federal Contractors Water Agency	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: P 66 L 35: "…over the last 160 years. The resultant ~~rapid~~ reduction in the extent, quality, and diversity of estuarine habitats...." [160 years isn't "rapid" in society's timeframe.]	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: P 68 L 18: Predation control/reduction is conspicuous in its absence as a strategy for reducing threats and stresses. A section discussing the issue and recommendations regarding actions to reduce predation should be added.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: P 69 L 31: "…the Council will proceed with developing ecosystem and conveyance planning recommendations…" The recommendations will not exist and will only need to be developed if the deadline is not met.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: P 70 L 23: "…for wild, Central Valley salmonids ~~anadromous fishes~~" Since striped bass, a non-native predator, was the subject of a doubling policy, it is assumed the Council does not support the continuation of that doubling policy? §85302(c)(5) only calls out salmon as well.	Text was modified
Stockton, City of	5/5/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: P. 67, ER P4 discusses protection of floodplains in the Delta and Delta watershed. The Delta watershed could be defined as most of the Central Valley from the Coast Range to Sierra Nevada. Plan should clarify. Same comment in the 3rd bullet on alternatives including setback levees.	Additional and updated maps and graphics included in the fourth staff draft of the Delta Plan. Revisions are ongoing for inclusion in future drafts.

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Tuolumne Utilities District	4/29/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Page 61 paragraph 2. Native species are those species that were not introduced into an ecosystem directly or indirectly through the actions of man. The remainder of your definition is correct.	Text was modified
Water Community	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Chapter five recognizes the Delta has changed extensively over time and continues to change. (Third draft, pp. 61:24-64:22, 65:26-66:40.) Despite this recognition, the third draft promotes returning to a more natural hydrograph as a key ecosystem measure. (Third draft, pp. 49:15-50:7, 64:43-65:19.) All components of the Delta system have changed, so restoring only one of those components and expecting it to remedy all system ailments is not rational or supported by science. Moreover, the promotion of returning to a natural hydrograph results in the Delta Plan missing a crucial opportunity to manage and optimize the system that currently exists. Science tells us there are several non-flow programs that are affordable and readily implementable that would improve habitat for native fish and wildlife. These programs include predation removal programs and addressing water quality issues. Furthermore, most of the draft's ecosystem recommendations and policies are quite vague, providing little indication of what the Council might actually be doing by adopting them. (See ER P4, ER R1, ER R2.)	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: Chapter 5: Necessary Changes We believe that the Council could make significant progress by identifying, and seeking to expedite measures in the following three areas: (1) in-Delta habitat restoration; (2) salmonid predator control; and (3) fishery harvest regulations. At the Council's April 14-15 workshop, the Delta ISB's Lead Scientist Cliff Dahm stated he believes it is time to begin implementing pilot habitat restoration projects so that we can learn what actually works and what does not. In essence, Mr. Dahm indicated that it is time to start adaptively managing habitat restoration. In relation to the control of salmonid predators, there can be little doubt that there is a very serious problem when the Delta has become so well-known for supporting such predators that ESPN covers bass-fishing tournaments there. In relation to ocean harvest regulations, the Council should identify measures that either have been successful in managing salmonids elsewhere or that have been demonstrated by the best available science.	Noted; text not modified
Water Community	5/6/2011	CH 5	THIRD STAFF DRAFT DELTA PLAN: We recommend that, in chapter five, the Council: ● Delete: (1) policies ER P1, ER P2, ER P3, ER P4 and ER P5; and (2) recommendations ER R1, ER R3 and ER R4. ● Identify a limited number of in-Delta habitat restoration projects that should be implemented as soon as possible or direct the Delta ISB to work with state and federal resource agencies to identify, and begin implementation of, such projects rapidly; ● State measures to control in-Delta predation on salmonids or a statement that the Council will consult with the relevant resource agencies to identify such measures for rapid implementation; and ● Recommend that NMFS, the Pacific Fisheries Management Council and DFG to develop regulations or rules for Central Valley salmon to selectively protect naturally-spawning fish, and older fish, from ocean harvest. ● Acknowledge other processes that have defined, or will define, instream flows in the Delta watershed – including, but not limited to, FERC relicensing, the San Joaquin River Restoration program, the Yuba River Accord and the American River's Water Forum Agreement – and describe how information from those processes already reflects or, in the case of on-going projects, will reflect the coequal goals.	Text was partially modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 77, lines 4 & 5 The Department recommends the insertion of a new paragraph between lines 4 & 5 as follows: "Many aspects of the Delta are defined, protected, or preserved by the levee system. Water quality, human health and the environment in the Delta are all affected by the levee system. These levees limit tidal excursion and tidal volume to prevent degradation of water quality. These same levees prevent flooding of farm lands, homes and terrestrial habitat. The Delta levees are critical to many aspects of the Delta. This is especially true for water quality as discussed in this chapter."	Disagree The current system of levees and channels has increased tidal excursion into the Delta and is, therefore, a contributing factor in the salinity "problem". Tidal energy due to removing levees for wetland restoration is a great concern among scientists investigating Delta hydrodynamics.
California Department of Water Resources	4/22/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 77, lines 9 – 26 No mention is made of municipal and industrial wastewater effluents in this section.	Text was modified Included in expanded water quality discussion in 4th staff draft
California Department of Water Resources	4/22/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 77, line 10 The Department recommends inserting "the Delta levee system" after "in-Delta water and land uses."	Text was modified
California Department of Water Resources	4/22/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81, line 2 The term "all water users" needs to be defined. Does this mean individuals? What size water agency would this be applicable to?	Noted; text not modified Details need to be developed
California Department of Water Resources	4/22/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81, line30 Please add "if complied with" after regulatory process.	Noted; text not modified The fact that some will choose not to comply with regulatory requirements doesn't need to be stated
California Department of Water Resources	4/22/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 82, line 31 Please clarify how "salinity variability" is a performance measure.	Noted; text not modified To be included when performance measures are developed

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California State Board of Food and Agriculture	5/4/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Avoiding Unforeseen Impacts In asserting statutory authority for actions taken by water agencies that do not involve any geographical portion(s) of the Delta and Suisun Marsh, the Third Staff Draft Delta Plan does not present any means for dealing with the cost and supply implications agencies must face for a variety of regulations and responsibilities that the plan does not incorporate or foresee. For example, recently proposed public health goals for perchlorate and hexavalent chromium by the Office of Environmental Health Hazards Assessments (OEHHA) under the Safe Drinking Water Act may cost as much to treat in areas that receive some State Water Project (SWP) and Central Valley Project (CVP) supplies as the solutions the Delta Stewardship Council is proposing for the Delta area itself.	Disagree The assertion about costs of treatment that may be required is unsubstantiated. OEHHA public health goals are not regulations and cost is considered before regulations for any pollutant are adopted.
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The DSC staff's Third Draft Plan Chapter 6 falls far-short of providing adequate and reliable information on the water quality, environmental, and public health issues that the DSC should consider and address in the development of its Delta Plan and in the implementation of "Directed Actions" intended to protect the Delta ecosystem, Delta water resources and their quality and Delta water for export to other areas of the state. While many, but not all, of the key water quality issues are mentioned in this draft, inadequate background information and reliable references to readily available literature are included to provide the DSC and others the guidance needed to understand the issues of concern and to develop and assess the Directed Actions that should be implemented to adequately control the water quality issues.	Text was modified An expanded discussion of water quality will be included in the 4th staff draft. It isn't clear what is meant by "Directed Actions" in this comment.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: One example of such shortcomings is the inadequacy of information provided in this Chapter on the impact of aquatic plant nutrients on Delta aquatic resources and on domestic water supply water quality. The chapter does not make reference to the large amount of information provided by experts on impacts of nutrients on Delta water quality in the California Water and Environmental Modeling Forum (CWEMF) one-day Technical Workshop on "Overview of Delta Nutrient Water Quality Problems: Nutrient Load – Water Quality Impact Modeling held Tuesday, March 25, 2008."..While the staff draft mentions the need for development of nutrient criteria, the date that the DSC should adopt for the regulatory agencies should is inappropriate considering the technical issues that need to be addressed in developing reliable nutrient criteria that can be used to establish nutrient management goals without large amounts of expenditure of funds for source nutrient control that do not develop technically valid cost effective management approaches.	Text was modified An expanded discussion of water quality will be in the 4th staff draft. Technical issues and costs are considered in the development of any regulatory water quality criteria.
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: One of the most important issues that did not receive adequate attention in this draft is the potential impact on Delta water quality of DSC Directed Action that involves alterations in the flow of water into and within Delta channels. There is substantial readily available literature on Delta water quality impacts of past Delta flow management associated with water diversions/exports, including how the current federal and state export of South Delta water eliminates the San Joaquin River (SJR) home stream homing signal to Chinook Salmon spawning areas in the SJR watershed. References to this literature would provide important information that the DSC and others need in order to understand the potential impacts of alterations in Delta tributary and in-Delta channel flows and how to develop directed actions that involve flow management.	Text was modified An expanded discussion of water quality will be in the 4th staff draft. Again, it isn't clear what a "Directed Action" is. A complete treatise on every water quality issue related to the Delta is beyond the scope of the Delta Plan.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The third staff draft contains a number of one-sentence statements identifying particular water quality issues that the DSC or others need to address. The draft, however, fails to provide reference to sources of information from which the DSC and others could obtain additional technical information on the issues.	Text was modified An expanded discussion of water quality will be in the 4th staff draft.
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The references provided in the third staff draft do not include some of the most important, readily available literature on Delta water quality issues. For example, while mention is made in this draft of unrecognized unregulated pollutants in Delta waters, no reference is provided to a comprehensive Central Valley Regional Water Quality Control Board (CVRWQCB)/University of California Davis report that discusses these issues.	Text was modified An expanded discussion of water quality will be in the 4th staff draft.
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: A significant problem with the discussion of the impact of ammonia and nitrate on Delta water quality is the presentation on how altered N/P ratios have altered the Delta ecosystem. The detailed references included in the draft Chapter 6 in support of the staff's position on this issue do not include references to the work of other experts on the impact of nutrients on algal populations in the Delta who have concluded that the so-called "impact" of changes in N/P ratios on algal populations is not technically valid, and that such changes are more likely due to decreased primary production due to reduced phosphorus inputs to the Delta. The staff's discussion of this issue is misleading and likely in significant technical error.	Text was modified An expanded discussion of nutrient issues will be in the 4th staff draft.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: While low dissolved oxygen (DO) is mentioned in the third staff draft Chapter 6 as needing to be addressed by the DSC as part of development of the Delta Management Plan, no reference is provided to the reports from the several-million-dollar CALFED-supported project that discuss the causes of the low-DO problem in the San Joaquin River Deep Water Ship Channel (DWSC) and the finding that the Department of Water Resources (DWR) Banks and US Bureau of Water Resources (USBR) Jones export pumping projects are a significant cause of the low-DO problem in the DWSC and several South Delta channels. The Bay Delta Conservation Plan's (BDCP) proposed peripheral canal diversion of Sacramento River water around the Delta could greatly aggravate the low-DO problem in the South Delta Channel.	Disagree The claim about the effects of an alternative intake location is unsubstantiated and premature since no final BDCP alternative has been selected.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Comments on the Introduction to the DSC Staff Draft Chapter 6...There is considerable confusion/controversy about the role of pollutants in adversely impacting the aquatic life resources of the Delta. Water exporters claim that it is pollutants that are the cause of the recent major declines in certain fish species in the Delta and that the South Delta water export projects' pumping at Banks and Jones are not significantly adverse to the aquatic life resources in the Delta. Others who are experts on Delta resource management claim that the primary cause of the pelagic organism decline (POD) is the manipulation of Delta tributary flows into and within the Delta and the export of water from the Delta by the federal and state export projects. Under CALFED leadership the issue of pollutants as a cause of aquatic life toxicity and its impact on aquatic life as it may be impacting aquatic life was a grossly neglected area of attention. However, with the development of the POD investigations there has been sufficient study of aquatic life toxicity in Delta waters and sediments to conclude that pollutants in the Delta and their potential impact on aquatic life are not the primary cause of the major changes in the fisheries resources of the Delta. While there is a potential for chronic toxicity in the Delta due to contaminants, that issue has not been investigated sufficiently to define the magnitude of pollutant-caused chronic toxicity, or most importantly, its significance to the recent changes in the aquatic life resources of the Delta. From the information available it appears that the SWRCB-allowed diversion of flow of tributaries into and through the Delta is one of the major factors in impacting aquatic resources of the Delta.	Text was modified An expanded discussion of water quality will be in the 4th staff draft.

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: This Council staff draft has urged the regulatory agencies (SWRCB, CVRWQCB) to apply "the highest and best available standards to improving water quality." Over the past 22 years we have closely followed the SWRCB and CVRWQCB approaches to addressing water quality management issues. While there have been some technical quality issues and political issues that have influenced the regulatory decisions on some water quality issues, the most important cause of inadequate regulation of Delta water quality is a lack of financial support to hire and adequately support the staff needed to investigate and implement water quality management programs in areas known to experience water quality problems. Unless the Legislature provides adequate funding to the SWRCB/CVRWQCB there will continue to be major deficiencies in the control of water quality problems in the Delta and its tributaries. The most important assistance DSC can provide to improve pollutant-related water quality in the Delta is in the securing of adequate funding to the regulatory agencies to carry out their regulatory responsibilities.	Noted; text not modified Recommendations on funding are beyond the scope of the water quality chapter
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Item "(e)" of the DSC draft mission statement quoted above, "Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta" places considerable emphasis on the DSC's working to cause regulatory agencies to achieve water quality objectives in the Delta. To those with limited understanding of how water quality objectives are developed and implemented, the DSC third staff draft's recommendations to achieve water quality objectives seems to be a praiseworthy and achievable goal. However, given how water quality criteria/standards/objectives are, in fact, developed and implemented for non-point-source-derived pollutants, it is found that achieving the elimination of water quality objectives in Delta waters for some of the most important causes of WQO violations in Delta waters in a technically valid cost effective manner will be difficult to achieve.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The characteristics of the waters in the Delta tributaries and within the Delta are such that they will tend to detoxify many potentially toxic chemicals that enter these waters. The Delta channels and tributaries have been judged to be "impaired" because of exceedance of national water quality criteria and water quality objectives based on these criteria; that, in turn, led to the CVRWQCB/SWRCB/USEPA's placing those waterbodies on the 303 (d) list that require the development of TMDLs to eliminate the exceedances of the objectives. However, because of the characteristics of the Delta, it is likely that application of site-specific adjustments to the worst-case water quality criteria would be appropriate and provide a more reliable assessment of the need for TMDLs. As discussed by Lee and Jones-Lee in their guidance on regulating pollutants from non-point-sources – runoff/discharges, the first step in implementing a TMDL should be to determine if the exceedance of the worst-case-based water quality objective(s) represents a real, significant impairment of the beneficial uses of the waterbody that is listed as "impaired."	Noted; text not modified Changing the way that the State implements CWA TMDL requirements is beyond the scope of the Delta Plan
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The future and final DSC Delta Plan should note the need to address the 303 (d)-listed tributaries and Delta channels and also request that the legislature provide the financial resources necessary to the CVRWQCB/SWRCB to conduct studies needed to evaluate whether the worst-case national water quality criteria-based objectives need to be adjusted for site-specific conditions that exist in Delta tributaries and in Delta channel. Failure to provide the needed funded will mean that addressing the WQO violation will be extremely difficult and may not be achieved without disrupting irrigated agriculture in the Central Valley.	Noted; text not modified Recommendations on funding are beyond the scope of the water quality chapter

