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Ms. Terry Macaulay, Deputy Executive Officer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

RE: Notice of Preparation for the Delta Plan Environmental Impact Report

Dear Ms. Macaulay:

The County of Solano (County) has reviewed the Notice of Preparation (NOP) for the Delta Plan Environmental Impact Report (EIR) issued by the Delta Stewardship Council on December 10, 2010. Under the California Environmental Quality Act (CEQA), the County is a "responsible agency" in that the County may have permitting or approval authority of certain aspects of the project. In response to the NOP, the County submits the following comments for consideration in preparation of the EIR for the Delta Plan.

Summary of Solano County Concerns/Priorities for the Delta

Solano County has a major stake in the Delta planning efforts. The Suisun Marsh and large portions of Cache Slough are within the County's boundaries. Recognizing the magnitude of impacts the Delta efforts may have on the County, including the myriad of State and Federal Delta initiatives currently underway, Solano County has developed the following summary of key concerns and priorities that guide the County's comments on this NOP and other Delta projects.

- **Economic impacts of land conversions**—Creation of new habitat lands could have local adverse economic impacts such as lost property taxes and assessments, third party impacts and direct costs (such as law enforcement and rescue) and potentially irreversible economic impacts to the small agricultural communities that are dependent on agriculture as their life blood for existence. To mitigate these impacts, the following actions should be considered:
 - Support for economic mitigation
 - Adequate funding to ensure the economic sustainability of Delta communities
 - Payment for third party impacts
 - In-lieu of payments for property tax revenues lost as a result of conversion of productive private lands to public ownership
 - Full mitigation for the loss of agricultural land that will be taken out of production
 - Fiscal support to manage impacts of habitat restoration over the long term.

Urban and Ag Runoff/Discharges—The establishment of habitat projects in Restoration Opportunity Areas is expected to result in increased fish populations, many of which will be Endangered Species Act/California Endangered Species Act (ESA/CESA) listed. This may result in increased regulation of

runoff and discharge from areas that drain into Restoration Opportunity Areas (ROA's). This is a substantial part of Solano, Yolo and Colusa counties. Legal/legislative relief will be necessary to ensure that agricultural and water operations are not impeded.

Endangered Species Act—Agricultural diversions in the ROA's could be required to modify operations, be screened or consolidated due to concern of their impact to endangered species, at great expense to the diverters who are mostly private landowners (with some public agencies). To address these impacts, the following actions should be considered:

- Obtain coverage for incidental harm to aquatic endangered species for individual agricultural water diverters in the Cache Slough area in the Bay Delta Conservation Plan.
- Provide funding for fish screens on agricultural diversions if required.

Levee Maintenance--Provide funding for levee maintenance and improvements in the short and long term (based on the use of broad based fees).

Local Government Impacts--Ensure the flood control system is not compromised by the Federal government to facilitate conveyance or habitat development and recognize that some of these efforts will impose potential hefty regulatory impacts on local government that should be mitigated in coordination with the local government.

Ensure that local government resources are protected.

Local governments need to be held harmless with good neighbor agreements.

Delta Counties and local special districts should not be the sacrificial lamb for the State—Delta Counties (including communities) need to be protected from further loss.

In the context of the above broad concerns and priorities from Solano County and our review of the draft NOP, there is not much assurance, based on the current Plan outline, that the Delta Plan recognizes that counties have a significant stake in this process or that the impacts on counties and local communities are fully understood. If this remains true as the scope of the project is refined, it would be a glaring omission and would reinforce concerns about the commitment to achieve the broad objectives of the Delta Plan and to take into consideration key stakeholder concerns. A section in the plan should be dedicated to a discussion of impacts on counties and local communities with clarification of governance roles and responsibilities relative to the Delta Plan. Specific procedures should be established for criterion of new habitat areas. It should articulate a systematic decision-making process that provides for substantive County input early in the planning process through project implementation for habitat areas. This process should be followed for every habitat project proposal. Clear evaluative parameters should be established considering such factors as those noted above in the listing of Solano County Concerns/Priorities. The Plan should address governance issues, and the EIR should evaluate the environmental ramifications since the governance issue is so critical to actually implementing necessary mitigation measures. Economic ramifications must also be considered in the context of realistically evaluating if the full range of environmental mitigations is truly achievable. Reimbursement to local government must be considered for costs of implementation of these programs. Solano County will submit further comments as the plan is developed that further articulate how County specific issues can be addressed in the Delta Plan.

One final general comment pertains to how significance thresholds are established for the impacts evaluated in the EIR. Solano County's concern is that the project mitigations that help the project meet its objectives do not obviate further evaluation of the impacts of the mitigation measures themselves. Thus, there needs to be a depth of analysis that considers

how to mitigate the impact of mitigation. This is a bit unusual, but quite germane to the complexity of the Delta projects and the many potential competing objectives.

