

COUNTY OF YOLO

Office of the County Administrator

Patrick S. Blacklock
County Administrator

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May 12, 2010

Terry Macaulay
Deputy Executive Officer, Strategic Planning
650 Capitol Mall
Sacramento, CA 95814
(916) 445-5825

Dear Mr. Macaulay,

This letter sets forth the initial comments of the County of Yolo ("County") regarding the Interim Delta Plan ("Interim Plan"). As requested, the following comments focus on the structure and content of the Interim Plan and, in particular, address the draft outline provided on April 29, 2010. In addition, the County's initial list of proposed entries into the plan is enclosed with this letter.

As the "Invitation for Comments" notes, the only legislative guidance regarding the Interim Plan appears in Section 85084 of the Water Code. That section says that the Interim Plan is to "include recommendations for early actions, projects, and programs." The Legislature has thus provided virtually no guidance to the Delta Stewardship Council ("Council") on the content of the Interim Plan. Just as important, the Legislature did not explain the intended function of the Interim Plan.

These are substantial issues that the Council must address before it can properly deliberate—and before local agencies can be expected to properly comment—on the substance of the Interim Plan. Until the Council explains what the Interim Plan will *do*, it is difficult for local agencies and other interested parties to comment on the substance of the Interim Plan. Most importantly, local agencies require information about how, if at all, the Interim Plan could affect local actions, projects, and programs. The County assumes for purposes of this comment letter that, based on Water Code § 85084, the Interim Plan will not limit local authority to regulate land use matters. Nonetheless, the County encourages the Council to address this fundamental issue at the earliest opportunity.

Turning to the draft outline, the County's initial comments are described in the following paragraphs, which are organized in the same manner as the outline (references to the outline are included parenthetically).

The Delta as a Place

The County agrees that the Interim Plan should include a substantial component that "recognizes and enhances the unique cultural, recreational, and agricultural values of the Delta" (Section II). Consistent with Water Code § 85020(b), the Interim Plan should also "protect" those values. These are issues of critical importance to the County. The County proposes that the Council consider several specific matters in this regard.

First, the County encourages the Council to do more than merely “consider” the Land Use and Resource Management Plan (“LURMP”) of the Delta Protection Commission (“DPC”), as suggested in the outline (Section II.a). The Council should integrate the LURMP into the Interim Plan given its present status as the only comprehensive land use document covering the entire Primary Zone of the Delta. The DPC recently updated the LURMP in a process that included significant local agency and stakeholder input. Its findings, policies, and recommendations are a valuable foundation for the Interim Plan.

Second, the County asks the Council to recognize that “support for agriculture” entails understanding current and future needs for additional agricultural support infrastructure and similar facilities in the Delta. It also includes ensuring that Delta towns, such as Clarksburg, can thrive as support centers for the regional agricultural industry while remaining vibrant but relatively compact communities. The County encourages the Council to identify ways in which both the interim and final Plans can support these efforts. Importantly, to the extent the Interim Plan does not identify a full range of specific projects that support these objectives, it should include a process for later identifying and including projects that benefit agriculture and Delta towns.

Third, the County agrees that the Interim Plan should support—and affirmatively promote, if feasible—the completion of federal legislation on natural heritage area designation (Section II.c). This effort must, however, be closely coordinated with affected local jurisdictions and the DPC, which has been engaged in this effort for some time. The County encourages the Council to reflect this need for coordination in the Interim Plan.

Fourth and finally, the “other items” (Section II.d) topic should recognize the need for recreational facilities and the protection and enhancement of historic buildings. One specific example is the “Great Delta Trail,” which the Delta Protection Commission and some local jurisdictions are currently seeking to plan and implement. Additional marinas, boat launches, parks, and other opportunities for outdoor recreation are also desirable in the Delta. With regard to historic buildings, the restoration of the historic Japanese school near Clarksburg is a worthwhile project—though still not sufficiently advanced to be included in the County’s initial list of proposed entries in the Interim Plan—that could eventually benefit from inclusion in the Interim Plan. As noted, the County supports a process for identifying and including such projects in the Interim Plan following its initial adoption.