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: That statement needs to provide a discussion of why the past efforts to develop a regional water quality monitoring program for the Delta have failed and why the current efforts in this regard will also likely fail. The regional monitoring program in the San Francisco Bay area is often pointed to as a model of the type of regional monitoring program that should be developed in the Delta. However, there is a large difference in the potential funding basis for the two locations. In the San Francisco Bay area, several large cities with domestic wastewater discharges to the Bay were required to contribute funds to support the monitoring program; such a funding base does not exist in the Delta. The primary dischargers of potential pollutants to the Delta are agricultural sources. The CVRWQCB is having great difficulty getting agricultural concerns in the Central Valley to fund even modest a monitoring program for the limited number of the waterbodies receiving agricultural runoff. As discussed in these comments the current irrigated agricultural lands ag waiver water quality monitoring is grossly deficient compared to that needed to adequately define the impact of runoff from agricultural lands on receiving water quality. A significantly different funding mechanism will be needed in the Central Valley than that used in the San Francisco Bay area to support an adequate Delta regional water quality monitoring program. The Legislature and/or the water diverters/users will need to fund such a program.	Noted; text not modified The reason that there has not been a formal regional monitoring program in the Delta is a matter of speculation and recommendations on funding are beyond the scope of the water quality chapter

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The impacts of water diversion and management of flow into and through the Delta channels are of concern. This concern evolved from our finding that the one of primary causes of the low-DO conditions in the SJR DWSC is the diversion of SJR at the Head of Old River to the export pumps at USBR Jones and DWR Banks...During the course of those investigations Drs. Lee and Jones-Lee reported that the USBR Jones, and DWR Banks south Delta water export projects were a major cause of the low DO in the SJR DWSC. The projects draw SJR water from the Head of Old River to the pumps; that water would normally have flowed through the DWSC. By reducing the flow of the SJR water through the DWSC, the projects have caused a significant increase in the hydraulic residence time of the oxygen demanding materials that enter the DWSC which allows more of the oxygen demand to be exerted in the DWSC, lowering the dissolved oxygen levels.	Text was modified
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Lee and Jones-Lee reported that with adequate flow of the SJR through the DWSC, and by allowing an appropriate averaging of DO water quality objective compliance it is possible to eliminate the current residual low-DO problem in the DWSC. The DSC should consider these issues in developing a Directed Action that impacts the amount of SJR flow through the DWSC. From the information available it appears that by maintaining about 1,000 cfs of SJR flow through the DWSC it would be possible to achieve acceptable DO levels in the DWSC while eliminating the need to try to control upstream algal nutrient discharges in the Grasslands Bypass area by that area's farmers.	Text was modified Flow is listed as a cause of water quality impairment in the Delta but nutrient problems still need to be addressed

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Based on the SWRCB D 1641 water rights decision, the California Interagency Ecological Program (IEP) and CALFED were supposed to address the impacts of diverting Delta water on quality/resource management issues. The synthesis report referenced above, as well as the Lee (2008) comments cited below discussed the CVRWQCB's listing of known water quality criteria violations as well as technical inadequacies in the approach that the IEP monitoring/CALFED followed to evaluate water quality problems associated with exceedances of water quality objectives...It is critical that DSC establish a program that requires that the SWRCB management of the IEP Delta monitoring of the Delta channels be focused on evaluating the impact of permitted water diversions on Delta water quality and Delta resources as required in D-1641.	Noted; text not modified Should be addressed by regional monitoring program recommendation
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Issues of Salinity Impact on Groundwater Recharge The DSC third staff draft Chapter 6 Policies and Recommendations Salinity section... That section failed to mention that increased Delta salinity adversely impacts the recharge of domestic wastewaters for enhancement of groundwater resources in southern California due to restrictions on the amount of salinity allowed in waters that are subject to recharge. Keeping the salinity of the Delta waters low enhances the ability of water utilities to use treated domestic wastewaters as a source of water supply for groundwater recharge.	Text was modified
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Groundwater Quality Protection...It is of concern that the SWRCB and CVRWQCB have permitted activities on the land surface that have led, and continue to lead, to groundwater pollution that impairs the use of those waters for domestic and many other purposes.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The DSC third staff draft Chapter 6 Drinking Water section includes the Recommendation [WQ R2]...That recommendation fails to recognize that the State Water Resources Control Board (through the Porter-Cologne Water Quality Control Act), as well as the Regional Water Quality Control Boards' Basin Plans, contain explicit requirements that the quality of groundwaters in California be fully protected from pollution/impairment...Therefore there is no need to develop regulations as called for in WQ R2 to protect groundwater from pollution. This WQ should be revised to state that the SWRCB and the CVRWQCB should implement the existing regulations to protect groundwaters from pollution. The DSC should facilitate the development of regulatory programs that prevent groundwater pollution. Adoption of this approach should be an important component of the Delta Plan to protect the use of Delta waters.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Delta Nutrient Water Quality Issues The DSC third staff draft Chapter 6 Environmental Water Quality section contains the Recommendation [WQ R5]...there are several different types of nutrient-related water quality problems in the Delta. One is the growth of planktonic algae in the SJR that lead to oxygen demand problems in the DWSC. It may be possible to develop nutrient criteria to address this issue by the Staff-suggested date of January 1, 2014 provided that sufficient financial and staff resources are made available to the CVRWQCB/SWRCB. It will be important for California to avoid the significant problems that are arising in the current US EPA efforts to develop nutrient criteria for Florida based on statistical correlations without proper regard to cause-and-effect relationships between nutrients and their impacts in developing nutrient criteria for the SJR to control planktonic algae...Another type of nutrient-caused water quality problem in the Delta is the growth of water hyacinth. Water hyacinth are floating macrophytes that obtain their nutrients from the water column. Massive growths of water hyacinth seriously impair the beneficial uses of some Delta channels. As discussed in the above-listed discussions, based on studies in Brazil it may be possible to control the excessive growths of water hyacinths in the Delta through the control of nutrient loads to those areas that experience excessive growths. However, developing appropriate nutrient criteria for controlling water hyacinth will require many years of well funded, intensive studies well-beyond the time window the DSC staff has suggested for nutrient criteria development...A third type of nutrient-related water quality problem in the Delta is the growth of Egeria...Because they derive nutrients from the sediment, it will not be possible to develop nutrient criteria for the control of Egeria in the Delta. A fourth type of nutrient-related water quality problem occurs in southern California water supply reservoirs that are filled with Delta waters....It will not be possible to develop nutrient criteria to control that nutrient-related water quality problem.	Text was modified Included in expanded discussion of nutrient issues

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Impact of N/P Ratios on Delta Aquatic Life Resources The DSC third staff draft Chapter 6 devotes considerable attention to the writings that discuss N/P ratios in the Delta as a cause of ecosystem changes, the pelagic organism decline (POD), and of other resource problems in the Delta. The third staff draft Chapter 6 fails to mention a number of technical issues related to that concern that are discussed in the literature. For example, in his presentation cited below, Cloern discussed the lack of technical validity in the claim that changes in N/P ratio are a cause of changes in the Delta ecosystem that has occurred in recent years...it is well-established that reducing the phosphorus loads and in-waterbody concentrations effects reductions in the phytoplankton biomass in Delta waters. This occurs even in situations in which the available phosphorus concentrations in the waterbody remain surplus compared to growth-rate-limiting concentrations. The decrease in planktonic algae in the Delta associated with decreased phosphorus loads to the Delta is important information that must be discussed in a creditable discussion of the impact of nutrients on Delta water quality. The changes in the Delta ecosystem that occurred associated with Sac Regional decreased phosphorus discharges rather than the change in N/P ratios as discussed in the DSC staff third draft are a more likely cause of changes in the fish production than the change in the N/P ratios discussed by the staff in the third draft. The DSC should adopt an approach to promote the funding of research to better define the science and engineering needed to develop technically valid nutrient management programs for discharges to Delta tributaries and within the Delta.	Text was modified Included in expanded discussion of nutrient issues

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Comments on SJR Water Quality Issues That Impact Delta Water Quality...The CVRWQCB has been developing a regulatory program to attempt to control the surface water discharges of contaminants from irrigated agriculture in stormwater runoff and tailwater discharges that cause violations of water quality objectives...As discussed in those reports, the CVRWQCB has not, thus far, required that irrigated agriculture in the Central Valley adequately monitor its stormwater runoff and tailwater discharges to evaluate the occurrence of violations of water quality objective in surface waters of the state. The DSC should adopt a program to support the CVRWQCB in adopting a comprehensive water quality monitoring program for runoff from irrigated agriculture to define the water quality impacts of runoff/discharges from those lands.	Noted; text not modified This level of detail is beyond the scope of the Delta Plan
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Pesticide-Caused Aquatic Life Toxicity The DSC third staff draft of Chapter 6 Environmental Quality section contains the Recommendation [WQ R5]...That statement fails to provide reference to the large amount of work that the CVRWQCB has done on developing approaches for regulating the aquatic life toxicity caused by the organophosphorus (OP)-based pesticides (diazinon and chlorpyrifos)...	Text was modified Included in expanded pesticide discussion but what needs to be referenced is a matter of opinion

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Also, the CVRWQCB should be consulted to determine whether the January 1, 2013 date set forth in the recommendation is realistic for developing a Basin Plan amendment to cover the developing of a TMDL to control toxicity due to those pesticides in all the waters of the Central Valley considering the issues that need to be addressed to complete these TMDLs for the different waterbodies in the Central Valley that have aquatic life toxicity due to these pesticides that potentially impact the aquatic resources of the Delta. The Department of Pesticide Regulation (DPR) is not responsible for developing Basin Plan amendments for the control of pesticide aquatic life toxicity. DPR should not be listed in the DSC Plan as being responsible for that activity. An issue of concern in the CVRWQCB development of a TMDL for the OP pesticides in the Sacramento and San Joaquin Rivers is the adequacy of the monitoring program that has been developed for evaluating compliance with the TMDL...the CVRWQCB has not, thus far, required adequate monitoring of San Joaquin and Sacramento Rivers and their tributaries to evaluate compliance with the TMDL goals for control of aquatic life toxicity due to OP pesticides...While the organochlorine pesticides were banned based on human health and environmental impacts associated with adverse impact on bird population, the organophospate (OP) pesticides changed the environmental problem to water column aquatic life toxicity. While such toxicity was well-documented in Central Valley rivers by the CVRWQCB/USGS studies in the 1980s, DPR is still allowing the use of those pesticides on some agricultural and urban areas and the CVRWQCB is still adopting regulations to try to control that toxicity. With the phasing out of OP pesticides for urban residential use due to potential adverse impacts on children's health, the development of pyrethroid-based pesticides has created a new problem of toxicity in aquatic sediments. It is clear that there is inadequate regulation of pesticides with respect to public health and environmental protections.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Because of the expanded sales/use of the imidaclorprid pesticides the CVRWQCB/SWRCB should request/require that DPR conduct a review of the potential impact of this type of pesticide. DSC should support having the regulatory agencies conduct a comprehensive review of environmental impacts of the use of this pesticide.	Noted; text not modified This level of detail is beyond the scope of the Delta Plan
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Control of Excessive Bioaccumulation of Hazardous Chemicals in Edible Organisms...That discussion of the excessive bioaccumulation water quality problems in the Delta and its tributaries does not provide the DSC and others with the background necessary to understand the magnitude and impact of this type of water quality problem in the Delta...The Lee and Jones-Lee report and its supplement, for the first time, provided an analysis of the very large data base on excessive bioaccumulation of organochlorine compounds in edible fish. They found that in the 1960s-70s many of the Central Valley fish contained hazardous levels of toxic chemicals that are a threat to cause cancer in those who eat the fish. Their work also showed that while the concentrations in the fish had been decreasing, by the late 1980s there were still excessive concentrations of organochlorine legacy hazardous chemicals in some edible fish taken from the Delta and its tributaries. In the mid 2000s the CVRWQCB obtained sufficient funding to conduct a limited sampling of Delta fish for organochlorine legacy pesticides and PCBs...California Office of Environmental Hazard Assessment (OEHHA) had updated its approach for assessing the public health concerns about consuming fish with residues of organochlorine legacy pesticides. The combination of OEHHA “balancing” of the benefits of consuming fish against the cancer risk associated with consuming low levels of organochlorine pesticides resulted in very few exceedances of OHEHHA fish consumption screening values in Delta fish; the result was that the excessive bioaccumulation of these chemicals was no longer considered to be a major threat to those who consume fish taken from the Delta...It will be important for DSC to include public health issues associated with consumption of hazardous chemicals in Delta fish as an important component of the Delta Plan.	Text was modified Additional discussion of legacy pollutants included in 4th staff draft

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The DSC third staff draft of Chapter 6 discussion of the water quality problems of excessive bioaccumulation of organochlorine chemicals is deficient in its failure to mention that Delta and tributary fish contained excessive concentrations of PCBs...the concentrations of PCBs in Delta fish has not decreased and OEHHA has reaffirmed it concern about the cancer threat of consuming fish with PCBs concentrations above OEHHA fish consumption guidelines...The DSC should recommend that studies of construction and demolition areas should be investigated in the Central Valley to determine if these areas are part of the unknown sources of PCBs that are present in Central Valley/Delta fish...One of the reasons there is inadequate information on the excessive bioaccumulation of hazardous chemicals in edible Delta fish is that CALFED and the state Legislature have not provided the CVRWQCB with adequate funding to conduct the monitoring needed to determine where excessive bioaccumulation is occurring and the sources of the chemicals responsible	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Regulating Contaminants in Aquatic Sediments...The DSC third staff draft of Chapter 6 Environmental Quality contains the recommendation [WQ R8]...With respect to the DSC third draft of Chapter 6 calling for studies to determine the sources of toxicity in Delta waters and sediments, Lee and his associates submitted proposals to CALFED to conduct studies on these issues with particular reference to the potential impact of urban stormwater runoff toxicity impacts in Stockton sloughs on Delta aquatic life. Since CALFED did not have a program to address the impacts of toxic chemicals on aquatic life, the proposed research was not supported. With the development of the POD, funds were finally made available to conduct some UCD studies of this issue. However the level of funding made available thus far is much less than that needed to adequately investigate this issue. It will be important for the DSC to establish a program to insure that adequate funding by the Legislature is made available to conduct the needed research on this issue...They have found over the past 22 years that the SWRCB staff has been working on this issue, it still has not developed technically valid, implementable SQOs that will reliably determine which sediments contain chemicals that are significantly adverse to associated waterbodies' designated beneficial uses and will provide technically valid guidance on determining the cause toxicity that can be used to guide to controlling the sources of pollutants responsible for the toxicity. . It will be important that the current SWRCB SQOs not be adopted as SQOs for Delta sediments because of their technically invalid components. As part of the SWRCB current efforts to develop SQOs for Delta sediment samples have been tested for toxicity where it has been there is very limited sediment toxicity. A major report on these studies will be published by the SWRCB staff in the near future; that report should be referenced in future DSC plan drafts.	Text was modified Research needs will be identified in a subsequent Science Plan

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The DSC third staff draft of Chapter 6 contains the recommendation [WQ R7]...Given the nature of moderate to large stormwater runoff events and the magnitude of runoff flows, it will be very difficult, if not impossible, to significantly control "pollutant" loads from urban stormwater runoff by recycling the stormwater without making changes in land use to divert the stormwater runoff out of the normal drainage to storage of some other conveyance...While it may be possible to recycle small amounts of urban stormwater runoff, such efforts will not likely be effective in significantly reducing the "pollutant" load to the Delta...the BDCP's proposed approach for limiting the "pollution" load to the Delta from urban stormwater runoff is technically invalid and could cost the urban public very large amounts of money in the name of pollution control but with little or no impact on receiving water quality/beneficial uses....there is need to develop water quality models to evaluate the impact of urban stormwater runoff associated chemicals on the Delta water quality. Such models will need to be based on the use of the evaluation monitoring approach discussed above with the identification of real, significant water quality impairments.	Text was modified Research needs will be identified in a subsequent Science Plan
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Putah Creek is a tributary of the Yolo Bypass and is a source of mercury for the Delta.	Noted; text not modified
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Unrecognized, Unregulated Potential Pollutants There is concern about the potential for unregulated, unrecognized potential pollutants that are discharged to Delta waters by domestic wastewaters and agricultural sources including dairies to adversely affect beneficial uses of the Delta...It is possible that the unregulated chemicals that are discharged to Delta tributaries and directly to the Delta could be causing adverse impact on the aquatic resources of the Delta. The DSC should promote funding to enable the CVRWQCB/SWRCB to conduct comprehensive studies of the unregulated unrecognized chemicals that are discharged to the Delta and its tributaries.	Noted; text not modified Recommendations on funding are beyond the scope of this chapter