Section Specific NOP Comments

1. PROJECT DESCRIPTION

The NOP provides a very limited description of the project.¹ The NOP describes the project objectives and that it will be prepared in accordance with the requirements of Part 4 of the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act). The primary purpose of the Delta Plan as defined in the Delta Reform Act is to meet the co-equal goal, subgoals, and policy objectives as defined in the Act as follows:

1. “Coequal goals” means the two goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, and agricultural values of the Delta as an evolving place.
2. The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta:
 - a. Manage the Delta’s water and environmental resources and the water resources of the state over the long term.
 - b. Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.
 - c. Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.
 - d. Promote statewide water conservation, water use efficiency, and sustainable water use.
 - e. Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.
 - f. Improve the water conveyance system and expand statewide water storage.
 - g. Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.
 - h. Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

The NOP describes a “Preliminary Proposed Project and Potential Alternatives.” It describes requirements that the Delta Plan must address and the topical areas of the proposed plan including provisions to address:

¹ Arguably too limited per CEQA Guidelines section 15082 (providing that the NOP must contain “sufficient information describing the project”).

Water Resources Improvements
Restore Delta Ecosystem
Protect and Enhance the Delta as an Evolving Place
Improved Water Quality
Reduce Risks to People, Property, and State Interests
Establish Governance and Financing Plans

Under each of these topics, the NOP lists Delta Reform Act requirements and potential implementation strategies that the Delta Plan could include but not be limited to. However, at this point in time, there is no clear project description or description of the alternatives that will be evaluated since a draft plan has not yet been prepared. Consequently, these comments address the broad aspects of the project as it is understood today. As provided under CEQA Guidelines section 15124, the Draft EIR should have a clear and full project description clearly identifying the preferred project. As the Delta Plan project description is further developed and refined, we believe it will be essential for the Stewardship Council to accept further comments on the scope of environmental evaluation given the that new issues may become more apparent as the project description is further developed.

2. SIGNIFICANT ENVIRONMENTAL EFFECTS THAT MUST BE ADDRESSED IN THE EIR

The following describe potential environmental effects within Solano County that can be anticipated based on the Delta Plan outline.

A. Solano County General Plan

Solano County seeks to balance human and environmental needs in support of its diverse land uses that include farmlands and approximately 80 square miles of water. The citizens of Solano County made a very public commitment to protecting the environment over 25 years ago with Proposition A and the Orderly Growth Initiative. This commitment has continued and is most recently reflected in the 2008 Solano County General Plan. Many of the Delta Plan proposals will impact the County's ability to sustain these environmental objectives. As required under CEQA Guidelines section 15125, the EIR must review the project for consistency with the 2008 Solano County General Plan, in particular the County's land use policies; agricultural policies; resource policies including biological resources, Marsh and Delta areas, scenic resources, cultural resources, recreational resources, water resources and quality; public health and safety policies including flood control, disaster preparedness, and climate change; economic development policies, transportation and circulation policies; and public facilities and services policies including water facilities and service, drainage, fire protection and emergency services, law enforcements, and utilities.

The Delta Plan should be consistent with the County General Plan policies and not result in any direct or indirect adverse environmental, economic or social impacts to the County. Such an analysis should be conducted for each county in the Delta Plan area. Any inconsistencies between the Delta Plan the General Plan must be fully discussed and analyzed.

B. Agriculture

The proposed conservation strategies and water conveyance improvements will have a direct impact on agricultural land within Solano County. Historically, agriculture has been important industry in Solano County and a central part of the County's identity. The County's agricultural economy contributes to the region's economic health and prosperity, defines much of the

County's visual character, supports wildlife habitats and migration corridors, and provides open space and recreational amenities.

Within the Delta area Solano County has maintained, supported and protected agricultural activities. Delta agriculture is an important component of the County's overall agricultural economy. General Plan polices supported by Proposition A and Orderly Growth Initiatives have protected Delta lands in agricultural and open space uses preventing the introduction of non-agricultural or conflicting land uses. The 2008 General Plan, in addition to continuing to protect the Delta area for agricultural use, has established programs to further promote and enhance agricultural activities in the Delta, including the development regional strategic plans to support marketing and branding of Solano County agricultural products from the Delta area.

Because of the importance of agriculture to Solano County within the Delta area, the following impacts should be thoroughly reviewed and analyzed in the EIR and be fully mitigated.

Impact: Direct loss of Agricultural Land in Solano County from conversion to habitat and construction of water conveyance facilities.