Habitat Restoration

The restoration of the Delta ecosystem is a topic of considerable interest for the County (Section III). The BDCP proposes to convert up to 20,000 acres of land in the unincorporated area to seasonal floodplain habitat as part of the Fremont Weir/Yolo Bypass Conservation Measure. The County commented on this proposed conservation measure in an April 5, 2010 letter to Secretary Lester Snow of the Natural Resources Agency (enclosed herewith). Its comments apply with equal force to any habitat restoration measures recommended in Yolo County as part of the Interim Plan. Two aspects of that letter warrant some attention herein.

First, both the federal Biological Opinion for salmonids and the Fremont Weir/Yolo Bypass Conservation Measure include specific acreage targets. The Conservation Measure also includes various other details regarding the manner in which it will be implemented, including a general description of the portions of the Yolo Bypass targeted for inundation. There is no reason why these details need to be embraced by the Council in the Interim Plan. The creation of floodplain habitat in the Yolo Bypass must be comprehensively studied to determine the best

way to provide a reasonable range of benefits for salmonids and other species while, at the same time, restoring and maintaining the flood protection function of the Bypass, protecting agricultural lands and practices, and safeguarding wildlife habitat (including the Yolo Bypass Wildlife Area). The Interim Plan should reflect the need for this precautionary approach.

Secondly, the County is a member in a joint powers authority (together with the University of California at Davis and the cities of Woodland, Winters, Davis, and West Sacramento) that is preparing a countywide HCP/NCCP. This effort is at an advanced stage, with a draft conservation plan expected by the end of 2010. It is important for the Interim Plan to recognize the existence of this parallel planning effort and coordinate with its objectives. Similarly, the Interim Plan should encourage the BDCP and other related efforts to coordinate with local conservation plans. The integration of these efforts is critical to their mutual success.

Water Conservation, Efficiency, and Sustainable Use

This topic is borrowed directly from the Legislature's general statement of its policy objectives in Water Code § 85020, and many of the specific items identified in the outline are the sole or primary responsibility of agencies other than the Council. Despite this, the County supports Council review of the State Water Resources Control Board's plan for Delta watershed diversion data collection and public reporting (Section IV.a). The County also recognizes that appointment of a Delta Watermaster is a matter on which the Council has an advisory role (Section IV.b). Otherwise, however, the draft outline does not identify any topics that appear to be within the Council's authority.

Water Conveyance/Storage Facilities

The County has no specific comments on the projects identified in this section of the draft outline (Section V). It does, however, encourage the Council to consider avoiding the designation of specific projects at this preliminary stage in the planning process. The County suggests that the Council identify criteria for evaluating specific projects and then, after those criteria have been the subject of public input, objectively consider specific projects at a later stage in the process of developing in the Interim Plan.

Risk Reduction and Emergency Preparedness

The County shares the Council's interest in this topic and its list of prioritized projects (enclosed) identifies a number of proposed entries into the Interim Plan that would promote public safety and emergency preparedness in the Delta.

Project Review Process

The County is puzzled by this topic, which is repeated nearly verbatim in two places on the draft outline (Section VII and Section VIII.e). While all of the other topics described in the outline are traceable directly to the Legislature's objectives for the Delta in Water Code § 85020, this topic is not expressly included in those objectives. The County assumes that the Council will develop this topic by identifying a process for including additional "actions, projects, and programs" within the Interim Plan after it is completed. As noted above, the County supports such a process. It will offer additional comments as this component of the Interim Plan is further developed.

Governance Structure

The County is also puzzled by certain aspects of this topic (Section VIII), which appear to have been fully addressed in the legislative package that created the Council and the Delta Conservancy, reorganized the Delta Protection Commission, and took various related actions. This leaves only a few discrete issues within this topic—such as coordination with the federal government and appointment of a lead scientist for the Delta Science Program—on which the Council has a defined role. The County acknowledges the Council's duty to discharge its statutory responsibilities on these matters. At the same time, however, it is not clear whether the Interim Plan needs to include language addressing such issues, which appear to be administrative in nature, to fulfill its role as an advisory document on land use and environmental matters.