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	4/29/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The DSC third staff draft of Chapter 6 Drinking Water contains the Recommendation [WQ R1]...One of the areas of their domestic water supply water quality specialization is relating land use activities in a water supply watershed to raw water quality...there are a number of important issues that need to be addressed in developing a technically valid drinking water policy for the Delta.	Noted; text not modified
Commentor	5/1/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Following the recommendation the DSC third staff draft Chapter 6 on managing urban stormwater pollution loads quoted in another section of these comments it should be noted that this recommendation could lead to groundwater pollution through infiltration of urban stormwater into aquifer systems. The discharge of urban stormwater to shallow wells in Modesto, CA has been found to be polluting groundwaters. The CVRWQCB issued the following statement on this issue..."STORM WATER DISCHARGE TO SHALLOW GROUNDWATER 22. The Discharger uses approximately 11,000 wells, which drain approximately thirty percent of the city, to dispose of storm water. These disposal wells are lined with rock for structural safety and additional treatment. The wells are known as 'rock wells.' 23. The rock wells pose a potential threat to the shallow groundwater."	Noted; text not modified This level of detail is beyond the scope of the Delta Plan
Commentor	5/1/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: A special case of enhance groundwater recharge is aquifer storage and recovery (ASR) in which surface waters are injected into groundwaters for the purpose of storing the surface water in the aquifer. The injected groundwaters are subsequently pumped from the aquifer for domestic use. While that practice can be effective in enhancing domestic water supply, caution should be exercised in practicing ASR to ensure that the injected surface water does not contain pollutants that can contaminate the aquifer or lead to pollution of the injected water.	Noted; text not modified This level of detail is beyond the scope of the Delta Plan

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	5/1/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: DSC should work toward developing urban stormwater management programs to reduce pollutant loads to prevent groundwater pollution by stormwater. DSC should also work toward ensuring that the recharge water used for any groundwater recharge project does not pollute the aquifer or damage aquifer quality for water storage/retrieval.	Noted; text not modified This level of detail is beyond the scope of the Delta Plan
Commentor	5/1/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Discussions at DSC meetings have mentioned concern about how the loss of groundwater supplies such as by pollution can increase pressure to use surface waters as alternate sources. Such situations have recently occurred in Davis and Woodland, CA. The SWRCB has granted a water right to those cities to take Sacramento River water for domestic supply because the groundwaters in the areas of those cities have been polluted and/or contain pollutants of natural origin that impair the use of the groundwater as a domestic source without treatment to remove the pollutants.	Noted; text not modified This is a water supply policy issue
Commentor	5/1/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: One of the issues they discussed is the pollution of groundwaters in the Davis area. The aquifers of that area contain naturally occurring selenium and chromium that can be present in some well waters from the aquifer. The groundwaters of the area have also been polluted by nitrate from the agricultural use of nitrogen fertilizers. That type of pollution is still occurring in that and many other areas of California. The use of Sacramento River water for domestic water supply in Davis and Woodland will put additional pressure on Delta water resources and Delta water quality.	Noted; text not modified This is a water supply policy issue
Commentor	5/1/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: As discussed therein, irrigated agriculture, domestic wastewater land disposal practices, dairies, feed lots, municipal landfills are all causing groundwater pollution in the Delta watershed. Irrigated agricultural practices, including drip irrigation, and areas with deep aquifers cause pollution of groundwater with salts, nitrate, and some other chemicals including some pesticides.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Commentor	5/1/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: With respect to the SWRCB/Regional Water Boards' permitting of municipal solid wastes landfills (MSW) that have caused groundwater pollution...the SWRCB and the Regional Boards have not, in practice, effectively enforced compliance with the requirement to ensure long-term protection of groundwater quality from pollution by landfills.	Noted; text not modified The allegation that programs have not been adequately enforced is a matter of opinion
Contra Costa County Department of Conservation & Development	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81 and 82 identify selenium compounds as adversely affecting environmental water quality. However, the list of performance measures that the DSC will use to assess progress in environmental water quality does not specifically include selenium compounds. Much of the selenium is directly related to lands on the west side of the San Joaquin Valley served by the State Water Project. The Delta Plan's performance measures should specifically include measuring selenium compounds. Such data will be helpful in providing future guidance to state agencies to help improve environmental water quality in the Delta.	Text was modified More detailed performance measures will be developed
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The water quality policies listed in the Delta Plan are improved but remain insufficient. The Delta Plan water quality policies should state that any covered action shall avoid degrading drinking water quality consistent with existing regulations (State Water Resources Control Board (SWRCB) Resolution No. 68-16, SWRCB Resolution No. 88- 63, 40 Code of Federal Regulations section 131.12) and that any unavoidable degradation associated with the covered action must be mitigated to a less than significant level. The Delta Plan should also include a recommendation that all dischargers improve the quality of discharged water to the extent feasible through treatment or best management practices.	Text was modified These are issues to be addressed by the Central Valley Drinking Water Policy
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: p. 79 line 34-37 - The description of Delta salinity is inconsistent within this paragraph. Line 34 correctly states that pumping has generally shifted the salinity gradient upstream, and reduced salinity variability. This means that the western Delta is saltier, not fresher as stated in Line 35.	Text was modified There is an expanded discussion of salinity but we disagree with this interpretation of the statement on line 35

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: p. 79 Lines 34 through 37 should read ... The historical record and published studies show the Delta is now managed at an average salinity level much higher than would have occurred under natural conditions (Enright and Culberson 2009, Contra Costa Water District 2010, Moyle et al 2010). Human activities, including channelization of the Delta, elimination of tidal marsh, and water diversions, have resulted in increased salinity levels in the Delta during the past 150 years. Seasonal and inter-annual variation in salinity has also been changed, largely as the result of reduced freshwater flows into the Delta. Native species of the Bay-Delta system adapted to the historical salinity conditions that occurred prior to large-scale water management practices and physical changes in the Delta.	Text was modified Partly included in expanded discussion of water quality
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The water quality policies listed in the Delta Plan are insufficient. The Delta Plan should include the following water quality policies and recommendations: p. 80 line 30 should include the following policies ... WQ Pl. Covered actions shall avoid degrading water quality to the extent practicable and reasonable consistent with existing regulations and anti-degradation policies. WQ P 2. Significant water quality degradation associated with a covered action shall be mitigated to a less than significant level.	Noted; text not modified The issue of significant impacts and mitigation should be addressed through the consistency determination process
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: CCWD agrees with WQ R 1-3 and believe the WQ RS can be strengthened by including the following language: WQ R4 or 5: All dischargers, including but not limited to urban wastewater, urban storm water and agriculture, to the Delta and the Delta watershed should improve the quality of discharged water to the extent feasible through treatment or best management practices. Regulations should include protection of species (for example, reducing ammonia and other constituents that adversely affect restoration goals) and protection of drinking water.	Noted; text not modified The recommendation is vague and unnecessary given existing and recommended policies and regulations

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: WQ R7 should read ... 'The Central Valley Regional Water Quality Control Board, consistent with existing Water Quality Control Plan policies and water rights law, should require responsible entities that discharge waste water treatment plant effluent or urban runoff to Delta waters to evaluate whether all or a portion of the discharge can be recycled or treated to reduce contaminant loading to the Delta. '	Text was modified Treatment language added
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: p. 82 line 31- This should be deleted because there is no definition of salinity variability in the Delta Plan or defined goals for salinity variability either temporally or spatially. Existing variation in salinity varies greatly with space and time in the Delta and the complex interplay between bathymetry, land use, and salinity make this an unrealistic performance measure.	Text was modified Salinity and all performance measures will be further developed
Contra Costa Water District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: p. 82 Performance Measures The Delta Plan should include specific measureable targets whenever possible. Even if this version of the Delta Plan will not include quantification of the existing conditions due to time constraints, the data sources that should be used to determine trends needs to be identified. For example the water quality performance measures should seek to answer the following questions: a. Who is measuring drinking water constituents of concern? b. How is it being measured? c. Who will aggregate and analyze the data collected to assess trends? Over what time period? d. Who is responsible for communicating or monitoring progress? e. Is progress measured as a decrease in constituents of concern or just not an increase?	Text was modified Performance measures will be further developed but may not include the recommended level of detail

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Regional Council of Rural Counties	5/5/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 80, lines 37-38 Throughout the Delta Plan the Council proposes regulatory action or recommendations that various state agencies undertake actions, often by a date certain. For example, WQ R3 states that "The California Department of Public Health should prioritize funding for disadvantaged communities that lack safe drinking water supplies." The DPH has a priority system in place currently that ranks communities based on public health and safety criteria. RCRC suggests as an alternative that the Council recommend that the State Legislature provide funding in the State Budget to supplement State Revolving Fund (SRF) funding for water and wastewater projects that benefit small and disadvantaged communities. The Small Communities Wastewater Grant Program is an example of an extremely valuable program that is only funded from time to time if specific funding is included in a G.O. bond. Recommending throughout the Delta Plan that the State Legislature provide additional funding to state agencies in order that they may undertake actions of importance to the Council's mission would seem more appropriate than trying to dictate (or recommend) what another state agency should do and when they should do it.	Noted; text not modified
Resident of Lafayette	4/25/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: ...independent of the State Water Resources Control Board, the Council could set its own targets for water quality at selected location throughout the Delta. Then, any project with significant water quality impacts within the Delta or the watershed that moves water quality towards meeting those goals would be applauded, and any project that moves water quality away from meeting those objectives would be deemed inconsistent with the Delta Plan.	Noted; text not modified Implementation of water quality control programs, including setting water quality objectives, is under the authority and responsibility of the State and Regional Water Boards
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: In the water quality chapter, the performance measures should relate back to aquatic species, and none include environmental relevance. Most importantly ambient water quality concentrations and trends should be included because those water quality concentrations can be compared to standards, and related to the environmental relevance of a particular constituent in terms of beneficial use impacts.	Noted; text not modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: A suggested target would be to not exceed established water quality standards, with adaptive management triggers and responses taken when the established water quality standards is exceeded in the receiving water. It is important to include narrative performance measures so progress can be evaluated and strategies modified, as necessary. The Delta Plan should focus on outcomes with a narrative objective for the performance measure, not just measuring what can be measured without relating it back to aquatic species or human health concerns.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: An April 27, 2011 pre-print publication from the Limnology and Oceanography Journal titled "Perils of correlating CUSUM-transformed variables to infer ecological relationships (Breton et al. 2006, Glibert 2010)" by, James E. Cloem, et al (Attachment One) succinctly and strongly states that the conclusion in Glibert 2010 linking the SRCSD treatment plant discharge to the Pelagic Organism Decline (POD) was based on a flawed statistical approach. Also the conclusions drawn from Glibert's use of CUSUM correlation analysis conflict with overwhelming evidence that the POD is due to habitat alterations, water diversions, etc. The short paper is a statistics critique, however, all of Glibert's conclusions flowed from her limited statistical review (i.e. no other kind of evidence from the Delta to support the statistics-based conclusions about the food web was reviewed). We request you include this review by prominent Delta scientists as part of the narrative on environmental water quality, and reword the environmental water quality problem statement accordingly	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The current draft uses this language in places where Policies have not been articulated: "At this time, there are no policies with regulatory effect included in this section." This language implies that policies will be forthcoming in the fourth draft of the Delta Plan where they are not currently articulated.	Noted; text not modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 77, Lines 17-26- As stated in our March 28, 2011 comment letter on the Draft Water Quality Findings, 303(d) listings of impaired waters under the Clean Water Act are water body specific. Impairment listings for San Francisco Bay are not appropriately combined with the listings for the Delta. Each water body has its own water quality issues. The water quality issues in San Francisco Bay are in many cases distinct from Delta issues and do not imply impairment in the Delta. The Delta Plan should focus primarily on contaminants of concern in the Delta based on the 303(d) listings for the Delta. The Delta Plan should also distinguish between water quality issues in the Stockton Ship Channel as opposed to the remainder of the Delta. In particular, the listings for dissolved oxygen, pathogens and dioxins/furans are specific only to the Ship Channel. When consulting USEPA's 2009 approved 303(d) listing of impaired water bodies for the Delta, none are listed as impaired due to nutrients or pyrethroids, for any beneficial use.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 77, Lines 17-26 We are providing the following specific language to identify which water bodies in the Estuary are impaired. The following water bodies of the San Francisco Bay/Sacramento-San Joaquin River Delta Estuary are impaired based on violations of water quality standards for the parameters listed under that water body. Note that not all parameters are listed in all segments of the water body. Delta waters - 303(d) listed parameters: Diazinon - Chlorpyrifos - DDT - Electrical Conductivity (EC) - Mercury - Invasive species - Unknown toxicity - Group A pesticides - PCBs - Chlordane - Dieldrin; Stockton Ship Channel: Diazinon - Chlorpyrifos - DDT - Electrical Conductivity (EC) - Mercury - Invasive species - Unknown toxicity - Group A pesticides - PCBs - Chlordane - Dieldrin - Dioxins and Furans - Dissolved oxygen (DO) - Pathogens; San Francisco Bay - 303(dl listed parameters: - Chlordane - DDT - Dieldrin - Dioxins, Furans - Invasive Species - Mercury - PCBs - Selenium - Polycyclic Aromatic Hydrocarbons - Trash	Noted; text not modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Information is needed to explain the nature of the "issues" and where they exist. Lines 23 - 25 are inaccurate, in that many of the listed constituents do not even have standards established against which an exceedance could be measured. [RECOMMENDED DELETION OF THESE LINES]	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 78, Line 12-We recommend the following language change to accurately reflect entities that can be issued NPDES permits: "The State Water Resources Control Board and Regional Water Quality Control Boards issue National Pollutant Discharge Elimination System permits for municipalities and industries; permits include both General Permits and individual permits (e.g., the General Permits covering stormwater discharges from industrial and construction activities; individual National Pollutant Discharge Elimination System permits for municipal and industrial wastewater treatment facilities, and municipal stormwater discharges).	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 78, Line 35-36-SRCSD believes the addition of a map showing TMDLs under development is an excellent idea, but you should also identify where TMDLs have been completed to better represent the accomplishments of the Water Boards.	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 79, Lines 14-18- We recommend the following language change to better understand the authority of the State Water Resources Control Board. The Council recognizes the State Water Resources Control Board's role and authority in regulating water quality and permitting water rights, and supports and encourages the timely development and enforcement of programs (e.g., water rights, water quality standards, TMDLs, Waste Discharge Requirements, and NPDES) to ~~reduce pollutant loads~~ protect beneficial uses and progress toward compliance with pollutants that are causing water quality impairments in the Delta.	Text was modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 80, Lines 1-6-We recommend the following language changes to reflect the salinity contribution to the San Joaquin portion of the Central Valley, and hence the Delta from the San Joaquin River, from the Central Valley Project and State Water Project contributions that are greater in salinity than the east side tributaries. "The salinity regime in the Delta is driven both by natural flows and water management. Achievement of the coequal goals will require comprehensive flow standards that balance ecosystem and water supply needs. Salinity also is a contaminant discharged to the Delta and Delta waterways~~shed~~ resulting from human activities (such as agriculture, stormwater, water exports, and wastewater treatment). ~~Salinity in this context is addressed under Drinking Water Quality below."~~	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 80, Line 17 - We recommend the following edit to this sentence. "Furthermore, exceedances of standards for pathogens and pathogen indicators ..."	Text was modified (sentence deleted)
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 80, Lines 26-28- We recommend the following language change to accurately reflect the sources of pollutants, as confirmed by recent technical reports for the Central Valley Drinking Water Policy Workgroup. Available data do not indicate that concentrations of constituents of concern to drinking water agencies are increasing over time. Additionally there has been no evidence that the recreational beneficial use of the Delta has been impaired outside the Stockton Ship Channel. "Pollutants contained in municipal, industrial, ~~and~~ agricultural discharges, and from natural and uncontrolled legacy sources flowing into ~~to~~ the Delta and its tributary waterways have affected the quality of water used ~~contribute to the degradation of Delta water supplies~~ for drinking water. ~~and body contact recreation where water may be ingested.~~"	Text was modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81, Lines 1-3, WQ R4-We are requesting that you include both water supply and water dischargers' participation in CV -SALTS. The current wording of the recommendation implies that only dischargers should be required to participate in CV -SALTS and the success of that initiative depends upon all who use Delta waters and their respective watersheds, not just one segment. "The State Water Resources Control Board and Central Valley Regional Water Quality Control Board should require participation by all water users that ~~directly and indirectly discharge flows~~ are supplied water from the Delta and the Delta Watersheds or discharge flows to the Delta and the Delta Watersheds in the Central Valley Salinity Alternatives for Long-Term Sustainability Program.	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81, Lines 5-10- The text states as fact that nutrients are negatively affecting phytoplankton productivity and composition in the Delta when in reality the effect of nutrients on the Delta is a matter of ongoing research and debate amongst scientists. The statement should be modified to reflect this uncertainty with respect to nutrients and food web impacts. SRCSD will provide specific language changes to the fourth draft of the Delta Plan regarding environmental water quality, as it may be changed considerably based on pre-print publication of Cloem, et al., discussed below. Also the Council's staff should review the State Water Quality Control Board Numeric Nutrient Endpoint Development for San Francisco Bay Estuary: Literature Review and Data Gaps Analysis in developing the narrative in the fourth draft regarding environmental water quality.	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81, Lines 5-10- An independent review by some of the Delta's top scientists ...disputes Glibert's use of statistical correlation analysis to conclude that ammonia from SRCSD is linked to the POD.	Text was modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81, Lines 35-37 WQ R5-As discussed above there is not agreement among scientists regarding nutrients role in the Delta, and even the Delta Science Program has recognized this by funding multiple studies regarding the role of nutrients in the Delta. The results from these studies will not be available for several years, and therefore SRCSD cautions against a hard due date for developing numeric nutrient criteria which pre-supposes the outcome of this ongoing research. We recommend the following language changes. "The State Water Resources Control Board and the San Francisco Bay and Central Valley Regional Water Quality Control Boards should develop and adopt ~~numeric~~ nutrient objectives, either narrative or numeric, where appropriate, ~~for nutrients~~ in the Delta and Delta watershed ~~by January 1, 2014~~ within two years of completing Delta Science Program studies regarding nutrients in the Delta.	Text was modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: In many cases, when numeric criteria/standards for Nitrogen (N) or Phosphorous (P) have been recommended for flowing streams and estuaries (e.g., USEPA Ecoregion recommendations) or proposed as enforceable limits (e.g., recently promulgated USEP A nutrient standards for Florida streams) mechanistic linkages between particular N or P concentrations and bona fide indicators of impairment (such as low dissolved oxygen concentrations) have not been proven. Instead, selection of nutrient limits has relied on poorly tested, or completely untested, assumptions that nutrient concentrations directly and predictably cause certain biological outcomes. Two common approaches for proposing numeric nutrient criteria (which lack proof of stressor-response relationships) are: (1) simple correlation analysis between Nor P (as an independent variable) and a physical or biological parameter assumed to cause impairment (such as chlorophyll-a) as a dependent variable, and (2) definition of a reference condition (or set of reference water bodies), using an indicator that may or may not be related to nutrient status of the water body, followed by arbitrary selection of nutrient limits based on a statistic (e.g., the 75th percentile) of N or P concentrations reported for the reference water bodies. Both approaches suffer from the absence of demonstrated cause-and-effect between nutrient concentration and biological impairment, which is especially important because multiple non nutrient- dependent factors (light, flows, grazing, temperature, stratification, etc.) are codeterminants of primary productivity and community composition at the bottom of the food web in all types of water bodies.	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 81-82, Lines 42-43 and 1-2- The recommendation to develop and adopt TMDLs for pyrethroid pesticides is not yet supported by robust scientific evidence of negative impacts. Ongoing research is focusing on the most sensitive organism identified to date, Hyallela azteca. Environmentally relevant, i.e. ambient concentrations, of pyrethroids in the Delta have not been shown to be toxic to these most sensitive organisms; therefore a TMDL is premature based on current evidence.	Noted; text not modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: Page 82, Lines 27-40, Performance Measures-It is imperative that the performance measures are designed to base decisions on improvements to water quality. Any required improvements should produce measurable, statistically significant public benefit in the most economical and most efficient manner possible. Regulation of point sources and/or non point sources to reduce minimal loads of water quality contaminants such as nitrates or mercury that result in costly public works improvements without significant measurable, or that have a questionable benefit, to water quality should not be recommended. Higher priority should be given to projects such as water recycling projects that meet the goals of multiple plans and policies and provide many environmental benefits.	Noted; text not modified
San Joaquin County	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The enforcement of existing water quality standards in the Delta is missing from the Third Draft Delta Plan, Chapter 6. Through the Fish and Game Code, California Water Code and other laws and decisions, it would seem that both the California Department of Fish and Game and the State Board have more than adequate enforcement authority to address violations of water quality standards in the Delta and its tributaries, especially in the San Joaquin River.	Noted; text not modified
San Joaquin County	5/6/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: The need for a solution to drain saline water emanating from water applied to the west side of the San Joaquin Valley has long been recognized and should be incorporated into the overall Delta solution...The Delta Plan, Chapter 6, must address this issue and incorporate protections for adequate Delta outflow and use.	Noted; text not modified
Stockton, City of	5/5/2011	CH 6	THIRD STAFF DRAFT DELTA PLAN: P. 82, WQ R7, requires dischargers of wastewater treatment plant effluent or urban runoff to Delta waters to evaluate whether all or a portion of the discharges can be recycled or otherwise used in order to reduce contaminant loads to the Delta. Plan should define "Delta waters".	Noted; text not modified Not really necessary to define “Delta waters” – these are waters of the State that are in the Delta