The Delta Plan proposes to include measures to restore habitat within the Delta and its watersheds and measures to promote a more reliable water supply. The impacts for these projects on Solano County agricultural land must be evaluated. For example, the BDCP has identified a general area around Cache Slough of approximately 21,000 to 23,000 acres that may be considered for conversion to habitat. Of the approximately 23,000 acres identified in the BDCP, approximately 14,500 acres are currently in agricultural production and produce agricultural crops and commodities worth \$7.5 million. Lands within this conservation area that are not currently flooded consist of approximately 9,600 acres of "Prime Farmland and 3,100 acres of "Farmland of Statewide Importance" as identified under the California Department of Conservation Farmland Mapping and Monitoring program. One of the BDCP Conservation Strategies identified 5,000 to 10,000 acres to be converted from agriculture to tidal wetlands. An additional 8,000 acres may be converted under the U.S Fish & Wildlife Service (USFWS) Operation Criteria and Plan (OCAP) biological opinion. Various infrastructure improvements to provide a more reliable water supply are also anticipated to be a part the Delta Plan. The EIR must analyze and fully mitigate the impacts of habitat restoration measures and water conveyance facilities that will result in the conversion and loss of agricultural land in Solano County.

Mitigation measures must include the following:

- Permanent protection/preservation of like or better quality agricultural land for agricultural land converted based on a 1 to 1.5 ratio as identified in the 2008 Solano County General Plan.
- Priority for agricultural mitigation should be given to the Agricultural overlay areas as identified in the 2008 Solano County General Plan.
- Land acquisitions for habitat restoration must be from willing sellers only.
- A commitment by Federal and State agencies to formally consult with the County in the acquisition and planning process for the habitat areas.

Impact: Indirect loss of Agricultural Land

Habitat restoration activities will result in indirect impacts on adjoining and upland agricultural lands and must be analyzed in the EIR. This will include the loss of agricultural land that may not be converted to habitat within a habitat area to create but will be utilized as buffer areas between restored habitat areas and continued

agricultural operations other land uses. Standards should be established to provide adequate buffers for water quality and/or invasive species protection between habitat restoration areas and adjoining agricultural lands. All buffer areas should be incorporated as part of the habitat conservation area and maintained as part of the conservation area and in a fashion that does not further impact adjoining agricultural lands.

Mitigations measures must include the following:

- Permanent protection/preservation of like or better quality agricultural lands for agricultural land converted based on a 1 to 1.5 ratio as identified in the 2008 Solano County General Plan.
- Priority for agricultural mitigation should be given to the Agricultural overlay areas as identified in the 2008 Solano County General Plan.
- Land acquisitions must be from willing sellers only.

Impact: Restrictions on Adjoining Agricultural Practices

The establishment of habitat conservation and restoration areas will potentially impact adjoining agricultural operations and activities. Such impacts may include increased vector impacts, introduction of invasive species and agricultural pests; avian impacts on agricultural crops and operations; increased potential for take of listed species as a result of proximity to adjoining conservation habitat areas; and restrictions on pesticide/herbicide usage and discharge limits that are more restrictive than normal agricultural practices due to adjacent wetlands and aquatic habitat area protection requirements. These impacts may limit the types of crops, pesticide use and other agricultural practices and must be fully analyzed in the EIR.

Mitigation measures must include the following:

- Establishment of buffer areas incorporated into the project sufficient to avoid the need for additional restrictions on farm practices.
- Establish water quality objectives for any potential discharges that may impact buffer areas and designated areas and the State committing to taking responsibility for any increased regulatory requirements from upstream point and non-point discharges due to existence of new habitat areas.
- Establish "good neighbor" programs to deal with vectors, invasive species and agricultural pests to be incorporated and funded as part of conservation management plans.
- Full federal Endangered Species Act (ESA) and California Endangered Species Act (CEAS) protection for neighboring lands/landowners.

Impact: Loss of Lands under Williamson Act Contract

The EIR must analyze any potential loss of Williamson Act contracted land. For example, of the 23,000 acres of land identified for potential conversion in Solano County to wetland habitat in the Bay Delta Conservation Plan (BDCP), approximately 94% (21,554 acres) is under Williamson Act contract, of which 16,194 acres are classified as "prime" and 5,360 acres classified as "non-prime." The EIR must analyze how the implementation of the habitat restoration projects in Solano County will affect existing Williamson Act contracts. Much of the land in Suisun Marsh proposed for restoration under the BDCP is also under Williamson Act contract.

Mitigation measures must include the following:

- Mitigation for the loss of Williamson Act contracted land which should be higher than the loss on non-contract agricultural land.
- Alternatives to removing “prime” agricultural land.

Impact: Sustainable Agricultural Economy in Solano County

The EIR must also analyze the impact of the loss of agricultural land and agricultural production on the county's overall agricultural economy including direct, indirect and induced impacts. This includes the impact to agricultural support activities and industries from the loss of agricultural production to habitat conversion.

