



July 11, 2022

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RE: Comments on Draft Environmental Impact Report for the City of Lathrop General Plan, SCH#2021100139

Dear Mark Meissner:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the City of Lathrop (City) General Plan Update. The Delta Stewardship Council (Council) understands the City's objective to prepare a long-range planning document consisting of an updated land use map and policy document consisting of goals, policies, and actions that will guide future development activities and City actions. No specific development projects are proposed as part of the General Plan Update.

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem. (Water Code, § 85054.) The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the

Delta as an evolving place. The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan. (Wat. Code, § 85300.)

Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh that furthers the coequal goals. The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, Title 23, sections 5001-5015. Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of State or local public agencies that take place in whole or in part in the Delta. (Wat. Code, §§ 85210, 85225.30.) A state or local agency that proposes to undertake a covered action is required to prepare a written Certification of Consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that certification to the Council prior to implementation of the project. (Wat. Code, § 85225.)

Through the Delta Reform Act, the Council was also directed to review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents with the Delta Plan. The Council's input includes, but is not limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs. (Wat. Code, § 85212.)

COVERED ACTION DETERMINATION AND CERTIFICATION OF CONSISTENCY WITH THE DELTA PLAN

Based on the location and scope of the General Plan Update, as provided in the Draft EIR, the plan may meet the definition of a covered action. Water Code section 85057.5(a) states that a covered action is a plan, program, or project, as defined pursuant to Section 21065 of the Public Resources Code that meets all of the following conditions:

(1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh. The planning area includes lands within and surrounding the City of Lathrop. Portions of the planning area are located within the Delta.

(2) Will be carried out, approved, or funded by a State or a local public agency. The General Plan Update will be approved by the City of Lathrop, a local public agency.

(3) Is covered by one of the provisions of the Delta Plan. See discussion below. City and Council staff should determine the potential applicability of Delta Plan regulatory policies that may apply to the General Plan Update through early consultation.

and

(4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta. The General Plan Update would have a significant impact on both coequal goals and on a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta.

The State or local agency approving, funding, or carrying out the project must determine if that project is a covered action and, if so, file a Certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(j)(3).)

It should also be noted that certain Delta Plan regulatory policies establish specific criteria and categories that would exempt actions from portions of the Council's regulatory authority. One such exemption is for areas designated in the City's General Plan, as of May 16, 2013, for residential, commercial, and industrial development in the city or its sphere of influence. Such development is exempted from Delta Plan Policy **DP P1** (Cal. Code Regs., tit.23, § 5010), which places geographic restrictions on new urban development and Delta Plan Policy **RR P2** (Cal. Code Regs., tit.23, § 5013), which requires a minimum level of flood protection for residential development.

Based on our review, Council staff has not identified any specific inconsistency between the proposed General Plan Update and the Delta Plan pursuant to Water Code section 85212 at this time. Notwithstanding the exemptions identified above, proposed General Plan Update policies appear to support provisions of **DP P1** and **RR P2**. With regard to **DP P1**, *Figure RR-1-The Delta Plan* in the General Plan Update

Mark Meissner
City of Lathrop General Plan Draft EIR
July 11, 2022
Page 4

is consistent with Delta Plan Policy Appendix 7, Figure 7-10 showing new residential, commercial, and industrial development being limited to the areas designated for development as of May 16, 2013. With regard to **RR P2**, Draft EIR Figure 4.4-2 shows nearly the entire City of Lathrop in the 200-year flood plain and the General Plan Update Existing Conditions Report outlines ongoing work through the San Joaquin Area Flood Control Agency to reduce flood risk for the area.

CLOSING COMMENTS

As the City proceeds with the General Plan Update the Council invites the City to engage Council staff to discuss potential applicability of Delta Plan regulatory policies to the General Plan Update and to discuss consistency between the General Plan Update and the Delta Plan, so that the two plans are complimentary and best serve to protect the Delta.

Please contact Pat Kelly at (916) 902-6484 or patricia.kelly@deltacouncil.ca.gov with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Henderson", with a long horizontal flourish extending to the right.

Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council