

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 2 – Science and Adaptive Management for a Changing Delta**

Comment Themes or Recommendations	Comments
<p>To make the description of adaptive management more realistic, emphasize the identification of barriers to implementing adaptive management and how these barriers can be overcome. For example, an analysis of lessons learned from CALFED sponsored ecosystem restoration adaptive management could be used to illustrate potential barriers to adaptive management.</p>	<p><b>California Department of Water Resources:</b> Page 37, lines 13 - 41                      The description of the Adaptive Management example is well done; however, eventually this will need to be correlated to BDCP's logic chain. The Department is acutely aware of the difficulties associated with actually carrying out Adaptive Management for projects. The Department believes it is best to keep the process as simple and straightforward as possible. The level of effort of the Adaptive Management should be commensurate with the size and complexity of the project.</p> <p><b>California Department of Water Resources:</b> Page 38, line 1 - 14                      The Nine-Step Adaptive Management Framework could extend project timelines and increase the cost significantly. The Adaptive Management Framework should be applied to appropriate projects commensurate with project size and complexity. The Delta Plan should simplify or eliminate the Adaptive Management Framework for simpler covered actions such as levee improvement projects and small habitat enhancement projects. Consider establishing a fast-track or a time limit on the process.</p> <p><b>California State Senator Lois Wolk:</b> The Delta Plan describes the concept of adaptive management, but is not clear about how the concept will be applied to implement the Delta Plan. [...] [T]he lack of a clear adaptive management process leaves significant doubt about the Council's ability to monitor or adapt the BDCP and covered actions on an on-going basis.</p> <p><b>Delta Caucus:</b> The Council should provide for specific policies that address what is a reasonable amount of time to conduct and adaptively manage changes in science, and public review.</p> <p><b>Delta independent Science Board:</b> This chapter provides an excellent description of adaptive management (AM) and best available science. It is an effective synthesis of the existing literature presented in a manner that is instructive. The description, however, is entirely in the abstract.                      To make the description more realistic, the DISB recommends that considerable emphasis be placed on the identification of barriers to implementing AM and how these barriers can be overcome. While the DISB discouraged the use of examples from the Delta to illustrate AM, it recommends their use to illustrate the difficulties of carrying out an AM approach. The chapter would benefit, for example, from an analysis of how AM played out in CALFED sponsored ecosystem restoration.</p> <p><b>Delta Wetlands Project:</b> The discussion of best available science and adaptive management included in Chapter 2 provides a conceptual framework that makes a lot of sense for large scale resource management projects such as the Delta Plan and BDCP. The examples cited in Chapter 2 are similarly large programs, with many parts and projects that interact in complex ways. Application of these concepts on a project level, however, will not always make sense because of how specific projects are developed and financed. Further, the environmental regulatory approvals for a project may constrain the range of potential adaptive management.</p> <p><b>Delta Wetlands Project:</b> The discussion on page 39 of the Fifth Staff Draft acknowledges the need for a tailored application of adaptive management to specific projects. We recommend that the discussion be expanded to acknowledge that some project features may be fixed by regulation, permit or financing and are not adaptable:  <u>"Ecosystem restoration and water management covered actions should include an adaptive management plan that considers all nine steps of this framework appropriate to the scope, purpose, regulatory terms and conditions, and financing of the covered action. Some covered actions will have limited scope and adaptive management will take the form of subsequent projects rather than alterations to the covered action. Most covered actions will have some adaptive elements and some will include extensive adaptive management elements. Therefore, adaptive management, when applied at the project level, however, they need not be rigidly included and implemented in the order described here. The intent is to build logical and transparent information flows and decision points into management actions that increase management options and improve outcomes, not to add a new layer of rigid processes and bureaucracy."</u></p> <p><b>Regional Council of Rural Counties:</b> Page 37, lines 12-41                      RCRC appreciates that the requirement for a formal adaptive management strategy is now limited to ecosystem restoration and water management covered actions. However, [...] RCRC believes that there should be some consideration given to the scale and type of such projects.</p> <p><b>State and Federal Contractors Water Agency:</b> The Delta Plan lays out a very detailed structure for adaptive management encompassing three phases and nine distinct steps. A more generalized framework that provides overarching guidelines and flexibility to adapt to unique situations might be more appropriate. Furthermore, there is excess information on the specific phases/steps in this Chapter that is academic and background information that could easily be moved to an appendix. The level of specificity of the Delta Plan Adaptive Management framework may not be suitable for all Covered Activities. And this is a very science/research oriented structure which assumes continuous monitoring and evaluation feedback. The nature of some Covered Activities may be of limited scope or duration and thus not suited for an Adaptive Management process at all.</p> <p><b>State and Federal Contractors Water Agency:</b> Page 37, lines 36-38 of the Delta Plan state "The Council requires that the nine-step adaptive management framework be used for proposed covered actions involving ecosystem restoration and water management." The Delta Plan further states on page 38, lines 10-11, "The Council will use the nine-step adaptive management framework in Figure 2-1 to evaluate the use of adaptive management for proposed covered actions for ecosystem restoration and water management." Somewhat contradictory text is contained on page 39, lines 1-5, "Ecosystem restoration and water management covered actions should include an adaptive management plan that considers all nine steps of this framework; however, they need not be rigidly included and implemented in the order described here. The intent is to build logical and transparent information exchange and decision points into management actions that increase management options and improve outcomes, not to add a new layer of inflexible processes and bureaucracy." The later text provides hope that the DSC will recognize that adaptive management programs should be designed to reflect the specific needs and nature of various projects. However, the overall</p>

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	<p>impression of this chapter is that the Delta Plan and DSC have very specific expectation of what constitutes acceptable adaptive management and that all covered actions will be required to demonstrate compliance with this framework—regardless of whether it is appropriate for any specific actions.</p> <p><b>The Nature Conservancy:</b> The Delta Plan should evaluate lessons learned from CALFED, and consider the voluminous literature addressing the science/policy interface in relation to other complex and contentious environmental settings such as radioactive waste, pollutant and toxin regulation, fisheries management, clean air regulations, and clean water regulations.</p>
<p>Several recommendations were made relevant to items that either need to be more explicitly stated as part of the Delta Science Plan or items that the commenter would like to see included in the Delta Science Plan.</p>	<p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The aims of adaptive management often conflict with institutional and political preferences. This is especially important, given the lack of definition of water supply reliability and ecosystem restoration in the Delta Plan and the inherent contradiction between restoration of the estuary and requirements in the BDCP Planning Agreement that provide assurances that no additional restrictions on the use of land, water, or financial resources beyond agreed-on amounts will be required..</p> <p><b>Delta Caucus:</b> The Council should provide for specific policies that address what is a reasonable amount of time to conduct and adaptively manage changes in science, and public review.</p> <p><b>Delta Wetlands Project:</b> The discussion on page 39 of the Fifth Staff Draft acknowledges the need for a tailored application of adaptive management to specific projects. We recommend that the discussion be expanded to acknowledge that some project features may be fixed by regulation, permit or financing and are not adaptable:  <u>"Ecosystem restoration and water management covered actions should include an adaptive management plan that considers all nine steps of this framework appropriate to the scope, purpose, regulatory terms and conditions, and financing of the covered action. Some covered actions will have limited scope and adaptive management will take the form of subsequent projects rather than alterations to the covered action. Most covered actions will have some adaptive elements and some will include extensive adaptive management elements. Therefore, adaptive management, when applied at the project level, however, they</u> need not be rigidly included and implemented in the order described here. The intent is to build logical and transparent information flows and decision points into management actions that increase management options and improve outcomes, not to add a new layer of rigid processes and bureaucracy."</p> <p><b>Environmental Defense Fund:</b> Develop a reasonableness standard (not “certainty”) for determining how scientific information will be used in decision-making and adaptive management.</p> <p><b>Natural Resources Defense Council et al.:</b> In adaptive management steps 1-9 (beginning on page 39), include a discussion of appropriate steps to ensure the incorporation of the best available science.</p> <p><b>Natural Resources Defense Council et al.:</b> Insert the following language at the end of line 4 on page 49:                      Effective governance for adaptive management should include structures designed to include the input of scientific experts and impartial outside scientific review, a central role for state and federal agencies with relevant expertise and responsibility (e.g. state and federal fisheries agencies on issues related to ecosystem health) and a balanced approach to the involvement of interested stakeholders. In order to achieve the co-equal goals, no stakeholder group should be afforded a privileged role in the governance of the adaptive management process.</p> <p><b>Regional Council of Rural Counties:</b> Page 37, lines 12-41                      RCRC appreciates that the requirement for a formal adaptive management strategy is now limited to ecosystem restoration and water management covered actions. However, [...] RCRC believes that there should be some consideration given to the scale and type of such projects.</p> <p><b>San Joaquin County:</b> 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 projects or programs impacts on surrounding land uses and/or unintended consequences should be fully evaluated and part of the report presented to the DSC.</p> <p><b>South Delta Water Agency:</b> The adaptive approach set forth in this chapter requires comment. The adaptive approach presupposes the problems facing fish are due to previous approaches were inflexible and narrow. That is clearly not the problem. The actual problem was that the failure of the regulatory agencies to apply and enforce the existing laws. [...] [W]e do not need some adaptive approach, rather we needed (and still need) to apply and enforce the laws and regulations such that fish are protected instead of exports.</p> <p><b>State and Federal Contractors Water Agency:</b> Page 37, lines 36-38 of the Delta Plan state “The Council requires that the nine-step adaptive management framework be used for proposed covered actions involving ecosystem restoration and water management.” The Delta Plan further states on page 38, lines 10-11, “The Council will use the nine-step adaptive management framework in Figure 2-1 to evaluate the use of adaptive management for proposed covered actions for ecosystem restoration and water management.” Somewhat contradictory text is contained on page 39, lines 1-5, “Ecosystem restoration and water management covered actions should include an adaptive management plan that considers all nine steps of this framework; however, they need not be rigidly included and implemented in the order described here. The intent is to build logical and transparent information exchange and decision points into management actions that increase management options and improve outcomes, not to add a new layer of inflexible processes and bureaucracy.” The later text provides hope that the DSC will recognize that adaptive management programs should be designed to reflect the specific needs and nature of various projects. However, the overall impression of this chapter is that the Delta Plan and DSC have very specific expectation of what constitutes acceptable adaptive management and that all covered actions will be required</p>

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	<p>to demonstrate compliance with this framework—regardless of whether it is appropriate for any specific actions.</p> <p><b>The Nature Conservancy:</b> The Delta Plan should evaluate lessons learned from CALFED, and consider the voluminous literature addressing the science/policy interface in relation to other complex and contentious environmental settings such as radioactive waste, pollutant and toxin regulation, fisheries management, clean air regulations, and clean water regulations.</p> <p><b>Valley Center Municipal Water District:</b> Page 37 Adaptive Management While the "Adaptive Management" cycle seems logical and recognizes that outcomes may not match assumptions and adaption may be needed, it potentially poses a great deal of uncertainty with respect to major capital investments. [...] Recommendation: The Delta Plan needs to provide some level of commitment to return on investment to those investing in new Delta eco-system restoration and new conveyance facilities.</p>
<p>The description of the adaptive management process in Chapter 2 is one of the best and most detailed seen in any Delta planning document. Better description of how this process will be applied to the development of the Delta Plan is required. Concerns that adaptive management is not well applied throughout plan; need to identify science needs; need improved performance measures</p>	<p><b>California Department of Water Resources:</b> Page 37, lines 13 - 41 The description of the Adaptive Management example is well done; however, eventually this will need to be correlated to BDCP’s logic chain. The Department is acutely aware of the difficulties associated with actually carrying out Adaptive Management for projects. The Department believes it is best to keep the process as simple and straightforward as possible. The level of effort of the Adaptive Management should be commensurate with the size and complexity of the project.</p> <p><b>California State Senator Lois Wolk:</b> The Delta Plan describes the concept of adaptive management, but is not clear about how the concept will be applied to implement the Delta Plan. [...] [T]he lack of a clear adaptive management process leaves significant doubt about the Council’s ability to monitor or adapt the BDCP and covered actions on an on-going basis.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> While the Delta Plan requires that all covered actions include an adaptive management plan incorporating the nine-step framework, there is nothing that describes how the adaptive management will be implemented, how implementation will be evaluated, or even that it actually be implemented. Indeed, the Delta Plan does not mention the words “adaptive management” in [Chapters 4 - 8]. [...] These chapters must describe and demonstrate how adaptive techniques can be integrated into the actions proposed for the Delta Plan.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> While the Delta Reform Act provides broad narrative goals for the Delta Plan, it does not provide clear, specific, and measurable objectives as called for in this Chapter. The Delta Plan must not defer this next necessary step of Adaptive Management. The Plan must begin to establish clear and measurable goals, objectives, and performance measures; it must quantify goals and provide specific accomplishment dates; it must model linkages between objectives and proposed actions; it must select and evaluate actions for implementation; it must design implementation actions with appropriate monitoring; and it must be peer reviewed.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> This Chapter needs to specify who makes the decisions on how to Respond or Adapt as a part of the Adaptive Management process.</p> <p><b>Delta Independent Science Board:</b> Chapter 2 describes adaptive management, but the Delta Plan does not yet integrate the establishment, use, and maintenance of adaptive management. The legislature mandates adaptive management, yet none of chapters 4-8 begins to address how adaptive management will be used. The DISB recommends that each of chapters 4-8 incorporate descriptions of how adaptive management may be used in the future. In some cases, it may be appropriate to indicate how adaptive management practiced to achieve another policy goal might affect the policy goal addressed in the specific chapter.</p> <p>Further, the DISB recognizes that professionals with experience leading successful adaptive management programs will be needed to train others and to provide support services . The DISB recommends that the Plan explicitly recognize the need for sufficient properly trained personnel, for the training of existing scientists and managers, and for the on-going support of adaptive management.</p> <p><b>Delta Independent Science Board:</b> This chapter provides an excellent description of adaptive management (AM) and best available science. It is an effective synthesis of the existing literature presented in a manner that is instructive. The description, however, is entirely in the abstract. To make the description more realistic, the DISB recommends that considerable emphasis be placed on the identification of barriers to implementing AM and how these barriers can be overcome. While the DISB discouraged the use of examples from the Delta to illustrate AM, it recommends their use to illustrate the difficulties of carrying out an AM approach. The chapter would benefit, for example, from an analysis of how AM played out in CALFED sponsored ecosystem restoration. Given the DISB’s broad recommendation that each of the policy chapters illustrate the use of AM in the future, Chapter 2 may be able to link to these illustrations to help integrate the Plan and better ground the use of AM in the Delta early in the Plan. The DISB also recognizes that considerable investment will be needed to train both managers and scientists to shift effectively into AM and that the individual agencies will need a shared, standing unit, probably within the Delta Science Program (DSP), to provide support for and to ensure the use of AM. Professionals who have successfully applied AM will need to be available to train others and provide support services thereafter. The individual agencies should also be planning future hires based on experience with AM. The DISB recommends that this be made explicit in Chapter 2, probably as part of the description of the Delta Science Plan that will be developed in 2012.</p> <p><b>Delta Wetlands Project:</b> The discussion of best available science and adaptive management included in Chapter 2 provides a conceptual framework that makes a lot of sense for large</p>



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<p>Concerns that plan overemphasizes regulatory role of DSC and does not address facilitation/coordination/oversight roles. Concern over lack of information regarding interagency coordination, roles and collaboration.</p>	<p><b>Association of California Water Agencies:</b> The Council must embrace its governance role not as a regulatory body but as a facilitator to improve communication, coordination and integration amongst the various local, state and federal agencies that have statutory and/or regulatory responsibilities in the Delta. The role as facilitator should also extend to private, public and nongovernmental organizations as the Council explores innovative partnerships.</p> <p><b>California Building Industry Association:</b> The Draft Plan (G P1, third bullet, p.60) improperly purports to require all covered actions to “document use of best available science.” This is a significant new substantive regulatory requirement not in the Act itself and far exceeds the Council’s authority to administer consistency review – particularly as it may be applied to project proponents or local governments who certify consistency. Requested Change: Eliminate this language by striking the third bullet to G P1 (p. 60) in its entirety.</p> <p><b>California Department of Fish and Game:</b> Page 62, Line 22. Recommend removal of last sentence in this section. DSC is required to incorporate BDCP if certain requirements are met. Appellate authority is limited to approval of plan as a whole. It is outside of DSC’s discretion to determine that covered actions are not consistent with the BDCP.</p> <p><b>California Department of Fish and Game and U.S. Fish and Wildlife Service:</b> [C]ertain elements of the current Delta Plan as written could hinder or even prevent permitting and/or implementing Habitat Conservation Plans (HCP) and Natural Community Conservation Plans (NCCP). [...] [I]n the interest of reducing duplicative regulatory oversight, DFG and USFWS request that the Council determine that activities covered under HCP/NCCPs and HCP/2081s are exempt from the ecosystem restoration policy portion of the Delta Plan.</p> <p><b>California Department of Water Resources:</b> Page 56, lines 1 - 4 The Draft Plan should provide a more detailed description on how federal agencies whose actions impact the Delta will be engaged. The US Army Corps of Engineers is working on its own Delta Plan in conjunction with the Department. The Department believes there should be more engagement of the part of the DSC with the development of the Corps’ Delta Plan.</p> <p><b>California Department of Water Resources:</b> Pages 57 and 58, lines 36 - 38 and lines 1 - 5 respectively This paragraph discusses regulatory actions of State agencies and goes on to state that the regulatory actions are not a covered action yet the underlying action may be a covered action. An example of an Endangered Species Act take permit was provided. Does this mean that the DSC plans to be involved in the Biological Opinion process? The Plan further states that “...even when a covered action is regulated by another agency (or agencies), the action still must be consistent with the Delta Plan.” Will the Delta Plan supersede the laws that the other government agencies are charged with enforcing? These sorts of questions need to be addressed in the Plan. Page 56, lines 1 – 4 The Draft Plan should provide a more detailed description on how federal agencies whose actions impact the Delta will be engaged. The US Army Corps of Engineers is working on its own Delta Plan in conjunction with the Department. The Department believes there should be more engagement of the part of the DSC with the development of the Corps’ Delta Plan.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Identify what relevant agencies must be included in the “Governance or implementation Committee.” • Governance should be inclusive of Delta interests and stakeholders and include at least representatives of NGO agencies, the Delta Conservancy, commercial and recreational fishing, in-Delta community representatives, and landowners. G P1.</p> <p><b>Coalition for a Sustainable Delta:</b> The Coalition applauds the Council for its decision to consider the Ag-Urban Alternate Plan (Alternate Plan) as part of the environmental review process for the Delta Plan and requests that the Council give serious consideration to the Alternate Plan and work with the Ag-Urban group to find the best options to meet the co-equal goals. [...] [T] Delta Plan approach of additional regulatory burdens will only stymie economic growth and discourage local investment.</p> <p><b>Coalition for a Sustainable Delta:</b> There are numerous federal, state, and local agencies involved in the Delta with varying responsibilities and authorities. The Council should act as a coordinator and integrator of those activities and the Delta Plan should provide a strategy to do so. In order to do this effectively, the Council must first fully understand the roles these agencies play.</p> <p><b>Coalition for a Sustainable Delta:</b> In order to guide action under the Delta Plan, the Council should conduct an audit of: (1) existing enforcement obligations of state and federal agencies; (2) existing enforcement activities; and (3) enforcement resources, including an assessment of what resources are needed to fully meet obligations. Legal counsel should also prepare an analysis regarding the universe of available enforcement tools. Utilizing this information, the Council should prepare a plan, with deadlines to implement full enforcement of existing laws. The Council should also engage with federal partners to encourage enforcement by federal agencies.</p> <p><b>Coalition for a Sustainable Delta:</b> The Draft Plan should be revised to provide a framework for the Council to act as the coordinator and facilitator of the efforts of various agencies and other entities and should provide for incorporation of the enforcement audit described above.</p> <p><b>Coalition for a Sustainable Delta:</b></p> <p><b>Delta Caucus:</b> Page 54, Lines 15-19: This whole paragraph promotes a wide array of consequences that are unknown currently, and could continue to move the target and restrict the freedoms of private property owners to implement land improvements like vineyard develop. [...] This constitutes a passive taking of land and should be removed from the Delta Plan.</p> <p><b>Delta Caucus:</b> Page 56, Lines 24-27: This second bullet point draws into the Delta Plan other regions of which Delta water is exported. Does this mean that as a condition of sustainably</p>

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	<p>managing the Delta, population growth will be evaluated as a measure as this may impact the Council’s ability to achieve the co-equal goals?</p> <p><b>Delta Caucus:</b> Page 60, Lines 2-12: We raise the question of whether it is appropriate for the Council to evaluate any appeals to the certification of consistency, or if a different body should be availed. Additionally, if this is an agricultural management issue, 30 days to file a review may be acceptable, but there is no mention in the amount of time the Council is required to review this certification initially, or on appeal. We would ask the Council to clarify their intent through a policy recommendation that is both timely and reasonable.</p> <p><b>East Bay Municipal Utility District:</b> the chapter on governance provides important clarifications on covered actions, even as questions remain about how the consistency determinations will enhance achievement of the co-equal goals when added to other regulatory review processes. The Council is required by statute "to establish and oversee a committee of agencies responsible for implementing the Delta Plan", but little detail is offered. This committee of agencies will be a critical forum to ensure that the various regulatory agencies function efficiently and in coordinated fashion.</p> <p><b>East Contra Costa County Habitat Conservancy et al.:</b> We remain deeply concerned that the Delta Plan will set in motion unintended consequences that will impede the success of the five Delta County multi species HCP/NCCPs.                      [...] [T]he five Delta County HCP/NCCPs were developed on a foundation that mirrors the core principles articulated in the Draft Delta Plan, including a strong science information base that incorporates adaptive management and monitoring approved by the applicable trustee agencies. Yet it is possible that conservation projects undertaken pursuant to an adopted HCP or NCCP could be deemed inconsistent with the Delta Plan if, for instance, the project fails to adhere to the Delta Plan’s vision of adaptive management. 2 In that case, the HCP or NCCP permittees could be precluded from implementing mandatory elements of federal or state permits, such as adaptive management responses developed in close coordination with FWS and CDFG, thereby jeopardizing regional conservation plans that required years to develop.                      [...] [T]he statutory exemption in the California Water Code applies to all permits issued under the California Endangered Species Act and the Natural Communities Conservation Act and, by extension, to the adoption of an HCP/NCCP by a local jurisdiction. Activities covered under such HCP/NCCPs should also be exempt from the jurisdiction of the Delta Plan, at least to the extent that it pertains to the species and habitats covered in the HCP/NCCPs. We respectfully request that the Council direct staff to provide an expanded Delta discussion of the exemption of HCPs/NCCPs and HCPs/2081s to clarify that the Delta Plan is intended to complement the Delta County HCP/NCCPs, not to govern or supplant them.</p> <p><b>Local Agencies of the North Delta:</b> We continue to be concerned with the Plan’s approach to Governance in restricting the ability of local agencies to continue to provide essential services and for Delta communities to prosper. In particular, too many typical, local projects could be considered covered actions, thereby interfering with the sustainability of Delta communities and the functionality of local governments.</p> <p><b>Local Agencies of the North Delta:</b> p. 58: Appropriate projects should not be considered covered actions.                      [...] [F]or the benefit of local planners and landowners, a list of local projects should be provided for which consistency certifications are typically not necessary. Examples of such projects include:</p> <ul style="list-style-type: none"> <li>• Co-location of existing water intakes;</li> <li>• Screening of existing water intakes;</li> <li>• Second dwelling units for agriculturally zoned parcels, as permitted by the local land use jurisdiction;</li> <li>• Major repairs to levees (beyond routine maintenance);</li> <li>• Road and other existing infrastructure maintenance; and</li> <li>• Construction of farm related buildings and agricultural product processing facilities.</li> </ul> <p>While it is likely these types of actions would never rise to the level of having a significant impact on achievement of the coequal goals in the first place, it is incumbent that the Council clarifies that these types of actions would not require a certification of consistency.</p> <p><b>Local Agencies of the North Delta:</b> p. 61: Submission of Certification for Existing Plans.                      It still appears that local agencies are required to submit all existing plans for certification. LAND believes that the Council should focus its efforts on consistency of covered actions going forward. Neither the Council nor local governments have the staff or resources to deal with such a consistency process for the myriad of local ordinances. If covered actions are undertaken that are not consistent with the co-equal goals, those projects would require a consistency certification in any case.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> The description of how the DSC intends to establish and oversee the committee of agencies responsible for implementing the Delta Plan leaves many unanswered questions:</p> <ul style="list-style-type: none"> <li>• What are the agencies the DSC considers as responsible for implementing the Delta Plan?</li> <li>• How does the DSC anticipate this committee will operate?</li> <li>• What sorts of decisions or conversations would this committee have, and would it have any review or decision making authority regarding the Delta Plan?</li> <li>• Would this committee serve as an advisory committee to the Council for its consistency determinations?</li> <li>• Will there be local agency participation on this committee?</li> <li>• Is there a charter being developed for this committee?</li> </ul>

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	<p>• Where will funding come from for this committee?</p> <p><b>San Joaquin County:</b> The scope of the plan is far too broad. Claiming jurisdiction in all watersheds stretching from the Upper Trinity to the San Joaquin River at Fresno and in all the areas where Delta water is exported takes in most of California. Additionally, most of California's agriculture is within this jurisdictional boundary. In the future will farming practices throughout the state need to show consistency with the Delta Plan? Also, in addition to complying with regional water board requirements, will growers also need to comply with an extra layer of discharge regulation in the form of the Delta Plan? What if they conflict? Additionally, requiring urban and agricultural water suppliers to comply with DSC mandates for water conservation, reporting, metering, and pricing is too intrusive and will add substantially to the cost of water. As a result many of the Plan's provisions regarding water quality, conveyance, and reliability exceeds the authority of the DSC. These statewide policies are best served by those statewide agencies that have appropriate authority. The Plan should narrow its scope of authority.</p> <p><b>San Joaquin River Group Authority:</b> The statutory language on covered actions clearly limits jurisdiction to actions that "occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh." The Fifth Draft's expansive and unsupported interpretation unwinds the geographic limitation and would allow the Council to review actions well beyond the Delta.</p> <p><b>San Joaquin River Group Authority:</b> The Fifth Draft [reaches] beyond the scope allowed for by the Delta Reform Act by attempting to regulate "areas that divert water upstream of the Delta and areas that receive export water from the Delta." This goes beyond the express authority provided by the Delta Reform Act, which focuses on actions that occur in the Delta and Suisun Marsh, and must be revised.</p> <p><b>South Delta Water Agency:</b> SDWA does not support the DSC being an additional oversight agency which will review local, city, county and other agency decisions.</p> <p><b>State and Federal Contractors Water Agency:</b> The draft asserts that a project that is a covered action "may not proceed until" the Council deems it consistent with the Delta Plan [P 53]. This absolute veto, nor the authority it assumes, does not appear anywhere in the Act. [...] Nothing in the Act prohibits a project from moving forward after a Council determination that it is not consistent with the Delta Plan. [...] The Council's determination that it will consider a covered action to have a "significant impact" if it "cumulatively" causes an impact is inappropriate and needs to be removed or thoroughly revised.</p> <p><b>State and Federal Contractors Water Agency:</b> Overall, the entire approach of the Delta Plan's policies and recommendations is one that increases rather than decreases levels of uncertainty related to water supply reliability improvements and inappropriately injects another layer of bureaucracy rather than streamlining and improving state engagement in the Delta. The proper focus should be on creating incentives for action and coordination of state and federal agency actions, with review of local management decisions occurring only in the limited circumstances where the coequal goals are threatened or implementation of the Delta Plan potentially thwarted. In addition, the locus of the Council's authority is circumscribed by the Act to be primarily the Delta proper, not the entire state.</p> <p><b>The Nature Conservancy:</b> We recommend the critically important dual roles of Project Tracker and Keeping Projects on Track for the Delta Council to achieve the coequal goals. Simply knowing the status of actions is not sufficient. The Council should also effectively persuade the implementing agencies to keep actions on track. Examples of persuasion that the Council could undertake include an annual report card to the public and legislature that identifies:</p> <ul style="list-style-type: none"> <li>• Covered and other important actions necessary to achieve the coequal goals; the responsible implementing agency; the status of the action(s) including its schedule for implementation; a short narrative describing current conditions relative to the action, including steps to bring an action back on track if its schedule has slipped.</li> <li>• Recommendations to the legislature for actions necessary to assist or prod an agency to complete a covered and other important action.</li> <li>• An annual public workshop where implementing agencies describe to the public the actions being undertaken, schedule and other information relevant to the action.</li> </ul> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> It is our recommendation that other interest parties be part of the process of decision-making within the Governance Committee to broaden the process to include consideration of non-agency issues. Examples would be:</p> <ul style="list-style-type: none"> <li>• Delta Conservancy</li> <li>• NGO representatives</li> <li>• Commercial/recreational fishing representative</li> <li>• In-Delta Community Representatives</li> <li>• Science Advisory Board member</li> </ul> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Develop an organizational chart, which will show clearly the structure of the governance process, and identifies what additional advisory boards, committees, and outside inputs will be associated with the "Governance/Implementation Committee."</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Develop a clear and concise list of responsibilities for the Governance Committee, and make clear the difference in process between covered and non-covered actions. [See comment letter for suggested areas of responsibility.]</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 3 – Governance: Implementation of the Delta Plan**

Comment Themes or Recommendations	Comments
<p>Questions about the Consistency Determination process, when CD filing should occur (i.e. before, after, during CEQA process).</p>	<p><b>California Department of Water Resources:</b> Please clarify whether the Certification of Consistency would be done before, after, or concurrent with the CEQA process. The Department believes that these two processes should be carried out concurrently to promote efficiency. If the Certification of Consistency process is completed subsequent to the CEQA process, this will add significant costs and time to important projects. Please also provide a description of the timelines associated with the appeal of a certification of consistency.</p> <p><b>Sacramento County:</b> Certification of Consistency (pg. 60) [A]s indicated in the draft form, it appears the DSC is suggesting the certification of consistency request would follow the release of the project-specific environmental assessment, which for Sacramento County could be three or four months into the local land use planning review process. Any sort of delay (or potential for delay) at this stage of the local land use review/approval process would be problematic. We respectfully ask DSC staff to revisit the procedural requirements and the time involved for a certificate of consistency. [...] The potential for abuse of the appeal process is also significant, not to mention the impact on the workload of the DSC. Furthermore, the adopted Administrative Procedures allow any member of the DSC or its executive officer to file an appeal of a certification of consistency. This procedure compromises the independence and appeal function of the DSC. Therefore, it is critical the Plan, the Administrative Procedures, and/or the recently released draft "Certification of Consistency Appeal Form" be revised to include more guidance as to the requisite standing to file an appeal of a consistency certification.</p> <p><b>Sacramento Regional County Sanitation District:</b> [...] the Plan appears to have redundant requirements that are already under the CEQA process. GP 1 states that covered actions must disclose potentially significant adverse environmental impacts and feasible mitigation of those adverse impacts. Because the consistency determination requires this duplicate process, it would allow an opponent of the covered action the ability to allege non-compliance with CEQA through appeal of a consistency determination. As a result, the policy would create a second opportunity for CEQA challenges on the adequacy of environmental review after a local agency's completion of CEQA documents.</p> <p><b>Sacramento Regional County Sanitation District:</b> GP 1 also outlines a term that would subject local agencies to attacks that are unreasonable. In particular, GP 1 states that covered actions must disclose potentially significant adverse environmental impacts and feasible mitigation of those adverse impacts. This appears to restate what CEQA already requires. GP 1 would not, however, be benign. An opponent of the covered action would be afforded a new tool: in addition to the right to allege non-compliance with CEQA through a court action, the opponent could allege non-compliance with CEQA through appeal of a consistency determination. The provision thus would both create a "second bite of the apple" to challenge local agencies, and authorize surprise attacks on the adequacy of environmental review, after local agencies' completion of CEQA documents. We recommend the following language change to avoid redundant CEQA challenges: "All covered actions must be fully transparent by disclosing all potentially significant adverse environmental impacts and mitigations of those adverse impacts. <u>This requirement is satisfied if the proponent of the covered action or a lead agency prepares an environmental impact report or initial study under CEQA.</u>"</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Clarification is required regarding timing of CEQA/NEPA processes and the Delta Plan's consistency determination/appeal processes. Are these concurrent processes and if not, at what point should the consistency/appeal process begin? The Conservancy recommends that these processes be concurrent and that change thresholds be developed for reinitiating consistency determinations.</p> <p><b>City of Stockton:</b> Because the Draft Plan requires local agencies to make detailed findings for all significant impacts of any covered action, the omission of CEQA's categorical exemptions effectively nullifies the effect of these exemptions. This is contrary to the Legislature's direction that certain projects not be subject to the time, expense, and burden of CEQA compliance. In addition to creating a CEQA-like environmental assessment and findings requirement for projects that otherwise would not be subject to CEQA, for projects that are subject to CEQA, this requirement makes the DSC a separate administrative appellate body for CEQA in the Delta. This additional requirement adds a layer of review and timeline that is inconsistent with CEQA and its timelines for project approval, in particularly its short statute of limitations.</p> <p><b>Yolo County:</b> Pg. 60, lines 40-41. [...] Even if appeals to the Council prove to be rare, the task of reconciling claims arising under CEQA--often implicating a detailed and complex analysis of hundreds or thousands of pages of environmental documents and related materials--will likely prove to be very difficult. [...] We strongly encourage the Council to reconsider the potential consequences of establishing itself as an appellate authority on CEQA claims.</p>
<p>Two themes emerged from the many questions and comments about the appeals process for Covered Actions: 1) clarity requested regarding process for reimbursement to local agencies as a result of state mandates (question of "burden"; 2) changes requested of to the Council's adopted appeals process (in particular regarding timelines)</p>	<p><b>California Department of Water Resources:</b> G P1 Certifications of Consistency Pages 60 - 61, lines 42 - 43 and lines 1 - 10 respectively This policy requires the documentation of use of best available science and an adaptive management plan. This policy would require a significant amount of resources and add greatly to the expense of projects. [...] This policy should clearly state that the level of effort to demonstrate the use of best available science and associated adaptive management should be commensurate with the scale of the project. The DSC needs to clearly describe the procedure upon appeal and describe how the Independent Science Board or other DSC scientists would become involved.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> It should be recognized that the appeals process outlined in the Delta Plan will cause a significant delay (up to 6 months) in the implementation of most, if not all, restoration projects in the Delta. This is further justification for making the process concurrent with CEQA/NEPA.</p> <p><b>Solano County:</b> Solano County is concerned that the covered action process will produce a layer of administrative requirements that the neither State nor local government will be able to easily fund or enforce.</p>

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**CHAPTER 3 – Governance: Implementation of the Delta Plan**