Mitigation measures must include the following:

- Payment for lost business opportunity and income payable to the County to administer programs to help mitigate third party impacts of conversion. Specific value of impact calculation to be determined by project specific economic analysis.
- Fund improvements to agricultural support facilities to maintain a sustainable agricultural infrastructure within the County.

C. Suisun Marsh

The Suisun Marsh is the largest brackish water marsh in the Western United States. It is comprised primarily of diked seasonal wetlands, managed primarily as habitat for waterfowl and is protected under the Suisun Marsh Protection Act of 1977. The Marsh salinity levels are required by the Water Rights Decision 1641 and maintained by Delta outflow, tidal flows, and the operation of the Suisun Marsh Salinity Control Gates. Alterations to through Delta conveyance could result in reduced freshwater inflow to the Suisun Marsh and increased salinity compromising existing water quality standards, seasonal wetland management practices, decreasing the life of Marsh management infrastructure, and reducing the diversity and quality of existing wetland and wildlife habitats.

The Suisun Marsh Habitat Restoration and Management Plan (and attendant PEIR/EIS) is analyzing three alternatives of potential restoration ranging from 3,000 up to 9,000 acres of brackish intertidal marsh which is now targeted under BDCP for possible restoration to address Delta needs. The Habitat Restoration Management Plan is designed to address the ongoing operation and maintenance needs within the Suisun Marsh area. The restoration of intertidal marsh would address impacts associated with the Management Plan and also contribute to the recovery of tidal marsh dependent sensitive species. Restoration projects in the Suisun Marsh that may be proposed as part of the Delta Plan must be coordinated closely with the Suisun Marsh Habitat Restoration and Management Plan process. The Delta Plan EIR must analyze the impacts of the Delta Plan implementation strategies on the Suisun Marsh.

The EIR must also analyze the impacts of the Delta Plan implementation strategies on the Montezuma Wetlands project, a dredging sediment re-use and wetland restoration facility located at the eastern edge of the Suisun Marsh near Collinsville.

Mitigation measures must include the following:

- Buffers incorporated into the project that are sufficient to avoid the need for additional restrictions on public agency and private activities on surrounding lands.

- Restoration activities in the Suisun Marsh under the Delta Plan must include consideration for activities and projects under the Suisun Marsh Habitat Restoration Management Plan.
- Measures to protect ongoing wetland restoration projects including the Montezuma Wetlands project.

D. Other Land Uses

Impact: Existing Recreational Uses

A number of recreation uses exist within Solano County in the Delta and Suisun Marsh areas. These include Solano County Sandy Beach Park along with hunting clubs, boating faculties, fishing access, public access and wildlife viewing areas which may be impacted for proposed Delta Plan strategies and measures. For example, increase frequency and duration of inundation in the Yolo Bypass, conversion of lands to tidal wetlands in the Cache Slough area, and intertidal habitat restoration within the Suisun Marsh may impact many of these recreational activities and facilities. Within the Cache Slough area, the loss from hunter's visits is estimated at approximately \$3.1 million annually just from this activity based on Solano County Water Agency report "The Economic Impact to Solano County from Converting Agricultural Land to Wetlands Habitat," January 2009. The EIR must fully analyze both the direct and indirect impacts of the Delta Plan on existing recreational uses.

Mitigation measures must include the following:

- Payment for lost business opportunity and income based on Solano County Water Agency report "The Economic Impact to Solano County from Converting Agricultural Land to Wetlands Habitat," January 2009. Compensate the County for costs incurred to administer programs to help mitigate third party impacts of conversion.

Impact: Future Recreational Uses

Habitat restoration may provide opportunities for new and expanded recreational activities within the project area. The County supports maximizing public recreational opportunities associated with habitat projects. These new or expanded uses should be identified and analyzed in the EIR and the impacts associated with these new uses fully mitigated. Impacts of new recreational uses on County services such as law enforcement, emergency services and roads are discussed under item J. below.

Impact: Rio Vista Airport

Any proposal to establish wetland habitat in the Egbert Island (Little Egbert Tract) area east of the Rio Vista Airport will increase avian activities east of the Rio Vista Airport. This may create potential conflicts with airport operations. The EIR must fully analyze the impacts of the Delta Plan on the Rio Vista Airport and airport operations.

E. Ecosystems

Impact: Fish and Terrestrial Species and Existing Wildlife Use

Increased frequency of flows through the Yolo Bypass and conversion of agricultural land for wetland restoration in both the Cache Slough and Suisun Marsh areas (such

as proposed in the BDCP) that may be included in the Delta Plan will impact existing wildlife communities and terrestrial species including special status species. The EIR must fully analyze these potential impacts. Impacts to existing wildlife communities and terrestrial species may also result from County and Special District public works projects necessary as a result of or necessary to service and support the habitat restoration and recreation projects. These must also be fully analyzed and mitigated.

