



LOIS M. SAHYOUN  
Clerk of the Board

## BOARD OF SUPERVISORS

44 N. SAN JOAQUIN STREET, SUITE 627  
STOCKTON, CALIFORNIA 95202  
TELEPHONE: 209/468-3113  
FAX: 209/468-3694

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Phil Isenberg, Chairman  
Council Members  
P. Joseph Grindstaff, Executive Officer  
Delta Stewardship Council  
650 Capitol Mall, Fifth Floor  
Sacramento, CA 95814

By E-mail

### **Agricultural Comments on the Third Draft Delta Plan**

Dear Chairman Isenberg, Council Members, and Mr. Grindstaff:

On behalf of the residents of San Joaquin County and the San Joaquin County Board of Supervisors, we would like to thank you for the opportunity to submit the County's comments, specific to agriculture, on the Delta Stewardship Council's (DSC) Third Draft Delta Plan.

Agriculture is the dominant land use of the Delta, comprising three-quarters of the region's landscape. Because of the fertile peat soils and the moderating marine influence, Delta agriculture's per acre yields are almost 50% higher than the State's average. A preponderance of Delta agricultural land, approximately 75%, is classified as Prime Farmland. By comparison, only 18% of the State's agricultural land is classified as Prime Farmland. Approximately 87% of the existing land in the Primary Zone of the Delta is devoted to agriculture. Between 1998 - 2004, the average gross agricultural output from the six Delta Counties (Contra Costa, Sacramento, San Joaquin, Solano, Yolo) was calculated by the Department of Water Resources (DWR) to be approximately \$655 million. Using DWRs economic multiplier of 3, the economic impact of Delta's agriculture is \$1.96 billion.

In San Joaquin County, the Delta comprises approximately one-third of the County's total land. San Joaquin County makes up the largest portion of the total Delta's agricultural land base at 55%. Sacramento County follows with 20%. Solano and Yolo Counties contribute 8-10%, respectively, and Contra Costa County rounds out the Delta agricultural land base at 7%. There are 234,775 acres of crop land in San Joaquin County's Delta, and more than 70 different plant and animal products are produced in the County. San Joaquin County's Delta agriculture contributes \$1.36 billion to the regional and state economy, using DWRs economic multiplier.

San Joaquin County is the seventh largest agricultural county in the State, and the seventh largest in the nation. As a result, agriculture is a major factor in San Joaquin County's economy and way of life. Therefore, how the Delta Plan would potentially impact the County's agricultural industry is of vital importance to the County.

Following are comments, questions, and recommendations on the Third Draft Delta, specific to agriculture.

**1) Water Rights and Contracts, Page 11, Lines 23-25**

The statement; “Water rights decisions or water contracts that directly or indirectly impact the Delta are made without consideration of the coequal goals” is too broad and should be either narrowed or deleted. Most of California’s major watersheds, at least indirectly, impact the Delta. A person’s or entity’s water rights should not be subject to the DSC’s coequal goals. Rather, the co-equal goals should be required to harmonize with existing water rights.

**2) Conversion of the Delta’s Agroecosystem to Estuary Ecosystems, Page 12, Lines 19 – 2**

“Large areas of the Delta have been restored in support of a healthy estuary. A diverse mosaic of 20 interconnected habitats— areas of open water, tidal marshes, floodplains, riparian, and upland 21 areas—is re-established within the Delta and its watershed.” A “large area” of the Delta is envisioned to be converted to estuaries. How will this conversion occur? To gain an understanding of the scope of the Delta Plan’s goal of converting the agroecosystem to an estuary ecosystem, more specifics must be provided.

**3) Adaptive Management Planning, Chapter 2**

Because agriculture production is typically a long term investment for farmers, to the extent possible, farmers require a degree of certainty and predictability. If the ecosystem and water management rules for agriculture are continually changing through an adaptive management process, how can farmers plan for the future? When investing into crops that may not give a return for four or five years, it is difficult enough forecasting markets and weather conditions. Throwing into this mix changing ecosystem and water management requirements, it may become too difficult for farmers to survive. Farmers may not have the resources or technical ability to readily adapt to the DSC’s adaptive management practices. To the extent possible, farmers require an environment that is stable and predictable when making long term investments. Adaptive management planning has the potential of creating an environment that is inconsistent with the Plan’s mandate to achieve the coequal goals “in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place.”

**4) Analyze, Synthesize, and Evaluate, Page 25**

During the evaluation phase of the adaptive management process, there is no analysis or consideration of how a program or project impacted other land uses or industries such as agriculture. A thorough analysis of project or program impacts on surrounding land uses and/or unintended consequences should be fully evaluated, and part of the report presented to the DSC.