Comment Themes or Recommendations	Comments
	<p><b>Local Agencies of the North Delta:</b> We continue to be concerned with the Plan's approach to Governance in restricting the ability of local agencies to continue to provide essential services and for Delta communities to prosper. In particular, too many typical, local projects could be considered covered actions, thereby interfering with the sustainability of Delta communities and the functionality of local governments.</p> <p><b>Local Agencies of the North Delta:</b> p. 61: Submission of Certification for Existing Plans. It still appears that local agencies are required to submit all existing plans for certification. LAND believes that the Council should focus its efforts on consistency of covered actions going forward. Neither the Council nor local governments have the staff or resources to deal with such a consistency process for the myriad of local ordinances. If covered actions are undertaken that are not consistent with the co-equal goals, those projects would require a consistency certification in any case.</p> <p><b>Sacramento Regional County Sanitation District:</b> [...] clarifying language must be included and examples provided in the Delta Plan that state any project(s) undertaken to comply with a regulatory action of a state agency should not be considered "covered actions" and are exempt from consistency determinations, such as the issuance of a NPDES permit by a Regional Water Quality Control Board, a California Endangered Species Act take permit or Natural Community Conservation Plan issued or approved by the Department of Fish and Game. The redundancy of having a project required as part of a regulatory action by a State Agency being subject to a consistency determination, with all the potential for an appeal of the Council's decision, will increase project costs, result in project delays and impede the achievement of the co-equal goals of water supply reliability and ecosystem restoration.</p> <p><b>Sacramento Regional County Sanitation District:</b> [...] the Plan appears to have redundant requirements that are already under the CEQA process. GP 1 states that covered actions must disclose potentially significant adverse environmental impacts and feasible mitigation of those adverse impacts. Because the consistency determination requires this duplicate process, it would allow an opponent of the covered action the ability to allege non-compliance with CEQA through appeal of a consistency determination. As a result, the policy would create a second opportunity for CEQA challenges on the adequacy of environmental review after a local agency's completion of CEQA documents.</p> <p><b>San Joaquin County:</b> Chapter 3 describes a lengthy, complicated, and potentially expensive certification and appeal process. It will be difficult for applicants to understand and follow, and may result in the need for expensive consultants to guide applicants and their projects, both large and small, through the process. It also places a significant burden on local agencies to make "Findings" and certify covered actions.</p> <p><b>San Joaquin County:</b> The County sees this process imposed by the Draft Delta Plan as an unfunded mandate. There should be language in the Delta Plan, which specifically recognizes that the imposition of this process is an unfunded mandate.</p> <p><b>City of Stockton:</b> The appeal process is highly burdensome to local agencies and is likely to result in substantial cost and staff resources. The appellate procedures also place a substantial burden on local agency funds and staff resources and include unreasonable, if not infeasible, timelines for local agency action, with potentially dire consequences if agencies are unable to comply.</p> <p><b>City of Stockton:</b> [...] [T]he Draft Plan should more carefully consider the application of "consistency determinations" as applied to urban areas and should be revised to eliminate the potential conflicts with existing plans. The Draft Plan should also be revised to not place the significant burden of the appeals process on local governments.</p> <p><b>The Nature Conservancy:</b> Page 60, Certifications of Consistency: After any person appeals a certification of consistency, is there a time limit for the agency that originally certified consistency to prove consistency or revise its plan or project to achieve consistency?</p> <p><b>Yolo County:</b> Pg. 60, lines 40-41. [...] Even if appeals to the Council prove to be rare, the task of reconciling claims arising under CEQA--often implicating a detailed and complex analysis of hundreds or thousands of pages of environmental documents and related materials--will likely prove to be very difficult. [...] We strongly encourage the Council to reconsider the potential consequences of establishing itself as an appellate authority on CEQA claims.</p>
<p>Land use planning must be clear and consistent across agencies. Implement economic sustainability through strategies that include consistency in planning and refinement of regulations.</p>	<p><b>American Rivers:</b> The draft does not address how the Council will assure that a consistency certification or appeal pursuant to Water Code section 85225 is coordinated with related regulatory proceedings before public agencies which have primary or concurrent jurisdiction over the covered action under other laws. We propose the following policy: <i>G P2. A certification of consistency must (i) identify all other permits or other regulatory authorizations necessary for the implementation of the covered action and (ii) disclose the terms of each such authorization which has been secured, and otherwise, the status and schedule of each such proceeding. The proponent of the covered action must propose appropriate procedures for coordination between the Delta Stewardship Council and other public agencies which have jurisdiction over the covered action. The Council will determine appropriate procedures to facilitate the expeditious resolution of issues subject to multiple jurisdictions, during the consistency review and any appeal thereof.</i></p> <p><b>California Department of Fish and Game:</b> Page 58, Line 29. Recommend adding a (partial) administrative exemption for NCCPs. A key factor drawing plan participants to NCCPs is that they can receive ' assurances" that they will only be "on the hook" for a defined amount of restoration/mitigation/conservation measures in exchange for agreeing to commit to a higher standard for the species (conservation). If plan participants were aware that they could be subject to more requirements from the DSC, they may not be as inclined to participate in NCCPs. Important to note also, that NCCPs all have adaptive management components (required in statute). Therefore, recommend "covered action" excludes, for the purposes of the Delta ecosystem restoration policies of the Delta Plan only, landscape level, multispecies Habitat Conservation Plans (HCPs) and/or Natural Community Conservation Plans (NCCPs) developed by local governments in the Delta. Additionally, no measure taken to implement the conservation strategy of the HCP or NCCP shall be considered a "covered action" for the</p>

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**CHAPTER 3 – Governance: Implementation of the Delta Plan**

Comment Themes or Recommendations	Comments
	<p>purposes of the Delta ecosystem restoration policies of the Delta Plan. Updates to the Delta Plan shall not trigger mandatory updates to a permitted HCP/NCCP."</p> <p><b>California Department of Fish and Game and U.S. Fish and Wildlife Service:</b> [C]ertain elements of the current Delta Plan as written could hinder or even prevent permitting and/or implementing Habitat Conservation Plans (HCP) and Natural Community Conservation Plans (NCCP). [...][I]n the interest of reducing duplicative regulatory oversight, DFG and USFWS request that the Council determine that activities covered under HCP/NCCPs and HCP/2081s are exempt from the ecosystem restoration policy portion of the Delta Plan.</p> <p><b>California Department of Fish and Game and U.S. Fish and Wildlife Service:</b> [...] USFWS and DFG request that the Delta Plan make clear that obtaining a consistency determination from the Council does not constitute compliance with other laws or regulations that may apply to a project such as the Endangered Species Act or Fish and Wildlife Coordination Act.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> (Pg. 56, line 28). We would suggest this is the perfect place to include a guidance outline of the process state and local agencies, landowners, and others would go through to meet consistency requirements of the Delta Plan. It is a good place for implementation actions required, as well as what enforcement actions are consistent with the authorities of the primary agencies. For example, recommendations in the area of water rights permit approval, changes in diversion points, or other water allocation issues that impact the co-equal goal requirement of the Delta Plan. (G P1)</p> <p><b>East Contra Costa Habitat Conservancy et al:</b> We remain deeply concerned that the Delta Plan will set in motion unintended consequences that will impede the success of the five Delta County multi species HCP/NCCPs. [...] [T]he five Delta County HCP/NCCPs were developed on a foundation that mirrors the core principles articulated in the Draft Delta Plan, including a strong science information base that incorporates adaptive management and monitoring approved by the applicable trustee agencies. Yet it is possible that conservation projects undertaken pursuant to an adopted HCP or NCCP could be deemed inconsistent with the Delta Plan if, for instance, the project fails to adhere to the Delta Plan's vision of adaptive management. 2 In that case, the HCP or NCCP permittees could be precluded from implementing mandatory elements of federal or state permits, such as adaptive management responses developed in close coordination with FWS and CDFG, thereby jeopardizing regional conservation plans that required years to develop. [...] [T]he statutory exemption in the California Water Code applies to all permits issued under the California Endangered Species Act and the Natural Communities Conservation Act and, by extension, to the adoption of an HCP/NCCP by a local jurisdiction. Activities covered under such HCP/NCCPs should also be exempt from the jurisdiction of the Delta Plan, at least to the extent that it pertains to the species and habitats covered in the HCP/NCCPs. We respectfully request that the Council direct staff to provide an expanded Delta discussion of the exemption of HCPs/NCCPs and HCPs/2081s to clarify that the Delta Plan is intended to complement the Delta County HCP/NCCPs, not to govern or supplant them.</p> <p><b>Local Agencies of the North Delta:</b> We continue to be concerned with the Plan's approach to Governance in restricting the ability of local agencies to continue to provide essential services and for Delta communities to prosper. In particular, too many typical, local projects could be considered covered actions, thereby interfering with the sustainability of Delta communities and the functionality of local governments.</p> <p><b>Local Agencies of the North Delta:</b> p. 58: Appropriate projects should not be considered covered actions. [...] [F]or the benefit of local planners and landowners, a list of local projects should be provided for which consistency certifications are typically not necessary. Examples of such projects include:</p> <ul style="list-style-type: none"> <li>• Co-location of existing water intakes;</li> <li>• Screening of existing water intakes;</li> <li>• Second dwelling units for agriculturally zoned parcels, as permitted by the local land use jurisdiction;</li> <li>• Major repairs to levees (beyond routine maintenance);</li> <li>• Road and other existing infrastructure maintenance; and</li> <li>• Construction of farm related buildings and agricultural product processing facilities.</li> </ul> <p>While it is likely these types of actions would never rise to the level of having a significant impact on achievement of the coequal goals in the first place, it is incumbent that the Council clarifies that these types of actions would not require a certification of consistency.</p> <p><b>Local Agencies of the North Delta:</b> p. 61: Submission of Certification for Existing Plans. It still appears that local agencies are required to submit all existing plans for certification. LAND believes that the Council should focus its efforts on consistency of covered actions going forward. Neither the Council nor local governments have the staff or resources to deal with such a consistency process for the myriad of local ordinances. If covered actions are undertaken that are not consistent with the co-equal goals, those projects would require a consistency certification in any case.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> The description of how the DSC intends to establish and oversee the committee of agencies responsible for implementing the Delta Plan leaves many unanswered questions:</p> <ul style="list-style-type: none"> <li>• What are the agencies the DSC considers as responsible for implementing the Delta Plan?</li> <li>• How does the DSC anticipate this committee will operate?</li> <li>• What sorts of decisions or conversations would this committee have, and would it have any review or decision making authority regarding the Delta Plan?</li> </ul>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 3 – Governance: Implementation of the Delta Plan**

Comment Themes or Recommendations	Comments
	<ul style="list-style-type: none"> <li>• Would this committee serve as an advisory committee to the Council for its consistency determinations?</li> <li>• Will there be local agency participation on this committee?</li> <li>• Is there a charter being developed for this committee?</li> <li>• Where will funding come from for this committee?</li> </ul> <p><b>San Joaquin County:</b> A more suitable approach than that discussed in Chapter 3 would be to require that General Plans of the Delta Counties and Cities include language that speaks to limit certain types of activities in the Primary Zone and Delta. This approach has been used successfully by the Delta Protection Commission; there has not been inappropriate development within the Primary Zone in San Joaquin County.</p> <p><b>South Delta Water Agency:</b> The draft Plans proposal to limit or prevent land use changes in areas which may later be potential habitat or flood plain creates a sever[e] legal and practical problem. Since the BDCP process has already designated the entire Primary Zone of the Delta as potential habitat of flood plain, the draft Plan would freeze land use in the entire Primary Zone.</p> <p><b>South Delta Water Agency:</b> SDWA does not support the DSC being an additional oversight agency which will review local, city, county and other agency decisions.</p> <p><b>City of Stockton:</b> Over 50 percent (21,256 acres) of the City’s incorporated urban area and an additional 7,932 acres within the City’s Sphere of Influence are located within the Secondary or Primary Zones of the Delta (see attached Exhibit 1). All development within these boundaries must be consistent with the City’s adopted 2035 General Plan, Infrastructure Master Plans, and the Local Agency Formation Commission’s adopted Sphere Plan and Municipal Service Review for the City. A comprehensive Environmental Impact Report, which was in full compliance with CEQA, [...] addressed those approved plans. As there are still discretionary approvals required for some projects contemplated by these approved plans, the Delta Plan, as currently drafted, could act as a de facto reversal of the prior approvals and indirectly usurp the City’s existing land use authority within the areas covered by the Delta Plan. The Delta Plan [...] should be revised to eliminate the potential conflicts with existing adopted plans.</p> <p><b>City of Stockton:</b> The Draft Plan should consider more carefully the application of “consistency determinations” as applied to urban areas within the Secondary Zone of the Delta and should be revised to exempt planned urban development within the incorporated City limits and the City’s adopted Sphere of Influence, which is defined as of the effective date of the Delta Plan.</p> <p><b>City of Stockton:</b> [...] [T]he Draft Plan should more carefully consider the application of “consistency determinations” as applied to urban areas and should be revised to eliminate the potential conflicts with existing plans. The Draft Plan should also be revised to not place the significant burden of the appeals process on local governments.</p> <p><b>Yolo County:</b> Pg. 60, lines 31-39. The County proposes two clarifications to this discussion. First, state and local agencies--which are typically project proponents only in the limited context of public works projects--are responsible for preparing the covered action certification documents and, consequently, reconciling the various policies in conflict. This paragraph should be revised to eliminate the reference to project proponents, which could be misapplied to require the applicants for private development projects to prepare consistency certification documents. Second, when confronted by conflicting policies, state and local agencies presumably have the legal authority to make a decision on project consistency after attempting to reconcile the policies at issue. This paragraph could be read to say that such authority lies only with the Council, as it refers exclusively to the Council’s ability to decide that a covered action is consistent on appeal. Presumably this is not intended.</p>
<p>Requests for clarification about the language in 5<sup>th</sup> draft, which stated that although regulatory actions are exempt from Consistency Determination requirements, the underlying action necessitating regulatory approval may be a Covered Action. Concern about conflicting jurisdiction.</p>	<p><b>California Department of Water Resources:</b> Pages 57 and 58, lines 36 - 38 and lines 1 - 5 respectively This paragraph discusses regulatory actions of State agencies and goes on to state that the regulatory actions are not a covered action yet the underlying action may be a covered action. An example of an Endangered Species Act take permit was provided. Does this mean that the DSC plans to be involved in the Biological Opinion process? The Plan further states that “...even when a covered action is regulated by another agency (or agencies), the action still must be consistent with the Delta Plan.” Will the Delta Plan supersede the laws that the other government agencies are charged with enforcing? These sorts of questions need to be addressed in the Plan.</p> <p><b>California State Senator Lois Wolk:</b> Another area of concern in the current Draft Delta Plan is the lack of clarity of the covered actions process. [...] [T]he Plan should be clearer about what will and will not be considered a covered action and who will not be in charge of determining which actions require a consistency determination and which will not.</p> <p><b>Mountain Counties Water Resources Association:</b> [T]here is still much uncertainty such as the meaning of the statement (“underlying action necessitating the new or changed water right can be a covered action (provided it otherwise meets the statutory definition)). I urge you to schedule an additional workshop on “Covered Actions” as Ms. Gray suggested on September 15, 2011.</p> <p><b>Sacramento Regional County Sanitation District:</b> [...] clarifying language must be included and examples provided in the Delta Plan that state any project(s) undertaken to comply with a regulatory action of a state agency should not be considered “covered actions” and are exempt from consistency determinations, such as the issuance of a NPDES permit by a Regional Water Quality Control Board, a California Endangered Species Act take permit or Natural Community Conservation Plan issued or approved by the Department of Fish and Game. The redundancy of having a project required as part of a regulatory action by a State Agency being subject to a consistency determination, with all the potential for an appeal of the Council’s decision, will increase project costs, result in project delays and impede the achievement of the co-equal goals of water supply reliability and ecosystem restoration.</p>

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**CHAPTER 3 – Governance: Implementation of the Delta Plan**

Comment Themes or Recommendations	Comments
	<p><b>Sacramento Regional County Sanitation District:</b> Page 57, lines 36-38 – Projects required through a regulatory action should be exempted from consistency determinations, such as the issuance of an NPDES permit by a Regional Water Quality Control Board. We recommend adding the issuance of an NPDES permit, and any related activities required as part of that State/Federal permit, as well as the California Endangered Species Act take permit example.</p> <p><b>City of Sacramento:</b> Any party may challenge the self-certification that a covered action is consistent with the Delta Plan. However, the procedures do not appear to require a certificate of exemption in which an agency declares that a proposed action is not a covered action. [...]                      a. What is the process for a 3rd party to challenge an agency's self-determination that an action is not a covered action?                      b. Is there a way to get assurance from the DSC that an action is indeed not a covered action?</p> <p><b>Sacramento County:</b> [I]n order to adequately determine what is/is not a covered action, the Plan and the Administrative Procedures (Appendix B) adopted by the DSC in September 2010 require further revision to describe specifically how a local government (or permitting agency) can demonstrate that a project will/will not have a "significant impact" on the achievement of one or both of the coequal goals. Sacramento County requests the Plan (or the Administrative Procedures, Appendix B) be very clear in acknowledging that roadway maintenance, design, and development projects are not "covered actions" and are therefore exempt from the project consistency certification process.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Clarification is needed regarding thresholds for covered actions. Will the CEQA/NEPA thresholds apply to potential covered actions? Will there be thresholds that designate minimum requirements for covered actions so that small projects (i.e. signage) are exempt from the consistency determination process?</p> <p><b>City of Stockton:</b> The Draft Plan should consider more carefully the application of "consistency determinations" as applied to urban areas within the Secondary Zone of the Delta and should be revised to exempt planned urban development within the incorporated City limits and the City's adopted Sphere of Influence, which is defined as of the effective date of the Delta Plan.</p> <p><b>City of Stockton:</b> All levee improvements and any other flood control projects should be exempt from the consistency determination process.</p> <p><b>City of Stockton:</b> [...] [T]he Draft Plan should more carefully consider the application of "consistency determinations" as applied to urban areas and should be revised to eliminate the potential conflicts with existing plans. The Draft Plan should also be revised to not place the significant burden of the appeals process on local governments.</p> <p><b>City of Stockton:</b> Any improvements to existing public facilities should not be covered actions, particularly those required by regulatory agencies. For example, anticipated upgrades to the City's Regional Wastewater Control Facility (RWCF) to meet state water quality requirements should not be a covered action.</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 4 – A More Reliable Water Supply for California**

Comment Themes or Recommendations	Comments
<p>WR P2 addresses the half of the problem statement related to transparency but does not address improved information; concern that policy may impede multi-year water transfers and that plan does not clearly address improvements for water transfers.</p>	<p><b>California Department of Water Resources:</b> Page 95, lines 31 – 33                      The Problem Statement reads: “California does not maintain adequate uniform data about current local, regional, and state water uses and the status of its water supplies. The lack of consistent, comprehensive, and accurate information impedes California’s ability to sustainably manage the state’s water resources and improve water supply reliability.” However, the following Policy, WR P2, requires the open and transparent development of contracts involving water transfers. This policy is unrelated to the Problem Statement. The problem is the lack of adequate and uniform water use data. The policy does not resolve this issue but rather addresses an unrelated issue.                      The Department recommends the DSC give consideration to the disclosure and public participation process already in place for water transfers.                      [...] The DSC should be careful not to make the process more burdensome. Existing mechanisms provide for adequate disclosure of impacts and opportunity to protest proposed transfers.</p> <p><b>California Department of Water Resources:</b> WR P2 Page 95, lines 35 - 40                      This policy states that all contracts greater than one year exporting or transferring Delta water follow established Department policies for public participation. [...] These policies, although useful in the context of significant amendments to State Water Project water supply contracts, may make water transfers essential to California’s water supply reliability more difficult to achieve due to the increased complexity of the contracting process.                      [...]The added policies will greatly intensify the oversight role of the Department. In addition, these policies, especially the public participation policy, will likely alienate northern California water agencies that have been the source of most water transfers in past years.                      [...] This policy could also be problematic to implement.                      [...] One major implication of these policies and recommendation will be a decrease in multi-year long-term transfers such as the Yuba Accord in favor of more frequent one-year transfers so as to avoid the bureaucracy.</p> <p><b>California Farm Bureau Federation:</b> (WR P2) The Council should be careful to avoid adopting policies or making recommendations that could unduly or unnecessarily hamper flexible water markets in California, as water transfers (both short- and long-term) are an important component of statewide water reliability and resilience to drought or other shortage conditions.</p> <p><b>Delta Independent Science Board:</b> WR P2: transparency requirements. As stated, it is not clear how broad or narrow the reach of this policy is likely to be. Is it focused solely on SWP and CVP contracts, or does it include all Delta water users? Also, the policy only addresses half of the problem (transparency).</p> <p><b>East Bay Municipal Utility District:</b> Pg. 95, lines 35-40. Edit WR P2 as follows:                      “With respect to CVP or SWP contracts, all new contracts, contract modifications, contract renewals...”</p> <p><b>State and Federal Contractors Water Agency:</b> Future Water Contracts (WR P2). We support transparent public processes, yet object to the Draft Plan’s efforts to specify a particular public process for “future contracts and agreements to export water from the Delta...” The current proposed policy is overbroad and would compromise the most efficient use of water by hindering negotiation of transfers between willing sellers and willing buyers.</p> <p><b>State and Federal Contractors Water Agency:</b> <del>WR P2. All new contracts, contract modifications, contract renewals and agreements to export water from, transfer water through, or use water in the Delta except transfers for up to one year in length, are not consistent with Delta Plan unless they have been developed in a transparent manner consistent with Department of Water Resources’ revised policies adopted in 2003 for contract renewals and permanent transfers included in Appendix C or comparable policies issued by the Bureau of Reclamation. WR P2. [The subject policies, which DWR adopted in 2003, were meant to only apply for major SWP contract negotiations and would be inappropriate for long term water transfer agreements. This language should be deleted.]</del></p> <p><b>Yuba County Water Agency:</b> Proposed Policy WR P2 could discourage agencies that have been sources of transfer water from involvement with the Delta and water transfers                      [...] Proposed Recommendation WR R5 would reduce watershed agencies’ ability to implement changes to their operations that could benefit the Delta and would violate the area-of-origin laws                      [...] YCWA respectfully requests that the Council delete recommendation WR R5 from the Delta Plan.                      In order to avoid problems that proposed Policy WR P2 and proposed Recommendation WR R5 would cause, the Council should consider the water-supply proposals in the Ag/Urban Alternate Delta Plan.</p>
<p>WR R5 unclear; concerns about how would apply to upper watershed, pre-1914 rights; concerns about impact on water rights and water transfers; concern about costs; various recommendations for improvements including removal.</p>	<p><b>Calaveras County Water District:</b> We are [...] concerned about the Plan’s WR R5 recommendation.                      [...] This language is problematic because it would require upstream agencies such as ours to have evaluated and implemented all other feasible water supply alternatives prior to being able to obtain essentially any change in our existing use of water or new diversion of water. It is also unclear who makes the determination that an alternative is feasible. To who and at what costs? Does feasible mean locally feasible (locally cost effective) or is there another standard of feasible? The proposal is not clear.                      [...] We urge that WR R5 be removed entirely from the Plan.</p> <p><b>California Department of Water Resources:</b> WR R5 Page 84, lines 34 – 37</p>

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	<p>Implementation of this recommendation would prove to be extremely problematic for the State Water Projects Analysis Office and the Water Transfers Program in general. [...] The Plan as proposed, would add multiple layers of complexity to the already complex water transfers process. It may even effectively remove water transfers as one the most important tools that is needed for ensuring water supply reliability.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The SWRCB should no longer issue permits for increased water diversions or contributions to storage until at least the SWRCB flow criteria have been established, especially in view of the over allocation of supplies from the Delta. (WR R5)</p> <p><b>California Farm Bureau Federation:</b> (WR R5) As worded, the proposed recommendation would require the proponent of a new point of diversion, place of use, or purpose of use anywhere in the Delta watershed to "have evaluated and implemented all other supply alternatives" as a prerequisite to approval of any such change. To adopt this recommendation would essentially impose a moratorium on all new diversions from the watershed.</p> <p><b>Coalition for a Sustainable Delta:</b> WR R5 would require the evaluation and implementation of "all other feasible water supply alternatives" prior to the State Water Resources Control Board granting a new point of diversion, place of use or purpose of use in certain instances. This language is unduly vague. Furthermore such projects would be subject to CEQA and thus alternatives would be evaluated and disclosed thus this requirement would seem redundant.</p> <p><b>East Bay Municipal Utility District:</b> Pg. 84, lines 34-37. Edit WR R5 as follows: The State Water Resources Control Board and/or the Department of Water Resources should require that proponents requesting a <u>change in new</u> point of diversion, <del>place of use</del>, or purpose of use that results in new or increased use of water from the Delta watershed should demonstrate that the project proponents have evaluated and implemented all other feasible water supply alternatives.</p> <p><b>El Dorado County Water Agency:</b> We are [...] concerned about the Plan's WR R5 recommendation. [...] This language is problematic because it would require upstream agencies such as ours to have evaluated and implemented all other feasible water supply alternatives prior to being able to obtain essentially any change in our existing use of water or new diversion of water. It is also unclear who makes the determination that an alternative is feasible. To who and at what costs? Does feasible mean locally feasible (locally cost effective) or is there another standard of feasible? The proposal is not clear. [...] We urge that WR R5 be removed entirely from the Plan.</p> <p><b>Lowell Jarvis:</b> P.84, 1.34 - WR R5 This recommendation creates an added layer of inflexible process and costly bureaucracy. It adds to the burden of local upstream water districts, and does not create any new water.</p> <p><b>Mountain Counties Water Resources Association:</b> WR R5 implies that senior water right holders could be forced to implement costly alternatives to change a point of diversion or increase needed water supplies, which seems to violate Water Code Section 85031. [...] If implemented, it would create a future of uncertainty and may very well cripple many of the smaller water purveyors with water moratoriums, and/or economic and financial hardships.</p> <p><b>City of Sacramento:</b> WR R5. [...] It is unclear what "feasible" means in this context, and how this is intended to be applied to existing senior water right holders and/or new water right applicants within the area of origin in a manner that is consistent with the water right priority doctrines, as mandated by State law. [...] With respect to diversions upstream of the Delta boundary, the City also requests clarification that such upstream diversions are not "covered actions", even if the upstream diversions could have impacts within the Delta boundary. This has implications throughout the Plan where the applicability of its terms depends on whether or not something is a "covered action."</p> <p><b>San Joaquin County:</b> WR R5, Page 84, Line 34 - The notion of having all Californians share in the burden of mitigating the damages of exports by the State and Federal Water Projects is completely unfair. [...] CEQA already requires that projects proponents look at other feasible alternatives. Under NEPA, the least damaging practicable alternative that meets the project's purpose and need must be selected. Additional oversight by the DSC through the Delta Plan is unwarranted and duplicative.</p> <p><b>South Delta Water Agency:</b> It should be made clear that the Policy on page 82 would not apply to any transfer wherein the purchaser is an in-Delta user (non-export). Similarly, Recommendation WR R5 should be removed. Current law anticipates that in-Delta users are guaranteed a future supply of water even if it impacts exports.</p> <p><b>State and Federal Contractors Water Agency:</b> WR R5 relating to the permitting of a new point of diversion, place of use, or purpose of use remains vague. Its meaning and impact must be clear. If the intent is to regulate existing water rights, then this recommendation conflicts with the Act's direction that nothing in the Delta Plan is to affect water rights and it should be deleted. If that is not the intent, it should explicitly state that it is only meant to apply to new water rights applications. In addition, use of "feasible" in this context begs the question of how that is defined. While a water project alternative may be "feasible" that doesn't necessarily mean it's affordable or wise.</p> <p><b>State Water Resources Control Board:</b> WR R5. [...] While the State Water Board may have authority as a lead agency under CEQA to evaluate such alternatives, or to deny or condition an application or petition based on its public interest authority, this provision goes a bit further. The State Water Board does not have the authority to require a project proponent to implement all other feasible water supply alternatives.</p>

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	<p><b>Tuolumne Utilities District:</b> We are [...] concerned about the Plan’s WR R5 recommendation.                      [...] This language is problematic because it would require upstream agencies such as ours to have evaluated and implemented all other feasible water supply alternatives prior to being able to obtain essentially any change in our existing use of water or new diversion of water. It is also unclear who makes the determination that an alternative is feasible. To who and at what costs? Does feasible mean locally feasible (locally cost effective) or is there another standard of feasible? The proposal is not clear.                      [...] We urge that WR R5 be removed entirely from the Plan.</p> <p><b>Yuba County Water Agency:</b> Proposed Policy WR P2 could discourage agencies that have been sources of transfer water from involvement with the Delta and water transfers                      [...] Proposed Recommendation WR R5 would reduce watershed agencies’ ability to implement changes to their operations that could benefit the Delta and would violate the area-of-origin laws                      [...] YCWA respectfully requests that the Council delete recommendation WR R5 from the Delta Plan.                      In order to avoid problems that proposed Policy WR P2 and proposed Recommendation WR R5 would cause, the Council should consider the water-supply proposals in the Ag/Urban Alternate Delta Plan.</p>
<p>Several comments regarding additional recommendations to include in plan. Most addressed concern that the plan focuses on immediate actions, and does not do enough to address a phased approach to implementation of the policies and recommendations. Example is suggested DSC role to evaluate existing conservation, recycling and stormwater targets and recommendation of more ambitious targets by dates certain.</p>	<p><b>Association of California Water Agencies:</b> The Alternate Delta Plan identifies 48 actions and recommendations under ten categories of management strategies to improve statewide water supply reliability. In addition, the plan identifies six strategies comprised of twelve actions and recommendations to promote research to address the effects of various contaminants on the water quality and the Delta ecosystem. [...] we encourage the Council and your staff to review our Alternate Plan and identify opportunities to incorporate it in your next draft Delta Plan.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The pumping of what is referred to as Article 21 “surplus water”, which was put in place by the Monterey Plus Amendments to the State Water Project contracts, has proven so harmful to the fish and the environment that Judge Oliver Wanger required that pumping during the times that this so called "surplus" water was being pumped had to stop. Article 21 of the State Water Project contracts must be amended to reflect this reality. (WR P1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The goal of reduced reliance on the Delta can be achieved by increasing groundwater storage facilities south of the Delta. To that end, we recommend that the Council require a complete evaluation of groundwater storage possibilities in the former Tulare lake bed, as advanced by the San Joaquin Valley Leadership Forum. (WR P1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Because of the critical importance of emphasizing a conservation rate structure, it should be implemented sooner than December 2020, as called for in Draft Plan. (WR P1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The Council should require water suppliers to document actual or projected net reductions in reliance on Delta exports as part of their reporting obligations; the reporting obligations should indicate the impact on the total Delta water budget. (WR P1, R3)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Establish a more ambitious long-term urban water conservation target, as indicated in our report, <i>California Water Solutions Now</i>, to succeed the 20/20 goal. We do not concur with the Draft Plan, which puts the establishment of that future target to some unspecified future date. (WR P1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Establish a statewide agricultural water conservation target of 1 MAF by 2020, 2.5 MAF by 2030 and 3.5 MAF by 2040. (WR P1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> IRWMP projects must provide disadvantaged communities with water for health and safety purposes and that meet drinking water standards. (WR P1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] the Delta Plan should contain a policy that meeting the co-equal goals of water supply reliability and ecosystem restoration shall not adversely impact the Trinity River, as defined by meeting the flow requirements of the Trinity River Record of Decision and meeting Trinity River temperature objectives contained in the “Water Quality Control Plan for the North Coast Region” by the North Coast Regional Water Quality Control Board.</p> <p><b>Delta Caucus:</b> Page 93, Line 21: We [...] urge the Council to review and propose their recommendations for Groundwater as a component in achieving the regional self sufficiency goals and allow the public to review this in the context of the Draft Environmental Impact Report and the next Delta Plan Draft.</p> <p><b>Local Agencies of the North Delta:</b> pp. 86-87: Conveyance Policies and Recommendations are Needed.                      [...] [T]he Council should provide at least general direction to the BDCP and any future process on conveyance, as it does for ecosystem restoration (Chapter 5). The Plan should provide some policy direction for the development of improved conveyance that: (1) recognizes that conveyance may come in many forms (i.e., may not include an actual tunnel or canal); and (2) should not substitute one co equal goal (restoring the Delta) for another (reliable water supply). On this second point, specific policies could include:</p>