The Solano County Water Agency (SCWA) is preparing a Habitat Conservation Plan (HCP) as required under the March 19, 1999 Solano Project Contract Renewal Biological Opinion between USFWS and Bureau of Reclamation. The HCP includes federally-listed fish species, species listed as threatened or endangered under the Federal and State Endangered Species Acts, and other species of concern that have been identified as having declining or vulnerable populations but not officially listed as threatened or endangered. The Delta Plan must be consistent with the Solano HCP. Any Delta Plan tidal habitat restoration projects should be credited towards the conservation goals of the Solano HCP.

Mitigation measures must include the following:

- Mitigation for loss of terrestrial habitat for special status species and other wildlife.
- Protection of existing high value habitat such as in the Yolo Wildlife Area and the Grizzly Island Wildlife Area Complex.
- Credits for the County and Special District to obtain mitigation of future impacts associated with County and Special District public works projects (e.g. roads, bridges, levee work) necessary to preserve Delta Plan habitat and recreation projects.

Impact: Adaptive Management

Habitat restoration projects may incorporate principals of adaptive management. If adaptive management strategies are incorporated in the Delta Plan, a responsible agency must be identified and provided with adequate perpetual funding for management, maintenance and monitoring of restoration areas. This should be done through an endowment. Adaptive management may also require future changes, unknown at this time to management practices and/or the need for identification of additional habitat areas which would be subject to additional environmental review.

Mitigation measures must include the following:

- Identification of a responsible entity for monitoring and adaptive management of habitat projects and associated lands.
- Endowment to provide perpetual funding for management, monitoring and maintenance.

F. Levees and Flood Control

Impact: Existing Levee System

Habitat restoration activities will have significant impacts on Delta and Suisun Marsh levee systems in Solano County. Maintaining the capacity and functionality of flood control systems surrounding and protecting the residents of Solano County is necessary for the protection of life and property. Changes in Yolo Bypass operations could affect existing flood capacity of the bypass and may impact downstream levees. Increased tidal action associated with

restoration may adversely affect levees in the Cache Slough complex and in the Suisun Marsh. The project may also increase potential flooding impacts to the City of Rio Vista. The physical impacts on existing levee systems must be fully analyzed in the EIR. If habitat restoration projects in the Delta Plan include the removal of primary levees, then potential impacts on secondary interior levees and surrounding lands that were previously protected from flood water by the levee systems must be evaluated and mitigated including the creation of new exterior levees or additional fortification of existing interior levee systems.

These physical impacts will also have impacts on the cost to local communities and Reclamation Districts to maintain and operate levee and flood protection systems. This directly correlates to the financial capability of local communities and Reclamation Districts, based on local tax and assessments, to fund the required work and to leverage State and Federal funds for operations, maintenance and improvements. The EIR must analyze and fully mitigate the increased costs for levee and flood control operations and maintenance as a result of the habitat restoration activities including long term funding for maintenance and improvements to the levee system.

Maintenance of levee systems is also impacted by endangered species issues which can limit and sometimes prohibit the maintaining entity from performing needed work in a cost-effective way. ESA take authority and reasonable "safe harbor" protections that apply to all parties' maintenance levee systems must be a part of the Delta Plan and be included in the mitigation measures.

In analyzing the project impacts to the Delta and Suisun Marsh levee systems, the analysis must consider the effect of climate change on the project. The most recent estimates of sea level rise as a result of climate change now show a 4-5 foot sea level rise. This will have significant impacts on the Delta and Suisun Marsh levee and flood protection systems and these must be fully analyzed in the EIR.

Small storage reservoirs, or "detention basins" strategically located throughout the County can help level off high stream flows during storm events to reduce flooding. An additional benefit of construction such facilities is the reduced storm flows that can overburden and overtop wastewater treatment plants, which impairs local water bodies and possibly contaminate drinking water sources and impact restoration projects. Some municipalities have built or are in the process of building these types of facilities. If the Delta Plan projects identify flooding impacts, consideration should be given to mitigating these impacts by funding local flood control projects.

Impact: New Levees

Habitat restoration may require the construction of new levees and flood control systems in addition to fortification of existing levees. The EIR must analyze the impacts of construction of new levee and flood control systems including impacts under the ESA, the cost of operating and maintaining these new facilities and identification of the responsible entity who will be responsible for operations and maintenance (O&M).

Impact: Emergency Response

In evaluating project impacts to the existing and new levee systems, consideration must be made to improving emergency response to flood threats and potential levee failures. The Army Corps of Engineers, State agencies, counties, local agencies and districts (including levee maintenance districts) through coordinated efforts, must maintain a robust command and control, maintenance, and repair capability including maintaining stockpiles of necessary supplies and equipment throughout the Delta to rapidly respond to flooding threats.