* * *

The County appreciates the opportunity to submit these comments on the Interim Plan. As noted, an initial list of proposed entries is enclosed. We look forward to participating actively with the Council in the development of the Interim Plan.

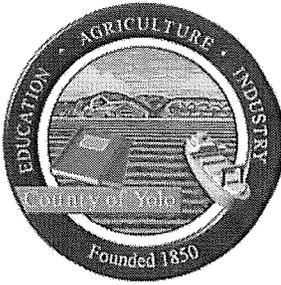
Sincerely,

Patrick S. Blacklock
County Administrator



Enclosures

cc: Yolo County Board of Supervisors



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Recommended Early Actions, Projects and Programs for Interim Delta Plan *May 12, 2010*

FREMONT WEIR CONSERVATION MEASURE IMPACT ANALYSES

Priority: 1

Who: Yolo County, Yolo Basin Foundation, Natural Resources Agency, State and Federal Water Contractors Agency

What: Yolo County has requested \$500,000 from the Natural Resources Agency and the State and Federal Contractors Water Agency for independent analyses of the Bay-Delta Conservation Plan's ("BDCP") Fremont Weir conservation measure to increase the frequency and duration of flooding in the Yolo Bypass. The analyses are necessary to determine the impact of the proposal on state goals unrelated to the BDCP, such as flood protection, habitat for endangered terrestrial species, and habitat for migrating waterfowl, as well as local land uses.

When: Yolo County must complete the impact analyses prior to the BDCP decision on the conservation measure, currently scheduled for September 2010.

Who Pays: The Natural Resources Agency and/or the State and Federal Water Contractors Agency. Yolo County does not benefit from the conservation measure.

Performance measure: Development of a balanced solution for the BDCP project-level EIR/EIS that provides habitat for endangered fish species and maintains flood capacity and habitat for migrating waterfowl and endangered terrestrial species.

Consequences: Deteriorating relationship between Yolo County and the BDCP; no local support for the conservation measure.

Relationship to other Delta projects: The Fremont Weir conservation measure is an integral part of the BDCP and the basic proposal is also a reasonable and prudent alternative in the salmon Biological Opinion that governs through-Delta pumping.

EMERGENCY COMMUNICATIONS

Priority: 2

Who: Yolo County, Yolo Emergency Communications Agency

What: SB 2x 1 (Perata, 2008) allocated \$5 million to the Department of Water Resources ("DWR") for Delta emergency communications. DWR has direct expenditure authority and has included this funding in the 2010 May Revise. The Delta Stewardship Council should expend this funding in 2010.

When: If awarded funding, the Yolo Emergency Communications Agency (provides support to 21 public safety agencies) can implement emergency communications improvements in 2010 and early 2011. Our understanding is that other Delta counties have similar immediate uses for the funding.

Who pays: DWR

Performance measure: Significant improvements in Yolo County's ability to respond in the event of Delta flooding or other disasters, including assistance needed to protect the state's

water supply. Our understanding is the funding will provide these same benefits in other counties.

Consequences: Potential communication failures or slow emergency response that limits the ability of Delta counties to assist in the event of a levee failure or other disaster.

Relationship to other projects in the Delta: Emergency communications improvements are an integral part of overall emergency preparedness efforts.

RURAL LEVEE EVALUATIONS

Priority: 3

Who: DWR

What: DWR has completed the Phase 1 Investigative Study of rural levees in the Sacramento River Flood Control Project and some non-project levees. Since rural areas are unlikely to receive funding for levee improvements, local jurisdictions need better information about the condition of levees to educate residents about flood risk and make decisions about priority levee improvement projects.

When: DWR should complete of the Phase 2 study a top priority in 2010 and 2011.

Who Pays: DWR

Performance measure: Increased number of residents with flood insurance. Increased number of Water Resources Development Act requests to further priority levee improvement projects, especially projects that protect small communities.