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	<ul style="list-style-type: none"> <li>• Conveyance should not simply relocate environmental, species and water quality problems to new places but instead should provide improvements in conditions throughout the Delta;</li> <li>• Any change in diversion point for new conveyance must not injure any legal user of water;</li> <li>• Conveyance should not interfere with the ability to restore Delta ecosystems;</li> <li>• A broad spectrum of conveyance options should be evaluated prior to selecting any option. Examples include continuing through Delta (and screening the current intakes) as well as a west Delta island based intake. (Note that the Council does not need to prefer any of these options but should provide leadership on the issue of at least considering these options as possible projects.)</li> </ul> <p><b>Natural Resources Defense Council et al.:</b> The draft includes a recommendation urging state facilities to assume a leadership role on water efficiency, stormwater capture and water recycling (WR R4). [...] We also urge the Council to include additional recommendations for state agencies to take a leadership role in advancing specific water management tools. For example [...]:</p> <ul style="list-style-type: none"> <li>• The State Board should develop regulations to allow the non-potable indoor use of rainwater.</li> <li>• The State Board should define water “waste.”</li> </ul> <p>We believe that it is appropriate for the Council to offer recommendations for other state agencies to provide leadership in advancing a full range of water reliability tools.</p> <p><b>Natural Resources Defense Council et al.:</b> The fifth draft appropriately observes that the Bay-Delta is overcommitted and that “SWP and CVP contracts promise more water than can be consistently delivered.” (p. 77) However, the current draft does not include any recommendations to address this problem, reduce pressure on a damaged ecosystem, and reduce long-term conflicts.</p> <p><b>State and Federal Contractors Water Agency:</b> Although the draft recommends a stakeholder process for development of guidelines pertaining to the “Water Reliability Element”, there is no similar recommendation for such a process related to the “Conservation Oriented Rate Structure” [P 83-84]. There should be. [...] In addition, there is no discussion of the need to differentiate between retailers and wholesalers and urban and agricultural districts.</p> <p><b>State Water Resources Control Board:</b> WR R10. [...] Water Code sections 2100-2101 do not allow for cost recovery. Therefore, the State Water Board would need to identify the overall resource needs associated with conducting groundwater adjudications for basins of various sizes and complexity and develop a budget change proposal to obtain the necessary resources. State Water Board staff requests that the Council provide a recommendation in the Delta Plan that additional resources should be made available for the State Water Board to accomplish this work.</p> <p><b>Yurok Tribe:</b> [...] the Delta Plan should contain a policy stating that meeting the co-equal goals of water supply reliability and ecosystem restoration shall not adversely impact the Trinity River, as defined by meeting the flow requirements of the Trinity River Record of Decision and meeting Trinity River temperature objectives contained in the "Water Quality Control Plan for the North Coast Region" by the North Coast Regional Water Quality Control Board.</p>
<p>Concerns about treatment of BDCP; language considered pre-decisional; DSC should not assess consistency of BDCP projects with Delta Plan; Delta Plan does not support of recovery of lost flows; Need to clarify what will happen if BDCP not completed.</p>	<p><b>City of Antioch:</b> Pg. 82, lines 4-8. Would this indicate that the BDCP would be inconsistent with the Delta Plan if it significantly impacts one of the water suppliers (such as Antioch) causing the need for a covered action, such as a change in Antioch's diversion point, a water rights transfer or another regional solution drive by impacts to Antioch's water supply and quality?</p> <p><b>City of Antioch:</b> Pg. 84, lines 34-37. Antioch may need to change its point of diversion or place of use, because of the impacts of the BDCP. Does this mean that such a mitigation would have to demonstrate that all other water supply alternatives have been evaluated, even though the change in diversion or place of use were a mitigation for a BDCP project? Also, do pre-1914 water rights holders have to comply with this?</p> <p><b>Coalition for a Sustainable Delta:</b> [W]e remain concerned that the Draft Plan does not provide sufficient support for improved conveyance that is being considered as part of the BDCP. [...] [T]he Delta Plan should be clear in its commitment to improved conveyance as a critical part of the solution to an improved Delta through implementation of the co-equal goals mandated by the Legislature.</p> <p><b>Contra Costa Water District:</b> On page 62 the Delta Plan states, “[t]he Council has determined that any consideration or use of BDCP-related studies or concepts in the Delta Plan will not have a pre-decisional effect on any possible future appeal of a DFG determination related to BDCP”. However, on page 69 the Delta Plan states that the BDCP is one of the six key strategies that “[m]ust be implemented to achieve the coequal goal of a more reliable water supply for California”. This statement suggests that the Council has already determined that the BDCP will meet the criteria necessary for incorporation into the Delta and that it is consistent with the Delta Reform Act.</p> <p><b>Contra Costa Water District:</b> p. 69 line 27 - The BDCP bullet is pre-decisional and should be revised</p> <p><b>Delta Caucus:</b> Page 87, ER R8: We would urge the Council to evaluate the alternatives to the BDCP process should they not complete their task at December 31, 2014.</p> <p><b>Glenn-Colusa Irrigation District:</b> Policy ER P1 has the potential to conflict with the ongoing Bay Delta Conservation Plan (BDCP) and intrudes upon the SWRCB's jurisdiction. [...] With the significant work being undertaken as part of the BDCP, it makes little sense to require the SWRCB to proceed on a separate but parallel track to the BDCP to develop information to develop flows for the Delta. These processes could create divergent results, which would lead to further delays in implementing a Delta solution. The Delta Plan should</p>

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	<p>recognize this work and not require the SWRCB to engage on a parallel track.                      [...] ER P1's recommendations should the SWRCB not meet the deadlines in Policy ER P1 have the potential to impede the beneficial use of water, including water for environmental uses, and impedes on the SWRCB's jurisdiction over the appropriation of water.                      [...] A more appropriate approach is to recognize the SWRCB's authority in this regard and, to the extent new flow criteria are not developed, proposed projects can simply be measured against the Delta Plan and the coequal goals.</p> <p><b>Local Agencies of the North Delta:</b> pp. 86-87: Conveyance Policies and Recommendations are Needed.                      [...] [T]he Council should provide at least general direction to the BDCP and any future process on conveyance, as it does for ecosystem restoration (Chapter 5). The Plan should provide some policy direction for the development of improved conveyance that: (1) recognizes that conveyance may come in many forms (i.e., may not include an actual tunnel or canal); and (2) should not substitute one co equal goal (restoring the Delta) for another (reliable water supply). On this second point, specific policies could include:</p> <ul style="list-style-type: none"> <li>• Conveyance should not simply relocate environmental, species and water quality problems to new places but instead should provide improvements in conditions throughout the Delta;</li> <li>• Any change in diversion point for new conveyance must not injure any legal user of water;</li> <li>• Conveyance should not interfere with the ability to restore Delta ecosystems;</li> <li>• A broad spectrum of conveyance options should be evaluated prior to selecting any option. Examples include continuing through Delta (and screening the current intakes) as well as a west Delta island based intake. (Note that the Council does not need to prefer any of these options but should provide leadership on the issue of at least considering these options as possible projects.)</li> </ul> <p><b>City of Sacramento:</b> The Plan indicates that the Bay Delta Conservation Plan (BDCP) will be incorporated into the Delta Plan, and the "Problem Statement" set forth on page 87 of the Plan describes the goal of the BDCP "to promote the recovery of endangered, threatened, and sensitive species and their habitats in the Delta in a way that also improves reliability of water deliveries exported from the Delta watershed." The City is concerned that improved water supply reliability for areas that receive water exported through the Delta may be achieved at the expense of water supply reliability for areas that do not import water, such as the Sacramento region. The Plan must be developed and implemented in a way that prevents this from occurring and promotes water supply reliability for the entire State.</p> <p><b>State and Federal Contractors Water Agency:</b> We again encourage and request a specific statement in the Delta Plan regarding how water supply and water supply reliability will be achieved through the implementation of the Bay Delta Conservation Plan (BDCP). [...]To ensure no ambiguity, we provide the following suggested language and request the Council include it in the Delta Plan as part of its discussion of baselines related to "performance measures":                      "Consistent with legislative direction to incorporate the Bay Delta Conservation Plan (BDCP) into the Delta Plan pursuant to section 85320 of the Act, the Council finds that any water supply benefits accruing as a result of implementation of the BDCP, including future operation of new Delta conveyance facilities, are consistent with the application of Water Code Section 85021."</p>
<p>Clarity needed on how actions taken to reduce reliance on Delta benefit the Delta ecosystem.</p>	<p><b>Calaveras County Water District:</b> Our agency continues to be concerned with the 5th draft plan's focus on flow criteria as an apparent singular metric for a healthy Delta ecosystem. While there is a nexus between stream flow and some aspects of aquatic and terrestrial habitat and species health, it is also clear that there are many other factors influencing the Delta's health beyond flows.</p> <p><b>Delta Independent Science Board:</b> <i>Reduced reliance on Delta water:</i> the legislation and the Plan set a goal of reducing State reliance on water from the Delta. This could involve reductions in total exports, reductions in net use upstream, reductions in in-Delta use, changes in timing of use, or all of the above. Yet the Plan principally focuses on regional self-reliance through improved efficiency, conservation, re-use/recycling programs, development of local sources, better accounting, etc. Although it seems obvious that improvements in regional supplies will reduce pressure on the Delta, the specific connection between the two is not made well. For example, reductions in per-capita use of water in urban settings CAN make more water available for consumptive use. In most urban environments, however, this "new" water is used to support growth and, thus, no net decrease in overall regional demand for water. Indeed, the growth in number of water users can lead to hardening of demand, resulting in no reduction in pressure or even more pressure on the Delta. The same can occur in agricultural settings where increases in water use efficiency can lead to planting of more acreage (including the current trend of perennial crops) and no net reduction in regional demand. A more direct statement about reducing reliance on the Delta would be of value together with more quantitative measures of performance. We recognize the political sensitivity around statements about water reallocation but the plan needs to be more direct about the need for changes in allocation for environmental purposes both in terms of absolute volume and seasonal discharges.</p> <p><b>El Dorado County Water Agency:</b> Our agency continues to be concerned with the 5th draft plan's focus on flow criteria as an apparent singular metric for a healthy Delta ecosystem. While there is a nexus between stream flow and some aspects of aquatic and terrestrial habitat and species health, it is also clear that there are many other factors influencing the Delta's health beyond flows.</p> <p><b>San Joaquin River Group Authority:</b> The Fifth Draft includes the Flow Policy as a proposed regulation in three of five substantive chapters, relying on it to ensure water reliability, restore the Delta ecosystem, and improve water quality. Such reliance on the Flow Policy is misplaced for at least two reasons. First, the Fifth Draft fails to adequately and logically</p>

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	<p>explain how and the extent to which increasing flow will protect fish and wildlife beneficial uses. Second, the Council's reliance on the Flow Policy compromises other non-flow solutions.</p> <p><b>Tuolumne Utilities District:</b> Our agency continues to be concerned with the 5th draft plan's focus on flow criteria as an apparent singular metric for a healthy Delta ecosystem. While there is a nexus between stream flow and some aspects of aquatic and terrestrial habitat and species health, it is also clear that there are many other factors influencing the Delta's health beyond flows.</p>
<p>Suggestions for improvements to text including need to address near-term improvements (entrainment, levees); need more balanced discussion of conveyance; need to provide guidance to BDCP; need for more information on water transfers (both benefits and concerns).</p>	<p><b>American Rivers:</b> Draft Policy WR P1 provides that the export, transfer, or use of water in the Delta is inconsistent with the Delta Plan if it meets two conditions: it causes adverse impacts on the co-equal goals, and a water supplier whose demand is a significant cause of the action has not complied with certain planning requirements arising largely from S.B. 7 (2009). The draft does not address similar requirements arising from other state and federal laws, is unnecessarily complex, and is unclear whether an action which benefits multiple suppliers is inconsistent as a whole if any one supplier has not met the planning requirements. We propose the following substitute for completeness, simplicity, and fairness:  <i>WR P1. A covered action to export water from, transfer water through, or use water in the Delta is inconsistent with the Delta Plan to the extent: (1) the covered action adversely affects the attainment of the coequal goals as defined in Water Code section 85054; and (2) a water supplier that receives water as a result of that action has not timely complied with applicable requirements for reducing demand or enhancing supply reliability as established by Water Code Division 6, Part 2.55 and other statutes and implementing rules. The consistency certification required by Water Code section 85225 and Delta Plan Policy GP1 will, for each such supplier, identify all such applicable requirements and demonstrate the supplier's timely compliance.</i></p> <p><b>City of Antioch:</b> Pg. 82, lines 4-8. Would this indicate that the BDCP would be inconsistent with the Delta Plan if it significantly impacts one of the water suppliers (such as Antioch) causing the need for a covered action, such as a change in Antioch's diversion point, a water rights transfer or another regional solution drive by impacts to Antioch's water supply and quality?</p> <p><b>City of Antioch:</b> Pg. 84, lines 34-37. Antioch may need to change its point of diversion or place of use, because of the impacts of the BDCP. Does this mean that such a mitigation would have to demonstrate that all other water supply alternatives have been evaluated, even though the change in diversion or place of use were a mitigation for a BDCP project? Also, do pre-1914 water rights holders have to comply with this?</p> <p><b>California Department of Water Resources:</b> WR P1 Page 82, lines 4 - 8                      This Policy states that "A covered action to export water from, transfer water through, or use water in the Delta is inconsistent with the Delta Plan if the covered action negatively impacts one or more of the coequal goals and one or more of the water suppliers that receive water from the Delta significantly causes the need for the covered action by failing to comply with one or more of the following..." As written, this long sentence is unclear. Since this important policy will become law, consider revising the language so that the intent is clear.</p> <p><b>California Department of Water Resources:</b> There are three long-term water transfers programs for which the Department is a party to. Two of these are on-going: Environmental Water Account (EWA) and the Yuba River Accord. The other, the Sacramento Valley Water Management Program (SVWMP) is under development.                      [...]The terms and conditions of these agreements were carefully negotiated and agreed to by all parties. [...] In the meaning of the Delta Plan, these projects are covered actions and must be consistent with all current laws and the policies in the Delta Plan and particularly WR P1. As such, the Delta Plan imposes additional terms and conditions to these already carefully negotiated agreements. In the event that a water transfer project under one of these agreements is found to be inconsistent with the Delta Plan, the agreement is at risk of being derailed. Consideration should be given to exempting these agreements that are not for the primary purpose of augmenting water supplies but for environmental enhancement.</p> <p><b>California Department of Water Resources:</b> The Delta Plan and particularly Policy WR P1 would place additional requirements on executing transfers involving pre-1914 water rights that may restrict the ability of the water rights holder to change place of use, point of diversion, or purpose of use. Contrary to Water Code Section 85031(a), it would appear that the Delta Plan places additional restrictions on the utilization of the pre-1914 water rights.</p> <p><b>California Department of Water Resources:</b> [A]s currently written, WR P1 seems to conflict with the Administrative Exemption for water transfers of one-year duration. Almost all water made available from one-year water transfers is moved from north of the Delta to south of the Delta (i.e., transferred through the Delta). So while it might have an Administrative Exemption, would it still have to comply with WR P1? If not, the Plan needs to clarify this. If compliance with WR P1 is required; it would most likely change DWR's Water Transfer Program for the foreseeable future by incurring lengthy delays due to more complexity. It would probably also require a shift in DWR resources to help facilitate water transfers if they were to still exist as a tool to ensure water supply reliability for many portions of the State.</p> <p><b>California Department of Water Resources:</b> Page 95, lines 31 – 33                      The Problem Statement reads: "California does not maintain adequate uniform data about current local, regional, and state water uses and the status of its water supplies. The lack of consistent, comprehensive, and accurate information impedes California's ability to sustainably manage the state's water resources and improve water supply reliability." However, the following Policy, WR P2, requires the open and transparent development of contracts involving water transfers. This policy is unrelated to the Problem Statement. The problem is the lack of adequate and uniform water use data. The policy does not resolve this issue but rather addresses an unrelated issue.                      The Department recommends the DSC give consideration to the disclosure and public participation process already in place for water transfers.                      [...] The DSC should be careful not to make the process more burdensome. Existing mechanisms provide for adequate disclosure of impacts and opportunity to protest proposed</p>

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	<p>transfers.</p> <p><b>California Department of Water Resources:</b> WR P2 Page 95, lines 35 - 40                      This policy states that all contracts greater than one year exporting or transferring Delta water follow established Department policies for public participation. [...] These policies, although useful in the context of significant amendments to State Water Project water supply contracts, may make water transfers essential to California’s water supply reliability more difficult to achieve due to the increased complexity of the contracting process.                      [...]The added policies will greatly intensify the oversight role of the Department. In addition, these policies, especially the public participation policy, will likely alienate northern California water agencies that have been the source of most water transfers in past years.                      [...] This policy could also be problematic to implement.                      [...] One major implication of these policies and recommendation will be a decrease in multi-year long-term transfers such as the Yuba Accord in favor of more frequent one-year transfers so as to avoid the bureaucracy.</p> <p><b>California Department of Water Resources:</b> WR R5 Page 84, lines 34 – 37                      Implementation of this recommendation would prove to be extremely problematic for the State Water Projects Analysis Office and the Water Transfers Program in general. [...] The Plan as proposed, would add multiple layers of complexity to the already complex water transfers process. It may even effectively remove water transfers as one the most important tools that is needed for ensuring water supply reliability.</p> <p><b>Coalition for a Sustainable Delta:</b> [W]e remain concerned that the Draft Plan does not provide sufficient support for improved conveyance that is being considered as part of the BDCP. [...] [T]he Delta Plan should be clear in its commitment to improved conveyance as a critical part of the solution to an improved Delta through implementation of the co-equal goals mandated by the Legislature.</p> <p><b>Contra Costa Water District:</b> On page 62 the Delta Plan states, “[t]he Council has determined that any consideration or use of BDCP-related studies or concepts in the Delta Plan will not have a pre-decisional effect on any possible future appeal of a DFG determination related to BDCP”. However, on page 69 the Delta Plan states that the BDCP is one of the six key strategies that “[m]ust be implemented to achieve the coequal goal of a more reliable water supply for California”. This statement suggests that the Council has already determined that the BDCP will meet the criteria necessary for incorporation into the Delta and that it is consistent with the Delta Reform Act.</p> <p><b>Contra Costa Water District:</b> p. 69 line 27 - The BDCP bullet is pre-decisional and should be revised.</p> <p><b>Contra Costa Water District:</b> p. 82 lines 4 through 8, WR P1 is poorly worded and needs to be clarified. Suggested language:  <u>A covered action to export water from, transfer water through, or use water in the Delta is inconsistent with the Delta Plan if the covered action negatively impacts one or more of the coequal goals and the proponent of the covered action has failed to comply with one or more of the following:</u></p> <p><b>Delta Caucus:</b> Page 87, ER R8: We would urge the Council to evaluate the alternatives to the BDCP process should they not complete their task at December 31, 2014.</p> <p><b>Delta Caucus:</b> WR P1: [...] it appears there is conflicting views on exports as covered actions or not. This needs to be clarified. Additionally, we would raise concern with the use and wording of transferring water through the Delta as a negative impact. It is highly beneficial to South Delta water users both agricultural and municipal to have water flow through the Delta in this manner. It has improved water quality and we would maintain that this is a beneficial and essential function.</p> <p><b>Glenn-Colusa Irrigation District:</b> Policy ER P1 has the potential to conflict with the ongoing Bay Delta Conservation Plan (BDCP) and intrudes upon the SWRCB’s jurisdiction.                      [...] With the significant work being undertaken as part of the BDCP, it makes little sense to require the SWRCB to proceed on a separate but parallel track to the BDCP to develop information to develop flows for the Delta. These processes could create divergent results, which would lead to further delays in implementing a Delta solution. The Delta Plan should recognize this work and not require the SWRCB to engage on a parallel track.                      [...] ER P1’s recommendations should the SWRCB not meet the deadlines in Policy ER P1 have the potential to impede the beneficial use of water, including water for environmental uses, and impedes on the SWRCB’s jurisdiction over the appropriation of water.                      [...] A more appropriate approach is to recognize the SWRCB’s authority in this regard and, to the extent new flow criteria are not developed, proposed projects can simply be measured against the Delta Plan and the coequal goals.</p> <p><b>Local Agencies of the North Delta:</b> pp. 86-87: Conveyance Policies and Recommendations are Needed.                      [...] [T]he Council should provide at least general direction to the BDCP and any future process on conveyance, as it does for ecosystem restoration (Chapter 5). The Plan should provide some policy direction for the development of improved conveyance that: (1) recognizes that conveyance may come in many forms (i.e., may not include an actual tunnel or canal); and (2) should not substitute one co equal goal (restoring the Delta) for another (reliable water supply). On this second point, specific policies could include:</p> <ul style="list-style-type: none"> <li>• Conveyance should not simply relocate environmental, species and water quality problems to new places but instead should provide improvements in conditions throughout the Delta;</li> <li>• Any change in diversion point for new conveyance must not injure any legal user of water;</li> <li>• Conveyance should not interfere with the ability to restore Delta ecosystems;</li> </ul>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 4 – A More Reliable Water Supply for California**

Comment Themes or Recommendations	Comments
	<p>• A broad spectrum of conveyance options should be evaluated prior to selecting any option. Examples include continuing through Delta (and screening the current intakes) as well as a west Delta island based intake. (Note that the Council does not need to prefer any of these options but should provide leadership on the issue of at least considering these options as possible projects.)</p> <p><b>Natural Resources Defense Council et al.:</b> Include, in the plan, a meaningful definition of water supply reliability and reflect that definition in the plan's policies, recommendations and metrics. For example, we recommend that the discussion of storage and conveyance be amended to clarify that the goals of conveyance and storage improvements are not to increase average diversions, but rather to facilitate ecosystem restoration and to improve the vulnerability and predictability of Delta supplies.</p> <p><b>Natural Resources Defense Council et al.:</b> Volumetric wastewater pricing offers the potential to provide cost-effective water savings in the very near-term.</p> <p><b>City of Sacramento:</b> The Plan indicates that the Bay Delta Conservation Plan (BDCP) will be incorporated into the Delta Plan, and the "Problem Statement" set forth on page 87 of the Plan describes the goal of the BDCP "to promote the recovery of endangered, threatened, and sensitive species and their habitats in the Delta in a way that also improves reliability of water deliveries exported from the Delta watershed." The City is concerned that improved water supply reliability for areas that receive water exported through the Delta may be achieved at the expense of water supply reliability for areas that do not import water, such as the Sacramento region. The Plan must be developed and implemented in a way that prevents this from occurring and promotes water supply reliability for the entire State.</p> <p><b>Sacramento County:</b> WR P1, Covered Actions and Water Exports/Transfers (pgs. 82-84): This policy indicates that a covered action is de facto inconsistent with the Plan if the action negatively impacts one or more of the coequal goals and one or more of the water suppliers that receive water from the Delta significantly causes the need for the covered action by failing to comply with certain requirements. The Plan must be revised to include specific guidance as to whom or what agency will make the determination that a water supplier/exporter has met (or violated) the coequal goals mandate.</p> <p><b>South Delta Water Agency:</b> It should be made clear that the Policy on page 82 would not apply to any transfer wherein the purchaser is an in-Delta user (non-export). Similarly, Recommendation WR R5 should be removed. Current law anticipates that in-Delta users are guaranteed a future supply of water even if it impacts exports.</p> <p><b>State and Federal Contractors Water Agency:</b> Future Water Contracts (WR P2). We support transparent public processes, yet object to the Draft Plan's efforts to specify a particular public process for "future contracts and agreements to export water from the Delta..." The current proposed policy is overbroad and would compromise the most efficient use of water by hindering negotiation of transfers between willing sellers and willing buyers.</p> <p><b>State and Federal Contractors Water Agency:</b> The statement that there can be no planning for new conveyance prior to adoption of new Water Quality Control Plan (WQCP) objectives [P 85, L12-15] is contrary to pursuit of both coequal goals and exceeds the Council's authority. [...] This sentence should be deleted.</p> <p><b>State and Federal Contractors Water Agency:</b> We again encourage and request a specific statement in the Delta Plan regarding how water supply and water supply reliability will be achieved through the implementation of the Bay Delta Conservation Plan (BDCP). [...] To ensure no ambiguity, we provide the following suggested language and request the Council include it in the Delta Plan as part of its discussion of baselines related to "performance measures":  "Consistent with legislative direction to incorporate the Bay Delta Conservation Plan (BDCP) into the Delta Plan pursuant to section 85320 of the Act, the Council finds that any water supply benefits accruing as a result of implementation of the BDCP, including future operation of new Delta conveyance facilities, are consistent with the application of Water Code Section 85021."</p> <p><b>State and Federal Contractors Water Agency:</b> <del>WR P4R1. A covered action to export water from, transfer water through, or use water in the Delta is <u>could be</u> inconsistent with the Delta Plan if the covered action negatively impacts <u>has a significant adverse impact on achievement of</u> one or more of the coequal goals <del>and one or more. One of the water suppliers that receive water from</del> factors in causing such an impact could be the Delta significantly causes the need for the covered action by failing <u>proponent's failure to</u> comply with one or more of the following: <del>Compliance with State law</del></del></p> <ul style="list-style-type: none"> <li>- Urban water suppliers, <u>as applicable</u></li> <li>[...]</li> <li>o Adopt and implement a plan to achieve 20 percent reduction in statewide urban per capita water use by December 31, 2020, meeting the standards and timelines established in Water Code section 10608 et seq. <del>Agricultural water suppliers</del></li> <li>- Agricultural Water Supplies, <u>as applicable</u></li> <li>[...]</li> <li>- <del>Water Supply Reliability Element (delete - including sub-bullets)</del></li> </ul> <p><b>State and Federal Contractors Water Agency:</b> <del>WR P2. All new contracts, contract modifications, contract renewals and agreements to export water from, transfer water through, or use water in the Delta except transfers for up to one year in length, are not consistent with Delta Plan unless they have been developed in a transparent manner consistent with Department of Water Resources' revised policies adopted in 2003 for contract renewals and permanent transfers included in Appendix C or comparable policies issued by the Bureau of Reclamation.</del></p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 4 – A More Reliable Water Supply for California**

Comment Themes or Recommendations	Comments
	<p>WR P2. <u>[The subject policies, which DWR adopted in 2003, were meant to only apply for major SWP contract negotiations and would be inappropriate for long term water transfer agreements. This language should be deleted.]</u></p> <p><b>Yuba County Water Agency:</b> Proposed Policy WR P2 could discourage agencies that have been sources of transfer water from involvement with the Delta and water transfers [...]</p> <p>Proposed Recommendation WR R5 would reduce watershed agencies' ability to implement changes to their operations that could benefit the Delta and would violate the area-of-origin laws [...]</p> <p>YCWA respectfully requests that the Council delete recommendation WR R5 from the Delta Plan. In order to avoid problems that proposed Policy WR P2 and proposed Recommendation WR R5 would cause, the Council should consider the water-supply proposals in the Ag/Urban Alternate Delta Plan.</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 5 – Restore the Delta Ecosystem**

Comment Themes or Recommendations	Comments
<p>Ecosystem restoration approach in Chapter 5 is too flow centric.</p>	<p><b>Calaveras County Water District:</b> Our agency continues to be concerned with the 5th draft plan's focus on flow criteria as an apparent singular metric for a healthy Delta ecosystem. While there is a nexus between stream flow and some aspects of aquatic and terrestrial habitat and species health, it is also clear that there are many other factors influencing the Delta's health beyond flows.</p> <p><b>California Department of Water Resources:</b> While flow is a major environmental driver that ultimately shapes ecological processes, the landform and waterways must be consistent with the flow regimes that are being discussed or no appreciable change will occur in the ecosystem. The broad expanses of tules and grasslands do not exist anymore that could flourish and change with the seasonal changes in flows and salinities. The current Delta is a highly channelized environment and changing the flow regime will change little else except the salinity in different parts of the channels. Water will be moved faster or slower through the system, but until large scale restoration of areas that can utilize the change in flow and salinity are completed, little will be accomplished but to make large parts of the Delta brackish in the late summer and fall, much to the detriment of present agriculture practices and urban water use.</p> <p><b>California Farm Bureau Federation:</b> (ER P1) While the plan continues to assert that such "more natural" flows are "necessary to achieve the coequal goals," it does not explain how those flows will be consistent with the water supply component of coequal goals.</p> <p><b>El Dorado County Water Agency:</b> Our agency continues to be concerned with the 5th draft plan's focus on flow criteria as an apparent singular metric for a healthy Delta ecosystem. While there is a nexus between stream flow and some aspects of aquatic and terrestrial habitat and species health, it is also clear that there are many other factors influencing the Delta's health beyond flows.</p> <p><b>Glenn-Colusa Irrigation District:</b> [T]he Plan recognizes that the 2010 Flow Criteria Report protected fisheries but failed to address all other public trust resources. Even with this significant omission in the 2010 Flow Criteria Report, the Plan proceeds to rely on some of the recommendations from the Report. Recommending the adoption of criteria that lacked any public trust balancing and ignored other public trust resources is not productive and does not pass the co-equal goals test.</p> <p><b>Glenn-Colusa Irrigation District:</b> Another concern is that the Plan recommends a change in flow regime, identifies required timelines for the SWRCB to develop new objectives, with the assumption that the new flow objectives will be consistent with the Delta Plan, without providing any guidance to the SWRCB on, for example, how public trust balancing occurs in the context of meeting the coequal goals.</p> <p><b>Golden Gate Salmon Association:</b> GGSA recommends that the Delta Plan and other policies address [...] root causes of the declines or the salmon will not be recovered. The Delta flows obviously need fixing, as do the reservoir releases, the upriver flows, the temperatures and the spawning and rearing zones. Delta habitat additions can provide some benefit, but have little value unless foundational changes for salmon survival are made related to flow, water quality and in-water habitat fixes. More of the habitat improvements may be needed upriver than in the Delta. The system must return to conditions where salmon can successfully spawn and migrate downstream. NMFS studies have found that only about 20% of the smolts hatched in the upper Sacramento and its tributaries currently make it to the Delta. 80% of the smolts perish in the trip down the river and into the Delta. If this figure cannot be improved, the Delta habitat improvements or other Delta changes will do little good in restoring the runs. The right answer is a combination of fixes in the Delta and in the upper river and tributaries.</p> <p><b>Lowell Jarvis:</b> P.112,1.31. "Creating a more natural flow regime in the Delta is an important step in meeting the coequal goals ... " However, the more natural Delta flow regime should not come from Increased flow risk, reduced agricultural output, reduced area of origin and county of origin water rights. The Delta Plan appears incomplete and inadequate since it does not describe Delta flow impacts of an alternative conveyance facility. Adding a 15,000 cubic feet per second alternative conveyance facility intake in the Sacramento River would immediate and direct impacts to the natural flow regimes of the Delta, especially in below average rain years.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> This chapter should include a thorough discussion of tradeoffs inherent in ecosystem restoration, including potential impacts on agriculture, other related economic impacts and the need for regulatory flexibility to avoid such impacts.</p> <p><b>San Joaquin River Group Authority:</b> The Fifth Draft includes the Flow Policy as a proposed regulation in three of five substantive chapters, relying on it to ensure water reliability, restore the Delta ecosystem, and improve water quality. Such reliance on the Flow Policy is misplaced for at least two reasons. First, the Fifth Draft fails to adequately and logically explain how and the extent to which increasing flow will protect fish and wildlife beneficial uses. Second, the Council's reliance on the Flow Policy compromises other non-flow solutions.</p> <p><b>San Joaquin River Group Authority:</b> The Plan promotes an infrastructure that "mimics a more natural hydrograph." The Plan itself acknowledges that returning to a historical ecosystem is not possible, yet proposes that a "natural" flow regime will provide benefit in such an unnatural system. This is not realistic or defensible. Science simply does not support the idea that returning one component to its "natural" condition, while ignoring the other multitudes of change, will benefit the existing unnatural environment or otherwise restore the ecosystem.</p> <p><b>Sierra Nevada Conservancy:</b> ER P1, pp. 86, 113 and 138-139 Acknowledge in the policy statement the need to balance upstream and other public trust issues in the development, implementation and enforcement of new and updated flow requirements for the Delta and high priority tributaries. If flow requirements focus solely on providing downstream benefits to the Delta, they could negatively affect the ability of agencies</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 5 – Restore the Delta Ecosystem**

Comment Themes or Recommendations	Comments
	<p>and communities in the upper watersheds to meet their beneficial use and ecosystem restoration goals, many of which also affect water supply and ecosystem health downstream.</p> <p><b>State and Federal Contractors Water Agency:</b> The Ecosystem. The Council has focused its attention on flow as the ecosystem solution in the Delta. By focusing on flow, the Delta Plan ignores the causal mechanisms. Absent from the Delta Plan is an adequate program to address key stressors.</p> <p><b>Tuolumne Utilities District:</b> Our agency continues to be concerned with the 5th draft plan's focus on flow criteria as an apparent singular metric for a healthy Delta ecosystem. While there is a nexus between stream flow and some aspects of aquatic and terrestrial habitat and species health, it is also clear that there are many other factors influencing the Delta's health beyond flows.</p> <p><b>Valley Center Municipal Water District:</b> Page 107 Storage and More Natural Flow Regimes This chapter puts great importance on returning to more natural flow regimes as a way to restore the Delta eco-system. It fails, however, to make the linkage between additional storage above the Delta (Sites, Temperance Flats to facilitate pulse of peak flows and control temperature in the Delta. Without more surface storage of significant capacity, there will always be push and pull on the existing storage capacity between meeting water supply, flood control, and eco-system needs. Recommendation: The Delta plan needs to clearly draw the linkage between eco-system restoration and enhanced surface water storage.</p>
<p>Don't encourage SWRCB to undergo parallel development of flow objectives concurrent with BDCP flow efforts.</p>	<p><b>California Department of Water Resources:</b> ER P1 Pages 113 - 114, lines 2 - 17 and 1 - 7 respectively [...] Establishment of these flow objectives is a highly complex issue both technically and legally and care must be taken in the development of these objectives. [...] This policy also provides that the DSC will request an update from the State Board by June 30, 2013, on the progress towards meeting the dates provided. If these dates are not met then the Delta Plan provides options for the DSC. These options include a provision that the DSC may determine that covered actions to divert additional water from the Delta is not consistent with the Delta Plan or recommend that the State Board cease issuing Water Rights permits in the Delta. As the Department has stated previously, this leaves the water community with a great deal of uncertainty as to the ramifications of this policy, especially if legal challenges to establishing flow objectives carry on for a number of years. The Delta Plan also should describe how this Policy will be integrated with the flow objectives of the Bay Delta Conservation Plan (BDCP.)</p> <p><b>California State Senator Lois Wolk:</b> The Delta Plan calls for new Delta flows to be in place by June 2, 2014 – only six months after the Delta Plan calls for the finalization of the Bay Delta Conservation Plan. [...] The timeline should be adjusted to allow and encourage the BDCP process to take into account new flow standards prior to making commitments to large-scale and expensive new projects.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We ask the DSC to provide guidance to the BDCP on what is required to meet the legislative mandates of Delta ecosystem recovery, improved water quality in the system for fish and wildlife, as well as the Delta human needs, and the need to factor in the State Water Board's Delta and tributary flow requirements coming in the future.</p> <p><b>Glenn-Colusa Irrigation District:</b> Policy ER P1 has the potential to conflict with the ongoing Bay Delta Conservation Plan (BDCP) and intrudes upon the SWRCB's jurisdiction. [...] With the significant work being undertaken as part of the BDCP, it makes little sense to require the SWRCB to proceed on a separate but parallel track to the BDCP to develop information to develop flows for the Delta. These processes could create divergent results, which would lead to further delays in implementing a Delta solution. The Delta Plan should recognize this work and not require the SWRCB to engage on a parallel track. [...] ER P1's recommendations should the SWRCB not meet the deadlines in Policy ER P1 have the potential to impede the beneficial use of water, including water for environmental uses, and impedes on the SWRCB's jurisdiction over the appropriation of water. [...] A more appropriate approach is to recognize the SWRCB's authority in this regard and, to the extent new flow criteria are not developed, proposed projects can simply be measured against the Delta Plan and the coequal goals.</p> <p><b>Golden Gate Salmon Association:</b> Page 113 discusses the policies and steps for implementing Delta and river flow changes. Comment – Required flow changes are going to positively impact salmon rebuilding. At the same time they may negatively impact Delta exports and plans like the BDCP. We would urge that an attempt be made to identify and implement some earlier flow changes before 2014 and 2018.</p> <p><b>State and Federal Contractors Water Agency:</b> Delta Flow Criteria (ER P1). [...] BDCP will include a comprehensive package of new water operation criteria, habitat restoration and a strategy to address other stressors. Once the comprehensive nature of BDCP is known, SWRCB will be able to review issues such as water quality and potential effects on the environment or other water users. [...] We suggest you support and urge the SWRCB to expeditiously complete its existing Bay-Delta Strategic Workplan and incorporate its timetable and strategy as part of the Delta Plan.</p>
<p>1. Additional language required regarding SWRCB's process and regulatory role and 2. Clarification needed on definitions of Delta flow requirements, criteria, objectives - not used properly in draft Delta Plan.</p>	<p><b>San Joaquin River Group Authority:</b> The Flow Policy Mischaracterizes the Process to Review Flow Objectives The Flow Policy directs the State Board set "new and updated" flow requirements. The State Board has already set water quality objectives-they are in place and being met. Therefore, the State Board is not setting new flow requirements-but reviewing the existing water quality objectives to determine whether they are sufficient to reasonably protect the identified beneficial uses, considering all public trust uses.</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 5 – Restore the Delta Ecosystem**