Mitigation measures must include the following:

- No adverse changes including increased costs for O&M and regulatory compliance to flood protection for surrounding areas.
- Recognition that the Yolo Bypass is primarily a flood control feature of the Sacramento Flood Control Project and that all other uses shall be compatible without hydraulic impact to the current and future needs of the Sacramento River Flood Control Project.
- Emergency Levee Response – develop and fund comprehensive program that includes regular training sessions followed with an evaluation process focused on continual improvement.

G. Water Quality

The changes in Delta operations that may be proposed in the Delta Plan including conveyance of water through, around or under the Delta and habitat restoration projects, including those proposed in the BDCP, will require the County to continue to receive a reliable water supply, both in terms of quantity and quality. The major cities in the County along with Napa County receive water from the State Water Project (SWP) through the North Bay Aqueduct (NBA). The pumping plant intake to the NBA is located in the Cache Slough area. Reclamation District 2068 and landowners also obtain water for agricultural operations within the Cache Slough area.

Impacts: Delta Water Quality

The creation of new freshwater tidal wetlands as part of habitat restoration projects may result in increased levels of methylation of mercury due to disturbance of subsurface material. More frequent inundation of the Yolo Bypass may exacerbate the methylation of mercury over current levels and increase the re-suspension and transport of some contaminants to downstream areas. The EIR must fully analyze project impacts that would increase levels of methylation of mercury and other contaminants and the impacts from the increase levels of methylation of mercury on fish and wildlife. This would require the establishment of baseline levels. The Delta Plan must make provisions to fully mitigate the impacts above baseline levels.

Through a general permit for waste discharge requirements for dredging projects within the Delta, the Central Valley Regional Water Quality Control Board Basin Plan and Water Quality Objectives (WQO) have set limits based on potential discharges to surface water for aquatic habitat and protection. In some cases the WQO for aquatic protection are lower than the drinking water standards or Maximum Contaminant Limits (MCLs). Removal of levees and creating wetland habitat on lands that were not historically required to have stringent restrictions to meet aquatic habitat WQO may cause additional water quality impacts to sensitive areas. In addition, lands that surround and drain into newly created restoration areas may be required to have more restrictive usage in order to prevent surface water discharge above the WQO.

Particular concerns include heavy metals (aluminum, arsenic, boron, chromium VI, copper, lead, manganese, mercury, and zinc); salt; nutrients (nitrate, phosphate, and ammonia); pesticides/herbicides (including bioaccumulative historically banned pesticides and herbicides that may still be in residual soils); petroleum hydrocarbons (oil, grease, and other hydrocarbons from pipelines, fuel tanks, and infrastructure); and increased turbidity, reduced dissolved oxygen and fecal coliform associated with agricultural practices and septic systems.

Independent peer review must be conducted on all environmental analysis involving mercury and other contaminants in the Delta and proposed restoration areas. All data used in the EIR analysis must be validated. A risk assessment should be performed to quantify the risk due to any variability of the data and any variability of the analysis. All possible adverse impacts must be identified. Appropriate financial assurances must also be identified to address any potential adverse impacts that must be mitigated after the project is constructed.

Creation of tidal wetland habitat in the Cache Slough area will increase organic carbon levels in the Slough. The NBA of the SWP Barker Slough Pumping Plant draws its water supply from Cache Slough. The NBA serves over 400,000 residents of Solano and Napa County. Increases in organic carbon will result in an increased cost of water treatment and may result in reduced use of the NBA if organic carbon levels increase to the point that the water supply is not treatable.

Mitigation measures must include the following:

- Mitigation for increased organic carbon at NBA and any areas or activities where total organic carbon may originate.
- No increase in heavy metals, pesticides, or other constituents of concern above the water quality objectives for aquatic habitat for areas within and surrounding the proposed restoration areas.
- Establishment of buffer zones surrounding the restoration areas to provide mitigation of surface water discharges prior to reaching the restoration areas from upland uses.
- Financial assurances to address any potential adverse impacts that must be mitigated after the project is constructed.

Impacts: Upstream Water Quality

Creation of new freshwater tidal wetlands and sub-tidal habitat in the Cache Slough area may lead to requirements to improve up stream water quality from agricultural and urban point and non-point discharges above normal requirements. This may include discharge requirements from upstream sewer treatment facilities and agricultural operations. The EIR needs to establish baseline levels and analyze these potential impacts and include mitigation measures to address and fund any improvements needed beyond baseline levels and normal requirements, or provide safe harbor agricultural and urban point and non-point discharges above normal requirements due to new freshwater tidal wetlands and sub-tidal habitat areas and meet more stringent guidance or WQO. Mitigations may include providing adaptive management tools, incentive programs and educational outreach for owners of agricultural areas that potentially discharge to the buffer zones and restoration areas to help assist in meeting WQO for discharge and reducing non-point source impacts. The project should not result in any changes to agriculture NDWA above normal requirements.