Consequences: Potential property and infrastructure losses from levee failure, including uninsured losses.

Relationship to other projects in the Delta: This study covers the majority, if not all, Delta levees.

BDCP AND LOCAL HCP/NCCP CONFLICT RESOLUTION

Priority: 4

Who: Natural Resources Agency, Yolo Natural Heritage Program, other local Delta HCPs and NCCPs

What: The BDCP needs to minimize conflict with local HCPs/NCCPs in the five Delta counties and therefore increase outreach to each plan and ensure adequate funding to allow the local plans to engage. Three of the five Delta HCPs and NCCPs are still under development, but with appropriate funding will be completed simultaneously with the BDCP.

When: Summer/fall 2010, prior to major decisions on BDCP conservation measures and release of the draft BDCP.

Who pays: Natural Resources Agency, water contractors.

Performance measure: Approval by the state and federal wildlife agencies of the three plans under development and the BDCP.

Consequences: Difficulties with approval by the state and federal wildlife agencies.

Relationship to other Delta projects: Almost all Delta projects related to these plans.

CLARKSBURG LEVEE IMPROVEMENT PROJECT FEASIBILITY STUDY

Priority: 5

Who: Yolo County, Central Valley Flood Protection Board, Reclamation District 999

What: Support inclusion of the Clarksburg Levee Improvement Project in the Water Resources Development Act, including adding the Central Valley Flood Protection Board as a non-federal sponsor.

When: Congress is reauthorizing the Water Resources Development Act in 2010-11.

Who Pays: No cost for authorization. Costs for the initial feasibility study would be split between the U.S. Army Corps of Engineers, Central Valley Flood Protection Board, Yolo County and potentially Reclamation District 999.

Performance measure: Congressional authorization of the feasibility study in the Water Resources Development Act.

Relationship to other Delta projects: 100-year flood protection for small communities is consistent with the Sacramento Area Flood Control Agency's 2010 framework for participation in formulating the Central Valley Flood Protection Plan and hopefully will be adopted as an element of the Central Valley Flood Protection Plan.

SB 27 TASK FORCE EMERGENCY PREPAREDNESS RECOMMENDATIONS

Priority: 6

Who: California Emergency Management Agency, Office of Emergency Services in the five Delta counties

What: SB 27 (Simitian, 2008) required the completion of Delta emergency preparedness recommendations by a joint state/local task force in 2010. There is no funding identified for implementation of the recommendations. This includes funding for CalEMA staff to coordinate Task Force and implementation of recommendations.

When: The Task Force will hopefully complete its recommendations in 2010 or 2011.

Who pays: State and local agencies. Hopefully there will be a federal contribution and/or contributions from water users because of efforts to protect state's water supply.

Performance measure: Improved coordination and emergency response to levee failures or other Delta disasters.

Relationship to other Delta projects: Provides emergency response to protect Delta investments threatened by levee failure or other disasters.

EARLY WARNING SYSTEM AND FLOOD MONITORING

Priority: 7

Who: Yolo County, California Emergency Management Agency, state Department of Water Resources

What: Prior to completion of SB 27 Task Force, invest in warning sirens and electronic monitoring of seepage and ground motion associated with Delta levees. Yolo County needs a better system for anticipating potential levee failures and warning citizens of the risk of flooding.

When: 2010

Who pays: ?

Performance measure: Quicker ability to respond to potential levee failures and warn people of the risk of flooding

Relationship to other Delta projects: System will provide early warning to help protect Delta-related projects in Yolo County and/or help prevent flooding.

FLEXIBLE FEMA STANDARDS FOR AGRICULTURAL STRUCTURES

Priority: 8

Who: FEMA, Yolo County, state Department of Water Resources

What: As a result of new maps in Yolo County, FEMA requires construction of new structures or expansion of existing structures to meet certain standards, including raising the structure above the Base Flood Elevation. The Delta Stewardship Council should urge FEMA to establish a separate provision for agricultural processing facilities that share similarities to industrial uses given the scale of the structures, seasonal operations, and lower intensity of use. In addition,

FEMA should provide flexibility in the construction of agricultural buildings used for storage (i.e., hay barns, horse stalls and various structures for animal housing), farm stands, wineries, and other structures necessary for agricultural economic development.