Comment Themes or Recommendations	Comments
	<p><b>San Joaquin River Group Authority:</b> The Flow Policy is Pre-Decisional and Marginalizes the Process to Review Flow Objectives The Flow Policy incorrectly assumes the State Board will determine that (1) water quality objectives need to be amended and (2) this amendment will require a regime of increased flows. The State Board has not completed its environmental review of the water quality objectives and may determine the objectives do not need to be amended. Further, the State Board has not yet determined how it plans to implement any objectives it amends.</p> <p><b>San Joaquin River Group Authority:</b> The Flow Policy Goes Beyond the Authority of the Council The Flow Policy amounts to the Council regulating in place of the State Board. By mandating the State Board set new flow standards, the Council attempts to perform the regulatory duties assigned to the State Board.</p> <p><b>State Water Resources Control Board:</b> ER P1. [...] Comment related to b): [...] flow "criteria" have no regulatory effect. Because additional time and resources would be needed to develop and implement flow objectives, as opposed to simply developing flow criteria, the Plan should make the intent of the policy clear. The following parts of the Plan that refer to requirements, criteria, or objectives [...], should be reviewed for consistency with the policy regarding Delta watershed tributary flows: [Pg. 22, Table 1-1; Pg. 97, lines 15-17; Pg. 85, lines 9-11; Pg. 113, lines 2-9; Pg. 113, lines 10-12; Pg. 126, lines 36-37; Pg. 138, lines 41-44; Pg. 139, lines 1-4; Pg. 139, lines 5-7; Pg.149, line 41]</p>
<p>It is questionable that SWRCB will meet the target date for process to update and implement flow objectives.</p>	<p><b>Calaveras County Water District:</b> It also seems difficult if not impossible for the SWRCB to accomplish the completion of defensible flow objectives by 2014. [...] Input from the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the United States Forest Service and the Federal Energy Commission, should all be actively sought out by the ISB and the DSC in their own support of any SWRCB flow related process. All of this will take time and resources. [...] We recommend that ER P1, which calls for the SWRCB to cease issuing water rights permits if the Board has not defined Delta regulatory flow objectives by 6/2/2014 and upstream tributary non-regulatory flow criteria by 6/2/2018, should be deleted from the Plan.</p> <p><b>California State Senator Lois Wolk:</b> [T]he Delta Plan calls for new Delta flows to be in place by June 2, 2014 – only six months after the Delta Plan calls for the finalization of the Bay Delta Conservation Plan. [...] The timeline should be adjusted to allow and encourage the BDCP process to take into account new flow standards prior to making commitments to large-scale and expensive new projects.</p> <p><b>EI Dorado County Water Agency:</b> It also seems difficult if not impossible for the SWRCB to accomplish the completion of defensible flow objectives by 2014. [...] Input from the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the United States Forest Service and the Federal Energy Commission, should all be actively sought out by the ISB and the DSC in their own support of any SWRCB flow related process. All of this will take time and resources. [...] We recommend that ER P1, which calls for the SWRCB to cease issuing water rights permits if the Board has not defined Delta regulatory flow objectives by 6/2/2014 and upstream tributary non-regulatory flow criteria by 6/2/2018, should be deleted from the Plan.</p> <p><b>San Joaquin River Group Authority:</b> The Flow Policy is Unrealistic The Flow Policy requires the State Board adopt and implement new water quality objectives by 2014. The review and potential amendment of water quality objectives is a complex process in which science, public trust, and policy must all be analyzed and balanced. Implementation of flow objectives is equally, if not more, complex, often involving quasi-judicial proceedings. Due to the complexity of these processes, amended flow objectives cannot be adopted and implemented by 2014.</p> <p><b>Tuolumne Utilities District:</b> It also seems difficult if not impossible for the SWRCB to accomplish the completion of defensible flow objectives by 2014. [...] Input from the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the United States Forest Service and the Federal Energy Commission, should all be actively sought out by the ISB and the DSC in their own support of any SWRCB flow related process. All of this will take time and resources. [...] We recommend that ER P1, which calls for the SWRCB to cease issuing water rights permits if the Board has not defined Delta regulatory flow objectives by 6/2/2014 and upstream tributary non-regulatory flow criteria by 6/2/2018, should be deleted from the Plan.</p>
<p>Need to more clearly state what aspects of other plans, e.g., ERPCS, are included in the Delta Plan; include SMP.</p>	<p><b>California Department of Fish and Game:</b> Page 119, Line 35. We recommend changing the text to read as follows: "Suisun Marsh. The largest wetland area on the west coast of the contiguous United States, Suisun Marsh has been mostly disconnected from the estuary. Restoring significant portions of Suisun Marsh provides the brackish portion of the estuary with sea level rise accommodation space, opportunities for extensive land-water interface dynamics, and chemical and biological gradients that support productive and complex food webs to which native species are adapted. The Suisun Marsh Habitat Management, Preservation, and Restoration Plan (Plan) has been developed by the Department of Fish and Game, Department of Water Resources, Bureau of Reclamation, U. S. Fish and Wildlife Service and Suisun Resource Conservation District, the organizations with primary responsibility for the management of the Suisun Marsh. The Plan is intended to provide regulatory certainty for managed wetland managers while facilitating tidal wetland restoration in the Marsh. The Plan when approved should be used to guide habitat restoration and management in the Marsh. A recently completed tidal restoration project is the Department of Water Resources' Blacklock Restoration Project. Projects in the planning stage include the Department of Fish and Game's Hill Slough Restoration Project and the Solano Land Trust's project at Rush Ranch."</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We agree with the Council's reliance on the Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions (DFG 2011). We would recommend that the Council require DFG to</p>

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**CHAPTER 5 – Restore the Delta Ecosystem**

Comment Themes or Recommendations	Comments
	<p>fully integrate restoration with inputs from the NMFS and FWS, both for riverine as well as terrestrial habitats. (ER P2)</p> <p><b>Delta Independent Science Board:</b> The focus of this chapter is on flow and habitat with more limited attention to stressors. Overall, it is weak on specifics although it highlights some important and previously neglected aspects of ecosystem restoration. As it stands, it leans very heavily on the (not yet reviewed) multiagency Ecosystem Restoration Program (ERP) Conservation Strategy, and the Bay Delta Conservation Plan, which is still in preparation. This chapter suggests that the Delta Plan has absorbed the ERP program for the Delta but, in fact, has only absorbed the section relating to land elevations and its implication for habitat restoration. This chapter and others need to more clearly state what is included from other plans.</p> <p><b>Delta Independent Science Board:</b> Ecosystem restoration is in part dependent on what future flow criteria for the Delta will be. However, these criteria remain to be developed and there is little discussion in the chapter about the need to integrate ecosystem restoration with flow patterns. The Delta Conservation Strategy remains unspecific about details of flow regimes and habitat restoration but sets important criteria for both flows and habitat. Unfortunately, for the goal of reliable water supply, the flow criteria for ecosystem restoration recognize that there will always be a need for flexibility in managing Delta flows for species conservation. This could be particularly contentious as water contractors are looking for assurances about export amounts, a topic that the Plan does not address.</p> <p><b>Delta Independent Science Board:</b> The desirability of achieving better collaboration and coordination among the agencies is acknowledged in various parts of the appendices (e.g., the monitoring program). This is critical to the success of the Plan; it would be strengthened by the inclusion of specific recommendations for inter-agency collaboration and coordination with examples.</p> <p><b>Golden Gate Salmon Association:</b> Page 115 begins a discussion of the Ecosystem Restoration Program (ERP). On page 116 line 7 it says, "It also follows the principle of a single blueprint for ecosystem restoration and species recovery in the Delta in accordance with the principles of ecosystem-based management."                      Comment – GGSA has reviewed the Ecosystem Restoration Program and we are concerned with its lack of specifics and priority recommendations. It is an excellent resource on species and habitat conditions but it provides no guidance on priorities for action. We do not feel it provides any roadmap for rebuilding the salmon runs and therefore we are concerned that the Council is placing so much emphasis on it.</p> <p><b>The Nature Conservancy:</b> Recommendation: We recommend that the Plan discuss the extent to which Performance Indicators are being developed in related efforts (e.g., BDCP, DFG ERP Conservation Strategy). Unless there is something more current, we recommend that CALFED ERP performance measures that were developed for the Delta as part of the Multi Species Conservation Strategy (CALFED Final Programmatic EIS/EIR Technical Appendix, July, 2000) be adopted as a starting place for the Delta Plan. We further recommend that outcome performance measures go beyond characterization of distribution and abundance to include characterizations of vital rates (survival and fecundity) as well as growth rate and condition metrics.</p> <p><b>Yurok Tribe:</b> [...] the Delta Plan should contain a policy stating that meeting the co-equal goals of water supply reliability and ecosystem restoration shall not adversely impact the Trinity River, as defined by meeting the flow requirements of the Trinity River Record of Decision and meeting Trinity River temperature objectives contained in the "Water Quality Control Plan for the North Coast Region" by the North Coast Regional Water Quality Control Board.</p>
<p>Not enough emphasis on terrestrial landscapes and species.</p>	<p><b>Delta Independent Science Board:</b> The focus of the chapter is on aquatic habitats and native aquatic species. This is a legacy of the historic conflict over water and aquatic species that was at the core of previous initiatives (e.g. CVPIA, CALFED) and remains a focus of concern for the Council. The Council has the opportunity to go beyond this aquatic focus, however, to include more fully the wide range of terrestrial and semi-aquatic species that are also important and endangered in the Delta. The importance of more terrestrial species is mentioned in various places but it is hard to detect a strong appreciation for the needs of these species in either the plan or the ERP Conservation Strategy.</p> <p>Although the chapter appropriately discusses the importance of a landscape perspective, this perspective is not apparent in the Plan's policies and recommendations. For example, the various restoration projects identified, their locations and areas are not presented in a landscape context. What is the relationship, in landscape ecology terms, among the five locations/habitats identified for immediate restoration? What is the landscape rationale for these locations and habitat types and habitat extent? If these relationships have not been considered then "landscape" becomes merely a buzzword. P. 108, L. 12-17: and throughout this chapter, it is important to emphasize that the Delta is more than rivers and streams. These are embedded in a landscape mosaic that has also undergone massive historical changes, and this surrounding landscape both affects and is affected by what goes on in the aquatic systems. There should be more explicit mention of land-water interconnections, which involve more than floodplains or riparian zones. The emphasis appears to be only on increasing connectivity.</p> <p>There is a general neglect of riparian and other terrestrial habitats and landscapes. A vast body of literature points to the intimate connections between riparian vegetation and the associated aquatic system, but aside from a brief discussion of the controversy about tree removal on levees there is little mention of restoration or management of riparian areas. Fostering habitats and connectivity for migratory birds is mentioned in several places, but apparently the focus here is on birds using the water rather than species (several of which are state- or federally listed) that use riparian woodlands, much less the adjacent agricultural landscapes. Is connectivity something that applies only to the water? In short, there is little in this chapter that provides perspective, guidance, or recommendations useful to thinking about how to manage or restore non-aquatic environments or species.</p> <p><b>Yolo County:</b> Pg. 127, lines 30-32. This is one of several performance measures at the conclusion of Chapter 5 with little or no connection to the policies and recommendations that</p>

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	<p>actually appear in the chapter. While it is certainly a sound goal and one that the County generally supports, it should not be offered as a performance measure for the Delta Plan in the absence of relevant Plan language, particularly with respect to terrestrial species (some of which would be significantly affected—if not extirpated—by full restoration of the areas shown in Figure 5.2). If this measure is retained, baseline data should be included in the Delta Plan to establish a basis for evaluation of progress toward achieving this measure in the years to come.</p>
<p>ER P2 - Policy too restrictive, map (Figure 5-2) too small.</p>	<p><b>California Department of Fish and Game:</b> Page 117, Line 21. It was not the intent in the ERP Conservation Strategy to use the elevation map (Figure 5-2) to dictate where restoration of specific habitat types must occur. [...] Therefore, we recommend changing the title of Figure 5-2 to something like "Current Elevations to Guide Habitat Restoration in the Delta and Suisun Marsh"</p> <p>Accordingly, we recommend changing the language in Policy ER P2 "shall be consistent with the habitat type locations shown on the elevation map" to be less restrictive and more flexible. It could read instead something like:                  "Habitat restoration actions shall be consistent with the <u>appropriate elevations</u> shown on the current elevation map in Figure 5-2 ... OR <u>proposals shall provide sufficient scientific rationale for habitat restoration at alternative elevations</u>"</p> <p><b>California Department of Water Resources:</b> ER P2 Page 117, lines 21 - 28                  Policy ER P2 states that habitat restoration actions must be consistent with the elevation map provided in Figure 5-2 (an 8 ½ by 11 inch sheet) based on the <i>Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions</i>. This policy is too restrictive and does not allow the DSC to make a determination of consistency independent of this map. Moreover, the scale of this map is inappropriate to base these decisions on. There are many localized areas in the Delta that are appropriate to develop smaller scale habitat projects that would not and could not be allowed under this policy as written.                  [...] Figure 5-2 also contains apparent errors. For example, small communities such as Tower Park Marina Resort on Terminous are not shown as developed. An existing residential development of several hundred people in Kasson District and the legacy community of Courtland appear to be shown as a potential seasonal floodplain area. Only part of the Yolo Bypass is shown as a seasonal floodplain, while Liberty Island is not shown as flooded. The City of Stockton wastewater treatment plant ponds are shown as potential intertidal habitat. Figure 5-2 may be better used as a guideline for determining appropriate habitat restoration actions, acknowledging inherent errors and allowing site-specific conditions, flexibility in salinity gradients, current and potential stressors, and managed wetlands to be considered. A balance of using this elevation map while identifying existing challenges such as willing sellers may be a more pragmatic approach.</p> <p><b>Delta Caucus:</b> Page 117, Lines 21-25 ER P2, P3: We have considerable concern with habitat restoration locations being prioritized by elevation alone. This does not take into account whether or not these locations are compatible with Habitat restoration goals, and furthermore would place undue burden on landowners under the covered actions provisions. The burden of proof that ER P3 places on proving an action has been mitigated for an 'opportunity for habitat restoration' area is unidentifiable and impossible to answer.</p> <p><b>Sacramento County:</b> ER P2, Habitat Restoration Consistency (pg. 117, lines 21-25):                  [...] [R]ather than relying on the <i>Conservation Strategy for Restoration of the Sac-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions</i> as the lone benchmark for determining habitat consistency, we strongly recommend that this policy be amended to offer greater flexibility, which will foster and encourage additional ecosystem restoration options and opportunities.</p> <p><b>State and Federal Contractors Water Agency:</b> Ecosystem Restoration Program (ER P2, ER R6). The Delta Plan appears to rely heavily on the Department of Fish and Game's Conservation Strategy. That is problematic because DFG does not recognize or explain in a meaningful way how DFG developed the Conservation Strategy to ensure it will not impede the goals of the Delta Plan and the Bay Delta Conservation Plan.</p>
<p>ER P3 - Policy seems too constrained by excluding areas planned for development (ISB)/policy needs additional exceptions, e.g., shouldn't interfere with County HCP/NCCP implementation, shouldn't apply to Suisun Marsh duck club management (5th staff draft).</p>	<p><b>Delta Caucus:</b> Page 117, Lines 21-25 ER P2, P3: We have considerable concern with habitat restoration locations being prioritized by elevation alone. This does not take into account whether or not these locations are compatible with Habitat restoration goals, and furthermore would place undue burden on landowners under the covered actions provisions. The burden of proof that ER P3 places on proving an action has been mitigated for an 'opportunity for habitat restoration' area is unidentifiable and impossible to answer.</p> <p><b>Delta Independent Science Board:</b> ER P3: The restrictions on this policy seem to put rather significant constraints on the Delta Plan. Is the Council satisfied that development within the excluded areas will not compromise the coequal goals?</p> <p><b>Sacramento County:</b> ER P3, Habitat Restoration Mitigation (pg. 117, lines 29-37): It is important that the Plan be revised to clearly demonstrate that this policy will not preclude the implementation of a local government's habitat protection strategies as set forth in approved Habitat Conservation Plans (HCPs). [...] As a an alternative, we recommend the Plan include some sort of a "HCP/NCCP exemption" to ensure that local conservation management strategies are not precluded or compromised by this policy.</p> <p><b>Sacramento County:</b> Sacramento County is [...] very concerned that the following provision, embedded in ER P3, has the potential to usurp the local land use planning process: "... shall demonstrate that they have, in consultation with the Department of Fish and Game, avoided or mitigated within the Delta the adverse impacts to the opportunity for habitat restoration at elevations shown in Figure 5-2."                  As a result, Sacramento County recommends the Plan be expanded to describe the specific process and/or include a list of findings the DSC will consider to have adequately satisfied</p>

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	<p>the "demonstration" test as cited above.</p> <p><b>San Joaquin County:</b> 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. [...]</p> <p>The Plan should indemnify growers who incur larger regulatory costs or are otherwise are harmed by the ecosystem expansion in the Delta. ER P3 requires consultation with Fish and Game before actions that might have an adverse impact on habitat restoration in certain areas of the Delta can be done. This requirement could have a detrimental impact for farming because farming operations may not be able to change to meet changing market demands. The legality of requiring this is questionable. 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 agricultural values of the Delta as an evolving place.</p> <p><b>Yolo County:</b> Policy ER P3 is simply impractical. The Council should reconsider its purpose and revise it to apply much more narrowly to situations where a habitat restoration project is reasonably foreseeable based on a comprehensive review of relevant facts and circumstances.</p> <p><b>Yolo County:</b> Pg. 109, lines 14-16 and Policy ER P3. This map has nothing to do with practicality and very little to do with feasibility because it reflects only one factor--elevation--and cannot be said to represent even a preliminary conceptualization of individual habitat restoration projects in discrete locations.</p> <p><b>Yolo County:</b> Pg. 109, lines 14-16 and Policy ER P3. [...] The problem with Policy ER P3 [...] is that it deems any unmitigated impact to hypothetical future habitat restoration potential to be unacceptable, without truly considering what this actually means or the sheer difficulty state and local agencies will face in applying this policy. The County urges the Council to identify a more practical approach[.]</p>

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Need to address dissolved oxygen problems in the Delta.	<b>Delta Independent Science Board:</b> There has been no discussion of dissolved oxygen in this section. Shouldn't there have been a section on this?
This chapter does too much regulation too fast and is requiring action in excess of existing regulatory requirements and law.	<p><b>Central Valley Clean Water Association:</b> (p. 149, 10-14.) Currently, this evaluation and analysis as required by Resolution R5-2009-0028, is performed by the appropriate entities on permit cycles of defined increments and submitted to the Central Valley Regional Water Board as part of the permit renewal process in the Report of Waste Discharge (ROWD). The addition of this new requirement that evaluations be performed by a specific date in the very near future separate from the evaluation which takes place during the preparation of the ROWD would add an extra burden on municipal agencies, especially those agencies who use contract services in preparing the ROWDs, a burden which most of CVCWA's member agencies cannot afford. [...] Adding the target date of January 1, 2014, is simply too soon to realistically evaluate the potential for reducing contaminant loads by individual dischargers to the Delta and will require duplicative and additional requirements on both POTWs and the Central Valley Regional Water Board.</p> <p><b>Central Valley Clean Water Association:</b> (p. 149, 15-17.) [...] The addition of the 2014 implementation date for conducting these special studies of emerging contaminants is premature, in part because special studies cannot be conducted until an appropriate test methodology is established for such contaminants. Thus, the deadline in the Fifth Draft Plan is unrealistic and fails to account for the necessary prerequisites to completing the relevant studies.</p> <p><b>Central Valley Clean Water Association:</b> (p. 148, 28-38.) [...] Considering the lack of information currently available regarding the complex role of nutrients in the Delta, setting such a deadline for the adoption of nutrient water quality objectives is unreasonable, and is problematic because the scientific basis for conclusions therein may not be fully developed by the specified dates. Moreover, the "Driver Performance Measures" discussion (Fifth Draft Plan, p. 150, 18-19) provides for an ultimate compliance date of 2020 for meeting TMDLs for "critical pesticides" (diazinon, chlorpyrifos, and pyrethroids) in the Delta. This could be problematic because the Central Valley Regional Water Board Pesticide TMDL is currently being developed, and is actually behind schedule. Thus, it is not appropriate for the Fifth Draft Plan to set a specific compliance date when the underlying TMDL adoption is still many years away. That compliance date should be specified in the TMDL itself, not as part of the Fifth Draft Plan. The deadline for a pyrethroid TMDL for the Delta by 2016 is also unrealistic. Currently, there are no existing water quality standards for pyrethroids, and before a TMDL can be established, water quality standards must be adopted into the relevant Basin Plans and approved by United States Environmental Protection Agency. This process alone takes considerable time, and would most likely extend beyond the specified 2016 timeframe.</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 148, lines 28-38 – [...] Setting such deadlines for the adoption of nutrient water quality objectives and a pyrethroid TMDL is unreasonable, and is highly problematic because the scientific basis for conclusions therein may not be fully developed by the specified dates. Additionally, the January 2014 date for development and adoption of nutrient objectives seems to not consider the existing processes by the San Francisco Bay Regional Water Board for developing numeric nutrient endpoints (NNEs), nor the State Water Boards process for developing NNEs. Completing the Central Valley Pesticide TMDL and Basin Plan Amendment for pyrethroids by the beginning of 2016 is also unrealistic considering the lack of information currently available and the fact that the Central Valley Regional Water Board is behind schedule.</p> <p><b>Sacramento Regional County Sanitation District:</b> Pg. 149, lines 15-17. [...] the Fifth Draft's discussion of "emerging contaminants" seems to suggest that preemptive regulatory measures should be taken for such pollutants before their levels of concern and associated environmental effects are fully understood. The addition of the 2014 implementation date for conducting these special studies of emerging contaminants is premature, in part because special studies cannot be conducted until an appropriate test methodology is established for such contaminants. Thus, the deadline in the Fifth Draft is unrealistic and fails to account for the necessary prerequisites to completing the relevant studies.</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 149, lines 15-17 (Recommendation WQ R9) – The recommendation in this section should be modified to reflect a planning and evaluation step ahead of the initiation of special studies. The purpose for each study, hypotheses to be tested, pollutants to be examined, and other factors should all be considered prior to the decision to implement a given study. We request the following changes: "WQ R9 The State Water Resources Control Board and Regional Water Quality Control Boards should <u>consider</u> conducting <u>or require</u> special studies of pollutants including <u>selected</u> emerging contaminants and causes of toxicity in Delta waters and sediments <del>by January 2014.</del>"</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 150, line 7 – While we support efforts to evaluate the need for nutrient objectives in the Delta, we do not agree with the assertion that objectives are needed or that the time frame for completion of this highly complicated task (in two and one half years) is appropriate or realistic. [...] We request the following changes to this performance measure: "SWRCB and RWQCBs <u>consider</u> adoption of objectives for nutrients in the Delta <u>in conjunction with the SWRCB NNE effort for San Francisco Bay.</u>"</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 150, lines 20 and 21– The "Driver Performance Measures" discussion provides for an ultimate compliance date of 2020 for meeting TMDLs for "critical pesticides" (diazinon, chlorpyrifos, and pyrethroids) in the Delta. This could be problematic because the Central Valley Regional Board Pesticide TMDL is currently being developed, and is actually behind schedule. Thus, it is not appropriate for the Fifth Draft to set a specific compliance date when the underlying TMDL adoption is still many years away. That compliance date should be specified in the TMDL itself, not as part of the Fifth Draft. The deadline for a pyrethroid TMDL for the Delta by 2016 is also unrealistic. Currently, there are no existing water quality standards for pyrethroids, and before a TMDL can be established, water quality standards must be adopted into the relevant Basin Plans and approved by United States Environmental Protection Agency. This process alone takes considerable time, and would most likely extend well beyond the specified 2016 timeframe.</p> <p><b>Sacramento Regional County Sanitation District:</b> Pg. 150, lines 20-21. [...] At this point in time, as reflected in the text of the Delta Plan itself, there is significant controversy and lack</p>

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	<p>of consensus regarding the need for or benefit of nutrient reductions in the Delta. The notion that progress should be shown toward ambient nutrient level reductions is clearly premature. Therefore, the following edits are requested:                      "Progress toward reducing concentrations of inorganic nutrients (ammonium, nitrate and phosphate) in Delta waters <del>over the next decade</del> <u>if deemed necessary as a result of the combined San Francisco Bay and Delta NNE effort.</u>"</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 150, lines 22-23 – This performance measure is inappropriate and should be changed as shown below. The notion that annual surveys of an unknown list of emerging pollutants should be required is a premature conclusion based on available information. This determination should only be made after completion of a process to evaluate the specific pollutants to be monitored, the reason for the monitoring, and the effects thresholds to be used in evaluation of collected data, at a minimum. We recommend the following change:                      "<del>Routine annual surveys of emerging pollutants within the Delta are designed and implemented during the first 5 years of adoption of the Delta Plan.</del> <u>Regulatory agencies should perform appropriate planning level activities to prioritize a specific list of pollutants of highest concern and to develop work plans for appropriate special studies or monitoring efforts for those pollutants, and then conduct monitoring and special studies in accordance with the work plans.</u>"</p> <p><b>City of Sacramento:</b> The City recommends revising the language for the WQ R8 as follows: "The Central Valley Regional Water Quality Control Board, consistent with existing Water Quality Control Plan policies and water rights law, should require responsible entities that discharge wastewater treatment plant effluent or urban runoff to Delta waters to evaluate, <u>by January 1, 2014, the feasibility of</u> whether all or a portion of the discharge can be recycled, otherwise used, or treated <u>as an alternative approach</u> <del>in order</del> to reduce contaminant loads to the Delta <del>by January 1, 2014.</del>"</p> <p><b>City of Sacramento:</b> The City recommends revising the language for the WQ R9 as follows: "The State Water Resources Control Board and/or Regional Water Quality Control Boards should <del>conduct or require</del> <u>be the lead agency for developing a work plan and conducting regional</u> special studies of pollutants including selected emerging contaminants and causes of toxicity in Delta waters and sediments by January 1, 2014."</p> <p><b>State Water Resources Control Board:</b> Pg. 148, lines 28-31. [...] State Water Board staff does not believe that adequate information or resources will be available to develop numeric objectives for the Delta by 2014. Rather, a workplan or research plan should be developed by 2017. Therefore, State Water Board staff recommends the following language:                      "The SWRCB and the San Francisco Bay and Central Valley Regional Water Quality Control Boards should develop <u>a workplan and research plan for developing and adopting</u> objectives, either narrative or numeric, where appropriate, for nutrients in the Delta and Delta watershed by January 1, <del>2014</del> 2017."</p> <p><b>State Water Resources Control Board:</b> Pg. 149, lines 10-14. [...] The Plan should note that it would require additional resources or redirection from other priority activities to fully implement this recommendation by January 1, 2014.</p> <p><b>City of Stockton:</b> WQ R6 recommends that the SWRCB and regional boards adopt certain objectives and TMDLs. (Draft Plan at p.148:22-38.) The Draft Plan recommends adopting narrative or numeric water quality objectives for nutrients by the end of 2013. Considering the lack of information currently available, setting such a deadline for the adoption of nutrient water quality objectives is unreasonable and impractical. The Draft Plan also recommends accelerating the completion of TMDLs for pyrethroids to January 1, 2016. This short timeframe is also unreasonable and impractical. There are no existing water quality standards for pyrethroid pesticides. Prior to establishing a TMDL, water quality standards must be adopted into the relevant Basin Plans, and approved by U.S. EPA. This process itself takes considerable time and recommending completion of a pyrethroid TMDL by the end of 2015 is unreasonable and impractical.</p> <p><b>City of Stockton:</b> [...] [T]he Draft Plan provides that a Driver Performance Measure is meeting TMDLs for critical pesticides by 2020. This is, of course, problematic because the Central Valley Pesticide TMDL is currently behind schedule and is still in development. It is inappropriate to set a compliance date for meeting TMDLs when TMDL adoption may be years out still. With respect to the issue of emerging contaminants, special studies cannot be conducted until an appropriate test methodology is established for such contaminants. Thus, the 2014 deadline suggested here is also unrealistic.</p>
<p>This chapter does not do enough to enforce existing regulatory requirements and law.</p>	<p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Despite the serious and broadly recognized impacts that deteriorating water quality poses to the viability of the Bay-Delta, Chapter 6 calls for no new, meaningful actions to address this threat. Rather, Chapter 6 simply reiterates existing efforts and already-planned initiatives that will do little to reverse the ongoing slide. It requests understaffed agencies to accomplish measures they have been unable or unwilling to do over the last 30 years.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] Chapter 6 merely mentions in passing the ineffective Central Valley Regional Water Quality Control Board agricultural runoff waiver, or the utter lack of any regulatory controls at all on agricultural runoff within the San Francisco Bay Area Regional Water Board purview. [...] The Council should consult the State Water Board's recent report to the Legislature on data and strategies for reducing agricultural pollution runoff into the Delta, as well as a detailed summary of existing Delta agricultural regulatory programs.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] none of the suggestions in Chapter 6 include the overhaul of the current, weak Central Valley Irrigated Lands Regulatory Program, which has failed, and will continue to fail without significant modifications, to protect the health of the Bay-Delta Estuary. [...] The inadequacies of the existing Central Valley Irrigated Lands Regulatory Program have been exhaustively documented. We recommend that the Delta Plan specifically address those inadequacies and</p>

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	<p>recommend changes outlined by NGOs, including the following: (WQ R5) [See comment letter for more details]</p> <ul style="list-style-type: none"> <li>• Individual Growers Covered; Not Third Parties [...]</li> <li>• Farm Water Quality Management Plans (FWQMPs) [...]</li> <li>• Tiered Approach [...]</li> <li>• Non-Water Quality Monitoring [...]</li> <li>• Surface Effluent Quality Monitoring [...]</li> <li>• Groundwater Monitoring [...]</li> <li>• Additional Fee Authority [...]</li> </ul> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Chapter 6 briefly references permits issued pursuant to the National Pollutant Discharge Elimination System (NPDES) and “encourages” the timely development and enforcement of the program without inquiring whether or not the program is working as intended. It’s not. Resource constraints and pressure from the regulated community have undermined the integrity of the NPDES permitting program. The Council should recommend that the Legislature increase funding to the water boards to ensure that they have adequate resources to comply with their NPDES permitting mandates. We also strongly urge the Council to recommend that the Regional Board fully comply with NPDES permitting regulations, including anti-degradation requirements, and that it address additive and synergistic interactions in developing permit limits. The Council should further require the Regional Board to prepare pollutant specific mass load estimates for the Delta and tributary watersheds and documented estimates of progress should be provided to the Council on a yearly basis.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Chapter 6 fails to acknowledge or discuss the failure of the municipal stormwater program to reduce mass loading of toxic and impairing pollutants. [...]</p> <p>The Council should recommend that the State Water Resources Control Board and the Central Valley Regional Board adopt limits in municipal stormwater permits restricting increases in the mass loading of pollutants. The water boards should provide the Council with a yearly documented update on progress in reducing the concentration, toxicity and mass of stormwater discharged pollutants, as well as, documentation that enforceable waste load allocations are being included in TMDLs.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> It is not enough to simply measure progress in protecting water quality by programs initiated or TMDLs completed. We recommend that the Council condition approval of covered actions on inclusion of enforceable implementation plans in TMDLs, including performance measures and interim yardsticks with specific quantifiable load reductions. This should apply to all sources of impairing pollutants, including municipal and industrial stormwater and wastewater and irrigation return flows.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] the state must identify and restore water bodies impaired by altered flows, as required by the Clean Water Act.<sup>23</sup> This should be a specific recommendation added to the Plan to begin to ensure its effectiveness. (WQ R8, R9)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The Delta Plan should recommend that the Central Valley Regional Board enforce selenium water quality standards for agricultural polluters.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The Delta Plan should recommend a comprehensive selenium-monitoring program for the Bay-Delta estuary and lower San Joaquin River.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The Delta Plan should recommend retirement of lands from irrigated agriculture, which creates selenium contamination to the tributaries and aquifers that drain into the Bay-Delta.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] the Delta Plan should include a recommendation that the SWRCB convene a Wasteful and Unreasonable Use hearing to revoke water permits used for the irrigation of seleniferous, saline lands which degrade Bay-Delta water quality.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Chapter 6 briefly acknowledges the potential toxic and sub lethal impacts from the maelstrom of emerging and industrial chemicals that gather together in the Delta. [...] The Council should do more than simply recommend that the State and Regional water boards conduct special studies of selected emerging contaminants by 2014, it should make the funding and implementation of aggressive suite of such studies a condition of approval of covered actions.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] the Council should require the Regional Board to prepare pollutant specific mass load estimates for the Delta and tributary watersheds and documented estimates of progress should be provided to the Council on a yearly basis.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Chapter 6 notes that there are impairments in the Delta that are caused by total organic carbon, nutrients and other contaminants for which there are no federal or state water quality criteria. We recommend that the Council go farther than simply recommending that the water boards develop and adopt criteria for nutrients by 2014 and make the adoption of criteria a condition of approval of covered actions.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We recommend that the Council urge U.S.EPA and the State and Regional Water Boards to</p>

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**CHAPTER 6 – Improve Water Quality to Protect Human Health and the Environment**