Mitigation measures must include the following:

- Projects shall not result in increased point and non-point discharge requirement for agricultural and urban activities.
- Safe Harbor for agricultural and urban point and non-point discharges so that local runoff is not required to be improved above normal requirements due to creation of new habitat areas.

Impacts: Increased Salinity

The changes in water conveyance and creation of habitat areas in the Cache Slough and Suisun Marsh will result in changes in salinity levels in the Delta and Suisun Marsh. Increased levels of salinity can impact drinking water, agricultural production and certain types of natural habitats. Certain County water users possess contractual protection of water at a specified quality. The EIR must fully analyze the potential impacts of increased salinity. Within the Suisun Marsh area, salinity standards exist to protect wetland and wildlife resources and beneficial uses of the Marsh.

With an increased tidal prism due to the creation of new tidal habitat, the EIR needs to analyze the change in salinity in the Cache Slough and Suisun Marsh areas and mitigate for the adverse impacts. It is likely that there will be a draw of more salt water during high tide. Changes in the Delta and Suisun Marsh salinity must account for global warming which will result in a sea level rise which will result in an increase in salinity intrusion. A global warming analysis must be included in the analysis of potential adverse impacts.

Mitigation measure must include the following:

- Mitigation for changes in salinity in the north Delta and Suisun Marsh.
- Protection of Suisun Marsh salinity standards to protect existing wetland and wildlife habitat and the beneficial uses.
- Financial Assurances for any potential corrective action to reduce salinity resulting from a post project condition. The financial assurances should cover the cost to construct desalination plants or water treatment facilities to restore the salinity in the Delta to the pre-project levels.

H. Water Intakes, Irrigation and Drainage Systems

Impacts: Impact of NBA, Reclamation District 2068, Private Water Intakes and Agricultural Irrigation and Drainage systems

Restoration in the Cache Slough complex may have adverse effects on operation of the NBA, Reclamation District 2068 and private agricultural water intakes related to entrainment of enhanced populations of covered species. Construction of habitat restoration projects could disrupt irrigation and drainage systems essential to agricultural production on land bisected by these projects. The EIR must fully analyze these impacts and provide mitigation measures that provide protections to enhanced populations of covered species, provide for the relocation of the NBA intake, and protect urban and agricultural water supplies.

Mitigation Measures must include the following:

- Provisions of an alternate intake for the North Bay Aqueduct.
- Full Federal and State Endangered Species Act protection for affected water diversions within the project regions, including funding for installation and operation of fish screens or other diversion modification requirements.

I. Water Rights

Impact: Water Rights and Area of Origin

A substantial portion of Solano County is within the Sacramento River watershed and within the legally defined Delta. The County has certain statutory, contractual and constitutional water rights including Area-of-Origin rights under Water Code Sections 10550 and the Watershed Protection Act (Water Code sections 11460 et seq.). The purchasers of lands within the County for habitat restoration purposes may seek to transfer water rights associated with these lands out of county. The project should not result in any infringement of, or change to, Area-of-Origin laws. The project should not impact the existing water rights priority system. The North Delta Water Agency contracts shall continue to be honored.

The EIR should also analyze extreme hydrological conditions, such as a dry season or series of dry seasons and how existing water rights in Solano County will be protected under these circumstances.

Mitigation measures must include the following:

- No out of county water transfers from converted lands.

J. County and District Services and Public Improvements

The following County and District service and public improvement impacts are the result of physical changes in the Delta that that could occur under the proposed Delta Plan and consequently must be analyzed in the EIR. Such impacts have environmental as well as economic implications.

Impact: Increased demand for public services and infrastructure improvements

The establishment of habitat conservation areas will provide new recreational opportunities with increased public access to areas of the county not previously accessible to the public. This will increase demand for local public services including fire protection, law enforcement, emergency and rescue services, and mosquito control. The construction of new habitat restoration areas may require new, relocated or improved road facilities, water conveyance and irrigation facilities, drainage facilities, and flood control facilities resulting in increased operations, maintenance, improvement costs to the County and local agencies. These costs should be thoroughly analyzed in the environmental document and fully mitigated.

Mitigation measures must include the following:

- Reimbursement for increased costs of County and Districts' public services including but not limited to law enforcement, fire, rescue, mosquito control, roads maintenance, drainage, and flood protection.
- Reimbursement for increased infrastructure improvement cost of County and Districts, including but not limited to road construction, road drainage and levee and flood control improvements.
- Opportunity for the County to obtain mitigation of future impacts associated with County and District public works projects as part of habitat projects.
- For all activities that require funding, such funding must be guaranteed to Solano County in perpetuity and allocated outside the state's budget process.