When: 2010-11

Who pays: ?

Performance measure: Additional revenue generated by agricultural production in the Delta

Relationship to other Delta projects: Supports policies in the Delta Protection's Commission's Resources Management Plan.

RD 2035 SACRAMENTO RIVER INTAKE AND CONVEYANCE FACILITY PROJECT

Priority: 9

Who: Reclamation District 2035

What: A modern diversion structure for RD 2035, including fish screens, will provide a reliable water supply for RD 2035. The current intake is the largest unscreened diversion on the Sacramento River.

When: Engineering and design of the project should be completed in 2010 and 2011. Construction will take place by 2013.

Who pays: Reclamation District 2035, Bureau of Reclamation, possibly other agencies.

Performance measure: Fewer fish entrained in the diversion structure, better water delivery.

Relationship to other Delta projects: A large portion of RD 2035 is located in the Yolo Bypass. Some of its' area is considered for inundation in the BDCP's Fremont Weir modification conservation measure.



County of Yolo

BOARD OF SUPERVISORS

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April 5, 2010

Secretary Lester Snow
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95815

Re: **Bay Delta Conservation Plan—Yolo Bypass/Fremont Weir Modification**

Dear Secretary Snow:

This letter sets forth the position of the County of Yolo (“County”) on the development of the “Fremont Weir/Yolo Bypass Habitat Improvements Conservation Measure” (the “Conservation Measure”) and related projects.

As an initial matter, the County cannot commit to a position on the Conservation Measure until all of its details have been developed, made public, and thoroughly reviewed. Under no circumstances, however, will the County support the Conservation Measure unless the following conditions are assured:

- **Flood protection afforded by the Yolo Bypass is maintained.** The County cannot accept changes in the Yolo Bypass that increase the level of flood risk to local properties. The design and operation of the Conservation Measure must not have an adverse effect on the flood protection function of the Bypass.
- **Agriculture in the Yolo Bypass is preserved.** Agricultural activities in the Bypass are a significant contributor to the County’s agricultural economy, the operation of the Yolo Bypass Wildlife Area, and the flood protection afforded by the Bypass. The Conservation Measure must include appropriate design and operational criteria to avoid jeopardizing agriculture—particularly the cultivation of rice—in the Yolo Bypass.
- **The Yolo Bypass Wildlife Area is protected.** The habitat, recreational, and educational opportunities afforded by the Wildlife Area make it an invaluable asset to Yolo County and the surrounding region. The Conservation Measure should not jeopardize the Wildlife Area and, if possible, it should be enhanced and preserved in perpetuity as part of the Bay Delta Conservation Plan (“BDCP”).
- **Completion and implementation of the Yolo Natural Heritage Program are assured.** The County and the four cities (Woodland, Davis, West Sacramento, and Winters) have worked for years to complete a local HCP/NCCP through a joint powers authority. This effort is nearing completion and BDCP must not interfere with—and should assist where possible—in the completion and implementation of this effort.

- **Local economic impacts are addressed.** All appropriate steps must be taken to identify and fully mitigate local economic impacts of the Conservation Measure, including but not limited to its effects on County revenues and the agricultural industry. The County should be closely consulted as financial assistance programs or other mitigation measures are developed.

This is a partial list of the most pressing concerns of the County and many of its local stakeholders and constituents with regard to the Conservation Measure. We expect the Natural Resources Agency (“Agency”) to carefully study all of the issues underlying these concerns as part of the BDCP planning process. Similarly, meaningful local participation in these issues is also vital to the success of the planning effort.

To facilitate local participation, the County asks the Agency to take action on several items. First, the County needs financial resources to enable it to perform an independent technical review of the local effects of the BDCP on flood protection, agriculture, and other issues identified above. We have previously requested \$500,000 for this purpose, and we now urge the Agency to act promptly upon this request. Independent local review of these issues is necessary if the County and its constituents are expected to have a meaningful role in the BDCP planning process, particularly regarding this Conservation Measure.