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	<p>upgrade the Priority Pollutant List through a scientifically defensible process.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We believe that WQ R5 (CV-SALTS) while an interesting concept, will cost many billions of dollars and is serving as a rabbit-hole to justify a failure to pursue imposition of regulatory requirements and numerous near-term efforts that would result in significant reductions of salt loading. Effective regulatory enforcement would likely be more effective in achieving significant near-term reductions of salt loading. We recommend the Council add quantitative yardsticks to this recommendations and condition approval of covered actions on compliance with those yardsticks.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Specific quantifiable timetables, yardsticks, performance measures, endpoints, and consequences for failure are the necessary drivers of any meaningful plan that realistically expects to achieve the coequal goals and improve water quality. We recommend that the Council recommend inclusion of these specific measures in all programs and projects related to salinity, drinking water quality, and environmental water quality and condition approval of covered actions on their inclusion. This should apply to all sources of pollutants including point and nonpoint discharges.</p> <p><b>South Delta Water Agency:</b> Recommendation 2 on page 139 is backwards. One should not prevent new permits in order to avoid water quality effects, one should require the CVP to mitigate its effects on River quality and grant new permits as appropriate. The failure of the USBR to mitigate its effects should not prevent area of origin rights being exercised.</p>
<p>Delta salinity during some period in the past was lower in the Western Delta and more freshwater was available for diversions there.</p>	<p><b>City of Antioch:</b> Pg. 133, lines 19-21. Delta outflow is missing here and is a crucial factor for attainment of the co-equal goals of water quality in the Western Delta as well as for species such as Delta Smelt. Add outflow. Add that the salinity variability historically occurred farther west than it does today (i.e. salinity was more variable historically, but that the system was also far fresher than it is today).</p> <p><b>City of Antioch:</b> Pg. 136, lines 41-44. This is not correct [...]. "Delta outflow" is the major factor for salinity variability in the western Delta. Historically, fresh water was present in western Delta even during dry years (see CCWD historic salinity report). Further, the channelization of the Delta has changed the system's response to precipitation, increasing the amount of salinity intrusion (CCWD Historical Salinity Report, 2010).</p> <p><b>City of Antioch:</b> Pgs. 137-138, lines 25-27, 1-2. Add "water exports" as a cause of salinity gradient changes in the first sentence.</p> <p><b>City of Antioch:</b> Pg. 138, lines 17-21. The statement implies that salinity variations would benefit native species; however, as noted in CCWD Historical Salinity study report (2010), while the Delta did experience greater variability in the past, it did so within a far fresher environment than currently exists. Thus, it is not clear that greater salinity variation would benefit native species.</p> <p><b>City of Antioch:</b> Pg. 139, lines 26-30. Add "water exports" to the non-natural causes listed in this sentence, as increased exports increase salinity in drinking water in the Western Delta.</p> <p><b>California Department of Water Resources:</b> Page 140, line 33 The draft Delta Plan discusses the intake for the City of Antioch and how it is frequently out of use because of salinity intrusion. The Delta Plan should also mention the Mallard Slough intake for the Contra Costa County Water District, which is the westernmost drinking water intake in the Delta. It is also impacted by salinity, and therefore mixed with other sources of water.</p> <p><b>Contra Costa Water District:</b> on page 150 it states "[p]rogress toward increasing interannual variability of salinity in Suisun Bay and Suisun Marsh. In future years, salinity will trend higher during periods of low river flow and trend lower during periods of high river flow". [...] Please rewrite the goal on page 150 to say "[p]rogress toward restoring salinity variability in Suisun Bay and Suisun Marsh consistent with the unimpaired hydrograph".</p> <p><b>Contra Costa Water District:</b> p. 133 line 20 – "salinity patterns should be consistent with a more naturally variable hydrograph with high quality river inflows." This sentence should be revised as noted [see CCWD comments regarding this issue].</p> <p><b>Contra Costa Water District:</b> p. 138 lines 37 through 38 – [...] Which species would benefit from increasing salinity beyond what it is now? All evidence is that native species are suffering because of a lack of flow (and increased salinity). What evidence is there that they will improve if salinity increases further (citations are needed here that quantify the levels sought). And more importantly, if that does happen, there should be mitigation to offset those impacts to drinking water suppliers and agricultural users.</p> <p><b>Contra Costa Water District:</b> p. 150 lines 15 through 17 – [...] This should be replaced with "progress towards salinity variability will be consistent with establishing a more natural hydrograph".</p> <p><b>South Delta Water Agency:</b> On pages 136-137 the draft Plan should include Contra Costa Water Agency's comprehensive analysis of how the mixing zone has been dramatically shifted upstream. The loss of the historic habitat in Suisun Bay and Marsh is a direct cause of the fishery decline.</p>
<p>Levee failure could adversely impact water quality.</p>	<p><b>Delta Independent Science Board:</b> The discussion of salinity in the report is somewhat limited and the associated policy focuses primarily on the development of new flow standards for the Delta. Although freshwater inflows are a dominant factor in salinity and salinity distribution in the Delta other factors should be considered as well. For example, one proposal for restoring the Delta ecosystem involves recreating a more dendritic channel geometry. Such a physical modification would have profound effects on salinity distribution in the Delta. Likewise, construction of a peripheral canal would probably effect the dilution of San Joaquin in the south Delta and dramatically change water quality there while the north Delta would be</p>

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**CHAPTER 6 – Improve Water Quality to Protect Human Health and the Environment**

Comment Themes or Recommendations	Comments
	<p>primarily fed by high quality Sacramento River water. A levee breach could also have a dramatic effect on Delta salinity in the short term, and perhaps long term depending on any decision to reconstruct the levee. Some of these drivers, as well as sea level rise, are briefly mentioned but not explored sufficiently.</p>
<p>Decisions affecting flows may adversely affect water quality for agriculture or municipal supply.</p>	<p><b>City of Antioch:</b> Pg. 133, lines 19-21. Delta outflow is missing here and is a crucial factor for attainment of the co-equal goals of water quality in the Western Delta as well as for species such as Delta Smelt. Add outflow. Add that the salinity variability historically occurred farther west than it does today (i.e. salinity was more variable historically, but that the system was also far fresher than it is today).</p> <p><b>City of Antioch:</b> Pg. 136, lines 41-44. This is not correct [...]. "Delta outflow" is the major factor for salinity variability in the western Delta. Historically, fresh water was present in western Delta even during dry years (see CCWD historic salinity report). Further, the channelization of the Delta has changed the system's response to precipitation, increasing the amount of salinity intrusion (CCWD Historical Salinity Report, 2010).</p> <p><b>City of Antioch:</b> Pg. 137, lines 15-20. Given that the Delta Smelt are dependent upon low salinity zone in the western Delta, how will this freshwater zone be preserved, given the BDCP change to outflows, and move of compliance points from Emmaton to Three Mile Slough, which will allow less flow and higher salinity?</p> <p><b>City of Antioch:</b> Pg. 138, lines 17-21. The statement implies that salinity variations would benefit native species; however, as noted in CCWD Historical Salinity study report (2010), while the Delta did experience greater variability in the past, it did so within a far fresher environment than currently exists. Thus, it is not clear that greater salinity variation would benefit native species. We concur about allowing salinity to vary could have negative impact on AG and M&amp;I water quality. Please add that recreational boating and fishing would also be impacted.</p> <p><b>City of Antioch:</b> Pg. 139, lines 26-30. Add "water exports" to the non-natural causes listed in this sentence, as increased exports increase salinity in drinking water in the Western Delta.</p> <p><b>California Department of Water Resources:</b> Page 133, lines 13 - 15 The draft Delta Plan lists salinity, drinking water quality, and environmental water quality, as three keys areas for water quality improvement. Water quality for agriculture is significant also, and should be added to this list.</p> <p><b>California Department of Water Resources:</b> Page 140, line 33 The draft Delta Plan discusses the intake for the City of Antioch and how it is frequently out of use because of salinity intrusion. The Delta Plan should also mention the Mallard Slough intake for the Contra Costa County Water District, which is the westernmost drinking water intake in the Delta. It is also impacted by salinity, and therefore mixed with other sources of water.</p> <p><b>Contra Costa Water District:</b> Until there is peer-reviewed science to support the idea that increased salinity would benefit specific native species, the Delta Plan should omit any recommendations to increase Delta salinity at the expense of other Delta water users and include assurances to protect other in-Delta water users that go beyond what is currently in the Delta Plan.</p> <p><b>Contra Costa Water District:</b> on page 150 it states "[p]rogress toward increasing interannual variability of salinity in Suisun Bay and Suisun Marsh. In future years, salinity will trend higher during periods of low river flow and trend lower during periods of high river flow". [...] Please rewrite the goal on page 150 to say "[p]rogress toward restoring salinity variability in Suisun Bay and Suisun Marsh consistent with the unimpaired hydrograph".</p> <p><b>Contra Costa Water District:</b> p. 138 lines 37 through 38 – [...] Which species would benefit from increasing salinity beyond what it is now? All evidence is that native species are suffering because of a lack of flow (and increased salinity). What evidence is there that they will improve if salinity increases further (citations are needed here that quantify the levels sought). And more importantly, if that does happen, there should be mitigation to offset those impacts to drinking water suppliers and agricultural users.</p> <p><b>Delta Caucus:</b> Page 138-139, Lines 35-19: The very nature that the future flows of the South Delta would be allowed to further degrade the quality of water for agricultural uses and municipalities to achieve the co-equal goals is counter to the other objectives of protecting and enhancing the cultural and agricultural values of the Delta.</p> <p><b>San Joaquin County:</b> Two water quality needs for Delta agriculture 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 to improve irrigation water quality in the South Delta. The Delta Plan addresses water quality and reliability requirements for the environment and public health but does not address agriculture's water reliability or quality needs. Management of the Plan's water quality standards must not be at the expense of agriculture. The Plan's water quality standards should consider the requirements for agriculture as well as ecosystems. The Plan must explain how it intends to manage the Delta's water in a manner that protects and enhances the agricultural values of the Delta.</p> <p><b>Solano County:</b> Chapter 6 lacks clarity concerning how the system will work operationally to avoid adverse impacts on overall fresh water flows through the Delta and into the Bay system. The County needs assurances that any system implemented maintains adequate flows to meet the needs of senior water righter holders with no impacts on existing allocations. There must be sufficient flows to prevent salinity intrusion further into the Delta so protections required by the Suisun Marsh Plan are adhered to.</p>

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**CHAPTER 7 – Reduce Risk to People, Property, and State Interests in the Delta**

Comment Themes or Recommendations	Comments
<p>The 5th draft only accounts for the protection of existing designated floodways within the Delta. The DSC should consider the expansion of Delta floodways to accommodate flood flows and climate change.</p>	<p><b>American Rivers:</b> Draft 5 of the plan does not provide any policy to facilitate the expansion of flood conveyance into and through the Delta. [...] Below, we provide some policy recommendations that would allow the Council to protect conveyance expansion opportunities today while creating an incentive for local and state agencies to develop specific and timely plans for expanding conveyance in the future.  <i>RR PX. The following areas have been identified as floodway and bypass expansion zones that will assist in conveying the 200-year flood and will meet the co-equal goals. (see American Rivers comments May 27, 2011, page 3 for geographic description). Building shall not occur in these areas until the Central Valley Flood Management Plan, the Delta Stewardship Council, or local communities develop a coordinated approach for conveying the 200-year flood consistent with co-equal goals of the Delta Plan (restore ecosystem and maintain a reliable water supply). Only after the geographically-specific approach is identified and projects are delineated will the size of this footprint shrink.</i>  <i>RR PX . If the Central Valley Flood Protection Plan does not designate new floodways in the regions listed above, expand bypasses, or provide a geographically specific plan for expanding conveyance in the Delta, the Delta Stewardship Council shall work with communities and stakeholders to designate areas for expanding flood conveyance capacity and to identify projects that would provide system-wide flood risk reduction benefits consistent with the co-equal goals.</i></p> <p><b>California Department of Water Resources:</b> Page 165, lines 5 - 6                      The problem statement states: "Future Delta floodways and bypasses have not been formally identified and protected" but the text that follows does not address this issue. The Plan should have a recommendation for a feasibility study to identify potential floodways and bypasses in the Delta.</p>
<p>Comments received regarding the Delta Flood Risk Management District, as proposed in Recommendation RR R10 have been both supportive and critical. Concerns raised include those stating that such a district would duplicate efforts already being conducted by various State and local agencies.</p>	<p><b>California Department of Water Resources:</b> Pages 182 - 183, lines 31 - 41 and 1 - 18 respectively                      [...] [T]he Delta Flood Risk Management Assessment District proposed under RR R10 (as written) would have some duties that are duplicative of some programs that the Department is currently managing. In addition, there would be a significant amount of resources required to complete some of the tasks provided in this recommendation. The Department estimates that approximately 1 to 2 PYs would be required to standardize flood risk measurement data in the Delta. Costs associated with conducting levee elevation surveys and inspections every five years would cost between \$1 million to \$5 million.</p> <p><b>California Farm Bureau Federation:</b> (RR R10) This concept should be vetted properly through Delta landowners, reclamation districts with existing assessment powers, Delta levee experts, and other affected interests, before it is made a formal recommendation in the Delta Plan.</p> <p><b>Contra Costa Water District:</b> p. 182 RR R10 - Will the new flood control agency take local money and give it to state and federal agencies to develop plans and perform inspections? Who is responsible for improving the levees or repair after a failure? Who is responsible for paying for levee improvements?</p> <p><b>Delta Independent Science Board:</b> 182, RR R10: the Delta Flood Risk Management Assessment District is, in effect, a super-reclamation district. Given the fragmented, ad hoc way that Delta levees are managed, this has considerable merit. However, it is unclear how this integrates with local Reclamation District's and the current jurisdictions of USACE, DWR and the Flood Board, not to mention the DPC and the DSC. To whom will this special district answer and how will it be governed? There is the strong potential to have this District run and be governed entirely by in-Delta interests, yet there is the need for oversight to protect statewide interests due to the requirement of large sums of money from bonds and other sources external to the Delta. In addition, and perhaps more importantly, this new District must have as its highest priority the co-equal goals. If not, the issues of habitat restoration, water quality and water supply reliability will always remain subservient. This would, in effect, be a continuation of the currently fragmented governance of the Delta.</p> <p><b>Local Agencies of the North Delta:</b> p. 182, RR R10 (formerly RR R7): Any new Flood Control District should not detract from funding of existing districts with flood control and related responsibilities.                      It is still not clear that a new entity with taxation powers is necessary and/or would not be duplicative of functions already being carried out by local reclamation districts. From the local agency perspective, the primary improvement in the process would come from better coordination between the existing participants and streamlining of documentation requirements and not creation of a new layer of bureaucracy. While LAND appreciates the addition of the reference to cooperation with existing reclamation districts, this should be a requirement, not merely a suggestion.</p>
<p>Levee and land use issues are confusing as presented in Table 7-1 within Policy RR P3. It is unclear what levee standards are being required of various proposed land uses, and how existing standards are applicable.</p>	<p><b>California Building Industry Association:</b> The Draft Plan is inconsistent with SB 5's flood protection standards. SB 5 (Machado - 2007) established, for the first time, a 200-year level of flood control which must be met in urban and urbanizing areas. See, e.g., Government Code sections 65865.5, 65962 and 66474.5. Urban and urbanizing areas are areas that contain at least 10,000 people or will contain 10,000 within 10 years of project approval. Government Code section 65007(i) and (j). SB 5 allows projects to meet the 200-year level of flood protection in 3 ways, (1) when project findings are made (see, subdivision (a)(1) of Sections 65865.5, 65962 and 66474.5); (2) by imposing conditions on the project (see, subdivision (a)(2) of Sections 65865.5, 65962 and 66474.5); or (3) by achieving the 200-year level of protection by 2025 (see, subdivision (a)(2) of Sections 65865.5, 65962 and 66474.5).                      In short, SB 5 contemplates that development can continue to take place, provided that the development meets the appropriate standard. Further, in nonurban areas – areas that contain a population of less than 10,000 people and will not grow to 10,000 or more people in 10 years (urbanizing areas), the FEMA 100-year level applies regardless of the size of the project. Finally, there are more ways to achieve these levels of protection than simply relying on levees – homes may be elevated or building codes may be applied. (Health &amp; Safety code section 50465).</p>

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	<p><b>California Building Industry Association:</b> Page 170, line 35 – 41: SB 5 requires not only “urban areas” but also “urbanizing areas” to comply with the 200-year flood protection standard. Accordingly this paragraph should add the following sentence as a footnote to the word “urban”:                  “As used in this Chapter, “urban” includes both urban and urbanizing areas as defined in Government Code section 65007, subdivisions (i) and (j).”                  Since the footnote would apply throughout the Chapter, we note that this meaning is intended to extend to “urban” as used on page 172, lines 17-19, page 173, line 9, and in Table 7-1.</p> <p><b>California Building Industry Association:</b> Page 175, first row reads: Basis for Minimum Levee Design Classifications                  Since SB 5 doesn’t limit achievement of applicable level of flood protection to levees only, we suggest a change to read as follows:                  Basis for Minimum Level of Flood Protection</p> <p><b>California Building Industry Association:</b> Page 175. The term “non-urbanized” is used throughout. We suggest that “non-urbanized” be clarified with a footnote that indicates:                  “As used in this Table, “non-urbanized” does not include “urbanizing areas” as defined in Government Code section 65007(j).”</p> <p><b>California Building Industry Association:</b> Page 175, row 7, Class 5:                  The Delta Plan in other places references Water Code section 85032(j) for the proposition that the law does not affect the liability of the State for flood protection in the Delta or its watershed. Additionally, the plan also states that the Delta Plan shall not be construed to effect a taking or affect the rights of any property owner under the State or Federal Constitutions. (Page 56, lines 31-35.) The U.S. Supreme Court in <i>Lucas v. South Carolina Coastal Council</i> 505 US 1003, 1018 (1992) and <i>Dolan v. City of Tigard</i> 114 S.Ct. 2309, 2316 and the Ninth Circuit Court of Appeal (<i>Del Monte Dunes at Monterey, LTD v. City of Monterey</i> 95 F.3d 1422, 1432 have all stated that compensation is required where regulations “leave the owner of land without economically beneficial or productive options for its use – typically...by requiring land to be left substantially in its natural state – [which suggests] that private property is being pressed into some form of public service under the guise of mitigating serious public harm.”                  Accordingly, CBIA believes that the provision should be deleted as follows:  <del>These developments are highly discouraged and may be inconsistent with the Delta Plan regarding protection of lands that are or could be used for agriculture and/or ecosystem.</del></p> <p><b>California Building Industry Association:</b> Page 172, lines 17 – 19 [...] CBIA believes that this statement implies that projects outside of these areas are to be prohibited.                  [...] [T]his provision should be deleted: <del>Urban development in the Secondary Zone should be confined to existing urban spheres of influence where the 200-year design standard will take effect by 2025.</del>                  The deleted language should be replaced with: “Plans, programs or projects within incorporated cities, their spheres of influence, the Mountain House GP Community Boundary, and within urban limit lines should be exempt from Table 7-1.”</p> <p><b>California Department of Water Resources:</b> This chapter discusses several different types of levee standards and frequently states that these standards are not sufficient for the Plan’s objectives (Page 170, line 12 and Page 173, line 8 are examples.) However, the plan relies on these standards for establishing levels of flood protection for various land uses (see Table 7-1.) The plan should give a clear explanation of why it considers the levee standards to be insufficient and what part of these levee standards could be useful in furthering the Plan’s goals.</p> <p><b>California Department of Water Resources:</b> RR P3 Page 173, line 12                  This Policy requires that all covered actions be consistent with Table 7-1; however, the descriptions in the first column of Table 7-1 describe mostly housing development. Is it the DSC’s intent that all covered actions must be consistent with this table or just housing development? This should be clarified in the text. If all covered actions must meet these criteria, then the Delta Levees Program estimates that up to an additional 1 PY will be required at a cost of \$250,000 per year will be required to meet the intent of this policy.</p> <p><b>California Department of Water Resources:</b> Page 175, Table 7-1                  Footnote (c) should include a description of the Delta specific PL 84-99 standard.</p> <p><b>Delta Independent Science Board:</b> 175, Table 7-1: The most striking aspect of Table 7-1, which is a tabulated policy statement, is that the minimum standard for agricultural islands is the HMP standard. This standard was set principally as an interim standard, with the goal of eventually upgrading all levees to PL 84-99 standard in the Delta. This was a commitment (albeit without the resources to meet it) as part of the CALFED Record of Decision. Thus, implicit in the Council’s minimum standards approach is that it is acceptable to maintain levees below the PL 84-99 standard. From a risk-based approach, this makes sense since the cost of bringing all levees up to PL 84-99 standards is \$1-2B and may well exhaust all available funding for levee improvements without substantially reducing risk.</p> <p><b>Local Agencies of the North Delta:</b> p. 173, RR P3: Policies regarding levee classifications should take into account existing land uses and the feasibility of major levee upgrades. While the revised table is somewhat improved, there are still many questions about how it would work in practice. In particular, the table appears to include activities that are not covered actions. While LAND appreciates the clarification that agriculture may occur within Class I levees, for instance, ongoing agriculture or even a new agricultural operation would and should not be a covered action.</p> <p><b>Local Agencies of the North Delta:</b> p. 173, RR P3: Policies regarding levee classifications should take into account existing land uses and the feasibility of major levee upgrades.                  [...] Table 7-1 should clarify the type of development that would also be a covered action subject to regulation. It should also state that second homes not otherwise considered covered</p>

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	<p>actions would clearly not be subject to the restrictions in Table 7-1.</p> <p><b>Local Agencies of the North Delta:</b> p. 173, RR P3: Policies regarding levee classifications should take into account existing land uses and the feasibility of major levee upgrades. [...] With respect to the timing of implementation of RR P3, it would appear reasonable to provide a reasonable amount of time for covered actions to come into conformance with the final version of Table 7-1. It is unclear why actions within Class 5 levees would have until 2025 to comply while actions within other types of levees would have no time to comply.</p> <p><b>Local Agencies of the North Delta:</b> p. 173, RR P3: Policies regarding levee classifications should take into account existing land uses and the feasibility of major levee upgrades. [...] [D]ue to the complexity of these issues and the need for close consultation with local governments with land use jurisdiction over the Delta, it is recommended that development of appropriate restrictions for development constituting covered actions be addressed in a focus or work group.</p> <p><b>MBK Engineers:</b> Page 175. This page contains Table 7-1. We recommend that under the “Class 2: HMP” column, that “Not Acceptable” be listed for the covered action describing agricultural-related non-residential on-farm structures without substantial employees. The reason we would recommend “Not Acceptable” is the fact that there appears to be a misunderstanding as to what the island structures and inhabitants consist of. Virtually all agricultural Delta islands have significant on-farm improvements; and periodically have a significant number of employees, so either this situation does not exist, or it is “Not Acceptable” as protected under the HMP minimum.</p> <p><b>Sacramento County:</b> Risk Reduction Policy RR P3 (and Table 7-1) is especially problematic for Sacramento County as this policy appears to predetermine allowable land use based solely on levee structure and runs counter to the evolving covered action and project consistency certification processes outlined in the Plan. Furthermore, RR P3 conflicts with the key objectives of the Delta Protection Commission’s forthcoming Economic Sustainability Plan (ESP) as it will essentially eliminate opportunities for future economic growth and development in many areas of the Delta.</p> <p><b>San Joaquin County:</b> RR P3 , Page 173, Line 12 [...] It should be noted that some of the required levels of protection identified in Table 7-1 are inconsistent with those required by SB 5. Specifically, "development of subdivisions of more than four parcels in non-urbanized areas not within Legacy Towns" is only required to achieve a 100-year level of protection, not 200-year as shown in Table 7-1. Also, SB 5 makes no distinction of flood protection requirements for Legacy Towns, but distinguishes between "urban" and "urbanizing" areas.</p> <p><b>San Joaquin County:</b> Table 7-1 lists agriculture-related on-farm structures as covered actions. Outbuildings and storage facilities are critical to farming. Subjecting these to the requirements of covered actions is contrary to the Plan’s mandate to achieve the co-equal goals in a manner that protects and enhances the agricultural values of the Delta. The Plan should also exclude farm buildings from the covered actions requirements.</p> <p><b>State and Federal Contractors Water Agency:</b> Page 178 and Lines #11 and #12 - Add new text - To promote strategic state investments in levee operations, maintenance, and improvements in the Delta, a Delta-wide prioritization framework is needed. <u>Once a new levee classification system has been established, actions occurring after an established date conform to the classifications defined in Table 7-1.</u></p> <p><b>City of Stockton:</b> Draft Plan Policy RR P3 requires all covered actions to be consistent with Table 7-1. Table 7- 1, in turn, includes “all urban development” under “covered actions.” By including “all urban development” within the definition of “covered actions,” Table 7-1 unreasonably broadens the Legislature’s definition of “covered action” (see Wat. Code, § 85057.5(a); Draft Plan at p. 57), which limits “covered actions” to those that will have a “significant impact on the achievement of one more of the coequal goals.”</p> <p><b>City of Stockton:</b> Policy RR P3 (and Table 7-1) appears to cast a wide net over all future development within the area covered by the Delta Plan, including the City of Stockton. Under Table 7 1, urban development that meets the highest levels of flood protection (urban), and thus should not implicate the policy concerns behind Policy RR P3, becomes a covered action whether or not it has a significant effect on achievement of the coequal goals (a Legislative prerequisite). To the extent the plan seeks to ensure adequate flood protection for urban development, this provision is unnecessary because state law already requires that the specified levels of flood protection be provided (i.e., Central Valley Flood Protection Act (CVFPA), Local Flood Protection Planning Act.).</p> <p><b>City of Stockton:</b> The City has very serious concerns with RR P3 and accompanying Table 7-1. [...] The practical effect of this “policy” would be to inhibit the orderly growth within the City’s Sphere of Influence, growth that has undergone significant planning and environmental review, negates federal requirements already developed to protect life, property, and other interests, and would preclude the key objectives of the Delta Protection Commission’s Economic Sustainability Plan. RR P3 and Table 7-1 should be removed from the Draft Plan.</p> <p><b>City of Stockton:</b> The City of Stockton and/or the Port of Stockton have several fully-entitled and environmentally-cleared development projects in the City limits located within the Secondary Zone of the Delta that are in various phases of the development process (see attached Exhibit 2). Some of those projects have approved Master Development Plans with Development Agreements, Planned Development Permits, Large-lot and/or Small-lot Tentative Subdivision Maps, or property leases, and are approaching build-out (requiring only ministerial approvals, such as Final Subdivision/Parcel Maps, building permits, etc.). Other approved master planned projects are in the early phases of the development process and may require additional discretionary entitlements (e.g., Small-lot Tentative Subdivision or Parcel Maps, Conditional Use Permits, etc.). The City respectfully requests that the build-out of those projects and future planned urban development projects in the City’s corporate limits and Sphere of Influence, located within the Secondary Zone of the Delta, be exempt from the “consistency determination” provisions of the Draft Plan and that Risk Reduction Policy RR P3 and Table 7-1 be removed from the Draft Plan.</p> <p><b>Yolo County:</b> Table 7.1 in Draft Five sets forth various restrictions on “covered actions” proposed within floodplains. The County has no objection to reasonable restrictions on urban</p>

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**CHAPTER 7 – Reduce Risk to People, Property, and State Interests in the Delta**

Comment Themes or Recommendations	Comments
	<p>development projects and other activities that rise to the level of a “covered action” within floodplains. By and large, existing law (together with the Land Use and Resource Management Plan of the Delta Protection Commission) comprehensively regulates such development and the need for additional regulation—if any—is quite limited.</p> <p><b>Yolo County:</b> RR R3. [...] Table 7.1 should [...] be revised to clearly state that the list of various “covered actions” does not—and could not—represent a Council determination that such activities are in fact “covered actions,” and that it reflects only a Council judgment regarding appropriate flood protection levels for such activities in the event that they rise to the level of a covered action based upon the facts and circumstances of individual projects.</p> <p><b>Yolo County:</b> RR R3. [...] the County assumes that where Table 7.1 requires 100-year flood protection, that requirement can be satisfied by the methods identified in Figure 7.4 (p. 169). This is perhaps the intent of footnote “d” in Table 7.1, but the footnote should be clarified to state this more clearly. Also, is there any reason why floodproofing cannot be an acceptable means of achieving 200-year protection? If not, then Table 7.1 should reflect this potential strategy for providing 200-year flood protection.</p> <p><b>Yolo County:</b> RR R3. [...] the “covered actions” column refers to the development of subdivisions of more than four parcels “in non-urbanized areas within Legacy Towns.” What is a “non-urbanized area” within a Legacy Town? Why not just say “within Legacy Towns”?</p> <p><b>Yolo County:</b> RR R3. [...] Table 7.1 prohibits the development of subdivisions of more than four parcels outside of the Legacy Towns and urban areas (as defined in Government Code Section 65007(e)) unless 200-year flood protection exists. This potentially brings the Delta Plan into conflict with existing state law requiring a 100-year level of flood protection for such projects (as well as consistency with the Delta Protection Commission’s Land Use and Resource Management Plan if the project is located in the Primary Zone). [...] Table 7.1 should be revised to allow agricultural clustering so long as it proceeds in accordance with Land Use Policy 11 in the current version of the Resource Management Plan and all other existing local and state laws (including the Delta Plan).</p> <p><b>Yolo County:</b> RR R3. [...] the County reiterates the concerns [...] with respect to the term “above ground infrastructure,” which has been revised to read “above-ground utilities and transportation facilities.” Assuming “transportation facilities” includes roads and minor bridges, the County’s prior concerns continue to apply to the extent that a road improvement project (if somehow considered a “covered action”) will be precluded by the lack of PL 84-99 or greater flood protection.</p>
<p>The recommended emergency preparedness and response activities as determined by the SB 27 Delta Multi-Hazard Coordination Task Force need to be highlighted and incorporated into the Delta Plan.</p>	<p><b>San Joaquin County:</b> Page 179, Line 30 - Recommended Amendment Despite the vital importance of adequate preparation, no Delta-wide <del>emergency response plan</del> <u>regional emergency response system with consistent component plans</u> exists.</p> <p><b>San Joaquin County:</b> Page 179, Line 42 - Recommended Amendment Currently, no coordinated Delta-wide <del>emergency response plan</del> <u>regional emergency response system with consistent component plans</u> exists to address the potential for levee failures and flooding.</p> <p><b>San Joaquin County:</b> RR R7, Page 180, Lines 33-37 This is confusing and duplicative. Is that DSC going to write emergency response procedures? The DSC may want to review the work of the S827 Task Force and the new Sacramento-San Joaquin Regional Flood Response Project being initiated through the Delta Protection Commission. We need to be consistent. The SB27 Task Force consisting of the actual Emergency Managers of the Delta counties, the DWR Flood Operations Branch, and CalEMA should remain the body that develops response plans and recommendations and the DSC and DPC can review those products if they want.</p> <p><b>Yolo County:</b> RR R6. [...] the County encourages the Council to recommend that the Legislature prioritize funding for implementation of the Delta Multi-Hazard Task Force Recommendations.</p>
<p>Subsidence reversal practices and incentives need to be further developed within the Delta Plan.</p>	<p><b>California Farm Bureau Federation:</b> (RR R11) Research into BMPs to reduce and minimize subsidence in connection with conventional farming of Delta peat soils should be conducted and—if feasible and effective—potential ways to implement, encourage, or incentivize regional adoption of such BMPs should be considered for affected areas of the Delta.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We partially agree with the recommendation for termination of state leases on Delta lands subject to subsidence. However, every effort should be made to work with farmers to keep Delta lands in agricultural production. [...] An alternative consideration should be a 400-foot easement around Delta levees and adoption of policies to add more fill behind Delta levees to reinforce them. (RR R11)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We agree that there should be support for Delta dredging to improve flood conveyance and to provide material for levee maintenance or subsidence reversal in the Old River, Middle River and the South Fork Mokelumne. However, we have concerns about the environmental impacts from deepening the Sacramento Deepwater Ship Channel and the Stockton Deepwater Ship Channel and we reserve judgment pending comprehensive environmental review and full mitigation. (RR R2)</p> <p><b>Delta Independent Science Board:</b> 184, Recommendations: The DSC appears to have decided not to engage on the issue of subsidence. Yet this process clearly impacts the co-equal goals. As part of the DSC’s commitment to transparency, it should articulate why this issue is not worthy of policy or, for that matter, substantive recommendation.</p> <p><b>State and Federal Contractors Water Agency:</b> The new Draft does not recognize that economically-based risk reduction be performed on an island-by-island basis and that policies for</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 7 – Reduce Risk to People, Property, and State Interests in the Delta**

Comment Themes or Recommendations	Comments
	<p>the eventual conversion of some islands to habitat be developed before major investments are made in levee improvements. The Draft does not address the fact that habitat restoration land costs will be higher, with unacceptably high stranded costs, if plans and policies coordinating restoration with levees are not developed. It also has not addressed subsidence costs, which are essential to understanding a sustainable Delta. Finally, the Draft continues to propose the creation of a new Assessment Authority to tax the water projects without the proper analyses.</p> <p><b>State and Federal Contractors Water Agency:</b> Page 161 and Lines #21 through #26 - Replace with new text - Preventing floods is impossible, but prudent planning and organization of flood management activities can significantly reduce vulnerabilities and risk. <u>The portfolio of economically and ecologically based risk-reduction strategies for the Delta must consider urban and rural communities as well as agricultural lands during the process of identifying, evaluating, and prioritizing investments in the levee system. Risks can be reduced through an emergency preparedness, response, and recovery system; appropriate land uses; land acquisition and conversion to ecosystem functions; subsidence reversal strategies; and strategic levee improvements.</u></p> <p><b>State and Federal Contractors Water Agency:</b> Page 178 and before Line #37 - Insert three new bullets - <u>(1) Evaluate investment in alternative risk reduction strategies, comparing levee upgrade to flood-proofing, acquisition and conversion to habitat; subsidence reversal; relocation of infrastructure, and flood insurance. (2) Evaluate long-term drivers of change and economic sustainability before establishing funding priorities. (3) Integrate risk reduction investments with the co-equal goals through the coordinated evolution of some islands to habitat.</u></p> <p><b>State and Federal Contractors Water Agency:</b> Page 179 and Lines #40 through #43 - Add new text - Levee failures and flooding can and will place human life and property in danger, and can have potentially significant implications for the state's water supply and infrastructure and the health of the Delta ecosystem. Currently, no coordinated Delta-wide emergency response plan exists to address the potential for levee failures and flooding. <u>Current land use activities which exacerbate land subsidence and increase the forces on levees further increase the probability and damages associated with levee failure.</u></p> <p><b>State and Federal Contractors Water Agency:</b> Page 182 and before Line #37 - Add new bullet - <u>Develop Expected Annual Damage estimates which must include a comparative analyses of losses from on-going subsidence, water quality degradation and foregone ecosystem opportunities associated with maintaining the existing plan form versus a more economically sustainable form.</u></p> <p><b>State and Federal Contractors Water Agency:</b> Page 184 and Line #3 - Add new text - Deep subsidence has led to increasing stress on Delta levees. <u>Although subsidence has slowed or halted in many areas, some regions of the Delta continue to subside, causing a significant increase in risks and damages to public interests. The costs associated with both historic and current subsidence have not been born by the beneficiaries or those responsible for these costs.</u></p> <p><b>The Nature Conservancy:</b> Page 183 - Subsidence Reversal and Reduction: As described in the draft Plan (lines 27-30) there are opportunities to significantly decrease or gradually reverse subsidence in the Delta. Recommendation RR R11 (page 184) is a misguided step towards directly addressing this problem. Actions to reverse subsidence can be costly, often requiring the construction of berms or even new levees. Infrastructure such as discharge pumps and drainage ditches to facilitate water management on the treated land, control of mosquitoes, and other controls will be necessary depending on the treatment choice. This could end up costing the lessee farmer hundreds of thousands of dollars which may result in abandonment of the lease and non-productive use of the land. [...] We recommend the following replacement language for RR R11: That state agencies work with the lessee, and provide economic incentives through the lease agreement if necessary to participate in a subsidence reversal or reduction program for specified parcels of the land mutually agreed upon by the state and lessee. If agreement cannot be reached, the state reserves the right to not renew or enter into an agriculture lease agreement.</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**Chapter 8**