K. County and Districts Revenues

The following County and district revenue issues are significant and relate directly to ability of the County and districts to provide continued services to protect the public health and safety as a result of physical changes in the Delta under the proposed Delta Plan. Consequently these issues must be analyzed in the EIR. (Furthermore Section 15131 of the CEQA guidelines allow for economic and social information, even absent any environmental effect, to be included)

Impact: Loss of County and District revenues

The conversion of large tracks of private land from agriculture to permanent habitat under State or Federal ownership resulting in the loss of local property tax and assessments will significantly impact the ability of the County and local agencies to continue to provide necessary public services. This impact is particularly significant given the current economic downturn with declining property values and increased demands for local social and other services. This impact not only affects the County but also local school and Special Districts such as Fire Protection Districts, Reclamation Districts, Suisun Resource Conservation District and the Solano County Mosquito Abatement District, levee districts, and water districts in the area. Fiscal impacts to the County and local agencies should be carefully identified, thoroughly analyzed in the environmental document and fully mitigated.

Mitigation measures must include the following:

- Payment in-lieu of property tax for lands changing from private to public ownership guaranteed to Solano County and applicable Special Districts in perpetuity and allocated outside the State's budget process.
- Continued payment of Special District assessments and fees guaranteed to Special Districts in perpetuity and allocated outside the State's budget process.
- All activities that require funding, such funding must be guaranteed to Solano County in perpetuity and allocated outside the state's budget process.

L. Transportation and Utility Corridors

Impact: Transportation Corridors

Roads, highways, railways and shipping channels are essential to inter-County mobility, public safety, a healthy business climate, recreation, and agricultural vitality throughout the County. Highway 12, Highway 113, Interstate 80 and the Sacramento Shipping Channel are key routes within and adjacent to the Delta which serve Solano and Yolo Counties. They are important for not only economic and emergency preparedness, but also key in providing service to Travis Air Force Base. Wetland restoration may also impact local county roads. Impacts could include loss for roads due to restoration projects, impacts on roads from construction and increase traffic for new recreational uses. The EIR should analyze the impacts of the project on the major transportation corridors and local roads.

Mitigation measures must include the following:

- Protect Delta transportation corridors like Highway 12 and Highway 84. Determine funding for protection from levee breaks.
- Fully mitigate impacts to local county roads including, but not limited to, costs associated with re-routing and wear/tear impacts from construction traffic associated with habitat projects

Impact: Utility Corridors.

The proposed east water conveyance alternative would impact a number of utility corridors including both above ground transmission facilities as well as below ground pipelines. The creation of new habitat areas may also impact existing utilities. The EIR should identify and fully analyze the impacts of the project on existing and future utility corridors.

M. Other Issues

Impact: Ongoing Project Oversight

For successful implementation of the Delta Plan and EIR mitigation measures, a stakeholders group must be formed that will have oversight of the project implementation including evaluating the success of the restoration projects and implementation of adaptive management measures. This group must include local representatives including a representative from Solano County.

3. PROJECT ALTERNATIVES

The NOP does not provide a description of the proposed alternatives for analysis in the EIR. Rather, the NOP describes broad concepts for implementation strategies that could be considered in the development of alternatives. Since a description of the alternatives is not available for review and comment as part of this NOP, agencies identified in the NOP should be given the opportunity to review and comment on the proposed alternatives to be analyzed prior to their inclusion in the EIR.

4. FUTURE IMPACTS NOT PREVIOUSLY ANALYZED

Depending on future changes to the project to meet management goals and to the extent these future actions have not been analyzed in this environmental document, future environmental review would be required.

We wish to thank you for the opportunity to comment on the NOP for the Delta Plan. If you have questions concerning our comments on the NOP, please contact Kathy Barnes-Jones at (707) 784-7914 or at krbarnes-jones@solanocounty.com.

Sincerely,



Bill F. Emlen
Director of Resource Management

cc: President pro Tempore Darrell Steinberg
Senator Mark DeSaulnier
Senator Noreen Evans
Senator Lois Wolk
Assembly Member Michael Allen
Assembly Member Susan Bonilla
Assembly Member Roger Dickinson
Assembly Member Cathleen Galgiani

Assembly Member Jim Nielsen
Assembly Member Nancy Skinner
Assembly Member Mariko Yamada
Solano County Board of Supervisors
Board of Supervisors of Contra Costa, Sacramento, San Joaquin, and Yolo Counties
Jan Vick, Mayor of Rio Vista
David Okita, General Manager, Solano County Water Agency
Mike Hardesty, General Manager, Reclamation District 2068
Steve Chappell, Executive Director, Suisun Resource Conservation District
Birgitta Corsello, Assistant County Administrator
Jim Allan, Agricultural Commission/Sealer of Weights and Measures