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Water Community	5/6/2011	CH 6-8	THIRD STAFF DRAFT DELTA PLAN: In some ways, chapters six through eight are significantly better than the third draft's other chapters because many of the policies and recommendations in chapters six through eight attempt to integrate other state agencies' programs and activities into a coherent approach to improving the Delta. We encourage the Council to look at these recommendations as an opportunity for the Council to implement its role as a facilitator, coordinator and integrator, as envisioned by the Delta Reform Act. There is a great need for a governing body such as the Council to bring together the other responsible state and federal agencies to craft cohesive, integrated strategies to address the array of challenges we are facing in the Delta and to coordinate on-the-ground actions to leverage limited resources to advance the coequal goals in a timely and productive manner. As discussed below, we believe that some of those recommendations and policies should be emphasized further. Chapters six through eight, however, display two serious problems that are common to the third draft's other chapters. First, some of the recommendations are so vague that it is nearly impossible to understand what their impacts would be. The following recommendations are particularly problematic in this way: WQ R2, WQ R3, WQ R8, WQ R9, RR P2, RR P3, RR P5 and RR R5. Unless those recommendations can be clarified appropriately, they should be deleted. Second, chapter six's policy WQ P1 incorporates the discussion of streamflow objectives in chapter four and therefore should be deleted for the reasons discussed above.	Noted; text not modified
Water Community	5/6/2011	CH 6-8	THIRD STAFF DRAFT DELTA PLAN: Chapters 6-8: Necessary Changes We request that, in editing the third draft, the Council do the following: ● Delete the following policies and recommendations unless they are substantially clarified: WQ R2, WQ R3, WQ R8, WQ R9, RR P2, RR P3, RR P5 and RR R5; ● Delete policy WQ P1; ● Convert recommendation RR R7 into a policy; ● Highlight RR R8, which is similar to one of our key recommendations for chapter four and could be an important water-supply tool; ● Revise recommendation DP R4 to state that the Council will take an active role in seeking to coordinate the development of voluntary safe harbor agreements in the Delta;	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Parks and Recreation	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: In policy RR P2 the term 'potential floodways' or 'potential floodplains' should be defined. The floodplain definition proposed in Footnote 11 on p. 69 is too broad to have practical value. Almost any property in the Delta and Suisun Marsh is "susceptible to being inundated by floodwaters from any source". Referring to a flood interval, such as 100 years, that is already mapped through FEMA or some other standard practice would ease compliance with this policy.	Text was modified
California Department of Parks and Recreation	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Table 7-1 on p. 91 needs revision to describe flood standards for recreational land use, which do not otherwise fit into any of the land use categories listed. Many of the Delta's visitor serving recreation uses, such as parks, marinas, resorts, and hunting clubs, depend upon access to water for boating, waterfowl hunting, or other recreation pursuits. Facilities to support recreation use should be floodproofed at a level appropriate to the project, but requiring that recreation uses locate behind levees is not feasible and will effectively prohibit water-related recreation uses. The term 'legacy town' should be defined and the qualifying communities should be listed.	Text was modified
California Department of Parks and Recreation	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Policy RR P5 should be reconsidered. Its intention of protecting opportunities to set levees back from current locations is well intentioned. But in the absence of a flood control plan that assigns flows to each channel and establishes levee heights, it seems unlikely any engineer could determine whether adequate area had been retained to accommodate a setback levee, as the extent of any setback would depend on those other aspects of a flood control plan.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Investments in flood management should be accompanied with appropriate land use restrictions to reduce risks to people, property, and state interests to appropriate levels. Improving Delta levee flood protection to urban standards, particularly in the primary zone, could remove an obstacle to growth and significantly increase risks to more people, property, and state interests. Additionally, projects that induce growth may necessitate additional CEQA documentation and therefore additional costs. Strengthening legislation barring or limiting new development in the primary zone of the Delta (as an inappropriate land use) would allow investment in flood protection levees without increasing risks to people, property, and state interests. Consider the following: • Discuss the importance of zoning restrictions, particularly in the primary zone. • Consider including recommendations to planning agencies to halt future development projects in vulnerable areas of the Delta, including the primary zone. • Consider adding a recommendation for legislative action to add stronger zoning restrictions in the Delta.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 87, line 32 Please change “will” to “may” at the end of this line.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88, lines 2 - 5 The text implies that risk awareness, emergency planning and enforcement of flood management regulations will solve the flood problems of the Delta. Please note in the text that physical repair, improvements and rehabilitation of levees will be necessary.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88, lines 6 – 8 This sentence should also refer to the individual island levee improvement plans, funded by DWR through the Delta Special Projects Program.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88, line 8 Please use the title: “Long Term Management Strategy for Dredging and Dredge Material Placement”. Another option is to use the title: “Reuse or Delta Dredged Sediment Long-Term Management Strategy” to be consistent with RR R2 on page 89. Either title would be correct.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P2, page 89, lines 3 – 5 The draft Delta Plan states existing or potential value of floodways shall not be encroached upon nor diminished without mitigating for potential or future flood flows, except as provided in this Delta Plan. Would work on the landside of levees be considered as work in a potential floodway? Please clarify.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, lines 29 – 30 The draft Delta Plan states that FEMA 100-year protection means that communities will not require mandatory purchase of flood insurance. However, this may conflict with other recommendations in the Delta Plan (see comment regarding page 94, lines 28-29 below.) This should be noted in the Delta Plan, for clarity and consistency.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88, lines 14 - 20 The Corps of Engineers and Congress have a role in defining floodways. (See the authorizations for the Sacramento River Flood Control Project.)	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88, lines 36 - 37 Vegetation can also encroach in the floodway and pose a problem and needs to be specifically addressed. The plan should also discuss the Corps vegetation policy and how that might affect the Plan.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P2, page 89, lines 3 - 5 The policy should be written to only apply to encroachments that adversely affect the conveyance of flood flows, and not apply to all encroachments. As written, it would apply to habitat restoration on the water side of levees.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P2, page 89, lines 14 - 20 Water Code Section 9613 requires DWR and the Central Valley Flood Protection Board (CVFPB) to investigate and evaluate a San Joaquin bypass; it does not require implementation.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR R2, page 89, lines 26 - 31 The Corps efforts in dredging are focused on navigation dredging for the Stockton and Sacramento Ports; ship navigation is not addressed elsewhere in the Plan. There is currently little if any dredging for flood control.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, lines 13 – 14 The text should refer to “FEMA grants” and “Corps rehabilitation.”	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, lines 32 - 39 The text should acknowledge that the State 200-year standard is still under development as part of the development of the Central Valley Flood Protection Plan (CVFPP). In line 36, the words “an urban and urbanizing” should be deleted. (SB 5 applies to all parts of the Valley, whether urban or rural, albeit with different levels of required flood protection (200 vs. 100 year protection.)	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P4, page 91, lines 8 - 10 Consider changing the word “Actions” to “Covered Actions” at the beginning of both sentences. Also, the citation to the Government Code should include Sections 65962 and 66474.5. This policy requires actions to conform to the levee classifications listed in Table 7-1 by 1 January 2015. There likely will not be the resources nor the time available to improve levees to the Class 3 and Class 4 standards listed in Table 7-1 since there are rural residential uses of most Delta islands. As written, this policy could preclude all covered actions such as road construction. This policy could even stop interim levee rehabilitation projects (such as a landside berm) being constructed that, ironically, are meant to meet the design criteria of Table 7-1. The Department recommends that the direction of this policy limit putting more people at risk rather than limiting all covered actions.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1 Many islands have tiny residential areas surrounded by mostly agricultural land, and are protected by HMP and/or PL 84-99 levees. The State, through the Department, currently contributes financially to upgrade levees to meet HMP and PL 84-99 standards on islands both with and without residential areas. This improves the protection provided to these areas, although not to the level of FEMA standards. The recommendations associated with Table 7-1 could substantially reduce the Department's work to improve the stability of levees in the Delta, since costs to improve levees beyond PL 84-99 reduces the levee miles that can be completed with the existing funds. Clarify the 'Rural Residential' header in Table 7-1 under 'Land Use' to be "Rural Residential – areas not meeting the definition of urbanizing areas." Consider altering Table 7-1 to acknowledge that residents live in areas protected by levees that do not meet PL 84 99 standards and upgrading these levees to PL 84-99 can reduce the level of flood risk. Please use standard definitions of rural, urbanizing, and urban to specify the conditions for which an area is considered residential, commercial, or industrial (e.g., minimum populations) with the understanding that more areas requiring FEMA 200-year levees means greater costs and fewer levee miles rehabilitated for a given sum of money. Consider adding a footnote that allows projects that upgrade levees to a PL 84-99 standard on islands with residential/commercial/industrial areas as a first step to improve the protection provided by the island.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1 Under Class 2 (footnote (b)) - Dozens of islands in the primary zone of the Delta do not meet HMP standards, although they have residents and infrastructure of statewide interest. Upgrading to HMP improves protection for these islands. The Department has considered upgrading to HMP to be a priority as a step to improve the protection provided to an island. Consider allowing projects that upgrade levees to HMP on islands with statewide interests if a higher level of protection is not cost-effective according to the cost/benefit analysis (if required).	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1 Under Class 5 – The minimum design criteria should include consideration of seismic design for “frequently loaded” levees as defined in the Urban Levee Design Criteria.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1 Please clarify the term "rural residential.” Is one residence "rural residential?"	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1 Please note that there are special "Delta Specific Standards" for PL 84-99.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1 Please clarify the meaning of the footnote regarding legacy towns.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1, footnote d This footnote should refer to DWR rather than Natural Resources Agency and FEMA.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P5, page 92, lines 1 - 4 This policy erroneously suggests that the Department is developing criteria to define locations of future setback levees. This concept may be better written as a recommendation rather than a policy and state that until the Delta Conservancy’s strategic plan is completed and specific locations identified, potential locations of setback levees along major river corridors will be preserved.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 92, line 10 The text should also include the Federal government through the U.S. Army Corps of Engineers.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 92, lines 26 – 27 The statement that the state has no clear policy for flood management and state funding within the Delta is not accurate. Proposition 1E contains state flood policy, SB 5 (2007) contains state flood policy, and the CVFPP will contain State flood policy on levee investments. Moreover, the Department has spent a significant effort developing guidelines and a draft framework for state investments in Delta levees.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P6, Page 92, line 30 Do all levee improvements in the Delta need to reduce risk of loss of life? This could mean that the Department could no longer invest in Delta levees where there are no residences, as these investments do not reduce risk of loss of life. This could impact levee improvement projects for ecosystem enhancement.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P6, page 92, lines 32 - 36 Please consider adding “Duration of flooding” to this list of conditions.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 93, line 2 Emergency preparedness is not the first line of defense from floods, especially in the Delta where levees continually hold back water and protect from floods. The Department recommends that this introductory line be re-written to “Even with the best engineered levees, channels, and flood ways, there will always remain a residual risk from flooding. Therefore, it is imperative…”	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR R3, page 93, lines 33 - 36 The text states that the Department should allow a large number of agencies access to emergency stockpiles. In the event of an emergency, the Department must maintain control over disbursement of these materials. The Department recommends language stating this and clarify that this material is to be used by Delta levee maintaining agencies in accordance with Department plans and procedures.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 93, lines 26- 40 The Department recommends that an addition be made: “All personnel prepared to respond to Delta flood emergencies should be trained in the Statewide Emergency Management System (SEMS) and the National Incident Management System (NIMS) procedures. All emergency response plans and emergency response training exercises involving the Delta should be SEMS and NIMS-compliant.”	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 94, line 6 Delete “any kind for” and replace with “tort”; this does not cover inverse condemnation liability.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 94, lines 15 - 17 Consider mentioning the judgment against CalTrans in that case.	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR R5, page 94, lines 28 - 29 The Draft Delta Plan recommends the Legislature require flood insurance for communities in floodprone area. The term floodprone needs to be defined. Also, the following should be added to the sentence: " . . . and should specify that any insurance proceeds shall be an offset to any recovery from the State or local government, regardless of the basis of liability against those entities."	Text was modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Problem Statement, page 94, lines 37 - 38 The Department disagrees that financing of local levee operations, maintenance and related data collection is not well coordinated. The Department has engaged in the successful Subventions and Special Flood Control Projects programs for over 20 years assisting the local Delta reclamation districts in levee maintenance and rehabilitation projects. The Department has coordinated financing, maintenance, and data collection through these programs.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR R6, page 95, lines 1 - 19 The creation of a Delta Flood Management Assessment District is recommended in this section of the Delta Plan. It appears that this assessment district would be authorized to conduct many of the same functions that the Department is authorized to conduct under the Water Code. The Department cautions against duplicative efforts. The DSC must weigh the benefits against the costs of establishing another district in the Delta. An important concept related to this would be the potential ability to establish a consistent source of funding for levee rehabilitation in the Delta. However, the creation of a new assessment district may not necessarily be the best option. This recommendation is still relatively ambiguous and a more complete description of the roles and responsibilities of this assessment district needs to be provided in the plan. The parenthetical phrase in the first sentence should include "local government, public utility facilities, including railroads, and mineral rights owners" to make this recommendation more clear.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR R7, page 95, lines 36 - 38 The sentence should include at the end: " . . . if and when available."	Noted: text not modified
California Department of Water Resources	4/22/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR R8, page 96, lines 12 - 14 Please refer to the ongoing efforts by the Department, then National Weather Service California-Nevada River Forecast Center (CNRFC) and the US Army Corps of Engineers (USACE) to improve flood operation coordination among Central Valley reservoirs through DWR's Forecast-Coordinated Operations program. This ongoing program will consider appropriate operations control strategies in due course with appropriate attention to the limits of scope and authority the respective regulations allow. The text should be changed to read: " . . . should <u>evaluate and</u> modify, <u>to the extent feasible and when funding is available,</u> . .."	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa County Department of Conservation & Development	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Table 7-1 identifies a levee classification for land and resource uses. The terms for land use included in this table need further clarification. It is understood that the term "infrastructure" would include levees that function to protect water quality from excessive salinity intrusion or convey surplus water from the North Delta to the export pumps in the South Delta?	Text was modified
Contra Costa County Department of Conservation & Development	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 92 describes policies that proponents of flood management investments must satisfy to be consistent with the Delta Plan. These policies should be clarified to meet the purposes of certain bond funding programs which are directed at reducing the risk of Delta levee failures that would jeopardize water conveyance. It would also be appropriate for the Delta Plan to include recommendations to address concerns expressed during the development of the Interim Plan to investigate opportunities to streamline administration of DWR's Levee Subventions and Special Projects Programs. Hundreds of millions of dollars have been authorized for levee investments but the pace of implementation has been very slow and warrants review by the DSC.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa County Department of Conservation & Development	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 94, lines 31-34. This section recommends a regional Delta authority for local flood management activities. Little detail is provided on this recommendation so at a minimum, the Delta Plan should describe the information from the References/Sources to justify this recommendation. The problem statement needs to demonstrate that the lack of coordination is a local problem, and not a state problem. The Delta Plan needs to disclose its findings with regard to financing local levee operations, maintenance and related data collection efforts, identify the objectives the DSC wants to meet with respect to local flood management activities, describe the options it examined and demonstrate why establishment of a Delta Flood Management Assessment District is the most feasible and effective action to meet that objective. An argument can be easily made that the flood management activities in the Delta are adequate for the purposes of the property owners benefiting from those levees. However, page 93 of the DSC Flood Risk White paper clearly makes the case for the state's interest in Delta flood management activities. State-wide economic impacts due to the disruption of water exports and impacts to the nationally significant Delta ecosystem from more salinity intrusion are well documented. State interests are the interests most at risk from any lack of "coordination". The Delta Plan needs to explain why local agencies should be assigned with responsibility for protecting the operation of the CVP and SWP, and the survival of an ecosystem of national significance.	Text was modified
Contra Costa County Department of Conservation & Development	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan identifies an ambitious work plan for the Assessment District, including funding a flood management plan that would include owners of infrastructure protected by the levees. Existing statutes governing formation of assessment districts are very rigorous. Under these statutes, how feasible is it to recommend that a Delta-based district get the beneficiaries of the CVP and SWP to pay for the benefits they enjoy from the levees that protect their water from salinity intrusion and convey this surplus water to their pumps?	Noted; text not modified