**Protect and Enhance the Unique Cultural, Recreational, Natural Resources, and Agricultural Values of the California Delta as an Evolving Place**

Comment Themes or Recommendations	Comments
<p>The Delta Protection Commission should not be trying to solve the area's economic issues at the expense of the water users or the ecosystem. This may be unrelated to the co-equal goals and inconsistent with both the "beneficiary pays" concept and the appropriate level of local control. The local area should be responsible for the economic development of the area, like most regions and cities or communities, not the rest of the state or the water users specifically.</p>	<p><b>Mesa Consolidated Water District:</b> Mesa Water is very concerned about the inclusion of economic development goals in this plan. The Delta Commission should not be trying to solve the area's economic issues at the expense of the water users or the ecosystem. The local area should be responsible for the economic development of the area, like most regions and cities or communities, not the rest of the state or the water users specifically.</p> <p><b>Santa Ana Watershed Project Authority:</b> Another specific concern is the approach the Plan takes to economic development in the Delta. The Council has taken the view, based on statutory language about protecting the Delta as an evolving place, that protecting the Delta is essentially a third co-equal goal. Moreover, the Plan goes further and casts this as ensuring the economic development of the Delta region. Such a goal seems to surpass the legal duty and authority of the Council, and certainly implies economic obligations for the rest of California that may be unrelated to the co-equal goals and inconsistent with both the "beneficiary pays" concept and the appropriate level of local control.</p>
<p>Text is too dry a recitation of data, without analysis of what makes the Delta unique and how it is changing. Text needs to connect with values. Draw more on DPC's ESP for data. Acknowledge Delta changes, including changes in farm policy, agricultural markets, and other external factors.</p>	<p><b>Delta Independent Science Board:</b> As written, Chapter 8 provides a dry description of current conditions. To long time Delta observers, many of the values appear to be in decline, but few trends are provided in the chapter. Even if trends could be better described, there are few analyses that provide scientific interpretations to inform policy and management practices to affect the trends. Rather, the legislature has stipulated that the values of the Delta are to be protected, and the authors of this chapter repeat the legislative directive frequently. The Delta Protection Commission is developing an Economic Sustainability Plan (ESP) to which this chapter repeatedly refers. The August 9, 2011 draft of the ESP provides a wealth of current information about the Delta and its residents and recreation users. Within the lengthy document, there are excellent descriptions of the Delta environment and people. The ESP, however, makes assumptions about expenditures on levee maintenance and investments in recreation infrastructure paid for by State, federal, or other funds that are probably unrealistic. More importantly, the draft ESP makes policy recommendations about levees, water flows, and ecological restoration that are in direct conflict with the co-equal goals. Specifically, the performance measure in Chapter 8 of the fifth staff draft of the Delta Plan that total agricultural acreage will be maintained or increased in the future is in direct contradiction with ecological restoration and levee maintenance and enhancement based on risk criteria. This leaves major questions for the DSC to address.</p>
<p>Recognize the Delta Conservancy's role in increasing economic development, recreation and tourism.</p>	<p><b>Sacramento-San Joaquin Delta Conservancy:</b> The Delta Conservancy was formed by the legislation that mandates the completion of the Economic Sustainability Plan. The Conservancy is tasked with increasing economic development, recreation and tourism in the Delta and should be referenced in this chapter and throughout the document as appropriate.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Page 196, Lines 39-40. In Chapter 5 the Delta Plan explicitly recognizes the Delta Conservancy's role in ecosystem restoration in the Delta. Chapter 8 needs to similarly recognize the Delta Conservancy's role in economic development as described in the Conservancy's mandates (Public Resources Code sections 32301(a) (i) and 32322(b)) and should be described in this section of Chapter 8.</p>
<p>Designate a subcommittee of the DPC as the regional agency to facilitate economic development efforts. Focus Delta investment fund on supporting agritourism, preserving Legacy Communities and environs, and supporting infrastructure that encourages destination visits to the Delta. Authorize the DPC to administer the Delta Investment Fund, advised by a DPC subcommittee.</p>	<p><b>Local Agencies of the North Delta:</b> Chapter 8 should be informed by the significant efforts of the Delta Protection Commission, which has analyzed and provided the following conclusions in its August 9, 2011 proposal in its Executive Summary (pp. xiii-xvi), including the following Recommended Actions for Economic Sustainability: [...]</p> <ul style="list-style-type: none"> <li>• The Delta Investment Fund should be established and used strategically to implement the recreation and tourism enhancement strategies.</li> </ul> <p><b>Solano County:</b> With regard to Delta economic issues generally, a recommendation for the Council to consider including in Chapter 8 (or elsewhere in the Delta Plan, if appropriate) is as follows:          "Following completion of the Economic Sustainability Plan (subject to the availability of funding), each Delta county shall prepare a local economic development plan that addresses its economic development issues for areas within the statutory Delta, identifies specific recommendations for actions and related financing (including the Delta Investment Fund), and establishes an implementation program."</p>
<p>Update with California State Parks' completed recreation proposal. Focus recreation development in five location-based concepts. Protect private enterprise-based recreation.</p>	<p><b>California Department of Water Resources:</b> Page 194, lines 39 - 41          The text should be updated to include the final Recreation Proposal for the Sacramento-San Joaquin Delta and Suisun Marsh just recently completed.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Recommendations described in CA Department of Parks and Recreation's "Recreation Proposal for the Sacramento-San Joaquin Delta &amp; Suisun Marsh" should be better integrated into the Delta Plan.</p>
<p>The suggested outcome performance measures that: "Total agricultural acreage and gross revenue in the Delta will be maintained or increased in the future." is inconsistent with other Plan objectives, is unrealistic, and is unreasonably restrictive on land use decisions by Counties and individual land owner.</p>	<p><b>California Department of Water Resources:</b> Page 200, lines 20 - 21          The Plan describes an Outcome Performance Measure as "Total agricultural acreage and gross revenue in the Delta will be maintained or increased in the future." This may not be the case in the Delta. The trend in Delta agricultural acreage has been downward in recent years. And the real, inflation-adjusted value of Delta agriculture is likely to fluctuate, but generally decrease, over the next 20 years, due largely to powerful social, economic, and natural forces beyond the control of Delta residents and State or local governments.</p> <p><b>Delta Wetlands Project:</b> The suggested outcome performance measures in Chapter 8, at line 19 on page 200, provide that, "Total agricultural acreage and gross revenue in the Delta will be maintained or increased in the future." There are many places in the Plan, and specifically in Chapter 8, where it is clear that agriculture is and will continue to be the defining</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**Chapter 8**

**Protect and Enhance the Unique Cultural, Recreational, Natural Resources, and Agricultural Values of the California Delta as an Evolving Place**

Comment Themes or Recommendations	Comments
	<p>center of the Delta economy. But, this measure is inconsistent with other Plan objectives, is unrealistic, and is unreasonably restrictive on land use decisions by Counties and individual land owners. We recommend that it be deleted.</p> <p><b>Yolo County:</b> Pgs. 199-200. [...] the County is puzzled by language stating: "Total agricultural acreage and gross revenue in the Delta will be maintained or increased in the future." While the County strongly supports maintaining or increasing gross revenues, the Delta Plan needs to identify a baseline figure and propose an index that tracks inflation for this measure to have any value as a yardstick. Also, the notion that "total agricultural acreage" can somehow be maintained or increased is deeply flawed for reasons explained by the County in its June 24, 2011 comment letter. Absent sound evidence that such an outcome is possible, this language should be deleted.</p> <p><b>Yolo County:</b> Pgs. 199-200. [...] the County observes that the performance measures have been revised to include a new requirement that reads: "Total acres of undeveloped agricultural, habitat, recreational, and open space lands will be maintained in the future and not converted to municipal and industrial uses." Nowhere in Chapter 8 is there any justification for such a measure, which essentially suggests that the success of the Delta Plan will be measured against whether the Delta is frozen in time. [...] maintaining the existing acreage of agricultural, habitat, recreational, and open space lands is a far more extreme approach that is impractical and unwarranted.</p>
<p>Acknowledge native California Indian sites and uses of Delta.</p>	<p><b>California Department of Fish and Game:</b> Native American cultural sites need to be taken into consideration when restoration or other actions are taken in the Delta.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> There must be recognition of tribal cultural use of the Delta as a major trading place and center of many tribal community ceremonial places as well as the need and respect for the Delta as the transformation place of salmon from fresh water to salt and back again. The Plan fails to include tribal interests in the Delta and the importance of the waters to lifeway and salmon habitat restoration and continuance.</p>
<p>The Delta Plan needs more emphasis on Delta as Place</p>	<p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> While our coalition is in general agreement with the majority of recommendations that are presented in this chapter, we feel that it has serious overall shortcomings and oversights. They are: a lack of specifics or quantitative data by which performance can be measured; no recognition that water quality and improved water flows through the Delta are an integral part of the Delta as Place; the absence of integral involvement of Delta residents and Delta communities in the planning for the Delta's future.</p> <p><b>Delta Caucus:</b> In order to protect and enhance the important agricultural values of the Delta as an evolving place, the Delta Plan must clearly provide for the following:</p> <ul style="list-style-type: none"> <li>• Land,</li> <li>• Suitable quality water for irrigation,</li> <li>• Flood control and drainage,</li> <li>• Protection from Endangered Species due to newly created habitat, and</li> <li>• Flexibility to change as conditions and markets readily change.</li> </ul> <p>[...] The text of the Delta Plan and its policies to advance the co-equal goals should be developed and implemented in a manner that protects, enhances and recognizes the values of Delta agriculture, while also allowing for agriculture to effectively adapt to changes over time – and thus avoids evolving agriculture out of the Delta.</p> <p><b>Sacramento County:</b> While Chapter 8 includes six "recommendations" intended to address the "Delta as a Place" problem statements described on pages 197-199, these recommendations seem to focus on coordination and input from various State agencies (i.e., DP R3 through DP R6). Absent is a specific "policy action" that commits the DSC and/or its staff to proactively engage, inform, and educate Delta residents and business owners about the DSC's role in addressing the coequal goals, while at the same time being sensitive to the socio-economic structure of the Delta region. As suggested at the "Delta as an Evolving Place" workgroup meeting held on September 19, 2011, regularly scheduled community-based meetings (e.g., quarterly) would be an appropriate approach.</p> <p><b>San Joaquin County:</b> The co-equal goals of water reliability and ecosystem restoration must be done in a manner that protects and enhances the agricultural values of the Delta as an evolving place. Unfortunately, the Fifth Draft Delta Plan fails to protect or enhance agriculture in the Delta.</p> <p>[...]</p> <p>To protect and enhance agriculture in the Delta and to allow it to remain viable into the future, the plan must address the issues that presently threaten agriculture in the Delta. These include water quality, levee maintenance, channel capacity, incompatible non-agricultural uses, critical mass (infrastructure and support industries), certainty, and regulatory costs.</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 9 – Finance Plan Framework**

Comment Themes or Recommendations	Comments
<p>Concerns expressing need for clearer funding plan; need more funding for various elements of plan; opposition to various fees</p>	<p><b>City of Antioch:</b> Pg. 208, lines 17-23. This indicates that only water export system expenditures are considered urgent. What about levees in the Western Delta, that protect the whole system? Suggest change to read: "Immediate steps should be taken to protect the existing Delta water <del>supply export</del> system from flood risks, and protect ecosystem improvements being implemented pursuant to existing mitigation commitments of the SWP and the Central Valley Project (CVP).</p> <p><b>City of Antioch:</b> Pg. 212, lines 10-18. This indicates that ecosystem restoration mitigation projects required by BDCP would be paid for by impacted stakeholders in the Delta. This is a "double hit" cost impact to in-Delta agriculture and other in-Delta stakeholders, who would therefore be required to pay for BDCP's mitigation credit projects as well as suffer the impacts of the BDCP project itself.</p> <p><b>Association of California Water Agencies:</b> Financing the Delta Plan will require resources from numerous sources and entities. To encourage financial participation, the Delta Plan must identify specific actions that will significantly advance the coequal goals, and then clearly demonstrate the benefits to those parties who are expected to pay for those actions.</p> <p><b>Calaveras County Water District:</b> We have concerns regarding the notion of a "stressor fee" as discussed in the Draft Plan. We are unclear exactly what degree of "stress" the fee would be based upon and what the metric(s) would be to identify and quantify, what would probably be multiple stressors. [...] We [...] recommend that any consideration for a "stressor based fee" be shelved until more information and input from local agencies, federal agencies, utilities and other key stakeholders can be gathered and analyzed by the DSC. This may best be carried out by an advisory group appointed by the DSC to assist in these efforts in coming years.</p> <p><b>Calaveras County Water District:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in is a particularly good idea. [...] There is a scarcity of local revenues already and the DSC proposal to use electrical bills as the model is invalid.</p> <p><b>California Association of Sanitation Agencies:</b> Our primary concern is that the proposed "stressor fee" is not an appropriate revenue mechanism as applied to National Pollutant Discharge Elimination System (NPDES) permit holders and would be calculated and assessed based on a particular discharger's volume of constituents discharged. The Fifth Draft Plan proposes to assess this fee on all discharges of constituents, regardless of whether the discharger is operating in compliance with its NPDES Permit, and without an analysis of whether the discharge is actually impacting beneficial uses. Moreover, the Fifth Draft Plan specifically states that credit should not be given to dischargers for capital improvements or waste treatment costs that have or will improve water quality. Such credits might allow entities to offset some costs associated with proactively addressing issues in the Delta.</p> <p><b>California Association of Sanitation Agencies:</b> The Fifth Draft Plan proposes to assess "stressor fees" against public agencies—which would, in turn, have to be recouped through user fees—yet the plan fails to describe the activities to be funded by these fees and the specific benefits that will accrue to agency ratepayers. In other words, there is no clear nexus between the proposed fees and the service to be provided.</p> <p><b>California Association of Sanitation Agencies:</b> the Fifth Draft Plan proposes recovering the \$50 million combined annual expenditures of the Council, the Delta Conservancy (Conservancy), and the Delta Protection Commission (DPC) through so-called "stressor fees" and "beneficiary fees," yet no contributions are being recommended from beneficiaries of flood control, ecosystem restoration, and a long list of other beneficiaries and stressors. This is unduly narrow. We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include "stressor fees" as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p> <p><b>California Association of Sanitation Agencies:</b> CASA is very concerned that the proposed "stressors pay" approach is yet another example of simply targeting permitted entities that are already operating in compliance with existing law and are already paying significant sums to comply with federal and state permitting requirements and meet applicable water quality standards. [...] If "stressor fees" are to be included as part of the Delta Plan, such fees should take into account the degree to which the pollutant loading affects beneficial uses of the Delta. This would more closely correlate an entity's impact on the Delta with amount of fees charged to a stressor, and represents a more accurate and fair distribution of the fee allocations than a simple constituent volume based assessment.</p> <p><b>California Association of Sanitation Agencies:</b> The Fifth Draft Plan does not recognize or account for the existence of numerous other fees already assessed on purported "stressors" throughout the Delta. [...] CASA is concerned the Council will adopt additional fees as part of its proposed funding mechanisms that could duplicate efforts that are already underway, and place additional unnecessary burdens on proposed fee payers. Chapter 9 should clearly identify all sources of funding that will be used to finance programs and projects in the Delta before suggesting new fees to support the Council's actions.</p> <p><b>California Department of Water Resources:</b> Page 206, lines 16 - 18 The text states that "Capital construction projects, whether for water reliability purposes or improvement in the Delta ecosystem, should be undertaken simultaneously with the development of beneficiary and user fees." The Department believes that an agreement should be reached on how a capital project is to be financed, including how "beneficiary and user [or stressor] fees" will be determined before construction is started.</p> <p><b>California Department of Water Resources:</b> Page 206, lines 31 - 33</p>

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**CHAPTER 9 – Finance Plan Framework**

Comment Themes or Recommendations	Comments
	<p>This bullet is not clear in its intent in specifying what activities would or would not be credited against future assessments. For example, are the 'existing expenditures' that would be credited against future assessments being provided by nonprofit entities or Joint Power Authorities? Would 'site-specific expenditures' made by agencies be treated differently?</p> <p><b>California Department of Water Resources:</b> FP R3 and FP R4 Page 210, lines 34 - 41 Are the \$100million and \$50million figures contained in these two recommendations from the Propositions' language, or other legislation? If not, how were they derived? Are these figures tied to specific investments or investment priorities?</p> <p><b>California Department of Water Resources:</b> FP R12 Page 212, Line 10 The Plan recommends "a statewide public goods charge ... for water." The Plan should clarify if this recommendation includes groundwater and/or water obtained by riparian rights.</p> <p><b>California Farm Bureau Federation:</b> (FP R6) Regarding "stressors fees," the reference to "those who stress the Delta ecosystem" requires further elaboration.</p> <p><b>California Municipal Utilities Association:</b> We are writing to express our concern about Finance Plan Framework (FP R12), which recommends that the California Legislature establish a "public goods charge" (PGC) on urban and agricultural water users. This recommendation [...] would appear to require urban and agricultural water agencies to raise rates to fund statewide water and habitat restoration needs and fund Department of Water Resources' California Water Plan updates and/or state "science programs." [...] We understand that little public money is available to pay for statewide resources needs. However, public money is also scarce at the local level, where ratepayer funds are also needed to upgrade aging infrastructure, comply with new state and federal water laws including reducing water use by 20 percent by 2020, and much more. [...] We are concerned that if water agencies cannot get approval from their customer base for these increases, then the only way agencies could pay the obligation is to cut existing projects and programs in order to free-up the financial resources to pay this new fee or tax.</p> <p><b>California Municipal Utilities Association:</b> [...] [T]he water PGC proposed in the fifth draft appears to be very different from the existing PGC that POU customers pay on their electricity bills, For POU's, the electric PGC is used locally, within their service areas, for projects that directly benefit and are supported by their communities, Local agencies are given broad discretion to use the funds locally for energy efficiency, development of renewable resources, investing in local research, development and demonstration projects, and assisting low income ratepayers, In contrast, the proposed water PGC would go to state agencies to fund statewide resources needs where ratepayers would have little or no input into the project and/or programs, rather than being returned to benefit the local communities.</p> <p><b>Central Valley Clean Water Association:</b> we would like to [...] point out the following fundamental flaws in the stressor fee approach: (1) the fee proposal is not inclusive of all stressors [...] and is therefore neither fair nor equitable; (2) the stressor fee concept fails to account for numerous fees already paid by POTWs not only toward regulatory oversight, but towards water quality monitoring and planning efforts.; and (3) no credit is given to entities who spend funds to reduce impacts in the Delta.</p> <p><b>Central Valley Clean Water Association:</b> CVCWA continues to strongly oppose the Council's proposal to procure ten years of up-front funding for the Council and Conservancy, to ultimately be reimbursed by fee payors. The state should be the entity that incurs start-up costs associated with implementation of the Delta Plan, not fee payors, and the state should not be entitled to reimbursement using later-assessed fee contributions. Moreover, few if any other state agencies have a guaranteed funding source for a ten-year period into the future, and collecting and maintaining such a reserve (at the expense of fee payors) is unprecedented.</p> <p><b>Central Valley Clean Water Association:</b> the Fifth Draft Plan fails to address the significant role of exports, non-native species, and entrainment on the deterioration of the Delta ecosystem, and does not strike the appropriate balance between identifying contaminants and discharges as "stressors" and discussing the role of exports as a multiple stressor in the Delta.</p> <p><b>Coalition for a Sustainable Delta:</b> The Draft Plan proposes a rather undefined finance plan that likely will further burden water users, particularly those that export water from the Delta, and does not adequately or accurately quantify potential benefits associated with the Delta Plan activities. [...] We do not believe the Council is the appropriate forum to develop fees to finance implementation of the Delta Plan, and feel strongly that there first must be a real plan with concrete actions before there can be a serious discussion of financing and application of the beneficiary pays principle to funding Delta Plan implementation.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Public Trust balancing must be incorporated into all aspects of a Delta Plan, especially in the economic analyses that must be an integral part of the Financial Plan. (FP P1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Based on the BDCP Costs shown on Page 209, Water Conveyance Costs (the Water Supply Reliability portion of the Co-Equal Goals) are 70% of total project costs. This represents a wide disparity in the legislatively mandated Co-Equal goals for Water Supply and Delta Ecosystems Restoration. This very unequal apportionment of project costs by BDCP is the clearest indicator that increasing water supply is the overriding objective of the BDCP sponsors and that ecosystems restoration will never be an equal goal. This discrepancy needs to be communicated by the Council to the BDCP as an indicator that the eventual DEIR produced by BDCP will not meet the legislative requirements set for the "Co-Equal Goals." (Version 2.1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Under the category of "Immediate Needs," please include "public health" as requiring urgent expenditures. The Pacific Institute report cited in Chapter 6 identifies a need for capital infrastructure for communities with nitrate contamination at \$150 million, but urgent expenditures are needed for interim solutions, including operation and maintenance of treatment systems, and funding for point-of-use or point-of-entry. No funding is available for either of these</p>

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	<p>options to provide safe drinking water in the short term. (Page 208, line 17)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [FP R5]. Unlike DWR, both the State Water Board and the Department of Public Health develop regular Needs Surveys for wastewater and drinking water infrastructure. These surveys and the Project Priority List for the Drinking Water State Revolving Fund should inform any needs survey.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> While this recommendation currently looks at small-scale storage and conveyance projects, it ignores basic investments like water meters, replacement of leaking pipes, and conservation incentives for residents of small water systems. (FP R5)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] we recommend that the Council continue exploration of a water diversion fee and a Delta export fee by the Council and the State Water Resources Control Board. The top priority of such diversion and export fees should be to support ecosystem restoration efforts. This system of fees is founded on the responsibility of all water users under the public trust to contribute to ecosystem restoration. Development of these fees should consider the following: (FP R6, R8, R10)</p> <ul style="list-style-type: none"> <li>• Long-term habitat restoration and species recovery funding required to achieve the co-equal goals.</li> <li>• An appropriate share of public funding for ecosystem restoration efforts, as well as likely state and federal funding, given the pressures on the state and federal budgets.</li> <li>• Contributions by water users to other system-wide ecosystem restoration efforts. Site specific, water agency local mitigation costs (e.g. the installation of fish screens) should not be considered for crediting in the development of these user fees.</li> <li>• These water fees should not be used for the purchase of water to achieve compliance with regulatory requirements, as was the former CALFED Environmental Water Account.</li> </ul> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The development of information related to financing (such as the identification of beneficiaries and stressors and detailed financing scenarios) should be undertaken simultaneously with the development of major capital decisions, in order to inform planning efforts. The Council should assure that this is being accomplished by the BDCP in order for BDCP to be able to produce a plan that is consistent with the requirements of a Delta Plan. Development of finance plans should not be delayed until the conclusion of capital planning efforts. (FP R6, R8, R10)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We note that the word “Framework” has been added to this chapter title with the introduction of the Third Draft. While we understand that: “Many of the policies recommended in the Delta Plan will not be fully developed and more detailed costs will be determined at a later date” (from the Second Draft), we recommend that as much detail as possible on alternative costs be included in the Draft EIR; presenting only a framework for a finance plan will not be adequate.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The primary purpose of a public goods charge should be to fund investments in efficiency, water recycling, groundwater clean-up, stormwater capture, and other tools that can reduce reliance on imported supplies. (FP R12)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> A public goods charge could ensure a minimum investment by all urban and agricultural water agencies in water user efficiency and other tools that can reduce reliance on imported water. It could also provide consistent funding over time. (FP R12)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The CPUC’s recommended water public goods charge is focused on water efficiency – broadly defined -- including agricultural and urban water use efficiency, water recycling, stormwater capture and groundwater clean-up efforts, and resulting surface water quality impacts. We recommend that the Delta Plan require a volumetric approach to such fees as well as contributions by both agricultural and urban water users. (FP R12)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> the Council needs to expand its vision on fee possibilities. A Water Resources Renewal and Protection fund should be established that places a volume fee on both water exported and discharged. These fees need to go to more than just conservation efficiency projects. Funding needs also to include watershed protection projects throughout the Sierra, the Coastal Regions, and other suitable areas of the state.</p> <p><b>Contra Costa Water District:</b> p. 210 lines 16 through 33, FP R1 –To the extent public and private agencies are required to protect their own assets, then they should do so with local control. The idea of implementing a fee and passing it over to another agency for allocation creates unnecessary administrative costs, and takes the decisions for expending funds away from the local agencies who are best suited to make decision on how best to protect their assets.</p> <p><b>Contra Costa Water District:</b> p. 210 lines 39 through 41, FP R3 – This proposal appears to circumvent the “beneficiary” and “stressor” pays guiding principles, in that it earmarks Proposition 1E funds for a specific purpose “acquisition of land or easements for the propose San Joaquin/South Delta Flood Plain”. No projects/regions should get special designation at this point in the process.</p> <p><b>Contra Costa Water District:</b> p. 211 lines 1 through 6, FP R4 – This proposal is devoid of specifics as to how the funding would be utilized, or what degree of oversight and control there would be over the funds. This proposal should be eliminated unless a clear scope work/business purpose and accountability structure can be demonstrated.</p> <p><b>Contra Costa Water District:</b> p. 211 lines 19 through 32, FP R6 – CCWD is not opposed to user fees as long as they have a direct purpose with a direct nexus to the user, they are developed and applied equitably across all beneficiary and stressor groups, and as long as they are allocated and distributed at the local level. There is no basis for funding operations of the Council, etc. on an advance basis for ten years, when it is not clear yet what their ongoing mission will be, or what exactly the benefits will be that are being funded.</p>

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	<p><b>Contra Costa Water District:</b> p. 212 lines 10 through 18, FP R12 – It is not appropriate to establish a Public Goods Charge for Water to fund obligations currently funded by the State General Fund. This approach would circumvent the guiding principles of “beneficiary” and “stressor” pays since that analysis has not been completed, and take an activity that has broad application (ecosystem costs) and fund it from a specific group (water utilities). It should remain funded from the General Fund unless and until the “beneficiary” and “stressor” pays analysis is completed and determines another funding approach is more appropriate.</p> <p><b>Delta Caucus:</b> FP R2: We believe there are sufficient assessment districts in place for flood control through the current structure of the Reclamation Districts. To create another layer over these existing entities is repetitive and adds more tax burden to landowners in the Delta. We would recommend deleting this policy.</p> <p><b>Delta Caucus:</b> This recommendation fails to address when and how a user could appeal out of a “stressor” fee. Would the entity then transition to a “beneficial user” fee then? Or is it assumed that everyone is a beneficiary, and only some are “stressors”? [...] Furthermore, in no way would we be in support of the Council, Delta Conservancy, and or the Delta Protection Commission being “pre-funded”. [...] This recommendation should be deleted.</p> <p><b>East Bay Municipal Utility District:</b> Pg. 206, lines 34-36. Edit as follows:  <del>"To the extent possible, user fees should be based on the amount of water used, or for stressors, the volume of the contaminants discharged."</del></p> <p><b>East Bay Municipal Utility District:</b> Pg. 210, line 5. Edit as follows:  <del>"In general, human activities that stress the system implementing a beneficiary pays system should be the starting point for a financial strategy."</del></p> <p><b>East Bay Municipal Utility District:</b> Pg. 211, lines 20-27. Edit as follows:  <del>The Legislature should authorize the Delta Stewardship Council should develop and propose to the Legislature a system of to develop reasonable fees for beneficial uses and reasonable fees for those who stress the Delta ecosystem, and apply these fees to the operational costs of the Delta Stewardship Council, the Delta Conservancy, and the Delta Protection Commission to allow implementation of the Delta Plan. These fees would be developed in an open and transparent process. Operating costs of the Delta Stewardship Council, Delta Conservancy, and Delta Protection Commission should be pre-funded for a period of 10 years. As previously discussed, the annual budget of the new governance structure is approximately \$50 million.</del></p> <p><b>East Bay Municipal Utility District:</b> Pg. 212, lines 10-12. Edit as follows:  <del>Evaluate and make recommendations to the Legislature regarding a Establish a statewide public goods charge (or broad-based user fee) for water. The Legislature should create a public goods charge (similar to the energy public goods charge created in 1996) on urban water users and agricultural users.</del></p> <p><b>East Bay Municipal Utility District:</b> while the finance chapter accurately describes the challenges to stable funding for the Delta Plan, it offers relatively little in the way of proposals that can be tested for public acceptance. Although the stakeholder community has similarly been unable to agree on specific alternative funding mechanisms, there is nonetheless a broad embrace of the beneficiary pays principle. This concept is attractive to many water agencies because future investments can be justified with expected benefits. The recently introduced "stressor pays" concept, by contrast, requires a much more complex "look back" to assess responsibility for past harm to the ecosystem or other resource values. We believe that developing a beneficiary pays alternative is a more promising avenue to building support among Delta stakeholders.</p> <p><b>EI Dorado County Water Agency:</b> We have concerns regarding the notion of a “stressor fee” as discussed in the Draft Plan. We are unclear exactly what degree of “stress” the fee would be based upon and what the metric(s) would be to identify and quantify, what would probably be multiple stressors.          [...] We [...] recommend that any consideration for a “stressor based fee” be shelved until more information and input from local agencies, federal agencies, utilities and other key stakeholders can be gathered and analyzed by the DSC. This may best be carried out by an advisory group appointed by the DSC to assist in these efforts in coming years.</p> <p><b>EI Dorado County Water Agency:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in is a particularly good idea. [...] There is a scarcity of local revenues already and the DSC proposal to use electrical bills as the model is invalid.</p> <p><b>Environmental Defense Fund:</b> [...] [W]hile we support the concept of a “public goods charge” assessment for those who divert water, we believe this concept must be better fleshed out in subsequent drafts. If the funds are to be used only in the Delta watershed, then assessments ought to be only for diverters within the Delta watershed. It is also possible that polluters might pay into such a fund, as suggested elsewhere in the financing section. But the next draft of the Delta Plan should include additional detail as to how the funds would be used as well as the potential magnitude of revenues that might be collected, even if a wide variety of alternatives are being considered. Without additional detail and explanation, it is not possible to evaluate this important recommendation.</p> <p><b>Lowell Jarvis:</b> P.206, 1.12 -" A companion principle to the "beneficiary pays" is "stressor pays". The beneficiaries (Delta exporters) are the major stressors of the Delta.          [...] The upstream water users are part of the "solution area", not part of the "problem area". The reasonable and beneficial uses of water by California citizens upstream of the Delta are being mischaracterized as Delta stressors.          [...] Rather than removing wealth from the upstream watersheds, Delta exporters would be wise to Invest sustainable forest management practices, in partnership with the upstream water agencies, to enhance natural watershed storage capacity.</p>

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	<p><b>Lowell Jarvis:</b> P.206, 1.34 - The need for a "user fee" is in appropriate. The Delta Plan needs to exclusively support the beneficiary pays principle. The beneficiary pays principle is simple and will less likely to be challenged by a Proposition 218 protests.</p> <p><b>Lowell Jarvis:</b> P.208, 1.17 -If the Delta levees are in immediate need of repair, because the water supply reliability of 25 million people is in jeopardy, then a 70 percent unimpaired flows through the Delta may be catastrophic during high water years. If the Delta levees are in immediate need of repair, because the water supply reliability of 25 million people are in jeopardy then the beneficiaries of these repairs are those 25 million people, and not every water user In the State.</p> <p><b>Lowell Jarvis:</b> P.211, 1.19 - User fees. The Legislature should levy a "mill-fee" on all water users within the "tan" area on Page 16, Figure 1.1, to support the Delta Stewardship Council. If the Delta Stewardship Council requires \$50 million dollars per year to operate, and 25 million people will be the beneficiaries of the DSC's actions, then if each person pays \$2 dollars per year, the Council will be funded! It is estimated that the cost will be approximately 3 mills (.003 cents) per person per gallon. This fee should have a sunset provision.</p> <p><b>Lowell Jarvis:</b> P.212, 1.9 - The Public Goods Charge is not a good idea. If the Public Goods Charge is applied to all water users in the State, it is a tax. The Delta Plan, and subsequent activities, should be paid through the beneficiary pays principle which is a fee based assessment.</p> <p><b>Local Agencies of the North Delta:</b> p. 210, FP R1: Economic burdens are too heavy on local RDs. The economic burden of maintaining the levee infrastructure for protecting these facilities falls on the RDs, so any fee imposed should be provided to the local RDs on a specified share, at a minimum 50%.</p> <p><b>Local Agencies of the North Delta:</b> p. 211, FP R6: The recommendation lacks specific detail or description to adequately assess its utility. A new fee without a consequential clearly defined benefit does not seem reasonable.</p> <p><b>Local Agencies of the North Delta:</b> p. 212, FP R12: The Council should require payment of in-lieu taxes for Delta Plan consistency. The Council should include a policy requiring payment of in-lieu taxes for an action to be determined consistent with the Delta Plan. Such payments are essential to protecting and enhancing the unique cultural, recreational, natural resources, and agricultural resources of the Delta as an evolving place.</p> <p><b>Local Agencies of the North Delta:</b> p. 206: Guiding Principles should include Stressors on Fish The third bullet in this list refers to a "stressor pays" principle. While the reference to urban pesticides (and other contaminants) is appropriate, this bullet should also refer to stressors on fish caused by reduced flows as well as entrainment and entrapment in major water diversion facilities. This stressor has been recognized by the state and federal courts with respect to CVP's and SWP's south Delta facilities, and would occur as a result of construction of new diversion facilities in the north Delta.</p> <p><b>Local Agencies of the North Delta:</b> p. 206: Guiding Principles The sixth bullet refers to targeted finance plans for "major" Delta Plan activities. Targeted plans should also be prepared to finance protecting and enhancing the unique cultural, recreational, natural resources, and agricultural resources of the Delta as an evolving place.</p> <p><b>City of Long Beach:</b> A statewide PGC on water would place an unnecessary financial burden on retail water suppliers and their customers. This broad-based water use assessment would funnel money away from local water users, without any guarantees that those funds would be reinvested in water related projects and programs in the communities where the revenues originated. [...] Retail water suppliers currently have the ability to raise funds for local water projects. They can also fund regional water projects by combining their resources with other entities, such as through a Joint Powers Authority. [...] We see no reason why a PGC on water would be necessary for funding local and regional water related projects or programs. A statewide PGC on water also appears to violate the "Beneficiary Pays" Principle. Retail water suppliers and their customers could end up subsidizing certain types of agencies (state or other) that are not required to pay the annual assessment, but which could receive funds generated by the PGC. [...] Finally, a PGC on water will erode the relationships between retail water suppliers and their customers.</p> <p><b>Mountain Counties Water Resources Association:</b> The recommendations in Chapter 9 on how and who should pay to support the coequal goals are extremely premature. The DSC should first create a Business Model that reflects specific projects, a needs assessment and cost/benefit analysis, along with the science behind each project.</p> <p><b>Natural Resources Defense Council et al.:</b> Clearly state in FP R6 that this system of user fees should be designed to support system-wide habitat restoration efforts.</p> <p><b>Natural Resources Defense Council et al.:</b> Include a recommendation to create a financing mechanism to ensure reliable financing for investments in water management tools that would reduce reliance on the Delta. In general terms, this mechanism would be analogous to the efficiency and renewables investments financed by the public goods charge for energy utilities.</p> <p><b>Sacramento Regional County Sanitation District:</b> Delta programs and funding sources must be clearly delineated and prioritized.  <ul style="list-style-type: none"> <li>• The Delta Plan must include clear delineation of major programmatic funding needs, a broad and inclusive analysis of potential funding sources, and consideration of a comprehensive array of financing mechanisms. The four major Delta project areas include: <ul style="list-style-type: none"> <li>o Administration for Delta programs (such as the Delta Stewardship Council, the Delta Science program, and the Delta Conservancy),</li> </ul> </li> </ul> </p>

