

RLO023 Rancho Water



January 14, 2013

Phil Isenberg, Chairman
Delta Stewardship Council
908 Ninth Street, Suite 1500
Sacramento, CA 95814
deltaplancomment@deltacouncil.ca.gov

SUBJECT: DRAFT FINAL DELTA PLAN, DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT, DRAFT RULEMAKING DOCUMENTS

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Dear Chairman Isenberg:

On behalf of Rancho California Water District (RCWD/District), I would like to express our appreciation to the Council for considering the input of Delta stakeholders, including export interests, throughout the public review process on the Delta Plan. As a sub-agency of the Metropolitan Water District of Southern California, RCWD relies on the State Water Project to deliver a portion of our water supply from Northern California through the Delta. Our comments reflect our ongoing concerns with the reliability of these supplies and the important role of the Delta Plan – and the Bay Delta Conservation Plan (BDCP) by incorporation – in providing for the state's water needs and meeting the water supply reliability goals.

RL0023-1

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 addressing 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 legal and policy issues must be addressed:

RL0023-2

1. 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 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. We are concerned that the current procedures listed in the Plan appendix do not do this, but 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.

RL0023-3

Response to comment RLO023-1

Comment noted.

Response to comment RLO023-2

Comment noted.

Response to comment RLO023-3

As described in Section 23 of the Recirculated Draft Program EIR, if completed and approved by the California Department of Fish and Wildlife, the BDCP must be considered by the Delta Stewardship Council and included in the Delta Plan as required by the Delta Reform Act (Water Code section 85320 et seq.). Please see Master Response 1.

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 restore both water supply reliability and the Delta ecosystem, without reducing exports. Both the quantity and quality of exported water supplies are very important factors for reliability. The Delta Plan EIR analysis of alternatives should not prejudice future decisions of independent agencies with jurisdiction over these particular matters, particularly the State Water Resources Control Board. Once again, the terminology and logic of the Delta process teeters on the brink of a truly Orwellian outcome, where we continue to say the mantra of "co-equal goals", but we adopt a plan that may dictate reduced reliance, and further that reduction is then evaluated on the basis of whether we are receiving less water. Why would anyone invest in such a plan?

RL0023-4

3. Regulatory Authority: The Delta Plan must adhere to its statutory direction to promote statewide water use efficiency rather than insert in any policy language that could be interpreted as a regulation of local water management decisions through the covered action/consistency review determination process. If the Delta Stewardship Council loses its focus from its legal jurisdiction of the Delta and Suisun March, it and the Delta Plan will ultimately not succeed. Water agencies throughout Southern California have embraced the need to reduce reliance on the Delta for future needs by enhancing conservation efforts and expanding local supplies. Adding yet another layer of State agency review on the pile of State agencies local water providers must navigate to implement projects will slow the pace of advance, and by our reading is a clear power reach outside of statute.

RL0023-5

We sincerely appreciate the work of the Council and the tremendous task of creating 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 challenges. We urge your consideration of our remaining concerns and hope these and other comments will contribute to your future deliberations to help ensure a reliable water supply for California and restore the Delta ecosystem.

RL0023-6

Sincerely,

RANCHO CALIFORNIA WATER DISTRICT



Matthew Stone
General Manager



Response to comment RLO023-4

The Delta Plan encourages the SWRCB to complete the updated Bay-Delta Water Quality Control Plan flow objectives. However, only the SWRCB has authority to set those objectives. The Delta Plan and the EIR therefore cannot project what those objectives will be. The Delta Plan and the sources it cites (including especially the SWRCB's 2010 Flow Criteria Report) explains that the flow objectives that best advance the coequal goals will be those that bring about more natural functional flows within and out of the Delta. See Delta Plan, pp. 136 to 142, 155, and sources cited therein. The EIR thus assumes, consistent with CEQA, that the SWRCB will adopt updated objectives that will advance such a flow regime. The general assumption of a more natural flow regime is sufficient for the EIR's programmatic approach. The impacts of the flow objectives are analyzed in greater, quantitative detail, in the SWRCB's *Public Draft Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento/San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality* (December 2012). See Master Response 5 for further discussion. The EIR's analyses of the Delta Plan and the alternatives assumes, as CEQA requires, that its policies and recommendations are implemented. It determines that while such change could reduce the availability of Delta water, the local and regional self-reliance encouraged under the Delta Plan would prevent most significant environmental impacts related to reduced water supplies. The Delta Plan also encourages, and in certain circumstances would require, water supply agencies to reduce reliance on the Delta water through implementation of local and regional water supply projects, including water use efficiency, water recycling, and groundwater conjunctive use programs to meet water demands. Regarding the ability of these supplies to meet demand, please refer to Master Response 5. Regarding the ability of the Delta Plan to meet its objectives, please refer to Master Response 3.

Response to comment RLO023-5

This is a comment on the project, not on the EIR. Because Central Valley Project and State Water Project water flows through the Delta, many changes to the management or delivery of such water would "occur, in whole or in part, within the boundaries of the Delta," and would therefore potentially be a "covered action" under Water Code section 85057.5. Please see Master Response 1.

Response to comment RLO023-6

Comment noted.