

ROR017 RCRC

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December 27, 2012

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

Re: Recirculated Draft Delta Plan PEIR

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 comment on the Recirculated Draft Delta Plan Program Environmental Impact Report (PEIR) released on November 30, 2012. ROR017-1

Given the short 45 day timeframe to review and comment on the Final Draft Delta Plan, the proposed draft regulations, and the Recirculated Draft Delta Plan PEIR, RCRC's comments will be limited to select issues of interest that include recommended changes. ROR017-2

RCRC agrees with the various organizations who have requested an extension of the comment period that the 45 day comment period for these three documents, which includes the holiday season, is inadequate.

RCRC's comments on the DEIR are limited to two technical issues:

Page 3-2, Lines 29-37, Water Resources

The language of this section states "The Revised Project would apply to areas of the Delta watershed located upstream of the Delta unlike the Proposed Project." RCRC recommends that this statement be clarified to read:

The Revised Project, unlike the Proposed Project, would apply to encourage areas of the Delta watershed located upstream of the Delta to improve water supply reliability, unlike the Proposed Project. ROR017-3

This revised sentence conforms to other verbiage in the document and eliminates potential confusion on the part of the reader as to the scope of the Council's

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Response to comment ROR017-1

Comment noted.

Response to comment ROR017-2

The review period for the Recirculated Draft PEIR began on November 30, 2012, and ended on January 14, 2013. CEQA guidelines, Section 15105 requires that review periods for draft EIRs should not be less than 30 days, and no longer than 60 days. The 45-day comment period is sufficient under CEQA.

Response to comment ROR017-3

Regarding the Delta Plan's application to areas upstream of the Delta, and the relationship between Policy WR P1 and existing water planning requirements, please refer to Master Response 5. Regarding the terms "apply" and "encourage," please see the discussion of the Delta Plan's policies and recommendations in Master Response 1.

authority. As you know, only projects determined to qualify as a "covered action" come under the regulatory purview of the Council.

The use of the term "apply" would seem to imply regulation v. recommendation. The DEIR is comparing the Revised Project and the Proposed Project and asserting that they are different because the Revised Project is "recommending" that areas upstream of the Delta undertake projects to improve water supply reliability and that the Proposed Project did not. ROR017-3

As noted in RCRCs comments on the Final Draft Delta Plan, water suppliers are 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 3-7 and 3-8, Lines 27-4, Water Resources

As the Council knows, the State Water Resources Control Board (State Water Board) has commenced work on updating the Bay-Delta Plan. The State Water Board recently held three workshops to hear from scientific and technical experts to help inform their eventual decision. RCRC recommends that the statements contained in lines 27 through 4 as to the assumed outcome of the State Water Board's decision be deleted from the document. These statements include the following:

".....would likely result in a more natural flow regime in the Delta and Delta tributaries."
".....would likely emphasize Delta ecosystem habitat beneficial uses by providing increased Delta outflows in the winter, spring, and fall months, and increased Delta inflows from the Sacramento and San Joaquin rivers in the winter and spring months."
".....these water quality changes would benefit native species that evolved with the natural flow regime that the objectives would seek to emulate." ROR017-4

Or, alternatively, the terms "if" and "could" could be inserted where appropriate. Use of these terms would conform to language found in other sections of the DEIR.

RCRC understands that a document the size of the DEIR has multiple authors. The use of the term "apply" (please see previous comments) can be found in various sections in the document, while in others greater clarity is provided with the use of "encourage".

RCRC recommends that the Council opt for greater clarity and consistency within the DEIR. The use of this term throughout the various sections (Biological Resources, Delta Flood Risk, Land Use and Planning, Agricultural and Forestry Resources, etc.) appears to be largely associated with the discussion of reliable water supply.

Response to comment ROR017-4

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 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. Regarding the terms "apply" and "encourage," please see the discussion of the Delta Plan's policies and recommendations in Master Response 1.

Page 4-11, Line 2, Biological Resources

Please see previous comments relating to the Council's assumption as to the end result of the State Water Board's updating of the Bay-Delta Plan. At a minimum RCRC recommends that "would" be replaced with "could".

ROR017-5

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

Response to comment ROR017-5

Please see the response to comment ROR017-4.