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Contra Costa County Department of Conservation & Development	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Rather than recommend yet another study and plan, the Delta Plan should recommend priorities for state investments in levee operation, maintenance and improvement in the Delta pursuant to the Delta Reform Act.	Text was modified
Contra Costa Water District	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: p. 93 RR R3 should include the additional recommendation that a coordinated plan be developed among stakeholders to minimize water supply disruption following a catastrophic event in the Delta. A fifth bullet should be added on p. 94 ... 'The State Water Project, Central Valley Project and local agencies within the Delta should develop an emergency response plan to coordinate restoring drinking water supplies following a catastrophic event in the Delta."	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: p. 95 RR R6. CCWD does not support the creation of a new agency that collects money at the local level to support governance and implementation of flood management at the state level. To the extent public and private agencies are required to protect their own assets, then they should do so with local control. This recommendation creates unnecessary administrative costs, and takes the decisions for expending funds away from the local agencies who are best suited to make decision on how best to protect their assets.	Noted; text not modified
Delta Wetlands Project	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Room for setback levees should not be required in the absence of DWR criteria for setback levees (deletion of RR p5 page 92 line 1). Setback levees are not feasible or useful in all circumstances. It is unreasonable to require a project proponent to set aside land, or spend money on engineering studies, when there is no requirement for setback levees or indication that setback levees are appropriate.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Delta Wetlands Project	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Flood insurance isn't always available or appropriate (revision to RR R5 starting on page 94 line 28). We think that this provision is inappropriate and should be deleted. If it is retained, we recommend the following revisions. RR R5 The Legislature should require, where available and affordable, an adequate level of flood insurance for individuals, businesses, and industries in flood prone areas, excluding agriculture, protected habitat and uses that include intentional or non-destructive flooding.	Noted; text not modified
Delta Wetlands Project	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: The State should provide incentives for land owners to initiate subsidence reduction programs (an additional recommendation to be inserted after page 95 line 38). The draft Plan should provide incentives as well as prohibitions. RR R7.5 The Legislature should adopt a program of incentives for Delta landowners to initiate projects that reduce or reverse subsidence.	Noted; text not modified
East Bay Municipal Utility District	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Pg. 92, line 30 This edit clarifies the importance of public health and safety as one of the goals of the Delta Plan. Add the following bullet point: • Protect public health and safety.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
East Bay Municipal Utility District	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Pg. 95, lines 4 and 8 EBMUD supports the recommendation to create a Delta Flood Control Assessment District with fee assessment authority (RR R6), and we welcome the opportunity to work with Council staff to further develop details of this recommendation. EBMUD has voluntarily contributed over $15 million to maintain and improve the levees that protect its aqueducts, as well as many other infrastructure assets. In addition, the Delta levee system would benefit greatly if more beneficiaries participated financially. We believe it is essential to include Delta exporters as beneficiaries of the Delta levee system, and as such they must be included as participants in the Flood Management Assessment Districts. Line 4 should be modified as follows: "... for the regional benefit of ~~participants within the Delta~~ all beneficiaries, including landowners, infrastructure owners, and other entities that benefit from the maintenance of the levees, such as water exporters who rely on the levees to protect water quality." Line 8 should be modified as follows: "... and owners of infrastructure and other interests protected by the levees;"	Text was modified
City of Manteca	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Chapter 7 of the draft contains several policies and recommendations related to flooding within the Delta. This document, as currently written, serves only to confuse, and in some cases contradict, current and proposed policies. This document should not change any floodplain management policies.	Noted; text not modified
City of Manteca	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: ...the City of Manteca could be affected by RR P3 on page 89. We are nearing the end of a long, thorough review of our floodplains by FEMA. FEMA has made floodplain and floodway determinations based on thorough analysis. This document seeks to overturn or override all of that by establishing an arbitrary floodplain or floodway that does not appear to have any hydrological basis. Although it is not at all clear what the boundaries of the new floodplain would be, it is likely that parts of this area in the City of Manteca are already developed, and other areas have entitlements in place. It is unacceptable for the Delta Plan to impose arbitrary restrictions such as are recommended here.	Text was modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
City of Manteca	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: the Chapter related to flooding needs to be rewritten to refer to and be consistent with the Central Valley Flood Protection Plan, FEMA flood zones, and the 200-year restrictions for urban and urbanizing areas under development by DWR. Instead of imposing new restrictions arbitrarily and in conflict with FEMA and DWR, this chapter should discuss floodplain management impacts on the Delta, recommend areas for further study, and request that the appropriate agencies, such as FEMA and the Central Valley Flood Protection Board, study these impacts on the Delta and implement needed changes to current floodplain management.	Text was modified
Regional Council of Rural Counties	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88-89 RCRC supports the comments of the Delta Counties relating to local land use and floodplain and floodway protection.	Text was modified
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: 1. Missing studies...An updated study of expected water surface elevations in the Delta for a range of flood events. Such a study should be part of the development of the Central Valley Flood Protection Plan which is due by 2012, but it will not be.	Noted; text not modified
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: 1. Missing studies...An updated study of the status of the Delta levees and the estimated cost of bringing them all up to the PL 84-99 standard or some higher standard - the numbers given in DRMS and other previous studies are questionable. Such a study is in fact being conducted in cooperation with DWR and the local reclamation districts by the University of the Pacific team that is working on the Delta Economic Sustainability Plan and results should be available within several months.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: 1. Missing studies...A 3-D hydrodynamic and sediment transport study of the Delta to guide the Council on multiple issues including: developing an improved understanding of flood water surface elevations; studying the effects of various alternate export intake locations on maximum water surface elevations, water quality and biological impacts; aiding in the development of a policy on dredging; and studying the effects of additional ecosystem restoration measures. Such a study requires a longer-term effort but should be initiated as soon as possible.	Noted; text not modified
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: I believe that the basic elements of a coherent Delta Plan can be found in my comments on the first staff draft dated February 21, 2011, and Tom Zuckerman's ten "Big Affordable Ideas" dated March 30, 2011. If you combine the ideas in these two documents, you will have a more complete and coherent Delta Plan than can be found in the third staff draft...I have also suggested that an updated DRMS-type study be used to monitor progress in reducing flood and earthquake risks to the Delta. That risk is both a function of capital improvements to make the levees more robust and use of improved methods to both monitor levees to warn of impending failures and to respond to impending failures. These measures should include Mr Zuckerman's idea of overbuilding critical levees in the Western Delta and elsewhere.	Text was modified
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: ...Council or any further Delta-specific entity that is created to facilitate dredging, levee construction and restoration of flooded islands in the Delta should closely coordinate with the BCDC on dredging policy and related issues.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: I strongly support Mr Zuckerman's suggestion that responsibility for emergency-response planning and levee improvements be turned over to a Delta-region authority with an appropriate funding base. This would include taking over responsibility for the existing subventions and special projects funding that are administered by DWR. This idea is not inconsistent with the recommendation in the third staff draft for a Delta Flood Management Assessment District, although the reporting required under bullet two should be to the Council, not to DWR, and the suggestion that propositions 1E and 84 funding be used to develop and implement a levee improvement plan is questionable, if not downright illegal. Those funds were intended to be applied to actual levee improvements, not to endless paper studies, and diversion of these funds to other uses is improper.	Text was modified
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: I think that there is a persuasive argument to go the extra miles and seek state and federal legislation that gives the Council one-stop permitting authority for all dredging, levee construction, and eco-system restoration activities in the Delta. I think that there is a persuasive argument to go the extra miles and seek state and federal legislation that gives the Council one-stop permitting authority for all dredging, levee construction, and eco-system restoration activities in the Delta.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Resident of Lafayette	4/25/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: the actual improvements would be made by the new Delta Flood Management District and the existing reclamation districts, the Delta Conservancy and others, and whatever entity is charged with constructing new conveyance facilities, but the Council, in conjunction with the Delta Protection Commission, would serve as big brother ensuring that the co-equal goals, including the second sentence, were respected. Intelligent application of the Council's powers would of course involved extensive cooperation not only with the BCDC but also with the Department of Fish and Game, the State Water Resources Control Board, the federal fish and wildlife agencies, and the state and federal environmental administrations, but the buck would stop with the Council. It would be the responsibility of the Council not only to ensure that no harm is done relative to the co-equal goals, but to make sure that things actually get done to advance the co-equal goals.	Noted; text not modified
Sacramento Regional County Sanitation District	4/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 92, Lines 1-4, RR P5- The language below is unclear of the locations of the future setback levees, as it states that the DWR has not adopted criteria to define the locations of setback levees. SRCSD is currently planning a levee project to protect our pumping station, it is planned to be designed to DWR 200 year levee criteria, so it will meet all identified land uses according to table 7-1. We are unclear with the policy below what levees are to have setback levees. Also, identifying a timeline on when DWR should adopt this criterion would be helpful. "Until the Department of Water Resources adopts criteria to define locations for future setback levees, any action located next to the land side of a [which levee? A project levee? River levee?] levee shall demonstrate adequate area is provided to accommodate setback levees, as determined by a registered civil engineer or geologist."	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan should not attempt to "reinvent the wheel" regarding levee standards and floodplain management, but should instead incorporate by reference the standards and requirements of the CVFPP and Title 23.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Chapter 7 also proposes formation of a regional flood control agency for the Delta. It's important to remember that local reclamation districts and local flood control agencies know Delta levees the best. Any regional organization must be locally based...If a new regional flood control agency is to be created, State and federal agencies should delegate some of their roles and responsibilities to the new agency. Also any new flood control agency must have a sustainable and long term funding source so it can be effective in planning and implementing long term flood control and flood management solutions.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 87, Line 25: Reservoir re-operations should be added to the list of items to reduce risk.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 87, Line 32: Delete the statement "Failure of significant parts of the Delta's flood management system will be unavoidable" as no science is provided to substantiate the statement, and Water Code section 85308(a) requires the DSC to base the Delta Plan on the best available science and the independent scientific advice of the Independent Science Board (ISB).	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88, Line 8: The USACE's Lower San Joaquin River Feasibility Study needs to be noted here along with the other important projects that are collaborations between federal, State, and local agencies to study flood management.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 88, Line 36: Title 23 and FEMA regulations already provide standards and regulations for floodplain encroachment. The Delta Plan should not attempt to duplicate these standards.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 89, Line 6: "RR P3," this policy overrides local planning authority of at least four jurisdictions within San Joaquin County. It appears that much more coordination is needed to better define these floodplains' purposes, especially since urban or urbanizing areas are included and would need accommodation.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 89, Line 14: This description of the San Joaquin River/South Delta Floodplain is internally inconsistent, and not capable of being clearly plotted on a map. It also includes parts of three incorporated cities. It is inappropriate for the Delta Plan to attempt to define a potential floodplain or floodway without conducting the necessary hydrologic, hydraulic, geomorphic, and engineering studies. P3 should be replaced with “DWR, USACE, CVFPB, and San Joaquin County local flood control agencies should complete the Lower San Joaquin River Feasibility Study and determine the feasibility of a San Joaquin River/South Delta Floodplain that would be used as floodway to convey flood flows.”	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, Line 1: Delete the statement "...the historical performance of many levees in the Delta is poor." as no science is provided to substantiate the statement, and Water Code Section 85308(a) requires the DSC to base the Delta Plan on the best available science and the independent scientific advice of the ISB	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, Line 27: the phrase "...and is often used with established USACE criteria to meet certain ...requirements" should be deleted. The Code of Federal Regulations that defines FEMA 100-year Flood Protection is a comprehensive, stand-alone regulation and not dependent upon USACE certification rules.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, Lines 30-31: "Very few levees in the central Delta meet this standard." Define "central Delta." This appears to be another overly-broad sweeping statement. This should be substantiated with scientific statistics.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, Line 32: It would be more accurate if this sentence read as follows: "DWR 200-year Urban Levee Protection: This [is a] standard [that is still being developed, and] is similar to the FEMA standard..." It is incorrect to treat this standard as complete and in effect as designed when this is not the case.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, Line 40: This is an opinion, not a fact. This whole paragraph omits considerations of future improvements to a levee's design, and states the opinion that it is better to fit the land-use to the existing levee, leaving no option for future alterations to levee design criteria.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 90, Lines 36 through 39 - This states that levees in Stockton do not meet 200-year protection standard. What is your source for this statement? Most levees protecting Stockton are FEMA accredited. That is, they have been determined to provide at least 100-year protection with the freeboard requirements of FEMA. Not until the completion of the CVFPP will there be a document that identifies whether Central Valley levees provide 200-year protection. This document has not yet been released. Recommend that this statement be corrected.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 91, Table 7-1 is problematical because of its assumptions. The class rankings imply that there is a hierarchical relationship between all of these classifications and that is not the case (for example, a levee may provide 100-year protection while at the same time not being eligible for PL84-99 support). The Delta Plan should defer to the CVFPP and Title 23 standards.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 92, Lines 1 through 4 - This policy proposes that a covered action involving a project adjacent to the land side of the levee include adequate area (i.e. dedication of land) to allow for the possible future construction of a setback levee until such time DWR adopts criteria to define location for future setback levees. This is potentially a very onerous condition, and one that may not be necessary in many cases were existing levees are structurally adequate. Recommend that this policy be amended to include that, in the absence of a DWR adopted criteria, that a licensed Civil Engineer can certify that additional setback is not required. In addition, the CVFPP will contain requirements for providing adequate areas adjacent to levees to allow for future modifications.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 92, Line 31 - This Policy states that State investments for levee improvements shall "Not result in an increase in the number of people at risk." This is an extremely vague statement. This needs to be better defined. As currently written, it could be interpreted that this would prevent funding for levee improvements that would allow one home or business to be built. Also this is in direct contradiction with SB5 which called for State investment to improve levees to a 200-year standard for urban areas. Improvement of levees to a 200-Year standard will reduce risk, but not eliminate it.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 92, Line 36 - "RR P6" bullet #3 - add to this list of things that need to be considered "consequences to private real property improvements."	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 94 - The limitation of liability discussion needs to include local agencies' concerns, equally.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 94, Financing Problems - An in-depth analysis and audit is required to understand why DWR has not provided this function successfully. The DSC should be cautious about how it intends to add another layer of administration onto the funding process.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 95, Lines 1 through 19 - This is a recommendation for the creation of a Delta Flood Management Assessment District for the purposes of providing financing for Delta levee improvements. This is discussed elsewhere in the Plan, and is referred elsewhere as a "Regional" Flood Management Agency (See page 112, lines 10 through 13). The Plan does not discuss structure or the authority of this agency, or whether it would replace or augment current flood management agencies (i.e. reclamation districts, other local maintaining agencies, etc.). The Plan should address these issues. Also, many of these current agencies already have assessment authority. What purpose then would this agency serve?	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 96 - There needs to be a more comprehensive discussion of reservoir re-operations and the obstacles to remove in order to achieve better federal, State, and local collaboration on this issue.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: The Delta Plan does not include data of areas that do not meet 200-year protection and what improvements would be required to achieve this level of protection for those areas. If the Delta Plan presumes that the source for this information will be the CVFPP, that document will not be adopted until July 2012, and it is currently uncertain whether sufficient information will be available in this regard until the first update of the CVFPP in 2017. Clarification of this issue should be included in the Plan.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Pages 93, third paragraph, revise as follows: Despite the vital importance of adequate preparation, no comprehensive, integrated, Delta-wide emergency response system exists. The California Emergency Management Agency, DWR, and several local agencies are preparing, or have prepared, individual emergency response plans for the Delta, but the development of these should be coordinated, tested, and practiced. Regional coordination systems involving all Delta response agencies should be put in place in accordance with the SB27 Task Force recommendations. Strategies being prepared as directed by SB27 will address these issues. SB27 Task Force recommendations will be the basis for the creation of this enhanced regional flood response system.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 93, first bullet under “Recommendations”, revise as follows: The Department of Water Resources and local flood management agencies should implement the SB27 Task Force recommendations and participate in emergency response exercises, mass evacuation exercises, and emergency preparedness public training, notification, and outreach programs.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 93, second bullet under “Recommendations”, revise as follows: As part of implementation of the SB27 Task Force recommendations, all emergency stockpiles should be made regional in nature and usable by a larger number of agencies as part of an integrated Delta stockpile system. The potential of creating stored material sites by “over- reinforcing” western delta levees should be explored.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Pages 93, third bullet under “Recommendations”, revise as follows: State and local agencies and regulated utilities that own and/or operate infrastructure within the Delta should prepare emergency response plans to protect the infrastructure from long-term outages resulting from failures of the Delta levees. The emergency procedures should consider methods that would also protect Delta land use and ecosystem. This planning should be performed in conjunction with regional implementation of the SB27 Task Force recommendations. Presence of critical infrastructure and reference to vulnerabilities and plans to maintain the infrastructure will be referenced on flood contingency maps called for in the SB27 report.	Text was modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 95, fifth bullet under “Recommendations” revise as follows: Fund staff within the Delta Protection Commission who would assist jurisdictions with emergency response authority and responsibilities under Standardized Emergency Management Systems to implement and maintain the regional response system and emergency response enhancements called for in the SB27 Task Force report and recommendations.	Noted; text not modified
San Joaquin County	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Page 95, new bullet under “Recommendations”: Provide funds to maintain a separate levee emergency response fund maintained by regional flood preparedness staff that can be accessed by unified flood fight commands established in accordance with the SB 27 Task Force recommendations. Also provide funds for the maintenance of the components of the regional response system established in accordance with the SB27 Task Force report.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
State and Federal Contractors Water Agency	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: The Plan takes the politically easy course and repeatedly supports greater investments in levee improvements, maintenance and emergency response. The plan fails to state that levee improvements must be commensurate with benefits and that Council will meet its charge to create a strategic levee investment plan which will identify the potential improvements with the greatest benefits so that funds can be prioritized. The Plan must recognize that some levees are not worth maintaining with public funds and that selected public levee investments should encourage the evolution of some islands to habitat. In short, the Plan drifts back to the state of affairs where scarce resources are spent ineffectively and disregarding long term consequences.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P 88 L 6: Suggest adding the Delta Counties Hazard Mitigation Study presently being developed.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P 91 L 8: RR P4 is unclear what “Actions” are meant to be addressed by this policy and more specificity needs to be provided.	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P 92 L 22: “The ~~State~~ Council is required to promote…”	Noted; text not modified
Stockton, City of	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P. 91, Table 7-1, footnote d: conflicts with 100-year in table.	Text was modified
Stockton, City of	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P. 92, Flood Management Investment, 2nd paragraph: many Project levees are managed by local agencies.	Text was modified
Stockton, City of	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P. 94, RR R5, should read: .. .. .. flood insurance for residences, businesses .. ."	Text was modified
Stockton, City of	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P. 95, RR R6, should discuss why this District is needed and should define "participants within the Delta."	Text was modified
Stockton, City of	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: P. 96, why is "Percentage of floodplains or floodways defined and regulated to protect flood capacity" a Performance Measure?	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
City of Tracy	5/5/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: Pages 88-89: Floodway and Floodplain Protection Policies: Policy RR P3, third bullet suggest that the Pescadero Tract 2058 would be restricted from development in its entirety, even for areas within this Track that are inside the City limits, developed, and considered infill. Please clarify if portions of this reclamation district are to be "modified" with the studies being conducted by the Department of Water Resources, as the draft Plan suggests. The City is unaware of any science or engineering based evidence that suggests that infill areas within the City limits (in Tract 2058) are within the 100 or 200-year floodplain.	Text was modified
The Bay Institute	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P2 and RR P3 do not cover much of the Delta, and are only intended to prevent further loss of flood capacity rather than proactively seek to expand the area of floodplain and floodway in the Delta.	Noted; text not modified
The Bay Institute	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P4 defers use of levee classifications in consistency determinations until 2015 (and later for Class 5 levees).	Text was modified
The Bay Institute	5/6/2011	CH 7	THIRD STAFF DRAFT DELTA PLAN: RR P6 addresses state investments in levee improvements without addressing actions by other parties to improve levees. The draft should be revised to provide a more comprehensive and complete set of policies to reduce risk from levee failure.	Text was modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: In contrast to an earlier draft, there appears to be less discussion on importance of Delta agriculture, and efforts to ensure its sustainability. Also, some of the policies and recommendations in Chapter 8 (particularly those related to legacy towns in the Primary Zone) may be in direct conflict with some of the policies/recommendations in Chapter 7 (particularly any growth-inducing effects of investments in levees protecting legacy towns.) Note that the Delta Protection Act of 1992 allows these communities to grow in accordance with "special area plans" adopted by the Counties. These plans are subject to CEQA review for growth-inducing impacts, transportation issues, and other impacts. The issue of "economic sustainability of legacy towns" is a complex issue. By allowing legacy towns to grow (in order to sustain schools, postal services, and other services) increases flood risk and consequences. This is a prime example of where the Council will need to be clear about how conflicting “non-co-equal goal” policies and recommendations will be prioritized. To illustrate this further, if the Clarksburg community plan approved by Yolo County allowed for a 3% annual growth rate, this would result in a development of approximately 40-50 residential units. This would have been more acceptable in accordance with the Delta Protection Act than the 160 units proposed for the original Sugar Mill development project. The DSC must consider how a proposal to allow an increase of 40-50 housing units would be treated by the Council in light of its mandate to accommodate economic sustainability of legacy towns while not increasing flood risk.	Text was modified.
California Department of Water Resources	4/22/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: Page 102, lines 1, 2, & 12 - 14 This statement is no longer accurate. According to a California Department of Food and Agriculture (CDF&A) official, this plan was completed in February and has been submitted by CDF&A to the Council.	Text was modified.
California Department of Water Resources	4/22/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: Page 103, lines 19 - 21 The text states that “urbanization adjacent to the Delta and within the Secondary Zone may adversely affect resources” in the Secondary Zone. Please make note that this will adversely affect resources in the Primary Zone as well.	Text was modified.