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	<p>o Water supply reliability and alternative conveyance facilities through or around the Delta and mitigation thereof,                      o Ecosystem restoration projects, and                      o Other Delta infrastructure and Delta as a place related projects.</p> <ul style="list-style-type: none"> <li>• Potential financing mechanisms include:                             <ul style="list-style-type: none"> <li>o Federal and state general funds;</li> <li>o State bond funds;</li> <li>o Public goods charges;</li> <li>o User fees, beneficiary fees, and stressor fees.</li> </ul> </li> <li>• The finance plan should be phased and follow an adaptive management approach. The Plan should focus immediately on meeting short term needs, keep a variety of long term funding options available, and implement long term funding options as the specific projects and costs become clear.</li> <li>• Selection of actions needed to support Delta goals must be based on sound business perspectives to prioritize where money will be spent. Cost benefit or return on investment type approaches are essential in determining where value is created, thereby enabling priorities to be set.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> Any assignment of costs must be equitable and based on a clear nexus between the paying entity and the program expenditure.</p> <ul style="list-style-type: none"> <li>• Proponents of alternative Delta conveyance and export projects should pay all costs associated with facility development, construction, and associated ecosystem mitigation.</li> <li>• In developing any “beneficiary pays” and “stressor pays” financing approaches, a broad view of beneficiaries and stressors must be taken. All significant beneficiaries and stressors must be considered regardless of whether they have a known source of funding behind them, and it is essential to make a rational determination of the relative proportion of benefits and stresses.</li> <li>• State and Federal governments have a responsibility for financing significant portions of Delta programs, and local government entities should not bear an undue burden when state and Federal dollars become unavailable.</li> <li>• The state and federal government bear a major responsibility for financing projects that mitigate the Delta’s legacy issues.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> There should be no double jeopardy – Entities should not have to pay twice.</p> <ul style="list-style-type: none"> <li>• Investments towards compliance with regulatory requirements, investments in ecosystem restoration, and investments that otherwise further the co-equal goals should be inventoried and accounted for.</li> <li>• Any viable long-term financing plan must protect against duplication of effort and duplication of charges. Where appropriate, programs should be streamlined and integrated.</li> <li>• The Clean Water Act is effectively a stressor pays program. NPDES permittees effectively “pay” by complying with regulatory requirements that require investments in capital and operational enhancements to mitigate their impacts, and as a result, beneficial uses of water are protected</li> <li>• Any consideration of stressor fees should be based on the degree to which the stressor is affecting beneficial uses. For discharges to the watershed (point and non-point), it would not be rational to base stressor fees on the volume of water quality constituents discharged because volume alone is not an indication of stress; the degree to which pollutant loading affects beneficial uses is a more relevant consideration.</li> <li>• An entity that is required to mitigate or eliminate a stressor should not also be required to pay a fee associated with the same stressor.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> The financing plan must incentivize useful actions.</p> <ul style="list-style-type: none"> <li>• Incentives should be provided that encourage organizations to invest in monitoring and research and to enhance projects to provide extra benefit to the Delta.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> [...] the Finance Plan chapter should clearly identify all sources of funding (existing and proposed) that will be used to finance programs and projects in the Delta, not just suggest new fees on a select few entities to support the Council, Conservancy, and Commission’s operations. In addition, we recommend that the Delta Plan include a more detailed outline of the fee authorization framework, as well as the public review process, that would include legislative oversight. As currently written, the proposed Finance Plan Chapter provides too much discretion to the Council in establishing a fee structure and does not fairly evaluate all potential funding possibilities.</p> <p><b>Sacramento Regional County Sanitation District:</b> An effective Delta Plan must include clear delineation of major programmatic funding needs, a broad and inclusive analysis of potential funding sources, and consideration of a comprehensive array of financing mechanisms.</p> <p>[...] the selection of actions needed to support Delta goals must be based on sound business perspectives to prioritize where money will be spent. [...] the finance plan should be phased and follow an adaptive management approach. The first phase should focus immediately on meeting short term needs, while the second phase should refine the variety of long term funding options available as the specific projects and costs become clearer.</p> <p><b>Sacramento Regional County Sanitation District:</b> In developing any “beneficiary pays” and “stressor pays” financing approaches, a broad view of beneficiaries and stressors must be taken. All significant beneficiaries and stressors must be considered regardless of whether they have a known source of funding behind them, and it is essential to make a rational determination of the relative proportion of benefits and stresses.</p> <p><b>Sacramento Regional County Sanitation District:</b> Any viable long-term financing plan must protect against duplication of effort and duplication of charges.</p> <p><b>Sacramento Regional County Sanitation District:</b> Incentives should be provided that encourage organizations to invest in monitoring and research and to enhance projects to provide</p>

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	<p>extra benefit to the Delta.</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 206, lines 34-36 – Basing a stressor on volume of contaminants discharged should be changed to clarify that a stressor fee would be based on a load of a pollutant that is impacting beneficial uses. [...] If stressor fees are included, it would be more appropriate that they be based on the degree to which the pollutant loading affects beneficial uses of the Delta.</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 211, lines 19-30 (Recommendation FP R6) – The state should cover the start up costs without expecting reimbursement until a more permanent financing plan is established. [...] Although fee revenue may ultimately be the mechanism for funding the ongoing efforts of the Council, the Conservancy and the Commission, it should not be the mechanism for retroactively funding activities that were necessary for the initial stages of establishing a framework for the Delta.</p> <p><b>Sacramento Regional County Sanitation District:</b> SRCSD is concerned that without providing at least some guidance in the Delta Plan on how the fees are to be assessed, the Council will be unconstrained in its ability to impose fees on local governments and other entities. Thus, we recommend that the Delta Plan include a more detailed outline of the fee authorization to be granted to the Council as part of this recommendation.</p> <p><b>Sacramento Regional County Sanitation District:</b> The Plan proposes recovering the \$50 million combined annual expenditures of the Council, Conservancy, and Commission through stressor fees and beneficiary fees (mostly from water dischargers and diverters), yet no contributions are sought from beneficiaries of flood control, ecosystem restoration etc. [...] We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include "stressor" fees as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p> <p><b>Sacramento Regional County Sanitation District:</b> There should be an evaluation of existing fees that are paid by the various Delta users (exporters, dischargers, agriculture, recreational users, fisherman, etc.), and then determine if any restructuring needs to take place. There is the possibility that current fees could cover at least some initial costs of the Council.</p> <p><b>City of Sacramento:</b> The City supports the beneficiary pays principle identified on pages 205 through 206, provided that the process for determining who the beneficiaries are, and the extent of their benefit, is transparent and thoughtful, and provides all interested parties an opportunity to participate, Similarly, while the principle of "stressor pays" appears equitable at a conceptual level, the Plan lacks adequate information on the scientific basis that would be used to develop "stressor" charges, or the process that would ensure the development of such charges are fairly based on actual impacts to the Delta. In this regard, the last "Guiding Principle" states that "To the extent possible, user fees should be based on the amount of water used, or for stressors, the volume of contaminants discharged." This approach appears to be too simplistic, and does not recognize more detailed factors such as where and when water is diverted and under what water right authority, how much returns to the system after use, what are the contaminants and when are they discharged, to what degree do such contaminants impact the Delta, etc .. To address these concerns, any beneficiary and/or stressor charges must be based on, and proportional to, actual proven benefits or impacts.</p> <p><b>City of Sacramento:</b> Page 206, penultimate Guiding Principle. The City sees no reason why expenditures incurred upstream of the Delta that provide actual benefits to the Delta should be disallowed from eligibility for such a credit simply because they can be classified as "site-specific."</p> <p><b>City of Sacramento:</b> P. 211: The discussion of user fees states that the Legislature should authorize the DSC to develop and apply user fees. It is unclear whether this is recommending that the DSC be given blanket authority to adopt and impose fees, so that there would be no requirement for the Legislature to actually adopt fees after they are developed, but before the fees can take effect. The City strongly believes that no fees should take effect until such fees, as well as the fee amounts, are approved by the Legislature.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Funding references for Delta Conservancy activities need to be expanded from ecosystem restoration only to include other mandated activities such as economic development, support for agriculture/working landscapes, recreation, tourism, etc. that are also addressed in the Delta Plan.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Page 206, Lines 26-30. List of activities needing targeted finance plans should include economic development and long-term operations and maintenance for ecosystem restoration projects or lands.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Page 208, Lines 26, 32. Numbers in Appendix J (Table J-1) indicate a Science Program need of \$25.75 million for FY 12-13 and FY 13-14, reducing to \$25.47 million for FYs 14-15; 15-16; and 16-17. Where would the additional \$2 million be spent and what are the sources of those funds?</p> <p><b>San Joaquin County:</b> 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? Does the Delta Plan intend on assessing stressor fees on farmers throughout the Central Valley? Will farmers now have to obtain a permit and pay a fee to farm? What if Delta farmers are both beneficiaries and stressors? Do they pay two fees? Going through the fee structure of the Delta Plan, Delta farmers could very conceivably pay the following fees:</p> <ol style="list-style-type: none"> <li>1. Stressor Fee</li> <li>2. Beneficiary Fee</li> <li>3. Delta Utility Surcharge (on the utility bill)</li> </ol>

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	<p>Delta and Central Valley farmers should not shoulder the financial burden for ecosystem and water reliability programs in the Delta.</p> <p><b>Sierra Nevada Conservancy:</b> FP R5, p. 211                      Edit Financial Needs Assessment recommendation to include ecosystem projects as well as infrastructure projects and to include projects in the Delta Watershed Area, as these projects also impact water quality and enhance water supply.</p> <p><b>Sierra Nevada Conservancy:</b> FP R6, p. 211                      Edit recommendation to indicate that a portion of fees generated should be applied to the operational costs of the Sierra Nevada Conservancy in proportion to its role in coordinating implementation of the Delta Plan in the upper watershed area.</p> <p><b>Solano County:</b> A Guiding Principle should be developed that protects Delta communities from the negative impacts of changes imposed by the State or the Federal governments. For instance, when habitat is created in a new location and water quality standards are negatively impacted, an exclusion from the additional cost of water quality mandate enforcement should be provided to the impacted entity.</p> <p><b>Solano County:</b> FP R6 requests that the Legislature authorize the Delta Stewardship Council to develop reasonable fees for beneficial uses and reasonable fees for those who stress the Delta ecosystem, and apply these fees to the operational costs of the Delta Stewardship Council, the Delta Conservancy, and the Delta Protection Commission to allow implementation of the Delta Plan. This appears to create a potential conflict of interest and it is recommended that an outside entity develop these fees and the Legislative Analyst Office should review and critique any such proposal and ensure that this function is regularly audited and reported on in an open and transparent manner.</p> <p><b>Solano County:</b> A section should be included on mitigating impacts of Delta Plan implementation. This section should include information on economic impacts of land conversions, urban and agricultural runoff and discharges, Endangered Species Act and local government impacts. This should include a discussion of the standards or processes that will exist to provide for the financial stability and sustainability of Delta communities that will be most significantly impacted by State and Federal proposals to move water out of the Delta.</p> <p><b>Solano County:</b> Local Delta governments and landowners should not have to bear the burden of paying for modeling, monitoring, data collecting or facility improvements that are necessary to achieve objectives that benefit the entire state.</p> <p><b>Solano County:</b> Funding for water supply and ecosystem restoration projects should be in place before projects are initiated.</p> <p><b>State and Federal Contractors Water Agency:</b> We do not believe the Council is the appropriate forum in which to develop a fee to fund its own activities [P 211, L 20]. While the Council could consider convening a process to develop recommendations regarding a fee structure, the proper venue for actually determining such fees and how they would be administered is in the Legislature.</p> <p><b>State and Federal Contractors Water Agency:</b> FP R5, R6 and FP R12 should be deleted.</p> <p><b>City of Stockton:</b> As the Delta Independent Science Board has stated, there is no broadly accepted objective methodology for prioritizing stressors. The Council has no mechanism to assess fair and equitable stressor fees.</p> <p><b>City of Stockton:</b> Pollutant loading fees for constituents discharged under limits established by permits issued by the Regional Water Quality Control Board duplicate existing discharge fees[.] [...] [N]o such pollutant loading fees should be assessed or recommended by the Delta Stewardship Council.</p> <p><b>Tuolumne Utilities District:</b> We have concerns regarding the notion of a “stressor fee” as discussed in the Draft Plan. We are unclear exactly what degree of “stress” the fee would be based upon and what the metric(s) would be to identify and quantify, what would probably be multiple stressors.                      [...] We [...] recommend that any consideration for a “stressor based fee” be shelved until more information and input from local agencies, federal agencies, utilities and other key stakeholders can be gathered and analyzed by the DSC. This may best be carried out by an advisory group appointed by the DSC to assist in these efforts in coming years.</p> <p><b>Tuolumne Utilities District:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in is a particularly good idea. There is a scarcity of local revenues already and the DSC proposal to use electrical bills as the model is invalid.</p> <p><b>UC Davis and Public Policy Institute of California:</b> Policies without funding and authority are meaningless. Where will money come from for managing the Delta?</p> <p><b>Yolo County:</b> [...] the Council should strengthen language in Chapter 9 (Recommendation FP R10) that currently calls for the Legislature to “consider appropriate funding for the Economic Sustainability Plan consistent with the Delta Plan.”</p> <p><b>Yolo County:</b> In the context of the Financial Plan Framework identified in Chapter 9, the County proposes additional Delta Plan language as follows:                      “Following completion of the report on anticipated economic impacts of projects related to the BDCP or a similar comprehensive program of habitat restoration in the Delta, the Delta Stewardship Council will review the recommendations regarding economic mitigation programs and related options for funding their implementation. At the conclusion of that review, the Council may recommend the implementation of one or more implementation options (or other appropriate action, in the Council’s discretion) with the goal of ensuring reasonable and</p>

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	<p>appropriate compensation for affected jurisdictions.”</p> <p><b>Yolo County:</b> The Council should also consider strengthening language in the Fifth Draft (Chapter 9, Recommendation FP R 11) regarding payments in lieu of taxes for lands acquired for ecosystem or water supply projects. Payments in lieu of taxes are a necessary component of any comprehensive approach to mitigating the economic impacts of such projects and ensuring that local governments are made whole.</p>
<p>Public goods charge inappropriate for water projects/programs.</p>	<p><b>Calaveras County Water District:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in is a particularly good idea. [...] There is a scarcity of local revenues already and the DSC proposal to use electrical bills as the model is invalid.</p> <p><b>California Department of Water Resources:</b> FP R12 Page 212, Line 10 The Plan recommends “a statewide public goods charge ... for water.” The Plan should clarify if this recommendation includes groundwater and/or water obtained by riparian rights.</p> <p><b>California Municipal Utilities Association:</b> We are writing to express our concern about Finance Plan Framework (FP R12), which recommends that the California Legislature establish a "public goods charge" (PGC) on urban and agricultural water users. This recommendation [...] would appear to require urban and agricultural water agencies to raise rates to fund statewide water and habitat restoration needs and fund Department of Water Resources' California Water Plan updates and/or state "science programs." [...] We understand that little public money is available to pay for statewide resources needs. However, public money is also scarce at the local level, where ratepayer funds are also needed to upgrade aging infrastructure, comply with new state and federal water laws including reducing water use by 20 percent by 2020, and much more. [...] We are concerned that if water agencies cannot get approval from their customer base for these increases, then the only way agencies could pay the obligation is to cut existing projects and programs in order to free-up the financial resources to pay this new fee or tax.</p> <p><b>California Municipal Utilities Association:</b> [...] [T]he water PGC proposed in the fifth draft appears to be very different from the existing PGC that POU customers pay on their electricity bills, For POU's, the electric PGC is used locally, within their service areas, for projects that directly benefit and are supported by their communities, Local agencies are given broad discretion to use the funds locally for energy efficiency, development of renewable resources, investing in local research, development and demonstration projects, and assisting low income ratepayers, In contrast, the proposed water PGC would go to state agencies to fund statewide resources needs where ratepayers would have little or no input into the project and/or programs, rather than being returned to benefit the local communities.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The primary purpose of a public goods charge should be to fund investments in efficiency, water recycling, groundwater clean-up, stormwater capture, and other tools that can reduce reliance on imported supplies. (FP R12)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> A public goods charge could ensure a minimum investment by all urban and agricultural water agencies in water user efficiency and other tools that can reduce reliance on imported water. It could also provide consistent funding over time. (FP R12)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The CPUC's recommended water public goods charge is focused on water efficiency – broadly defined -- including agricultural and urban water use efficiency, water recycling, stormwater capture and groundwater clean-up efforts, and resulting surface water quality impacts. We recommend that the Delta Plan require a volumetric approach to such fees as well as contributions by both agricultural and urban water users. (FP R12)</p> <p><b>Contra Costa Water District:</b> p. 212 lines 10 through 18, FP R12 – It is not appropriate to establish a Public Goods Charge for Water to fund obligations currently funded by the State General Fund. This approach would circumvent the guiding principles of “beneficiary” and “stressor” pays since that analysis has not been completed, and take an activity that has broad application (ecosystem costs) and fund it from a specific group (water utilities). It should remain funded from the General Fund unless and until the “beneficiary” and “stressor” pays analysis is completed and determines another funding approach is more appropriate.</p> <p><b>East Bay Municipal Utility District:</b> Pg. 212, lines 10-12. Edit as follows: <del>Evaluate and make recommendations to the Legislature regarding a</del> <u>Establish a statewide</u> public goods charge (or broad-based user fee) for water. <del>The Legislature should create a public goods charge (similar to the energy public goods charge created in 1996) on urban water users and agricultural users.</del></p> <p><b>El Dorado County Water Agency:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in, is a particularly good idea. There is a scarcity of local revenues already, and the DSC proposal to use electrical bills as the model is invalid.</p> <p><b>Environmental Defense Fund:</b> [...] [W]hile we support the concept of a “public goods charge” assessment for those who divert water, we believe this concept must be better fleshed out in subsequent drafts. If the funds are to be used only in the Delta watershed, then assessments ought to be only for diverters within the Delta watershed. It is also possible that polluters might pay into such a fund, as suggested elsewhere in the financing section. But the next draft of the Delta Plan should include additional detail as to how the funds would be used as well as the potential magnitude of revenues that might be collected, even if a wide variety of alternatives are being considered. Without additional detail and explanation, it is not possible to evaluate this important recommendation.</p>

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	<p><b>Lowell Jarvis:</b> P.212, 1.9 - The Public Goods Charge is not a good idea. If the Public Goods Charge is applied to all water users in the State, it is a tax. The Delta Plan, and subsequent activities, should be paid through the beneficiary pays principle which is a fee based assessment.</p> <p><b>Natural Resources Defense Council et al.:</b> Include a recommendation to create a financing mechanism to ensure reliable financing for investments in water management tools that would reduce reliance on the Delta. In general terms, this mechanism would be analogous to the efficiency and renewables investments financed by the public goods charge for energy utilities.</p> <p><b>State and Federal Contractors Water Agency:</b> We do not believe the Council is the appropriate forum in which to develop a fee to fund its own activities [P 211, L 20]. While the Council could consider convening a process to develop recommendations regarding a fee structure, the proper venue for actually determining such fees and how they would be administered is in the Legislature.</p> <p><b>Tuolumne Utilities District:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in is a particularly good idea. There is a scarcity of local revenues already and the DSC proposal to use electrical bills as the model is invalid.</p>
<p>Long term financing strategy needed.</p>	<p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We note that the word “Framework” has been added to this chapter title with the introduction of the Third Draft. While we understand that: “Many of the policies recommended in the Delta Plan will not be fully developed and more detailed costs will be determined at a later date” (from the Second Draft), we recommend that as much detail as possible on alternative costs be included in the Draft EIR; presenting only a framework for a finance plan will not be adequate.</p> <p><b>Sacramento Regional County Sanitation District:</b> Delta programs and funding sources must be clearly delineated and prioritized.</p> <ul style="list-style-type: none"> <li>• The Delta Plan must include clear delineation of major programmatic funding needs, a broad and inclusive analysis of potential funding sources, and consideration of a comprehensive array of financing mechanisms. The four major Delta project areas include: <ul style="list-style-type: none"> <li>o Administration for Delta programs (such as the Delta Stewardship Council, the Delta Science program, and the Delta Conservancy),</li> <li>o Water supply reliability and alternative conveyance facilities through or around the Delta and mitigation thereof,</li> <li>o Ecosystem restoration projects, and</li> <li>o Other Delta infrastructure and Delta as a place related projects.</li> </ul> </li> <li>• Potential financing mechanisms include: <ul style="list-style-type: none"> <li>o Federal and state general funds;</li> <li>o State bond funds;</li> <li>o Public goods charges;</li> <li>o User fees, beneficiary fees, and stressor fees.</li> </ul> </li> <li>• The finance plan should be phased and follow an adaptive management approach. The Plan should focus immediately on meeting short term needs, keep a variety of long term funding options available, and implement long term funding options as the specific projects and costs become clear.</li> <li>• Selection of actions needed to support Delta goals must be based on sound business perspectives to prioritize where money will be spent. Cost benefit or return on investment type approaches are essential in determining where value is created, thereby enabling priorities to be set.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> There should be no double jeopardy – Entities should not have to pay twice.</p> <ul style="list-style-type: none"> <li>• Investments towards compliance with regulatory requirements, investments in ecosystem restoration, and investments that otherwise further the co-equal goals should be inventoried and accounted for.</li> <li>• Any viable long-term financing plan must protect against duplication of effort and duplication of charges. Where appropriate, programs should be streamlined and integrated.</li> <li>• The Clean Water Act is effectively a stressor pays program. NPDES permittees effectively “pay” by complying with regulatory requirements that require investments in capital and operational enhancements to mitigate their impacts, and as a result, beneficial uses of water are protected</li> <li>• Any consideration of stressor fees should be based on the degree to which the stressor is affecting beneficial uses. For discharges to the watershed (point and non-point), it would not be rational to base stressor fees on the volume of water quality constituents discharged because volume alone is not an indication of stress; the degree to which pollutant loading affects beneficial uses is a more relevant consideration.</li> <li>• An entity that is required to mitigate or eliminate a stressor should not also be required to pay a fee associated with the same stressor.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> An effective Delta Plan must include clear delineation of major programmatic funding needs, a broad and inclusive analysis of potential funding sources, and consideration of a comprehensive array of financing mechanisms. [...] the selection of actions needed to support Delta goals must be based on sound business perspectives to prioritize where money will be spent. [...] the finance plan should be phased and follow an adaptive management approach. The first phase should focus immediately on meeting short term needs, while the second phase should refine the variety of long term funding options available as the specific projects and costs become clearer.</p> <p><b>Sacramento Regional County Sanitation District:</b> Any viable long-term financing plan must protect against duplication of effort and duplication of charges.</p>

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	<p><b>Sacramento-San Joaquin Delta Conservancy:</b> Page 206, Lines 26-30. List of activities needing targeted finance plans should include economic development and long-term operations and maintenance for ecosystem restoration projects or lands.</p>
<p>Ecosystem restoration costs should be apportioned.</p>	<p><b>City of Antioch:</b> Pg. 208, lines 17-23. This indicates that only water export system expenditures are considered urgent. What about levees in the Western Delta, that protect the whole system? Suggest change to read: "Immediate steps should be taken to protect the existing Delta water <u>supply export</u> system from flood risks, and protect ecosystem improvements being implemented pursuant to existing mitigation commitments of the SWP and the Central Valley Project (CVP).</p> <p><b>City of Antioch:</b> Pg. 212, lines 10-18. This indicates that ecosystem restoration mitigation projects required by BDCP would be paid for by impacted stakeholders in the Delta. This is a "double hit" cost impact to in-Delta agriculture and other in-Delta stakeholders, who would therefore be required to pay for BDCP's mitigation credit projects as well as suffer the impacts of the BDCP project itself.</p> <p><b>California Association of Sanitation Agencies:</b> the Fifth Draft Plan proposes recovering the \$50 million combined annual expenditures of the Council, the Delta Conservancy (Conservancy), and the Delta Protection Commission (DPC) through so-called "stressor fees" and "beneficiary fees," yet no contributions are being recommended from beneficiaries of flood control, ecosystem restoration, and a long list of other beneficiaries and stressors. This is unduly narrow. We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include "stressor fees" as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p> <p><b>California Department of Water Resources:</b> Page 206, lines 16 - 18 The text states that "Capital construction projects, whether for water reliability purposes or improvement in the Delta ecosystem, should be undertaken simultaneously with the development of beneficiary and user fees." The Department believes that an agreement should be reached on how a capital project is to be financed, including how "beneficiary and user [or stressor] fees" will be determined before construction is started.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Based on the BDCP Costs shown on Page 209, Water Conveyance Costs (the Water Supply Reliability portion of the Co-Equal Goals) are 70% of total project costs. This represents a wide disparity in the legislatively mandated Co-Equal goals for Water Supply and Delta Ecosystems Restoration. This very unequal apportionment of project costs by BDCP is the clearest indicator that increasing water supply is the overriding objective of the BDCP sponsors and that ecosystems restoration will never be an equal goal. This discrepancy needs to be communicated by the Council to the BDCP as an indicator that the eventual DEIR produced by BDCP will not meet the legislative requirements set for the "Co-Equal Goals." (Version 2.1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] we recommend that the Council continue exploration of a water diversion fee and a Delta export fee by the Council and the State Water Resources Control Board. The top priority of such diversion and export fees should be to support ecosystem restoration efforts. This system of fees is founded on the responsibility of all water users under the public trust to contribute to ecosystem restoration. Development of these fees should consider the following: (FP R6, R8, R10)</p> <ul style="list-style-type: none"> <li>• Long-term habitat restoration and species recovery funding required to achieve the co-equal goals.</li> <li>• An appropriate share of public funding for ecosystem restoration efforts, as well as likely state and federal funding, given the pressures on the state and federal budgets.</li> <li>• Contributions by water users to other system-wide ecosystem restoration efforts. Site specific, water agency local mitigation costs (e.g. the installation of fish screens) should not be considered for crediting in the development of these user fees.</li> <li>• These water fees should not be used for the purchase of water to achieve compliance with regulatory requirements, as was the former CALFED Environmental Water Account.</li> </ul> <p><b>Delta Caucus:</b> p. 212 lines 10 through 18, FP R12 – It is not appropriate to establish a Public Goods Charge for Water to fund obligations currently funded by the State General Fund. This approach would circumvent the guiding principles of "beneficiary" and "stressor" pays since that analysis has not been completed, and take an activity that has broad application (ecosystem costs) and fund it from a specific group (water utilities). It should remain funded from the General Fund unless and until the "beneficiary" and "stressor" pays analysis is completed and determines another funding approach is more appropriate.</p> <p><b>East Bay Municipal Utility District:</b> Pg. 211, lines 20-27. Edit as follows: The Legislature should authorize the Delta Stewardship Council <u>should develop and propose to the Legislature a system of to develop</u> reasonable fees for beneficial uses and reasonable fees for those who stress the Delta ecosystem, <u>and apply these fees to the operational costs of the Delta Stewardship Council, the Delta Conservancy, and the Delta Protection Commission to allow implementation of the Delta Plan.</u> These fees would be developed in an open and transparent process. <u>Operating costs of the Delta Stewardship Council, Delta Conservancy, and Delta Protection Commission should be pre funded for a period of 10 years. As previously discussed, the annual budget of the new governance structure is approximately \$50 million.</u></p> <p><b>East Bay Municipal Utility District:</b> while the finance chapter accurately describes the challenges to stable funding for the Delta Plan, it offers relatively little in the way of proposals that can be tested for public acceptance. Although the stakeholder community has similarly been unable to agree on specific alternative funding mechanisms, there is nonetheless a broad</p>

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	<p>embrace of the beneficiary pays principle. This concept is attractive to many water agencies because future investments can be justified with expected benefits. The recently introduced "stressor pays" concept, by contrast, requires a much more complex "look back" to assess responsibility for past harm to the ecosystem or other resource values. We believe that developing a beneficiary pays alternative is a more promising avenue to building support among Delta stakeholders.</p> <p><b>Sacramento Regional County Sanitation District:</b> Delta programs and funding sources must be clearly delineated and prioritized. The Delta Plan must include clear delineation of major programmatic funding needs, a broad and inclusive analysis of potential funding sources, and consideration of a comprehensive array of financing mechanisms. The four major Delta project areas include:</p> <ul style="list-style-type: none"> <li>• Administration for Delta programs (such as the Delta Stewardship Council, the Delta Science program, and the Delta Conservancy),</li> <li>• Water supply reliability and alternative conveyance facilities through or around the Delta and mitigation thereof,</li> <li>• Ecosystem restoration projects, and</li> <li>• Other Delta infrastructure and Delta as a place related projects.</li> </ul> <p>Potential financing mechanisms include:</p> <ul style="list-style-type: none"> <li>• Federal and state general funds;</li> <li>• State bond funds;</li> <li>• Public goods charges;</li> <li>• User fees, beneficiary fees, and stressor fees.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> Any assignment of costs must be equitable and based on a clear nexus between the paying entity and the program expenditure.</p> <ul style="list-style-type: none"> <li>• Proponents of alternative Delta conveyance and export projects should pay all costs associated with facility development, construction, and associated ecosystem mitigation.</li> <li>• In developing any "beneficiary pays" and "stressor pays" financing approaches, a broad view of beneficiaries and stressors must be taken. All significant beneficiaries and stressors must be considered regardless of whether they have a known source of funding behind them, and it is essential to make a rational determination of the relative proportion of benefits and stresses.</li> <li>• State and Federal governments have a responsibility for financing significant portions of Delta programs, and local government entities should not bear an undue burden when state and Federal dollars become unavailable.</li> <li>• The state and federal government bear a major responsibility for financing projects that mitigate the Delta's legacy issues.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> There should be no double jeopardy – Entities should not have to pay twice.</p> <ul style="list-style-type: none"> <li>• Investments towards compliance with regulatory requirements, investments in ecosystem restoration, and investments that otherwise further the co-equal goals should be inventoried and accounted for.</li> <li>• Any viable long-term financing plan must protect against duplication of effort and duplication of charges. Where appropriate, programs should be streamlined and integrated.</li> <li>• The Clean Water Act is effectively a stressor pays program. NPDES permittees effectively "pay" by complying with regulatory requirements that require investments in capital and operational enhancements to mitigate their impacts, and as a result, beneficial uses of water are protected</li> <li>• Any consideration of stressor fees should be based on the degree to which the stressor is affecting beneficial uses. For discharges to the watershed (point and non-point), it would not be rational to base stressor fees on the volume of water quality constituents discharged because volume alone is not an indication of stress; the degree to which pollutant loading affects beneficial uses is a more relevant consideration.</li> <li>• An entity that is required to mitigate or eliminate a stressor should not also be required to pay a fee associated with the same stressor.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> The Plan proposes recovering the \$50 million combined annual expenditures of the Council, Conservancy, and Commission through stressor fees and beneficiary fees (mostly from water dischargers and diverters), yet no contributions are sought from beneficiaries of flood control, ecosystem restoration etc. [...] We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include "stressor" fees as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Funding references for Delta Conservancy activities need to be expanded from ecosystem restoration only to include other mandated activities such as economic development, support for agriculture/working landscapes, recreation, tourism, etc. that are also addressed in the Delta Plan.</p> <p><b>Sacramento-San Joaquin Delta Conservancy:</b> Page 206, Lines 26-30. List of activities needing targeted finance plans should include economic development and long-term operations and maintenance for ecosystem restoration projects or lands.</p> <p><b>San Joaquin County:</b> FP R6 [...]</p> <p>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? Does the Delta Plan intend on assessing stressor fees on farmers throughout the Central Valley? Will farmers now have to obtain a permit and pay a fee to farm? What if Delta farmers are both beneficiaries and stressors? Do they pay two fees? Going through the fee structure of the Delta Plan, Delta farmers could very conceivably pay the</p>