**5) Best Available Science, Page 27, Line 10**

The use of “best available science” when making decisions can lead to unintended results if the science is unsound. Using poorly developed or untested science, even though it is the “best available,” can lead to disastrous decisions. When evaluating the science, careful consideration should be given regarding whether it is adequate and appropriate to use in the situation under consideration. At times, delaying decisions to wait for improved scientific understanding is not only appropriate, but also critical to the success of the project.

**6) Eminent Domain, Page 36**

“Delta Plan policy is not intended and shall not be construed as authorizing the Council or any entity acting pursuant to this section to exercise their power in a manner which will take or damage private property for public use without the payment of just compensation.” This statement sounds like eminent domain. Ecosystem restoration should not be done through eminent domain. There are voluntary methods that are effective.

**7) Covered Actions, Page 37, Lines 8 – 10**

It appears that normal agricultural practices such as cultivating, irrigating, spraying, and crop rotation are not “covered actions.” However, the definition of covered actions is somewhat unclear regarding this matter and, over time, different interpretations of “covered actions” may prevail. As stated; “the Delta Plan may exclude specified actions; therefore, those actions would not be covered by one or more provisions of the Delta Plan.” It is recommended, for purpose of clarity, that a statement be added into the Delta Plan excluding normal farming practices and changes in cropping patterns from the provisions of the Plan.

**8) Flow Objectives, Page 50, Line 13-14**

It is recommended that the following statement be added regarding flow objectives (underlined): “By June 2, 2014, adopt and implement flow objectives for the Delta that are necessary to achieve the coequal goals in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place.” The coequal goals (reliable water supply and ecosystem restoration) should not be the only criteria used to determine flow objectives. The needs of agriculture, recreation, and people should also be considered when determining flow objectives.

**9) ER R2 “As part of its Strategic Plan, the Delta Conservancy should:”**

It is recommended that the following bullet point be added to this section: “Mitigate impacts to existing land uses.”

**10) FP R7 User Fees/Stressors Fees to support the coequal goals and the Delta Plan**

“The Legislature should grant the Council the authority to develop reasonable fees for beneficiary, and reasonable fees for those who stress the Delta ecosystem ....” Many times throughout the document, the Delta Plan concludes that agriculture and agricultural activities stress the Delta’s natural ecosystems. Consequently, it is reasonable to assume that one of the “stressors” that will be assessed a fee is agriculture. How will this stressor fee be assessed? Will it take the form of a farming fee? Irrigation fee? Pesticide application fee? Fertilizer fee? All the above? Moreover, the program that the Delta Plan uses as an example of a stressor fee structure is the Bay Delta stamp for fishing licenses (the use of this stamp has been discontinued). Possession of this stamp was required when fishing in the Delta or any of its tributaries. Therefore, persons fishing on the Lower Sacramento River in Redding were required to possess the Bay Delta stamp even though they were hundreds of miles away from the Delta. If this is the example, does the Delta Plan intend on assessing a stressor fee on farmers throughout the Central Valley? Will farmers now have to obtain a permit and pay a fee to farm? Farmers should not shoulder the financial burden for ecosystem restoration in the Delta.

In conclusion, the County’ concerns with the Delta Plan are not only what it contains but also what it does not address. The Plan sometimes reads more like a textbook than a plan. The Plan is robust in generalities and concepts and seriously lacks in specifics. The 600 pound gorilla in the room, agriculture, is virtually ignored in the Plan. As far as agriculture is concerned, the Plan raises more questions than answers.

One of the coequal goals is ecosystem restoration. However, the Plan actually is about ecosystem conversion. An example of ecosystem restoration is East Bay Municipal Utility District's (EBMUD) recent restoration efforts on the Mokelumne River. In the Mokelumne River restoration project, EBMUD improved spawning beds in the river; improved water quality releases from Comanche Dam; cleaned debris from the river, and established measures to protect stream banks. The key is that there existed an established riparian ecosystem that was in disrepair and then restored to a healthier riparian ecosystem. The restoration model outlined in the Delta Plan is much different. Presently, the overwhelmingly predominant ecosystem type in the Delta is the agroecosystem. The Plan proposes to convert (the Plan says "restore") an undetermined "large" amount of the existing agroecosystem to estuary, wetland, and riparian ecosystems. The conversion of the Delta's agroecosystem to other ecosystem types has huge ramifications for Delta's agricultural future that are not addressed in the Plan. Some of the major issues not addressed are as follows:

- The plan states that a "large" amount of the Delta will be converted to natural ecosystems. How much agricultural land does the Plan intend to convert to estuaries, wetlands, and riparian ecosystems? The plan needs to clearly communicate how much and where these conversions are considered before an adequate response to the Plan can be given by agricultural interests.
- How and where will the land be obtained for ecosystem conversion? To convert a large amount of land to natural ecosystems in the Delta will require a large amount of agricultural land. What will be the process of obtaining agricultural land for ecosystem conversion. Will the land be obtained through easements, fee title purchases, eminent domain, or all of these methods? If multiple methods are used, what percentages are planned for each acquisition method? The Delta Plan must outline an acquisition process and plan for ecosystem land acquisition for natural ecosystems. Furthermore, the plan must delineate where in the Delta these acquisitions are envisioned.
- How will agricultural lands located next to the newly developed ecosystems be protected from possible negative impacts caused by the ecosystems? For example, natural lands could harbor pests and diseases that are harmful to neighboring crops. Endangered species on adjacent habitats could alter farming practices. Ecosystem requirements may prohibit certain farming practices that are necessary for cost effective food production. Salt intrusion from newly created salt marshes may damage crops in adjacent agricultural land. How will conflicts between farming practices and the "ecosystem" be assessed, evaluated, and resolved? The Plan should provide some assurances and protections for agricultural lands next to newly developed ecosystems "in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place."
- The Delta Plan assures water quantity and quality standards for ecosystems but will the standards be managed at the expense of agriculture? Will the Plan's water quality standards consider the requirements for agriculture as well as ecosystems? Will the Plan maintain agriculture's water needs or will they be sacrificed to benefit ecosystem restoration? Does the plan intend to honor existing water rights? How does the plan intend to manage the Delta's water "in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place."

- How will the plan help protect the long term viability of agriculture in the Delta? The Plan's regulations, restrictions, and policies could ultimately increase the cost of farming in the Delta to the degree of making Delta farming unviable. Additionally, a heavy regulated farming environment in the Delta will ultimately lower farm property values because of the risks involved in investing into farms where the return on the investment may not overcome the regulatory costs; especially when the regulatory cost may change over time in an adaptive management environment.

*Some of the needs of Delta agriculture include:*

Water Quality - Two water quality needs are: (1) to maintain sufficient flows to prevent seawater from intruding into the agricultural areas of the Delta that rely on fresh water for irrigation; and, (2) sufficient flows in the San Joaquin, coupled with reduced pumping at the state and federal water projects, to improve irrigation water quality in the South Delta.

Levees, Channel Capacity, Dredging - Levees, channel capacity and dredging are top priorities. Large contributions made by Delta growers, individually and through their reclamation districts, include levee monitoring, improvements and maintenance. However, this local investment is clearly not enough and a significant and sustained State and Federal investment is needed.

Incompatible Non-agricultural Uses - Urban sprawl in the Secondary Zone and development of wetland habitat and other wildlife areas impact agriculture's ability to remain viable. Regarding wildlife and wetland uses in the Delta, adequate buffer lands between agricultural and wildlife areas are needed to mitigate depredation, seepage, and pest and weed problems. Buffers are also important for allowing farmers to conduct normal farming operations, such as spraying, without infringement. An additional need is regulatory assurance for neighboring agricultural landowners in the event that listed species migrate onto their farms and ranches.

Critical Mass - The loss of agricultural services and service providers from the Delta threatens agricultural sustainability. Such services include transportation, processing, and agricultural suppliers. Related to the critical mass question is the loss of agricultural land to non-agricultural public acquisitions.

Certainty - A fundamental need of Delta agriculture is increased certainty about the Delta's future with respect to conveyance, in-Delta flows, water quality, land ownership, and levees. Without certainty in these areas, agriculture's long term investment in the Delta is threatened

Thank you for your attention and consideration on this critical matter for San Joaquin County. If you have any questions regarding this matter, please contact Scott Hudson, Agricultural Commissioner at (209) 463-6007.

Sincerely,



Frank L. Ruhstaller, Chairman  
Board of Supervisors  
San Joaquin County

FLR:SH:ER

c: San Joaquin County State Delegation  
Paul Yoder, State Advocate  
Karen Lange, State Advocate  
Mark Limbaugh, Federal Advocate  
Roger Gwinn, Federal Advocate  
Delta Counties Coalition  
Manuel Lopez, SJC County Administrator  
David Wooten, SJC County Counsel  
Tom Gau, SJC Public Works Department  
Kerry Sullivan, SJC Community Development Department  
Scott Hudson, SJC Agricultural Commissioner  
Ron Baldwin, SJC Office of Emergency Services

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