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: DP R5, page 103, line 28 The creation of a Delta Flood Management Assessment District is again recommended in this section of the plan. Please refer to the Department comments on RR R6 above.	Text was modified.
Contra Costa County Department of Conservation & Development	5/6/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: Page 103, lines 14-17. The plan states there is a need for the Delta counties "to establish and implement a resources management plan for the Delta, and for the Delta Stewardship council to consider than plan ...in the adoption of the Delta Plan." Clarification is needed for the term "resource management plan." As stated earlier, the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan governs management of resources covered by Endangered Species statutes. We also note that Section 29760 of the Public Resources Code requires the Delta Protection Commission to develop a "long-term resource management plan for land uses" within the Primary Zone of the Delta. Clarification should be provided as to how, or whether, these two resource management plans relate to each other. We see nothing in the Delta Reform Act to suggest that local jurisdictions in the Delta must fund and develop plans separate from General Plan to comply with the statute's planning requirements, or to otherwise duplicate the work already assigned to the Delta Protection Commission.	Text was modified.
Regional Council of Rural Counties	5/5/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: Pages 101-104 RCRC supports the comments of the Delta Counties relating to the protection and enhancement of the unique cultural, recreational, natural resources, and agricultural values of the California Delta as an evolving place.	Noted; text not modified
State and Federal Contractors Water Agency	5/6/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: P 101 L 18: "…protected and enhanced <u>consistent with the achievement of the coequal goals.</u>"	Text was modified.
State and Federal Contractors Water Agency	5/6/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: P 102 L 2: Suggest including the Delta Protection Commission's Land Use/Resource Management Plan too.	Text was modified.

