

RLO001 ACFCWCD Zone 7



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
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January 9, 2013

Phil Isenberg, Chairman
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, California 95814

(Scanned and Sent by E-mail: deltaplancouncil@deltacouncil.ca.gov)

Subject: **Comments on the Draft Final Delta Plan, Draft Program Environmental Impact Report and draft Rulemaking Documents**

Dear Chairman Isenberg:

Zone 7 Water Agency (Zone 7) is the wholesale urban water supplier to businesses and approximately 200,000 residents in the Northern California cities of Livermore, Pleasanton, Dublin, and parts of San Ramon. Zone 7 also provides flood protection and distributes untreated water directly to agricultural customers within all of Eastern Alameda County. Approximately 80 percent of Zone 7's supply comes from the State Water Project and 90 percent is conveyed through the Delta. As a stakeholder heavily dependent on the Delta, our comments reflect our ongoing concerns with the reliability of our water supplies and the important role of the Delta Plan—and the Bay Delta Conservation Plan (BDCP) by incorporation—in providing for both the state's water and habitat conservation needs.

RLO001-1

Public water agencies have submitted numerous comments throughout the Delta Plan drafting process. Overall, we are encouraged by the evolution of the draft plan and numerous improvements to the document throughout this process. In particular, we believe the document does a better job of identifying all the known stressors to the Delta ecosystem and making recommendations about how those stressors may be addressed. To ensure that the final draft successfully advances the co-equal goals of ecosystem restoration for the Delta and reliable water supplies for California, however, we believe the following issues must be addressed:

RLO001-2

1. Policies must fall within the Council's legal authority. The Delta Plan should clearly state its goals to encourage statewide water use efficiency and avoid using language that could be misinterpreted to regulate local water management decisions outside of the Delta through the covered action review process. In the current draft Delta Plan's policy recommendation WR P1, the Council gives itself the discretion to review and judge local water management decisions outside the legally-defined Delta, inappropriately expanding

RLO001-3

Response to comment RLO001-1

Comment noted.

Response to comment RLO001-2

Comment noted.

Response to comment RLO001-3

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

the role of the Council beyond that outlined in statute and subjecting local agencies to an additional and potentially burdensome review process, irrespective of their water stewardship practices. We appreciate the verbal assurances from Council members that they want this discretion only to address alleged “bad actors”, but the 2009 Delta Reform Act did not give the Council the jurisdiction to review and judge local water management decisions outside of the Delta. As a water agency that has been proactively working towards increasing our local water supply reliability through investments in conservation and portfolio diversification, among other water management practices, we object to this proposed policy.

RLO001-3

2. Delta Water Export Supplies: While the draft Delta Plan does not make this statement, the Draft EIR assumes that Delta Plan implementation will result in less water being exported through the Delta. Reduced reliance does not equate to reduced exports. With improved conveyance, ecosystem restoration and reductions in the “stressors” that harm Delta species, we believe it is feasible to achieve the mandated co-equal goals to improve both water supply reliability and the Delta ecosystem, without reducing exports. The EIR also claims, without support, that sufficient, feasible replacement water sources exist, yet fails to analyze any specifics about how much replacement water would be needed, how difficult it would be to implement, how costly replacement water sources might be and the possible economic and environmental effects of developing these supplies. Zone 7 and its water retailers have made considerable investments in conservation, recycling, storage, and improvements in system reliability. Most recently, we have been working closely with our retailers on enhancing conservation programs and evaluating how recycled water use can be expanded in the region; we have also been working with other water agencies in the Bay Area to explore how we can collectively leverage our assets to improve the reliability of regional water supplies. Our plans include future investments in alternative supply options to provide for the growing needs in our region. Despite these efforts, Zone 7 will continue to be highly dependent on the Delta; delivery of imported water provides essential water supply and water quality benefits to our region and therefore must be maintained to accomplish the co-equal goals.

RLO001-4

3. One-Year Transfers. Under California law, one-year transfers of water are not subject to the California Environmental Quality Act (CEQA). The Council has taken steps to exclude other CEQA exceptions from its covered action review process, but in the case of one-year transfers, that exception is only valid through 2014. One-year transfers are critical for meeting year-to-year shortfalls in supply. This vital water management tool is at risk if each transfer is subject to an appeal process that may take up to 150 days.

RLO001-5

4. Bay Delta Conservation Plan: The Delta Plan must incorporate BDCP as a cornerstone of its own Plan if BDCP meets the conditions specified in the 2009 Delta Reform Act

RLO001-6

Response to comment RLO001-4

Regarding the feasibility and effectiveness of local and regional water supply projects in reducing reliance on the Delta, please refer to Master Response 5.

Response to comment RLO001-5

This is a comment on the project, not on the EIR. In addition, and as noted in Appendix C to the RDEIR, the Revised Project (the Final Draft Delta Plan) includes WR R15, which encourages DWR and the SWRCB to “identify and recommend measures to reduce procedural and administrative impediments to water transfers . . . include[ing] measures to address potential issues with recurring transfers of up to 1 year in duration.” In addition, the expiration date of covered action exemptions for temporary, one-year water transfers was extended to January 1, 2017, in the Final Delta Plan.

Response to comment RLO001-6

The proposed BDCP is a reasonably foreseeable future project that is not part of the Delta Plan. It is being evaluated by the Department of Water Resources as the CEQA lead agency. The cumulative impacts of the proposed Delta Plan, in combination with the impact of the proposed BDCP, are described in EIR Sections 22 and 23. Please also refer to Master Response 1.

Response to comment RLO001-7

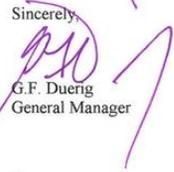
Comment noted.

legislation. Delta Plan language and implementing procedures should mirror that of the legislation and clearly state its intent to incorporate the BDCP as a core component of the plan. Recent Council member public statements have emphasized the statutory role of BDCP, but we are concerned that the current procedures listed in the Delta Plan appendix do not do this. Nevertheless, we are encouraged that staff has stated in public meetings that the Council plans to revisit those procedures in the next couple of months. The BDCP is the State and Federal governments' central plan to implement ecosystem restoration and water supply reliability. Absent this essential element, the overarching Delta Plan cannot achieve its statutory objectives.

RLO001-6

We appreciate the Council's efforts to craft a plan that effectively establishes a new governance structure and guidance for the Delta's many stakeholders to cooperatively and constructively resolve California's water resource and ecosystem challenges. We urge your consideration of our remaining concerns and hope these and other comments, particularly from the State Water Contractors, will contribute to your future deliberations to help ensure a reliable water supply for California and to help restore the Delta ecosystem.

RLO001-7

Sincerely,

G.F. Duerig
General Manager

cc: Draft EIR comments to Phil Isenberg by email:
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Draft Rulemaking comments to Phil Isenberg by email:
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Terry Erlewine, State Water Contractors