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	<p>following fees:                      1. Stressor Fee                      2. Beneficiary Fee                      3. Delta Utility Surcharge (on the utility bill)                      Delta and Central Valley farmers should not shoulder the financial burden for ecosystem and water reliability programs in the Delta.</p> <p><b>Sierra Nevada Conservancy:</b> FP R5, p. 211                      Edit Financial Needs Assessment recommendation to include ecosystem projects as well as infrastructure projects and to include projects in the Delta Watershed Area, as these projects also impact water quality and enhance water supply.</p> <p><b>Solano County:</b> FP R6 requests that the Legislature authorize the Delta Stewardship Council to develop reasonable fees for beneficial uses and reasonable fees for those who stress the Delta ecosystem, and apply these fees to the operational costs of the Delta Stewardship Council, the Delta Conservancy, and the Delta Protection Commission to allow implementation of the Delta Plan. This appears to create a potential conflict of interest and it is recommended that an outside entity develop these fees and the Legislative Analyst Office should review and critique any such proposal and ensure that this function is regularly audited and reported on in an open and transparent manner.</p> <p><b>Solano County:</b> Funding for water supply and ecosystem restoration projects should be in place before projects are initiated.</p> <p><b>Yolo County:</b> The Council should also consider strengthening language in the Fifth Draft (Chapter 9, Recommendation FP R 11) regarding payments in lieu of taxes for lands acquired for ecosystem or water supply projects. Payments in lieu of taxes are a necessary component of any comprehensive approach to mitigating the economic impacts of such projects and ensuring that local governments are made whole.</p>
<p>Crediting existing expenditures against future assessments: concept unclear.</p>	<p><b>City of Antioch:</b> Pg. 212, lines 10-18. This indicates that ecosystem restoration mitigation projects required by BDCP would be paid for by impacted stakeholders in the Delta. This is a "double hit" cost impact to in-Delta agriculture and other in-Delta stakeholders, who would therefore be required to pay for BDCP's mitigation credit projects as well as suffer the impacts of the BDCP project itself.</p> <p><b>California Association of Sanitation Agencies:</b> Our primary concern is that the proposed "stressor fee" is not an appropriate revenue mechanism as applied to National Pollutant Discharge Elimination System (NPDES) permit holders and would be calculated and assessed based on a particular discharger's volume of constituents discharged. The Fifth Draft Plan proposes to assess this fee on all discharges of constituents, regardless of whether the discharger is operating in compliance with its NPDES Permit, and without an analysis of whether the discharge is actually impacting beneficial uses. Moreover, the Fifth Draft Plan specifically states that credit should not be given to dischargers for capital improvements or waste treatment costs that have or will improve water quality. Such credits might allow entities to offset some costs associated with proactively addressing issues in the Delta.</p> <p><b>California Association of Sanitation Agencies:</b> The Fifth Draft Plan denies credit to entities that reduce impacts on the Delta by spending funds on improvements or structural changes for that purpose. Specifically, the Guiding Principles within the Finance Plan state that "[e]xisting contributions for closely related activities should be considered for crediting. Site-specific contributions by agencies should not be credited (for example, the installation of fish screens and waste treatment costs)." (Fifth Draft Plan, p. 206.) [...] The Council should remove the latter part of this provision from the Fifth Draft Plan and create a framework for crediting those entities that are already contributing and/or are making progress towards improving the Delta.</p> <p><b>California Department of Water Resources:</b> Page 206, lines 31 - 33                      This bullet is not clear in its intent in specifying what activities would or would not be credited against future assessments. For example, are the 'existing expenditures' that would be credited against future assessments being provided by nonprofit entities or Joint Power Authorities? Would 'site-specific expenditures' made by agencies be treated differently?</p> <p><b>Central Valley Clean Water Association:</b> we would like to [...] point out the following fundamental flaws in the stressor fee approach: (1) the fee proposal is not inclusive of all stressors [...] and is therefore neither fair nor equitable; (2) the stressor fee concept fails to account for numerous fees already paid by POTWs not only toward regulatory oversight, but towards water quality monitoring and planning efforts.; and (3) no credit is given to entities who spend funds to reduce impacts in the Delta.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] we recommend that the Council continue exploration of a water diversion fee and a Delta export fee by the Council and the State Water Resources Control Board. The top priority of such diversion and export fees should be to support ecosystem restoration efforts. This system of fees is founded on the responsibility of all water users under the public trust to contribute to ecosystem restoration. Development of these fees should consider the following: (FP R6, R8, R10)</p> <ul style="list-style-type: none"> <li>• Long-term habitat restoration and species recovery funding required to achieve the co-equal goals.</li> <li>• An appropriate share of public funding for ecosystem restoration efforts, as well as likely state and federal funding, given the pressures on the state and federal budgets.</li> <li>• Contributions by water users to other system-wide ecosystem restoration efforts. Site specific, water agency local mitigation costs (e.g. the installation of fish screens) should not be considered for crediting in the development of these user fees.</li> <li>• These water fees should not be used for the purchase of water to achieve compliance with regulatory requirements, as was the former CALFED Environmental Water Account.</li> </ul>

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	<p><b>City of Sacramento:</b> Page 206, penultimate Guiding Principle. The City sees no reason why expenditures incurred upstream of the Delta that provide actual benefits to the Delta should be disallowed from eligibility for such a credit simply because they can be classified as "site-specific."</p>
<p>Delta flood risk prevention costs not justified.</p>	<p><b>City of Antioch:</b> Pg. 208, lines 17-23. This indicates that only water export system expenditures are considered urgent. What about levees in the Western Delta, that protect the whole system? Suggest change to read: "Immediate steps should be taken to protect the existing Delta water <u>supply</u> <del>export</del> system from flood risks, and protect ecosystem improvements being implemented pursuant to existing mitigation commitments of the SWP and the Central Valley Project (CVP)."</p> <p><b>California Association of Sanitation Agencies:</b> the Fifth Draft Plan proposes recovering the \$50 million combined annual expenditures of the Council, the Delta Conservancy (Conservancy), and the Delta Protection Commission (DPC) through so-called "stressor fees" and "beneficiary fees," yet no contributions are being recommended from beneficiaries of flood control, ecosystem restoration, and a long list of other beneficiaries and stressors. This is unduly narrow. We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include "stressor fees" as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p> <p><b>California Department of Water Resources:</b> FP R3 Page 210, lines 39 - 41 This recommendation states that the Legislature should appropriate \$50 million of Proposition 1 E funds to the Department to begin acquisition of land and easements for the proposed San Joaquin/South Delta Flood Plan. The Department estimates that this would require 1 one to 3 PYs at a cost of \$250,000 to \$750,000 to implement.</p> <p><b>Contra Costa Water District:</b> p. 210 lines 39 through 41, FP R3 – This proposal appears to circumvent the "beneficiary" and "stressor" pays guiding principles, in that it earmarks Proposition 1E funds for a specific purpose "acquisition of land or easements for the propose San Joaquin/South Delta Flood Plain". No projects/regions should get special designation at this point in the process.</p> <p><b>Delta Caucus:</b> FP R2: We believe there are sufficient assessment districts in place for flood control through the current structure of the Reclamation Districts. To create another layer over these existing entities is repetitive and adds more tax burden to landowners in the Delta. We would recommend deleting this policy.</p> <p><b>Delta Caucus:</b> FP R3: This recommendation fails to assert whether the policy of the Council will be to use a willing seller scenario only. We believe the purchase of easements for the South Delta Flood Plain would be the preferred method of action by the Council; however we believe this recommendation should not be put into effect if there is no clearly defined flood plan and or study to support this use.</p> <p><b>Sacramento Regional County Sanitation District:</b> The Plan proposes recovering the \$50 million combined annual expenditures of the Council, Conservancy, and Commission through stressor fees and beneficiary fees (mostly from water dischargers and diverters), yet no contributions are sought from beneficiaries of flood control, ecosystem restoration etc. [...] We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include "stressor" fees as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p>
<p>70% of est. BDCP costs are for conveyance; violates coequal goals legislative mandate.</p>	<p><b>City of Antioch:</b> Pg. 212, lines 10-18. This indicates that ecosystem restoration mitigation projects required by BDCP would be paid for by impacted stakeholders in the Delta. This is a "double hit" cost impact to in-Delta agriculture and other in-Delta stakeholders, who would therefore be required to pay for BDCP's mitigation credit projects as well as suffer the impacts of the BDCP project itself.</p> <p><b>California Department of Water Resources:</b> Page 208, lines 4 - 14 It is important to note that, regardless of what happens with the BDCP, the Fish Restoration Program Agreement (FRPA) is still being implemented, and requires State and Federal water contractors to create habitat for delta and longfin smelt (among other actions to meet the requirements of the federal Biological Opinions).</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> Based on the BDCP Costs shown on Page 209, Water Conveyance Costs (the Water Supply Reliability portion of the Co-Equal Goals) are 70% of total project costs. This represents a wide disparity in the legislatively mandated Co-Equal goals for Water Supply and Delta Ecosystems Restoration. This very unequal apportionment of project costs by BDCP is the clearest indicator that increasing water supply is the overriding objective of the BDCP sponsors and that ecosystems restoration will never be an equal goal. This discrepancy needs to be communicated by the Council to the BDCP as an indicator that the eventual DEIR produced by BDCP will not meet the legislative requirements set for the "Co-Equal Goals." (Version 2.1)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The development of information related to financing (such as the identification of beneficiaries and stressors and detailed financing scenarios) should be undertaken simultaneously with the development of major capital decisions, in order to inform planning efforts. The Council should assure that this is being accomplished by the BDCP in order for BDCP to be able to produce a plan that is consistent with the requirements of a Delta Plan. Development of finance plans should not be delayed until the conclusion of capital planning efforts. (FP R6, R8, R10)</p> <p><b>Delta Caucus:</b> FP R8: [...] the need for the BDCP habitat work to be completed would seem necessary before any shovels are turned on eco-system habitat projects that are considered</p>

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Comment Themes or Recommendations	Comments
	<p>as part of the Delta Plan.</p> <p><b>Yolo County:</b> In the context of the Financial Plan Framework identified in Chapter 9, the County proposes additional Delta Plan language as follows:                      "Following completion of the report on anticipated economic impacts of projects related to the BDCP or a similar comprehensive program of habitat restoration in the Delta, the Delta Stewardship Council will review the recommendations regarding economic mitigation programs and related options for funding their implementation. At the conclusion of that review, the Council may recommend the implementation of one or more implementation options (or other appropriate action, in the Council's discretion) with the goal of ensuring reasonable and appropriate compensation for affected jurisdictions."</p>
<p>User fee not adequately defined.</p>	<p><b>Calaveras County Water District:</b> We have concerns regarding the notion of a "stressor fee" as discussed in the Draft Plan. We are unclear exactly what degree of "stress" the fee would be based upon and what the metric(s) would be to identify and quantify, what would probably be multiple stressors.                      [...] We [...] recommend that any consideration for a "stressor based fee" be shelved until more information and input from local agencies, federal agencies, utilities and other key stakeholders can be gathered and analyzed by the DSC. This may best be carried out by an advisory group appointed by the DSC to assist in these efforts in coming years.</p> <p><b>Calaveras County Water District:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in is a particularly good idea. [...] There is a scarcity of local revenues already and the DSC proposal to use electrical bills as the model is invalid.</p> <p><b>California Association of Sanitation Agencies:</b> Our primary concern is that the proposed "stressor fee" is not an appropriate revenue mechanism as applied to National Pollutant Discharge Elimination System (NPDES) permit holders and would be calculated and assessed based on a particular discharger's volume of constituents discharged. The Fifth Draft Plan proposes to assess this fee on all discharges of constituents, regardless of whether the discharger is operating in compliance with its NPDES Permit, and without an analysis of whether the discharge is actually impacting beneficial uses. Moreover, the Fifth Draft Plan specifically states that credit should not be given to dischargers for capital improvements or waste treatment costs that have or will improve water quality. Such credits might allow entities to offset some costs associated with proactively addressing issues in the Delta.</p> <p><b>California Association of Sanitation Agencies:</b> The Fifth Draft Plan proposes to assess "stressor fees" against public agencies—which would, in turn, have to be recouped through user fees—yet the plan fails to describe the activities to be funded by these fees and the specific benefits that will accrue to agency ratepayers. In other words, there is no clear nexus between the proposed fees and the service to be provided.</p> <p><b>California Association of Sanitation Agencies:</b> the Fifth Draft Plan proposes recovering the \$50 million combined annual expenditures of the Council, the Delta Conservancy (Conservancy), and the Delta Protection Commission (DPC) through so-called "stressor fees" and "beneficiary fees," yet no contributions are being recommended from beneficiaries of flood control, ecosystem restoration, and a long list of other beneficiaries and stressors. This is unduly narrow. We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include "stressor fees" as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p> <p><b>California Association of Sanitation Agencies:</b> CASA is very concerned that the proposed "stressors pay" approach is yet another example of simply targeting permitted entities that are already operating in compliance with existing law and are already paying significant sums to comply with federal and state permitting requirements and meet applicable water quality standards. [...] If "stressor fees" are to be included as part of the Delta Plan, such fees should take into account the degree to which the pollutant loading affects beneficial uses of the Delta. This would more closely correlate an entity's impact on the Delta with amount of fees charged to a stressor, and represents a more accurate and fair distribution of the fee allocations than a simple constituent volume based assessment.</p> <p><b>California Association of Sanitation Agencies:</b> The Fifth Draft Plan does not recognize or account for the existence of numerous other fees already assessed on purported "stressors" throughout the Delta. [...] CASA is concerned the Council will adopt additional fees as part of its proposed funding mechanisms that could duplicate efforts that are already underway, and place additional unnecessary burdens on proposed fee payers. Chapter 9 should clearly identify all sources of funding that will be used to finance programs and projects in the Delta before suggesting new fees to support the Council's actions.</p> <p><b>California Department of Water Resources:</b> Page 206, lines 16 - 18                      The text states that "Capital construction projects, whether for water reliability purposes or improvement in the Delta ecosystem, should be undertaken simultaneously with the development of beneficiary and user fees." The Department believes that an agreement should be reached on how a capital project is to be financed, including how "beneficiary and user [or stressor] fees" will be determined before construction is started.</p> <p><b>California Farm Bureau Federation:</b> (FP R6) Regarding "stressors fees," the reference to "those who stress the Delta ecosystem" requires further elaboration.</p> <p><b>California Municipal Utilities Association:</b> We are writing to express our concern about Finance Plan Framework (FP R12), which recommends that the California Legislature establish a "public goods charge" (PGC) on urban and agricultural water users. This recommendation [...] would appear to require urban and agricultural water agencies to raise rates to fund statewide water and habitat restoration needs and fund Department of Water Resources' California Water Plan updates and/or state "science programs."                      [...] We understand that little public money is available to pay for statewide resources needs. However, public money is also scarce at the local level, where ratepayer funds are also</p>

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	<p>needed to upgrade aging infrastructure, comply with new state and federal water laws including reducing water use by 20 percent by 2020, and much more. [...] We are concerned that if water agencies cannot get approval from their customer base for these increases, then the only way agencies could pay the obligation is to cut existing projects and programs in order to free-up the financial resources to pay this new fee or tax.</p> <p><b>Central Valley Clean Water Association:</b> we would like to [...] point out the following fundamental flaws in the stressor fee approach: (1) the fee proposal is not inclusive of all stressors [...] and is therefore neither fair nor equitable; (2) the stressor fee concept fails to account for numerous fees already paid by POTWs not only toward regulatory oversight, but towards water quality monitoring and planning efforts.; and (3) no credit is given to entities who spend funds to reduce impacts in the Delta.</p> <p><b>Central Valley Clean Water Association:</b> CVCWA continues to strongly oppose the Council’s proposal to procure ten years of up-front funding for the Council and Conservancy, to ultimately be reimbursed by fee payors. The state should be the entity that incurs start-up costs associated with implementation of the Delta Plan, not fee payors, and the state should not be entitled to reimbursement using later-assessed fee contributions. Moreover, few if any other state agencies have a guaranteed funding source for a ten-year period into the future, and collecting and maintaining such a reserve (at the expense of fee payors) is unprecedented.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> [...] we recommend that the Council continue exploration of a water diversion fee and a Delta export fee by the Council and the State Water Resources Control Board. The top priority of such diversion and export fees should be to support ecosystem restoration efforts. This system of fees is founded on the responsibility of all water users under the public trust to contribute to ecosystem restoration. Development of these fees should consider the following: (FP R6, R8, R10)</p> <ul style="list-style-type: none"> <li>• Long-term habitat restoration and species recovery funding required to achieve the co-equal goals.</li> <li>• An appropriate share of public funding for ecosystem restoration efforts, as well as likely state and federal funding, given the pressures on the state and federal budgets.</li> <li>• Contributions by water users to other system-wide ecosystem restoration efforts. Site specific, water agency local mitigation costs (e.g. the installation of fish screens) should not be considered for crediting in the development of these user fees.</li> <li>• These water fees should not be used for the purchase of water to achieve compliance with regulatory requirements, as was the former CALFED Environmental Water Account.</li> </ul> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> The CPUC’s recommended water public goods charge is focused on water efficiency – broadly defined -- including agricultural and urban water use efficiency, water recycling, stormwater capture and groundwater clean-up efforts, and resulting surface water quality impacts. We recommend that the Delta Plan require a volumetric approach to such fees as well as contributions by both agricultural and urban water users. (FP R12)</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> the Council needs to expand its vision on fee possibilities. A Water Resources Renewal and Protection fund should be established that places a volume fee on both water exported and discharged. These fees need to go to more than just conservation efficiency projects. Funding needs also to include watershed protection projects throughout the Sierra, the Coastal Regions, and other suitable areas of the state.</p> <p><b>Coalition for a Sustainable Delta:</b> The Draft Plan proposes a rather undefined finance plan that likely will further burden water users, particularly those that export water from the Delta, and does not adequately or accurately quantify potential benefits associated with the Delta Plan activities. [...] We do not believe the Council is the appropriate forum to develop fees to finance implementation of the Delta Plan, and feel strongly that there first must be a real plan with concrete actions before there can be a serious discussion of financing and application of the beneficiary pays principle to funding Delta Plan implementation.</p> <p><b>Contra Costa Water District:</b> p. 210 lines 16 through 33, FP R1 –To the extent public and private agencies are required to protect their own assets, then they should do so with local control. The idea of implementing a fee and passing it over to another agency for allocation creates unnecessary administrative costs, and takes the decisions for expending funds away from the local agencies who are best suited to make decision on how best to protect their assets.</p> <p><b>Contra Costa Water District:</b> p. 211 lines 19 through 32, FP R6 – CCWD is not opposed to user fees as long as they have a direct purpose with a direct nexus to the user, they are developed and applied equitably across all beneficiary and stressor groups, and as long as they are allocated and distributed at the local level. There is no basis for funding operations of the Council, etc. on an advance basis for ten years, when it is not clear yet what their ongoing mission will be, or what exactly the benefits will be that are being funded.</p> <p><b>Delta Caucus:</b> FP R6: This recommendation fails to address when and how a user could appeal out of a “stressor” fee. Would the entity then transition to a “beneficial user” fee then? Or is it assumed that everyone is a beneficiary, and only some are “stressors”? [...] Furthermore, in no way would we be in support of the Council, Delta Conservancy, and or the Delta Protection Commission being “pre-funded”. [...] This recommendation should be deleted.</p> <p><b>East Bay Municipal Utility District:</b> Pg. 206, lines 34-36. Edit as follows:  <del>"To the extent possible, user fees should be based on the amount of water used, or for stressors, the volume of the contaminants discharged."</del></p> <p><b>East Bay Municipal Utility District:</b> Pg. 211, lines 20-27. Edit as follows:  <del>The Legislature should authorize the Delta Stewardship Council should develop and propose to the Legislature a system of to develop reasonable fees for beneficial uses and reasonable fees for those who stress the Delta ecosystem, and apply these fees to the operational costs of the Delta Stewardship Council, the Delta Conservancy, and the Delta Protection Commission to allow implementation of the Delta Plan. These fees would be developed in an open and transparent process. Operating costs of the Delta Stewardship Council, Delta</del></p>

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	<p><del>Conservancy, and Delta Protection Commission should be pre-funded for a period of 10 years. As previously discussed, the annual budget of the new governance structure is approximately \$50 million.</del></p> <p><b>East Bay Municipal Utility District:</b> Pg. 212, lines 10-12. Edit as follows: Evaluate and make recommendations to the Legislature regarding a <del>Establish a statewide public goods charge (or broad-based user fee) for water. The Legislature should create a public goods charge (similar to the energy public goods charge created in 1996) on urban water users and agricultural users.</del></p> <p><b>EI Dorado County Water Agency:</b> We have concerns regarding the notion of a “stressor fee” as discussed in the Draft Plan. We are unclear exactly what degree of “stress” the fee would be based upon and what the metric(s) would be to identify and quantify, what would probably be multiple stressors. [...] We [...] recommend that any consideration for a “stressor based fee” be shelved until more information and input from local agencies, federal agencies, utilities and other key stakeholders can be gathered and analyzed by the DSC. This may best be carried out by an advisory group appointed by the DSC to assist in these efforts in coming years.</p> <p><b>EI Dorado County Water Agency:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in, is a particularly good idea. There is a scarcity of local revenues already, and the DSC proposal to use electrical bills as the model is invalid.</p> <p><b>Lowell Jarvis:</b> P.211, 1.19 - User fees. The Legislature should levy a "mill-fee" on all water users within the "tan" area on Page 16, Figure 1.1, to support the Delta Stewardship Council. If the Delta Stewardship Council requires \$50 million dollars per year to operate, and 25 million people will be the beneficiaries of the DSC's actions, then if each person pays \$2 dollars per year, the Council will be funded! It is estimated that the cost will be approximately 3 mills (.003 cents) per person per gallon. This fee should have a sunset provision.</p> <p><b>Local Agencies of the North Delta:</b> p. 210, FP R1: Economic burdens are too heavy on local RDs. The economic burden of maintaining the levee infrastructure for protecting these facilities falls on the RDs, so any fee imposed should be provided to the local RDs on a specified share, at a minimum 50%.</p> <p><b>Local Agencies of the North Delta:</b> p. 211, FP R6: The recommendation lacks specific detail or description to adequately assess its utility. A new fee without a consequential clearly defined benefit does not seem reasonable.</p> <p><b>Natural Resources Defense Council et al.:</b> Clearly state in FP R6 that this system of user fees should be designed to support system-wide habitat restoration efforts.</p> <p><b>Sacramento Regional County Sanitation District:</b> There should be no double jeopardy – Entities should not have to pay twice.</p> <ul style="list-style-type: none"> <li>• Investments towards compliance with regulatory requirements, investments in ecosystem restoration, and investments that otherwise further the co-equal goals should be inventoried and accounted for.</li> <li>• Any viable long-term financing plan must protect against duplication of effort and duplication of charges. Where appropriate, programs should be streamlined and integrated.</li> <li>• The Clean Water Act is effectively a stressor pays program. NPDES permittees effectively “pay” by complying with regulatory requirements that require investments in capital and operational enhancements to mitigate their impacts, and as a result, beneficial uses of water are protected</li> <li>• Any consideration of stressor fees should be based on the degree to which the stressor is affecting beneficial uses. For discharges to the watershed (point and non-point), it would not be rational to base stressor fees on the volume of water quality constituents discharged because volume alone is not an indication of stress; the degree to which pollutant loading affects beneficial uses is a more relevant consideration.</li> <li>• An entity that is required to mitigate or eliminate a stressor should not also be required to pay a fee associated with the same stressor.</li> </ul> <p><b>Sacramento Regional County Sanitation District:</b> [...] the Finance Plan chapter should clearly identify all sources of funding (existing and proposed) that will be used to finance programs and projects in the Delta, not just suggest new fees on a select few entities to support the Council, Conservancy, and Commission's operations. In addition, we recommend that the Delta Plan include a more detailed outline of the fee authorization framework, as well as the public review process, that would include legislative oversight. As currently written, the proposed Finance Plan Chapter provides too much discretion to the Council in establishing a fee structure and does not fairly evaluate all potential funding possibilities.</p> <p><b>Sacramento Regional County Sanitation District:</b> Page 206, lines 34-36 – Basing a stressor on volume of contaminants discharged should be changed to clarify that a stressor fee would be based on a load of a pollutant that is impacting beneficial uses. [...] If stressor fees are included, it would be more appropriate that they be based on the degree to which the pollutant loading affects beneficial uses of the Delta.</p> <p><b>Sacramento Regional County Sanitation District:</b> SRCSD is concerned that without providing at least some guidance in the Delta Plan on how the fees are to be assessed, the Council will be unconstrained in its ability to impose fees on local governments and other entities. Thus, we recommend that the Delta Plan include a more detailed outline of the fee authorization to be granted to the Council as part of this recommendation.</p> <p><b>Sacramento Regional County Sanitation District:</b> The Plan proposes recovering the \$50 million combined annual expenditures of the Council, Conservancy, and Commission through stressor fees and beneficiary fees (mostly from water dischargers and diverters), yet no contributions are sought from beneficiaries of flood control, ecosystem restoration etc. [...] We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan</p>

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	<p>ultimately include “stressor” fees as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.</p> <p><b>Sacramento Regional County Sanitation District:</b> There should be an evaluation of existing fees that are paid by the various Delta users (exporters, dischargers, agriculture, recreational users, fisherman, etc.), and then determine if any restructuring needs to take place. There is the possibility that current fees could cover at least some initial costs of the Council.</p> <p><b>City of Sacramento:</b> The City supports the beneficiary pays principle identified on pages 205 through 206, provided that the process for determining who the beneficiaries are, and the extent of their benefit, is transparent and thoughtful, and provides all interested parties an opportunity to participate. Similarly, while the principle of "stressor pays" appears equitable at a conceptual level, the Plan lacks adequate information on the scientific basis that would be used to develop "stressor" charges, or the process that would ensure the development of such charges are fairly based on actual impacts to the Delta. In this regard, the last "Guiding Principle" states that "To the extent possible, user fees should be based on the amount of water used, or for stressors, the volume of contaminants discharged." This approach appears to be too simplistic, and does not recognize more detailed factors such as where and when water is diverted and under what water right authority, how much returns to the system after use, what are the contaminants and when are they discharged, to what degree do such contaminants impact the Delta, etc .. To address these concerns, any beneficiary and/or stressor charges must be based on, and proportional to, actual proven benefits or impacts.</p> <p><b>City of Sacramento: P. 211:</b> The discussion of user fees states that the Legislature should authorize the DSC to develop and apply user fees. It is unclear whether this is recommending that the DSC be given blanket authority to adopt and impose fees, so that there would be no requirement for the Legislature to actually adopt fees after they are developed, but before the fees can take effect. The City strongly believes that no fees should take effect until such fees, as well as the fee amounts, are approved by the Legislature.</p> <p><b>San Joaquin County: FP R6 [...]</b>                  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? Does the Delta Plan intend on assessing stressor fees on farmers throughout the Central Valley? Will farmers now have to obtain a permit and pay a fee to farm? What if Delta farmers are both beneficiaries and stressors? Do they pay two fees? Going through the fee structure of the Delta Plan, Delta farmers could very conceivably pay the following fees:                  1. Stressor Fee                  2. Beneficiary Fee                  3. Delta Utility Surcharge (on the utility bill)                  Delta and Central Valley farmers should not shoulder the financial burden for ecosystem and water reliability programs in the Delta.</p> <p><b>Sierra Nevada Conservancy: FP R6, p. 211</b>                  Edit recommendation to indicate that a portion of fees generated should be applied to the operational costs of the Sierra Nevada Conservancy in proportion to its role in coordinating implementation of the Delta Plan in the upper watershed area.</p> <p><b>Solano County:</b> FP R6 requests that the Legislature authorize the Delta Stewardship Council to develop reasonable fees for beneficial uses and reasonable fees for those who stress the Delta ecosystem, and apply these fees to the operational costs of the Delta Stewardship Council, the Delta Conservancy, and the Delta Protection Commission to allow implementation of the Delta Plan. This appears to create a potential conflict of interest and it is recommended that an outside entity develop these fees and the Legislative Analyst Office should review and critique any such proposal and ensure that this function is regularly audited and reported on in an open and transparent manner.</p> <p><b>State and Federal Contractors Water Agency:</b> We do not believe the Council is the appropriate forum in which to develop a fee to fund its own activities [P 211, L 20]. While the Council could consider convening a process to develop recommendations regarding a fee structure, the proper venue for actually determining such fees and how they would be administered is in the Legislature.</p> <p><b>City of Stockton:</b> As the Delta Independent Science Board has stated, there is no broadly accepted objective methodology for prioritizing stressors. The Council has no mechanism to assess fair and equitable stressor fees.</p> <p><b>City of Stockton:</b> Pollutant loading fees for constituents discharged under limits established by permits issued by the Regional Water Quality Control Board duplicate existing discharge fees[.] [...] [N]o such pollutant loading fees should be assessed or recommended by the Delta Stewardship Council.</p> <p><b>Tuolumne Utilities District:</b> We have concerns regarding the notion of a “stressor fee” as discussed in the Draft Plan. We are unclear exactly what degree of “stress” the fee would be based upon and what the metric(s) would be to identify and quantify, what would probably be multiple stressors.                  [...] We [...] recommend that any consideration for a “stressor based fee” be shelved until more information and input from local agencies, federal agencies, utilities and other key stakeholders can be gathered and analyzed by the DSC. This may best be carried out by an advisory group appointed by the DSC to assist in these efforts in coming years.</p> <p><b>Tuolumne Utilities District:</b> We [...] do not believe that the proposal to collect a fee (public goods charge) based on water as the measuring index, and then take those funds and use them outside the locality they are collected in is a particularly good idea. There is a scarcity of local revenues already and the DSC proposal to use electrical bills as the model is invalid.</p>

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Comment Themes or Recommendations	Comments
<p>Analysis of Prop 218 and Prop 26 is required regarding fee-setting</p>	<p><b>California Department of Water Resources:</b> FP R7 Page 211, lines 33 - 34 This recommendation proposes amendment of AB 3030 and SB 1938 to allow local agencies to assess fees under Proposition 218. A description of the legislation and how it relates to Proposition 218 should be provided in the text to clarify the purpose of this recommendation.</p> <p><b>Lowell Jarvis:</b> P.206, 1.34 - The need for a "user fee" is in appropriate. The Delta Plan needs to exclusively support the beneficiary pays principle. The beneficiary pays principle is simple and will less likely to be challenged by a Proposition 218 protests.</p> <p><b>Lowell Jarvis:</b> P.211, I. 33 - FP R7 The Legislature should amend the California Constitution to give water agencies, and others effected by the beneficiary fees, Proposition 218 protest Immunity for costs associated with the DSC's actions.</p> <p><b>City of Sacramento:</b> This section of the Plan also recommends that the Legislature adopt legislative amendments to allow local agencies to assess fees under Proposition 218. It bears noting that the Legislature cannot amend Proposition 218, nor can it amend Proposition 26 adopted by California voters in 2010. As previously noted, Proposition 26 imposes significant new limitations on charges that can be imposed by the State without constituting a "tax", and any proposed user fees should be considered with these limitations in mind.</p> <p><b>City of Sacramento:</b> [T]he Plan does not include any discussion of Proposition 26, which imposes significant new limitations on charges that can be imposed by the State without constituting a "tax". These limitations could significantly affect the extent to which beneficiary and/or stressor charges can be imposed.</p> <p><b>City of Sacramento:</b> The proposed Public Goods Charge faces the same requirements under Proposition 26.</p> <p><b>Solano County:</b> The third bullet on page 9 discusses amendments to AB 3030 and SB 1938 to allow local agencies to assess fees for groundwater management under Proposition 218. Is everyone in the state going to be subject to these fees or does this type fee apply only to direct users of groundwater use? Would there be a broader "beneficiaries" category that would be applicable, and if so, how would this group best be described?</p>
<p>How will the Plan be funded?</p>	<p><b>Association of California Water Agencies:</b> Financing the Delta Plan will require resources from numerous sources and entities. To encourage financial participation, the Delta Plan must identify specific actions that will significantly advance the coequal goals, and then clearly demonstrate the benefits to those parties who are expected to pay for those actions.</p> <p><b>California Department of Water Resources:</b> FP R3 Page 210, lines 39 - 41 This recommendation states that the Legislature should appropriate \$50 million of Proposition 1 E funds to the Department to begin acquisition of land and easements for the proposed San Joaquin/South Delta Flood Plan. The Department estimates that this would require 1 one to 3 PYs at a cost of \$250,000 to \$750,000 to implement.</p> <p><b>California Department of Water Resources:</b> FP R13 Page 212, lines 20 - 26 This recommendation suggests that the Department complete a Delta-wide comparative benefit/cost analysis for levee operations, maintenance, and improvements. The Delta Protection Commission (DPC) may be better suited to accomplish this task since the DPC is charged with developing an Economic Sustainability Plan for the Delta. This Economic Sustainability Plan is integrally tied to the levee system in the Delta. Therefore, the DPC should be charged with completing this recommendation. [...] Other departments with infrastructure in the Delta could be similarly involved in the comprehensive analysis. The Delta Plan should recommend that departments with infrastructure in the Delta should participate in a cost/benefit analysis of infrastructure protection strategies and should specifically note a separate analysis of highway protection strategies, as described in the Strategic Plan. [...] This recommendation would require a significant level of staff time and costs to complete. The Department estimates that this would require between 2 to 3 PYs at a cost of \$500,000 to \$750,000 along with outside contractor costs between \$1 million to \$5 million.</p> <p><b>Central Valley Clean Water Association:</b> CVCWA continues to strongly oppose the Council's proposal to procure ten years of up-front funding for the Council and Conservancy, to ultimately be reimbursed by fee payors. The state should be the entity that incurs start-up costs associated with implementation of the Delta Plan, not fee payors, and the state should not be entitled to reimbursement using later-assessed fee contributions. Moreover, few if any other state agencies have a guaranteed funding source for a ten-year period into the future, and collecting and maintaining such a reserve (at the expense of fee payors) is unprecedented.</p> <p><b>Coalition of Environmental, Environmental Justice, and Fishing Organizations:</b> We note that the word "Framework" has been added to this chapter title with the introduction of the Third Draft. While we understand that: "Many of the policies recommended in the Delta Plan will not be fully developed and more detailed costs will be determined at a later date" (from the Second Draft), we recommend that as much detail as possible on alternative costs be included in the Draft EIR; presenting only a framework for a finance plan will not be adequate.</p> <p><b>East Bay Municipal Utility District:</b> while the finance chapter accurately describes the challenges to stable funding for the Delta Plan, it offers relatively little in the way of proposals that can be tested for public acceptance. Although the stakeholder community has similarly been unable to agree on specific alternative funding mechanisms, there is nonetheless a broad embrace of the beneficiary pays principle. This concept is attractive to many water agencies because future investments can be justified with expected benefits. The recently introduced "stressor pays" concept, by contrast, requires a much more complex "look back" to assess responsibility for past harm to the ecosystem or other resource values. We believe that developing a beneficiary pays alternative is a more promising avenue to building support among Delta stakeholders.</p> <p><b>Environmental Defense Fund:</b> [...] [W]hile we support the concept of a "public goods charge" assessment for those who divert water, we believe this concept must be better fleshed out in subsequent drafts. If the funds are to be used only in the Delta watershed, then assessments ought to be only for diverters within the Delta watershed. It is also possible that polluters</p>

**TABLE 3 – COMMENT THEMES AND RECOMMENDATIONS – FIFTH STAFF DRAFT DELTA PLAN**

**CHAPTER 9 – Finance Plan Framework**

Comment Themes or Recommendations	Comments
	<p>might pay into such a fund, as suggested elsewhere in the financing section. But the next draft of the Delta Plan should include additional detail as to how the funds would be used as well as the potential magnitude of revenues that might be collected, even if a wide variety of alternatives are being considered. Without additional detail and explanation, it is not possible to evaluate this important recommendation.</p> <p><b>Local Agencies of the North Delta:</b> p. 206: Guiding Principles                      The sixth bullet refers to targeted finance plans for "major" Delta Plan activities.                      Targeted plans should also be prepared to finance protecting and enhancing the unique cultural, recreational, natural resources, and agricultural resources of the Delta as an evolving place.</p>