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Stockton, City of	5/5/2011	CH 8	THIRD STAFF DRAFT DELTA PLAN: P. 103, Problem Statement, discusses urbanization within the Secondary Zone may adversely affect resources in the Secondary Zone. Not sure where the Delta Stewardship Council is going with this. Please clarify.	Text was modified.
California Department of Parks and Recreation	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: There is no current source of funds to protect and enhance Delta and Suisun Marsh's unique cultural and recreational values. Current state law, Public Resources Code Sections 11912 and 11913, provides that the general fund should support recreation associated with the State Water Project, rather than pass recreation's costs on to the project's water and power beneficiaries. Appropriations from the general fund, however, have dropped steadily, and are inadequate to operate and maintain the state's existing recreation improvements. Increases in this funding are unlikely in the foreseeable future. The water bond currently scheduled for a 2012 vote, the Safe, Clean and Reliable Drinking Water Supply Act, includes no funds for recreation in the Delta or Suisun Marsh. The Delta Reform Act establishes a Delta Investment Fund to implement the Economic Sustainability Plan, which may consider recreation facilities or programs, but a source of funds for the Delta Investment Fund remains unspecified.	Noted; text not modified
California Department of Parks and Recreation	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: The finance framework and associated policies should recommend funds for Delta and Suisun Marsh recreation.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: The second staff draft of the Delta Plan included estimates of the cost to improve levees to PL 84-99. The Department requested that this estimate be updated to reflect the costs of the proposed requirements, which include upgrading levees that protect residential areas to FEMA-100 year standards and higher. The third staff draft of the Delta Plan removed the estimates contained in the second draft Delta Plan, but did not replace them with newer cost estimates. If the Delta Plan requires upgrading levees to these more stringent standards, it should identify the costs associated with these requirements. Please include an estimate of the costs to upgrade Delta levees to meet the requirements of the Delta Plan.	Noted; text not modified Levee upgrade costs will not be presented in the Delta Plan
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 107, line 18 The key tenents raise the important principle that beneficiaries should pay for benefits they receive and stressors should pay for the stresses they place on the ecosystem. This principle is repeated several times in Chapter 9. In addition, Page 116, line 29 describes seven types of possible stressor fees. While it may be premature to specifically identify the beneficiaries and stressors in this document and the amount each should pay, it would be very helpful if the document proposed an approach or plan to achieve this important end result.	Noted; text not modified As costs and benefits for Delta improvements become better known, the approach to allocate costs and determine beneficiaries will be more readily defined
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 108; General comment Consider including Co-equal goals under Guiding Principles and a description of how co-equal goals will be quantified for funding purposes. Also, consider adding coordination and integration (where practical) with other state finance plans to identify cumulative impacts, avoid conflicting state policy and minimize confusion for decision-makers. Finally, consider adding "Economic Efficiency", "Cost-effectiveness" and/or other accountability-related principles.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 108, lines 15 - 18 The intended message seems to be that development of beneficiary pays and user fees should occur soon, before implementation of projects begins, but the text is unclear.	Noted; text not modified Once projects are identified in the planning stage, the development of possible fees should begin

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California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 109, lines 1 - 5 This implies some rough magnitudes of annual funding necessary for unspecified Delta-related programs. A more recent and more specific range of potential funding needs should be created. An alternative is a caveat that "historical expenditures are not an indication of future needs".	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 109, line 14 The Department recommends adding "existing bond funds are nearing depletion" to this statement.	Text was modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 110, lines 15 & 16 The text states “Science funding is likely to be more than 50 percent of the needs for oversight on an ongoing basis.” This statement is unclear.	Text was modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 110, line 29 This section could be more helpful to the reader if the approximate anticipated costs of the co-equal goals, as described in the December 2010 “Highlights of BDCP”, were presented graphically. Attached at the end of this document is a chart showing the capital costs of BDCP. As seen in the chart, the anticipated $16.3 billion of capital costs associated with BDCP are split between the co-equal goals – water supply and ecosystem restoration. The costs associated with water supply ($13 billion) will be funded by the State and Federal Water Contractors under the Delta Habitat Conservation and Conveyance Program (DHCCP). Costs associated with ecosystem restoration ($3.3 billion) will be funded by a mix of beneficiaries and stressors, as mentioned in the subject document. Operations and maintenance costs should also be added. (Presenting numbers in this way may be more illustrative to the readers than showing numbers down to the dollar as seen in Table 9-2, page 111.)	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 111, line 14 The statement "In general human activities ..." appears to be a guiding principle. However, it is unclear how this statement relates to the next sentence, "Large federal and State contribution should be secondary." Is the message actually that impacts from local activities warrant a greater local cost burden than federal or State activities?	Activities that benefit or create stress on the system should bear the cost, not necessarily start with state and federal financing
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 111, line 18 General Comment This section appears to be a mix of recommendations and recommendations with proposed levels of funding, yet the title of the section “Immediate Funding Recommendations” suggests the reader will see a proposed level of funding for each recommendation. You may wish to re-title the section or add a proposed level of funding to each recommendation.	Text was modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: FP R2, page 111, line 26 The Department recommends the phrase, “that cross the Delta”, should be changed to “that cross or lie within the Delta.”	Text was modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: FP R3, page 112, lines 10 – 13 The cost of $10 million to “develop a benefit assessment plan for the Delta” seems high. The benefit assessment flood management agency recommended under GP R1 for the Delta is a very complex subject and must consider all of the various benefits the Delta provides to the State of California. The DSC should describe in detail what this agency’s function would be and how the agency would be organized and explore more fully the feasibility and benefits of this proposal.	The studies to put an assessment district of this magnitude will be significant
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: FP R7, page 112, line 33 Whenever a specific amount is selected for the “unified budget”, the text should make clear whether that amount is an annual expenditure, or the total expenditure over the specified ten year period.	Text was modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: FP R10, page 113, line 2 The Department recommends that the word “modest” should be placed before “public goods charge.”	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 113, General comments Consider including private placement bonds, private investment, and an infrastructure bank concept alternative under funding sources.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 114, line 9 The phrase “Water agencies generate revenue by selling water,” should be changed to “Most water agencies generate most of their revenue by selling water.” Some water agencies receive all of their revenues from property taxes or per acre charges. Many water agencies receive at least some of their revenues from such taxes or charges.	Text was modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 114, lines 16 & 17 The Department is unclear what the phrase “Allowing reallocation of resources among users may be required …” means. Is this effectively referring to a "subsidy" of some sort?	Text was modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 114, lines 30 - 33 Cost savings associated with actions or policies is more of a planning approach/consideration than finance as it speaks to what is selected for implementation as opposed to how it is funded.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 115, lines 38 & 39 The statement "The costs of standardized measurement could be significant relative to the amount of fees collected" needs some clarification. SBX7-7 requires agricultural water suppliers which serve more than 10,000 acres to "measure the volume of water delivered to customers with sufficient accuracy …" The costs to measure water diversions to or by agricultural water purveyors, as a percentage of the total value of that water, would be far less than the relative costs to measure the water delivered to individual farms, as called for by SBX7-7. So, the only water "diversion fees" that would have to be assessed to individual farms would be fees on riparian diversions by such farms. However, those fees can be collected based on estimated water use. Such estimates could be produced through the use of land use data (number of irrigated acres, types of crops grown, location of the farm, and so on) combined with DWR's acre-foot per acre estimates of net water use. These estimates have been developed for all the significant crops or crop groups grown in each of the State's ten hydrologic regions.	Noted; text not modified Efforts to estimate versus measure water use could still be significant relative to fees collected
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 116, line 33 Land use charges will be difficult to quantify since every land use (including 'natural habitat') places stress on some aspect of the environment.	Noted; text not modified
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 116, line 34 Will this new "retail sales fee" be assessed only in the Delta or throughout the Delta watershed or the entire State?	Noted; text not modified The retail sales fee would have to be targeted to stressor, unknown at this time
California Department of Water Resources	4/22/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 118, line 3 The Department recommends the phrase "public good charge" be changed to "public goods charge for water."	Text was modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Financing. Chapter 9 is a welcome and necessary initial foray into the critical questions of financing. We look forward to working with you as this Chapter matures. It is clear that unless real and full costs of any new infrastructure such as a peripheral canal or tunnel, and who is responsible to pay for them, is established at the beginning of the process, the Delta Plan will not likely succeed	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter 9, Finance Plan Framework to Support Coequal Goals, Page 110, lines 7to 13...Because these are the highest priority and least discretionary costs, they need to be quantified for the next draft. It is insufficient to address them with general statements such as Page 112, lines 17 to 19:	Noted; text not modified (significantly) Costs are being developed
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter 9, Finance Plan. Diversion Fees, Page 115, Line 19. Despite the objections to Diversion Fees, we recommend that the Council continue exploration of a water diversion fee and a Delta export fee by the Council and the State Water Resources Control Board. The top priority of such a diversion and export fee should be to support ecosystem restoration efforts. This system of fees should be founded on the responsibility of all water users under the public trust to contribute to ecosystem restoration. Development of these fees should consider the following: · Long-term habitat restoration funding required to achieve the co-equal goals. · An appropriate share of public funding for ecosystem restoration efforts, as well as likely state and federal funding, given the pressures on the state and federal budgets. · Contributions by water users to other system-wide ecosystem restoration efforts. Site specific, water agency local mitigation costs (e.g. the installation of fish screens) should not be considered for crediting in the development of these user fees. · These water fees should not be used for the purchase of water to achieve compliance with regulatory requirements.	Noted; text not modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter 9, Finance Plan. Guiding Principles, Page 108. We recommend adding the following Principle: The development of information related to financing (such as the identification of beneficiaries and stressors and detailed financing scenarios) should be undertaken simultaneously with the development of major capital decisions, in order to inform planning efforts. The development of finance plans should not be delayed until the conclusion of capital planning efforts.	Text was modified

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Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter 9, Finance Plan. Near-term Funding Recommendations, Page 113. Add to FP R10: The primary purpose of a public goods charge should be to fund investments in efficiency, water recycling, groundwater clean-up, stormwater capture, and other tools that can reduce reliance on imported supplies.	Noted; text not modified As the public goods charge is further studied, the appropriate uses will also be developed
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter 9. Finance Plan. Public Goods Charges, Pages 117-118. Add the following comment to the discussion of Public Goods Charges: A public goods charge could ensure a minimum investment by all urban and agricultural water agencies in water user efficiency and other tools that can reduce reliance on imported water. It could also provide consistent funding over time.	Text was modified
Coalition of Environmental, Environmental Justice and Fishing Organizations	4/28/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter 9. Finance Plan. Public Goods Charges, Page 118. Insert at the end of Line 2: The CPUC's recommended water public goods charge is focused on water efficiency – broadly defined -- including agricultural and urban water use efficiency, water recycling, stormwater capture and groundwater clean-up efforts. We strongly support the language in the draft that would require a volumetric approach to such fees as well as contributions by both agricultural and urban water users.	Noted; text not modified As the public goods charge is further studied, the appropriate uses will also be developed
Contra Costa Water District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: p. 108 Guiding Principles - The water quality objective is absent from the guiding principles and should be given equal weight to water supply reliability and ecosystem, etc.	Noted; text not modified Water quality was not a co-equal goal in the Act
Contra Costa Water District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: p. 108 lines 5 through 7 - Eliminate exclusionary phrase that restricts State and federal funds to activities solely related to public benefits. The underlying "beneficiary pays" and "stressor pays" principles should govern who pays for what.	Noted; text not modified

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Contra Costa Water District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: p. III FP R2 - Proposition IE is in part for protecting the States drinking water system, so water utilities should not be included in the definition of public and private agencies with infrastructure in the Delta who must protect their own assets. To the extent public and private agencies are required to protect their own assets, then they should do so with local control. The idea of implementing a fee and passing it over to the Council for allocation creates unnecessary administrative costs, and takes the decisions for expending funds away from the local agencies who are best suited to make decision on how best to protect their assets.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: p. 112 FP R4 - This proposal appears to circumvent the "beneficiary" and "stressor" pays guiding principles, in that it earmarks Proposition 1 E funds for a specific purpose "acquisition of land or easements for the propose San Joaquin/South Delta Flood Plain". No projects/regions should get special designation at this point in the process.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: p. 112 FP R5 - This proposal is devoid of specifics as to how the "continuous" funding would be utilized, or what degree of oversight and control there would be over the funds. This proposal should be eliminated unless a clear scope work/business purpose and accountability structure can be demonstrated.	Noted; text not modified
Contra Costa Water District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: p. 112 FP R 7 - The District is not opposed to user fees as long as they are developed and applied equitably across all beneficiary and stressor groups, and as long as they are allocated and distributed at the local level. There is no basis for funding operations of the Council, etc. on an advance basis for ten years, when it is not clear yet what their ongoing mission will be, or whether they are best suited to implement a plan once developed.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Contra Costa Water District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: p. 113 FP R10 - It is not appropriate to establish a Public Goods Charge for Water to fund obligations currently funded by the State General Fund. This approach would circumvent the guiding principles of "beneficiary" and "stressor" pays since that analysis has not been completed, and take an activity that has broad application (ecosystem costs) and fund it from a specific group (water utilities). It should remain funded from the General Fund unless and until the "beneficiary" and "stressor" pays analysis is completed and determines another funding approach is more appropriate.	Text was modified
Delta Wetlands Project	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Make sure that adaptive management doesn't un-ravel the beneficiaries pay principle or project financing by providing financial compensation to project beneficiaries who paid for a covered action, when project benefits are substantially reduced due to adaptive management actions.	Noted; text not modified
Delta Wetlands Project	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Protect both the "beneficiaries pay" principle and the concept of adaptive management by providing compensation when covered action intended benefits are substantially reduced by adaptive management actions (new language starting at page 113 after line 13). Adaptive management actions have the potential for reducing project benefits to the intended beneficiaries who paid for them. This would undermine the beneficiaries pay principle and would impair the ability to finance needed projects. To make this work, either adaptive management actions should be limited to actions that will not substantially reduce intended project benefits, or project financing should be provided to compensate for the lost benefits. (See also the proposed new G P1 paragraph 6.) FP R12Establish funding to compensate project beneficiaries who paid for covered actions when their benefits are substantially reduced by adaptive management actions.	Noted; text not modified

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AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Delta Wetlands Project	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: The amount of carbon emissions from farmed Delta islands is greater than stated in the Plan (revision to page 115 line 2). Work by Jones & Stokes in 2007 and 2008 estimated carbon emissions at up to 17 tons per acre per year. This work is referenced in the Delta Wetlands Project 2010 Draft EIR p. 414....The amount of carbon dioxide emissions from farmed Delta islands is ~~2.5 to 6.5~~up to 17 tons per acre per year.	Text was modified

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East Bay Municipal Utility District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pg. 108, line 31 Care must be taken in the use of terms such as "user fees" and "public goods charge". The cost appropriation and expenditure of funds collected under each is unique and must be carefully considered. A public goods charge could be assigned universally to all users of water and those funds must be allocated to very specific public benefits, including legacy water quality remediation in cases where responsible parties cannot be identified (e.g. abandoned mines), science, and certain ecosystem restoration projects (projects that do not provide benefit to a particular user or entity). Of utmost importance to water users will be the requirement for voter approval of such a charge, including constitutional protections to ensure that the revenues cannot be directed to other, non-related purposes, except by constitutional amendment. Under a separate and distinct "beneficiary pays" system, a user fee should be calculated individually for each user (or user group) dependent on the benefits received by that user (group). Actions that could be funded through specific user fees would include ecosystem restoration projects that provide benefits to a particular user or entity, levee maintenance, watershed protection, and water use efficiency. User fees should be considered for all kinds of beneficiaries, not just water users. We advise caution and restraint in advancing the concept of "stressors pay" as a companion principle to "beneficiary pays." Mitigation is typically the responsibility of a project proponent pursuant to CEQA or other permitting requirements. Establishing a "stressors pay" system opens up difficult issues such as settling on a baseline, and granting credit for actions already undertaken by a party to mitigate project impacts. Further, it may be more difficult to assign a monetary cost to damage or stress caused by a given activity than it is to quantify a benefit under beneficiary pays. The stressors pay principle should be applied to a very limited set of activities, and should not supplant penalties or permit requirements that are already in regulatory effect. EBMUD agrees with the Guiding Principles and suggests the addition of the following principle: <u>• Public benefits must be narrowly defined so as to avoid cross-subsidies between user fee payors or to specific beneficiaries. Any fees collected by means of a public goods charge must be expended solely on clearly defined and quantified public benefits.</u>	Text was modified Language was added to note that legislative approval will be required for any new fee Substantial work would be required before a stressor fee could be imposed

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East Bay Municipal Utility District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pg. 111, line 4 The Council should advise the BDCP to clearly delineate the distinction between mitigation and enhancement for the ecosystem portion of the BDCP. This is necessary to achieve consistency with the Guiding Principles presented on page 108. The following language should be inserted at the end of line 4 on page 111: "To ensure appropriate cost allocations, it will be necessary for the Bay Delta Conservation Plan to clearly delineate between ecosystem actions and their associated costs that are mitigation measures versus those that are enhancement above and beyond the necessary mitigation."	Noted; text not modified

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East Bay Municipal Utility District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pg. 112, lines 27-30 Any fee proposal or system developed by the Council must be subject to approval by the legislature, and all beneficiaries and stressors, not just water users, should be included in the fee proposal. Ideally, the Delta Plan should contain a full cost analysis of its projects, programs, plans, actions, and activities; however, such an analysis is not feasible given the very short timeline for completion of the Plan. The Draft Plan notes that funds from the state and federal governments will be in short supply, but it does not acknowledge the similar financial straits that local and regional governments and agencies, including water agencies, are also experiencing. Funding will be in short supply, regardless of the sources. To help in the review of costs, apportionment or allocation of those costs, and consideration of various revenue generation mechanisms, we strongly suggest that the Council consider the use of a well balanced advisory committee of stakeholders to provide input and recommendations on each of these topics. Varied and substantial input should be expected on these finance topics, and the Council should facilitate broad and constructive input before reaching its ultimate decisions in this area. EBMUD is prepared to take an active role in such a committee, bringing substantial experience on Delta finance issues and successful collaborative efforts with many other water agencies on specific finance issues. FP R7 should be modified as follows: The Legislature should ~~grant~~ direct the Council ~~the authority~~ to develop for the Legislature's approval reasonable fees for all beneficiar~~y~~ies, and reasonable fees for those who stress the Delta ecosystem, and apply such fees to the operational costs of the Council, the Delta Conservancy and the Delta Protection Commission to allow implementation of the Delta Plan.	Text was modified Language was added to note that legislative approval will be required for any new fees The Finance Plan Framework will not have costs available to prepare a fee proposal
East Bay Municipal Utility District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pg. 113, line 4 The Public Goods Charge for water described in FP RIO should also be used to fund science programs that will inform Delta policy and broadly benefit the entire State. "This fund would provide for science and ecosystem costs..."	Text was modified

