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December 27, 2012

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

Re: Final Draft Delta Plan

Dear Chairman Isenberg and Members of the Delta Stewardship Council:

On behalf of the thirty-two member counties of the Regional Council of Rural Counties (RCRC), I appreciate the opportunity to submit comments on the Final Draft Delta Plan released on November 30, 2012. As you know, RCRC has submitted comments on each of the previous drafts of the Delta Plan.

RCRC appreciates the willingness of the Council and staff to work with the interested parties to resolve many of the issues of concern. RCRC looks forward to continuing our work with the Council and staff as the process of implementation moves to the forefront.

Given the short 45 day timeframe to review and comment on the Final Draft Delta Plan, the Recirculated Draft Delta Plan PEIR, and the proposed draft regulations, RCRC's comments will be limited to select issues of interest with recommended changes. RCRC agrees with the various organizations who have requested an extension of the comment period that the 45 day comment period, which includes the holiday season, is inadequate.

Page xv. Delta Plan Policies and Recommendations. WR P1. Reduce Reliance on the Delta and Improve Regional Self Reliance

The paragraph explaining the intent of WR P1 should be clarified to read "The intent of WR P1 is to ensure that urban and agricultural water suppliers who propose to undertake a covered action are taking appropriate actions to contribute to the achievement of reduced reliance on the Delta by

This clarification is needed so as to not confuse the reader as to the scope of the Delta Stewardship Council's (Council) authority - which is limited to activities determined to meet the definition of a "covered action". The Delta Plan correctly states on Page 56,

for example, under the heading of *What is a Covered Action?* that “the diversion and use of water in the Delta watershed that is entirely upstream of the statutory Delta or Suisun Marsh would not satisfy this criterion.”

Water suppliers are, of course, required to comply with a variety of existing laws relating to water (water conservation, water use efficiency, etc.). Confirming that these various requirements are being met is not within the purview of the Council - unless an action is determined to be a covered action.

Page xviii. Delta Plan Policies and Recommendations. ER P1. Update Delta Flow Objectives

As you know, the Council was granted specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta. The authority granted does not include authority over the activities of the State Water Resources Control Board (State Water Board).

RCRC is of the opinion that it is confusing to include in ER P1 (a regulatory policy) the Council's recommendation that the State Water Board take certain actions by specified dates. As noted in the Recirculated Draft Delta Plan on Page 2-3 in Section 2, Description of Revised Project, “Recommendations are non-regulatory in nature for both covered and non-covered actions. Most of the recommendations are directed at other agencies, which may or may not choose to implement all or a part of the recommended actions.”

ER P1 should be limited to that which is within the authority of the Council i.e. that the Council will utilize the existing flow objectives to determine consistency with the Delta Plan until such time as the State Water Board may revise them.

This confusing mingling of regulatory policy and non-regulatory recommendations in ER P1 is also carried over into the Council's proposed regulations dated November 16, 2012. RCRC has recommended that Section 5007 (a) and (b) of the proposed regulations be deleted, and that Section 5007 (c) be revised as follows:

(c) ~~Prior to the establishment of revised flow objectives as described in subsections (a) and (b)†~~The existing Bay Delta Water Quality Control Plan flow objectives shall be used to determine consistency with the Delta Plan until such time as the State Water Resources Control Board may revise the flow objectives. Upon revision of ~~After the flow objectives are revised,~~ the revised flow objectives shall be used to determine consistency with the Delta Plan.

Page 59. Lines 13-17. Covered Actions Consistency Appeals. Chapter 2. The Delta Plan

The Delta Plan states that “Any person, including any member of the Council or its Executive Officer, who claims that a covered action is inconsistent with the Delta Plan....., may file an appeal with regard to a certification of consistency submitted to Council.”

The Council serves as an appellate body to determine if a covered action is consistent with the Delta Plan if an appeal is filed. Given that the Council is charged with making the determination of consistency, allowing a member of the Council or its Executive Officer to file an appeal raises a variety of questions. RCRC recommends that in order to maintain objectivity that the Delta Plan should instead specifically state that members of the Council and the Executive Officer may not file an appeal with regard to a certification of consistency submitted to the Council.

Page 108. Lines 15-20. WR P1. Reduce Reliance on the Delta and Improve Regional Self Reliance. Chapter 3. A More Reliable Water Supply for California

Please see RCRCs comments above for recommended changes to the intent language.

Pages 155-156. Lines 37–10. ER P1. Update Delta Flow Objectives. Chapter 4. Protect, Restore, and Enhance the Delta Ecosystem

Please see RCRCs previous comments regarding the inclusion of what are recommendations in ER P1.

In conclusion, please feel free to contact me if you have any questions at (916) 447-4806 or kmannion@rcrcnet.org.

Sincerely,



Kathy Mannion
Legislative Advocate

cc: Members, Delta Stewardship Council
Mr. Chris Knopp, Executive Officer