Second, the Agency must engage in a robust local outreach effort to develop stakeholder input regarding the design and operation of the Conservation Measure. We recognize that the Agency proposes to convene a “local issues group” for the Yolo Bypass and certain related issues. The County encourages the Agency to convene such a group so long as it proceeds in the following manner, which we believe is the only reasonable way of assuring its success:

- **Identify key stakeholders.** Many stakeholders have a sincere interest in the flood protection, agriculture, habitat, and recreational attributes of the Yolo Bypass and the Yolo Bypass Wildlife Area. Appropriate representatives of these diverse stakeholders must be included in the local issues group.
- **Give them a meaningful role.** The issues group must be a forum for meaningful review and discussion of the Conservation Measure, suggested alternatives and mitigation measures, and other issues of concern. The Agency will need to devote the time and resources necessary to review and respond to concerns, suggestions, and other matters appropriately raised by the group.
- **Provide the group with the resources it needs to succeed.** Additional technical modeling and studies may be needed to address certain topics with the local issues group. Similarly, the Agency should make appropriate staff and outside consultants available for local issues group meetings.
- **Assure that the County plays a key role.** A proper role for the County must include an Agency commitment to promptly respond in writing to the County’s written comments, to provide the County with reasonable access to Agency decision makers, and to otherwise assure a true cooperative relationship between the County and the Agency in the manner envisioned in the Natural Community Conservation Planning Act.
- **Integrate local stakeholder input into the final text of the Conservation Measure.** If stakeholder input demonstrates that changes to the Conservation

Measure are appropriate (before or after the September 2010 draft is released), the Agency should make such changes. For example, if the work of the issues group shows that additional options for the design and operation of the Conservation Measure are reasonable, they should be integrated into the final Conservation Measure. An Agency commitment of this nature is fundamental to the success of the issues group and is of great importance to the County.

The County expects to have a prominent role in the local issues group and to work closely with the Agency on each of these matters. (We appreciate your initial efforts to include the County in this manner.) This role is appropriate in light of the County's jurisdiction over local land use matters, its interest in ensuring a strong local agricultural industry, and its general responsibility to ensure the continued health, safety, and welfare of local residents.

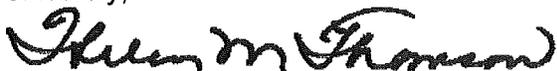
We look forward to confirmation that the Agency concurs with each of these points and is committed to taking all actions necessary to respond. Assuming this is the case, the County looks forward to working collaboratively with the Agency to make the local issues group a success. Consistent with our prior correspondence, we look also forward to working out the details of County participation in the overall BDCP planning process in the near future, and we expect to provide you with an additional letter on that topic shortly.

As a final matter, the County has long sought payment of nearly \$1,000,000 owed by the Department of Fish and Game for payments in lieu of taxes and local assessments on the Yolo Bypass Wildlife Area. We recently raised this issue with Agency staff and hereby reiterate our request for prompt Agency assistance with this matter. A productive long-term relationship between the County and state agencies on BDCP depends on the fulfillment of the state's financial obligations to the County, both now and in the future. Payment of this debt would be a significant demonstration of good faith.

Altogether, while the BDCP has an opportunity for meaningful success in Yolo County, many challenges lie ahead. The success of BDCP in Yolo County will require a strong commitment by the Agency, the County, and local stakeholders to confront and resolve obstacles to the effective integration of the Conservation Measure into the existing land use regime of the Yolo Bypass. At the end of the process, the County sincerely hopes that, on balance, the Conservation Measure and related actions provide an overall benefit to our constituents.

We hope to work closely with you to achieve this outcome, and we look forward to your response to this letter.

Sincerely,



Helen M. Thomson, Chairwoman
Yolo County Board of Supervisors

cc: Senator Lois Wolk
Assemblywoman Mariko Yamada
Assemblyman Jim Nielsen