

January 14, 2013

Phil Isenberg, Chairman
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, California 95814
By Email: deltaplancomment@deltacouncil.ca.gov

Subject: Draft Final Delta Plan and Draft Programmatic Environmental Impact Report

Dear Chairman Isenberg:

The Santa Clara Valley Water District (District) appreciates this opportunity to comment on the Draft Final Delta Plan and associated documents. The District is a public water agency with contracts for delivery of water supplies conveyed through the Delta by the State Water Project as well as the federal Central Valley Project. These supplies meet approximately 40% of Santa Clara County's average annual demands and are critical in supporting 1.8 million people and the vibrant economy of Silicon Valley. The District has adopted a water supply management strategy that includes securing and optimizing the use of existing supplies and infrastructure, and expanding water use efficiency. This strategy will reduce reliance on imported water and result in meeting Santa Clara County's future water needs through water use efficiency. However, even with aggressive development of local supplies and continued emphasis on conservation, it is anticipated that the County will still need reliable imported water supplies to meet, on average, approximately 45 percent of its demands. The District's imported supplies will continue to provide essential baseline water supply reliability needed to avoid groundwater overdrafting and subsidence, meet core demands, and provide environmental enhancement in our local streams.

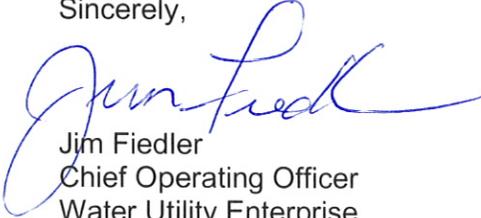
The District is pleased with the numerous improvements made to the draft Delta Plan during its development, and, in particular, we appreciate the documents' efforts to identify and recommend actions to address the broad suite of stressors that have degraded the health of the Delta ecosystem. However, we are concerned that the current draft of the Delta Plan contains language that could unintentionally impair the District's water supply reliability. In addition, the draft Environmental Impact Report (EIR) does not adequately evaluate potential environmental impacts resulting from implementation of the plan. Our concerns with the Draft Final Delta Plan and EIR are largely reflected in the January 14, 2013 comment letter provided by the State Water Contractors and San Luis and Delta Mendota Water Authority (SLDMWA). The District adopts and incorporates these comments and will not restate them here. However, the District also wants to raise some particular points. In particular, several issues need to be addressed in order to achieve the State's coequal goals of both providing a more reliable water supply for California and protecting, restoring and enhancing the Delta's ecosystem, as defined in the Delta Reform Act of 2009.

- Expansion of the Council's authority into local water management: Policy WR P1 as written implies that the Council may review and judge local water management decisions outside the legally defined Delta. However, the Delta Reform Act is clear that the Council's determination regarding consistency with the Delta Plan is limited to projects that "will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh." We believe the Council does not have authority to regulate local water management decisions outside of the Delta through implementation of WR P1 or through the covered action review process. In addition, instead of promoting efficient implementation of projects that will contribute to local and regional supply reliability, this would add another layer of potentially burdensome review that will likely impede progress as well as increase costs to the public. Agencies such as the District that are implementing local projects outside of the Delta and that have been successfully and proactively advancing local water supply reliability and environmental sustainability should not be subject to this process.
- Reduced reliance is required at the retailer level: Policy WR P1 specifically states that "water shall not be exported from, transferred through or used in the Delta if one or more water suppliers that would receive water as a result of the export, transfer, or use have failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance" consistent with specific requirements, including completion and implementation of urban or agricultural water management plans. This requirement puts at risk a water wholesaler's ability to provide water supply reliability if one or more of its retailers is not fully compliant with Urban Water Management Plan requirements. More specifically, the District is a wholesaler that provides water supply to 13 retailers over which it has no regulatory authority. Even if the District and the region as a whole comply with this policy, the independent actions of a single water retailer over which the District has no control could reduce the reliability of 40% of the Santa Clara County's water supply. A reduction or cessation of the District's imported supplies consistent with WRP1 would likely result in increased pumping from the local groundwater basin to compensate for reductions in treated water deliveries to retailers. Because the District has limited ability to control groundwater pumping, this could potentially result in overdrafting of the groundwater basin. The District's emergency surface and groundwater supplies could also be reduced, increasing the region's vulnerability to droughts and emergency situations. This is an example of how the Council's regulation of local activities could result in unintended consequences that subvert the co-equal goals. The draft EIR does not evaluate or consider these potential impacts.
- Delta Water Export Supplies: The Draft EIR assumes that implementation of the Delta Plan will result in less water being exported through the Delta, and that sufficient, feasible replacement water sources exist to compensate for this reduction. However, the document fails to provide sufficient support for this assumption or adequately analyze any specifics about how much replacement water would be needed, how feasible it would be to implement, how costly replacement water sources might be and the possible economic and environmental effects of developing these supplies. It is possible that alternative local projects needed to offset possible reduced exports could have greater adverse environmental impacts than continuing the current level of exports. The Draft EIR must perform a thoughtful and defensible analysis of these possible environmental impacts to ensure that the proposed project is the environmentally superior alternative for the environment and the people of California.

- One-Year Transfers: Under California law, one-year transfers of water meeting certain specified requirements are not subject to the California Environmental Quality Act (CEQA). The Council has taken steps to exclude certain CEQA exceptions from its covered action review process, but in the case of one-year transfers, that exception will expire on January 1, 2015, unless the Council acts to extend the exemption prior to that date. One-year transfers are a critical tool for meeting the District's 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. One-year transfers are exempt from CEQA because the state legislature has made the determination that the impacts from one-year transfers on the environment would be minimal and thus no CEQA review would be required prior to their implementation. Accordingly, the Council should continue to exempt one-year transfers from its covered action review process. If the Delta Plan is not revised to eliminate the 2015 expiration, then the EIR should evaluate the impact to water agencies of reduced access to one-year transfers.
- 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. Recent Council member public statements have emphasized the statutory role of BDCP, but we are concerned that the current procedures listed in the 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 soon. 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.

We appreciate the Council's efforts to craft a plan to improve California's water supply reliability and restore the Delta's ecosystem. The plan has the potential to provide guidance for the Delta's many stakeholders to cooperatively and constructively resolve California's water resource challenges, but additional work needs to be done to resolve these issues and to ensure that a defensible environmental analysis is performed.

Sincerely,



Jim Fiedler
Chief Operating Officer
Water Utility Enterprise

cc: Cindy Messer, Delta Plan Program Manager
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