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East Bay Municipal Utility District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pg. 117, lines 28-30 Water marketing fees will discourage beneficial transfers. Transfers that meet the co-equal goal of increased reliability of supply should be encouraged, to the extent that the co-equal goal of environmental preservation is not adversely impacted. Water marketing fees would be applied to water transfers in the Delta watershed. These fees would be above and beyond any existing watershed diversion or export fees. Such fees shall be commensurate with the State Water Resources Control Board's actual costs in reviewing and approving applications for such transfers. Transfers that do not require State Water Resources Control Board action, including transfers between contractors of the Central Valley Project and between contractors of the State Water Project, shall not be subject to water marketing fees. The State Water Resources Control Board currently collects fees associated with change in water rights required for transfers.	Noted; text not modified
East Bay Municipal Utility District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pg. 118, lines 5 & 6 Any reduced reliance on imported supplies is in fact a benefit to the entity that has achieved such reduced reliance. As such, it should not be an activity that receives funding through a broadly collected public goods charge. "These include statewide planning, and ecosystem enhancements~~, or investments that reduce reliance on imported supplies.~~"	Text was modified

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Regional Council of Rural Counties	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pages 107- 118 • RCRC believes that public benefits should be funded by state and federal funds not otherwise required for project mitigation or by law for other purposes. • As RCRC has stated previously relating to the "beneficiary pays" principle, the so-called beneficiaries must directly benefit. Once having established that there is a direct measurable benefit RCRC could support the concept of a sliding scale cost allocation based on the degree of benefit received. • RCRC understands that the Council proposes the use of the "stressors pays" principle as opposed to the "polluter pays" principle as it is perceived that doing so will result in the inclusion of a wider pool of potential payees. Please note that RCRC would oppose the identification of upstream water diversions as a "stressor" simply due to the diversion of water from the watershed. • If there are to be user fees to fund the Delta Plan, RCRC agrees that the fees must be protected from redirection to other purposes. The only method is ensure that the current or future Legislature is unable to tap into such funds is to include specific protection within the California Constitution. • RCRC opposes volumetrically based user fees for water diversions.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: On page 110, lines 6-21, the Delta Plan identifies three immediate financing needs. The first is the protection of the existing Delta water export system from flood risks and needed ecosystem improvements to reduce damage by operations of the existing export pumps in the Delta. The water exporters are the beneficiaries of these actions, but there is also a public benefit that should be funded by the state and federal funds. The second is the funding of a strong Delta Science Program. This would seem to be appropriately funded with state and federal funds. As to the operations of the Delta Stewardship Council and the Delta Conservancy, it would seem appropriate that state and federal funding be augmented by beneficiaries for the "services" provided by the Council.	Noted; text not modified

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Regional Council of Rural Counties	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: RCRC cannot support (page 112, lines 27-30) the Council's recommendation that the Legislature grant to the Council blanket authority to develop fees for beneficiaries and stressors of the Delta ecosystem to fund the operational costs of the Council, the Delta Conservancy and the Delta Protection Commission.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: RCRC also opposes (page 113, lines 2-6) the Council's recommendation that the Legislature additionally create a public goods on urban and agricultural water users to fund ecosystem costs or State water management costs such a developing the California Water Plan Update. These are public benefit costs that should be paid by the state and federal government utilizing the proceeds of taxes and/or bonds. RCRC understands only too well the current fiscal constraints faced by the state and federal government. California State legislators and members of Congress should, like local government must, determine their priorities and allocate funds accordingly.	Noted; text not modified
Regional Council of Rural Counties	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: On page 114, lines 16-17, the Delta Plan states "Allowing reallocation of resources among users may be required for the long-term economic vitality of the State." RCRC would appreciate clarification as to the meaning of this statement.	Text was modified
Regional Council of Rural Counties	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: RCRC reminds the Council that when proposing to establish a new/additional fee that a nexus must be established.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: The Finance Plan recommends potential fees to be placed on upstream diverters or dischargers, unrelated to any specific impacts demonstrated by sound science related to an individual diversion or discharge. The Finance Plan chapter should clearly identify all sources of funding that will be used to finance programs and projects in the Delta, not suggest new fees to support the Council's actions. The way this chapter is written regarding other stressor fees is simplistic, arbitrary, and does not fairly evaluate all potential other stressor fees.	Noted; text not modified

COMMENTS ON THIRD STAFF DRAFT DELTA PLAN THROUGH MAY 9, 2011

AGENCY OR COMMENTOR	DATE	CH.	COMMENT	PRELIMINARY STAFF RESPONSE TO COMMENT
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: SRCSD takes great exception to the Third Draft's discussion of potential funding sources, and particularly "stressor fees" as related to National Pollution Discharge Elimination System (NPDES) discharges. Advocating a water quality loading charge based on the logic that a loading fee would be simple is not a reasonable justification for imposing a fee. This logic appears punitive and is inappropriate. Please specify a reason that compliance with NPDES permit limitations and/or adopted water quality standards is insufficient and requires further costs to ratepayers absent an identifiable impact to beneficial uses. The concept fails to recognize that NPDES dischargers already pay vast sums to reduce loadings and comply with water quality standards.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 107, Line 21-Stressors should include exporters from the Delta and the associated taking of fish and other indirect effects.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 108, Lines 11-31-Again stressors should include exporters of Delta water. What are user fees? The crediting concept is unclear. What is a closely related activity? What rationale exists to support a finding that compliance with given water quality standards is insufficient and requires further costs to ratepayers absent an identifiable impact to beneficial uses.	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 111, Table 9-2-Can you please explain how these dollar estimates were derived?	From the November BDCP progress report
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 111, Line 14-By focusing on human activities as the starting point for a financial strategy, the plan is placing the financing burden on local economies. There should be no primary and secondary financing strategy. There should be one finance strategy that is diversified, without having anyone segment of our economy shouldering the economic burden. Please see our comments on Chapter 4.	Noted; text not modified

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Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 112 FP R7, Lines 26-37-It is not clear from this recommendation whether the fees are for Council administration or capital costs. Also, how would you calculate a fee for those who benefit from and stress the Delta, such as water exporters?	Text was modified
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 114, Lines 18-26-This section seems punitive in that fines issued by the Water Boards are penalties, and multiple government entities should not be able to assess a monetary penalty for the same violation multiple times. Does this section include violations of water rights? Failure to meet salinity objectives?	Noted; text not modified
Sacramento Regional County Sanitation District	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 117, Line 23-If the revenue potential from stressor fees is not believed to be large, why put a great amount of effort into trying to establish them?	Noted; text not modified
Sacramento-San Joaquin Delta Conservancy	5/9/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 108, Lines 22-25. Targeted finance plans should be developed for major Delta Plan activities (habitat restoration, flood risk reduction, regional water supply investments, and water conveyance.) Beneficiaries and stressors should be identified in each of these areas, and user fees should be developed to match these stressors and beneficiaries with planned investments in each of these areas. Who will develop these plans (DSC, multi-agency efforts by topic)?	Noted; text not modified Targeted financing plans should be developed by the implementing agencies
Sacramento-San Joaquin Delta Conservancy	5/9/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pages 110, 111 and 112. It is not clear which funding sources are for funding projects and which are for funding operations. Further, it is not clear if the $50 million is a onetime allocation or ongoing.	Text was modified
Sacramento-San Joaquin Delta Conservancy	5/9/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 110, lines 17-21.Continuing the existing operational duties imposed by the 2009 Delta Protection Act. The Act created the Delta Stewardship Council (which includes the Delta Science Program and Independent Science Board) and the Delta Conservancy, and modified the duties of the existing Delta Protection Commission. Annual costs for the operation of all of these functions are approximately $XX million per year. What do these annual estimates include (operations, project implementation, etc.)?	Text was modified

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Sacramento-San Joaquin Delta Conservancy	5/9/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 111, lines 19-21. FP R1. No less than $50 million should be allocated from existing bond funds, or from any new funds authorized by voters to the Delta Conservancy to commence implementation of the ecosystem restoration portion of the Delta Plan. Is this a onetime allocation or annual, is it start up for operations or does it include project funds, and how would it impact spending of much greater available funding if bonds pass. If project funds, how will priorities be established for implementing restoration projects (the 5 high priority areas defined for ecosystem restoration)? What is the timeline envisioned that these funds will cover in the implementation process (5 years, 10 years, longer)?	Text was modified
Sacramento-San Joaquin Delta Conservancy	5/9/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 112, lines 14-16 FP R4 The Legislature should allocate $50 million of Prop. 1E funds to the Department of Water Resources and direct the Department to begin the acquisition of land or easements for the proposed San Joaquin/South Delta Flood Plain. Is this a one time or annual allocation and how does it affect future bond funding? The Department of Water Resources should consider partnering in this effort with the Department of Fish and Game and the Delta Conservancy who will share responsibility for implementing ecosystem restoration efforts in the San Joaquin/South Delta Flood Plan.	Text was modified

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Sacramento-San Joaquin Delta Conservancy	5/9/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 112, lines 26-33. FP R7 User Fees/Stressors Fees to support the coequal goals and the Delta Plan. The Legislature should grant the Council the authority to develop reasonable fees for beneficiary, and reasonable fees for those who stress the Delta ecosystem, and apply such fees to the operational costs of the Council, the Delta Conservancy and the Delta Protection Commission to allow implementation of the Delta Plan. What are the envisioned mechanisms for estimating, dividing and transferring funds to the Delta Conservancy for operational costs? The costs of operations of the Council, Delta Conservancy, and Delta Protection Commission should be advanced for a period of ten (10) years. As previously discussed, the unified budget of the new governance structure is approximately $XX million. Please provide a more detailed description of the “unified budget”. Who will estimate required dollar amount, how will the dollars be divided between the agencies and over what time? What will the annual operational estimates include?	Text was modified
San Joaquin County	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 111, Lines 24 through 29 (and lines 1 and 2 of subsequent page) - This recommends that the CPUC establish fees on regulated private utilities that cross the Delta, and that these fees be allocated to the State and local LMA's. Inadequate funding exists for LMA's, and additional funding such as this would provide much needed resources.	Noted; text not modified
San Joaquin County	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Page 112, Lines 10 through 13 - This again recommends the creation of a "regional flood management agency." As previously indicated, more detail should be provided on the structure and authority of this proposed agency. Also, this recommendation indicates that a total of $110 million would be provided to this agency, $100 million of which would be designated for "implementation." The recommendation does not describe what is to be implemented with these funds (can funding be used for flood protection improvements as outlined in the Delta Plan, or for levee maintenance functions, etc?).	Text was modified

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State and Federal Contractors Water Agency	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: P 110 L 8: "…flood risks, and ~~needed~~ ecosystem improvements being implemented pursuant to existing mitigation commitments of the SWP and CVP ~~to reduce damage by operations of the existing export pumps in the Delta~~."	Text was modified
State and Federal Contractors Water Agency	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: P 111 L 3: "…export facility and the associated Delta ecosystem mitigation…law. Habitat and ecosystem restoration activities, beyond mitigation requirements, are considered to provide a general benefit to the State and should be funded accordingly."	Text was modified
Stockton, City of	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: As the Delta Independent Science Board has stated that there is no broadly accepted objective methodology for prioritizing stressors, the Council has no mechanism to assess fair and equitable stressor fees.	Noted; text not modified A methodology would have to be developed before fees were imposed
Stockton, City of	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Pollutant loading fees for constituents discharged under limits established by permits issued by the Regional Water Quality Control Board both duplicate existing discharge fees and usurp the authority of the Regional Board.	Noted; text not modified
Stockton, City of	5/5/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: P. 113, FP R11 , should define the boundary of the Delta Flood Management Assessment District. Does it include the Primary and Secondary Zones? Does it include the "Delta watershed"? Does it include water exporters?	Boundaries will be based on where benefits occur
Water Community	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter nine's financing strategy reflects the draft plan's flawed business model. That strategy's primary proposals are that the Legislature immediately authorize the Council to begin charging water-diversion and wastewater-discharge fees to fund the Council's operation and its regulatory program and that there ultimately be a public goods charge on water deliveries. In the current financial climate, these proposals are unlikely to succeed, but also are likely to exacerbate existing conflicts over the Delta.	Text was modified

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Water Community	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: the third draft does not discuss the importance of the voters' 2010 passage of Proposition 26, which demonstrates, if nothing else, that the public has little appetite for additional fees and charges to fund new state regulatory programs.	Noted; text not modified
Water Community	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: the draft Plan does not acknowledge that, even under pre-Proposition 26 law, the fees that the draft Plan proposes are of questionable legality. In its 2010 decision in Cal. Farm Bureau Federation v. State Water Resources Control Bd. (2011) 51 Cal.4th 421, the California Supreme Court did not validate, but rather remanded for further judicial consideration, the volumetric water-right fees that the SWRCB charges. While uncertain themselves, those water-right fees have a much closer relationship to the "regulated" activity than the diversion and discharge fees that the draft Plan proposes.	Text was modified
Water Community	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: the draft Plan fails to acknowledge that local water and wastewater agencies already bear a large part of the burden of funding existing state regulatory programs, including the SWRCB's Division of Water Rights, the Regional Water Quality Control Boards' NPDES programs, the Bureau of Reclamation's ecosystem restoration efforts, the Division of Safety of Dams' inspection program (which largely duplicates the Federal Energy Regulatory Commission's similar program) and DFG's programs (through fees under CEQA). While it is simple to propose that water users and wastewater agencies pay more fees to fund yet another state regulatory program, such an approach would only add to the financial burdens that local agencies already bear...	Noted; text not modified

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Water Community	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Chapter 9: Necessary Changes If the Council were to take a leaner "shepherding" approach in the Delta Plan, then its baseline funding needs would be lower and probably would be more likely to attract more public funding. The Council could identify specific beneficiaries of specific projects and apply "beneficiary pays" rules to them. In addition, the state currently funds, at least in part, many programs through state-organized voluntary mechanisms like license plate funds and state tax-return check-offs. The Council should explore such methods for satisfying its baseline funding needs. Similar mechanisms have supported the nation's presidential campaigns for much of the last 40 years, so they can be reliable sources of revenue. Moreover, in contrast to the distaste for more fees reflected in Proposition 26's passage, the public has demonstrated its willingness to fund new water benefits through its consistent passage of water bonds. If, as the Delta Reform Act states, the coordination of federal, state and local Delta programs is a crucial statewide need, then new mechanisms that ask the public to voluntarily contribute to funding the Council's activities should attract sufficient support to satisfy the Council's baseline financial demands.	Noted; text not modified
Water Community	5/6/2011	CH 9	THIRD STAFF DRAFT DELTA PLAN: Accordingly, we recommend that, in chapter nine, the Council: ● Highlight the importance of measures like policy FP R6; ● Delete policy FP R7 and all of its subparts; ● Delete recommendation FR R10; ● State that the Council will seek to implement financing mechanisms that do not add additional complexity to the Delta's governance; and ● In light of the condition of the state's General Fund, during 2012, study mechanisms under which important federal and state objectives have been funded by voluntary taxpayer contributions, with the current objective of proposing, to the Legislature during its 2013 session, a Clean Water Fund that would receive license plate funds, state taxpayer check-off funds and other voluntary taxpayer contributions.	Noted; text not modified Some of these changes will be looked at in a separate document