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September 6, 2019

Ammon Rice
Sacramento Municipal Utility District
6201 S Street, MS H201
Sacramento, CA 95817

Via email: Ammon.Rice@smud.org

Members
Frank C. Damrell, Jr.
Randy Fiorini
Michael Gatto
Maria Mehranian
Oscar Villegas
Ken Weinberg

Executive Officer
Jessica R. Pearson

RE: Comments on the Draft Environmental Impact Report for the Solano 4 Wind Project, SCH#2019012016

Dear Mr. Rice:

Thank you for the opportunity to comment on the Sacramento Municipal Utility District (SMUD) Solano 4 Wind Draft Environmental Impact Report (DEIR). The Delta Stewardship Council (Council) previously sent a letter with comments on the Notice of Preparation (NOP) for the Project on February 6, 2019. Thank you for acknowledging these comments in your Scoping Report (Appendix A to the DEIR), and for meeting with Council staff to discuss this project on April 17, 2019. The Council recognizes SMUD's objectives to diversify its energy portfolio, increase the supply of renewable energy sources, and support the long-term viability of agriculture in the Montezuma Hills.

The Council is an independent State of California agency established by the Sacramento-San Joaquin Delta Reform Act of 2009 (SBX7 1; Delta Reform Act). As stated in the Delta Reform Act, the State has coequal goals for the Delta: providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place (Water Code §85054). The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan, regulatory portions of which became effective on September 1, 2013.

Covered Action Determination and Certification of Consistency with the Delta Plan

Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh, which are referred to as "covered actions".

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

The Council exercises that authority through development and implementation of the Delta Plan. State and local agencies are required to demonstrate consistency with 14 regulatory policies identified in the Delta Plan when carrying out, approving, or funding a covered action.

Based on the project description in the DEIR, the proposed project appears to meet the definition of a covered action as set forth in Water Code section 85057.5(a) because it:

1. Would occur in whole or in part within the boundaries of the Legal Delta (Water Code section 12220) or Suisun Marsh (Public Resources Code section 29101). The project site includes two subareas owned by SMUD: Solano 4 East and Solano 4 West. Based on Exhibit 2-2 in the DEIR Project Description (DEIR, p. 2-3), portions of the Solano 4 West site are located within the boundaries of the Legal Delta and Suisun Marsh.
2. Would be carried out, approved, or funded by the State or a local public agency. SMUD, a local public agency, is the lead agency for this project.
3. Would have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta. It appears that this project could have a significant impact on the achievement of the coequal goal of ecosystem restoration.
4. Would be covered by one or more of the regulatory policies contained in the Delta Plan (23 CCR sections 5003-5015). Delta Plan regulatory policies that may apply to the proposed project are discussed in the next section, below.

It is the State or local agency approving, funding, or carrying out the project that ultimately must determine if that project is a covered action and, if so, file a Certification of Consistency with the Delta Plan (23 CCR section 5001(j)(1)(E)(3)) prior to project implementation. The DEIR lists a variety of federal, state, and local agency permits and approvals required for the proposed project (Table 2-4, page 2-27) but does not identify a Certification of Consistency with the Delta Plan among these requirements. In the Final EIR, please add a reference to the Council's Certification of Consistency process in Table 2-4.

In addition, the DEIR does not identify the Delta Plan in its description of the regulatory setting within any resource section. Please add a description of the Delta Plan to the regulatory setting discussion within the Biological Resources, Geology and Soils, Hydrology and Water Quality, and Land Use sections of the Final EIR, in addition to other relevant resource sections.

Delta Plan Regulatory Policies

The following section describes regulatory Delta Plan policies that may apply to the proposed project based on the available information in the DEIR. This information is offered to assist SMUD to describe the relationship between the proposed project and the Delta Plan in the EIR, to ensure that the EIR supports the project's eventual Certification of Consistency.

General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan Delta Plan Policy **G P1** (23 CCR section 5002) specifies what must be addressed in a Certification of Consistency by a proponent of a project that is a covered action. The following is a subset of these requirements which a project must fulfill to demonstrate consistency with the Delta Plan.

Best Available Science

Delta Plan Policy **G P1(b)(3)** (23 CCR section 5002(b)(3)) states that covered actions must document use of best available science as relevant to the purpose and nature of the project. The regulatory definition of "best available science" is provided in Appendix 1A of the Delta Plan (<http://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf>). Six criteria are used to define best available science: relevance, inclusiveness, objectivity, transparency and openness, timeliness, and peer review. (23 CCR section 5001(f)). For this project, this policy generally requires that the process used by SMUD to analyze project alternatives, impacts, and mitigation measures for the project be clearly documented and effectively communicated to foster improved understanding and decision making.

Mitigation Measures

Delta Plan Policy **G P1(b)(2)** (23 CCR section 5002(b)(2)) requires that covered actions not exempt from CEQA must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018 (unless the measures are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency finds are equally or more effective. These mitigation measures are identified in Delta Plan Appendix O (<http://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf>). The DEIR identifies several significant and potentially significant impacts on Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, and Transportation, and proposes a number of measures to mitigate these impacts. Council staff recommends that SMUD review the consistency and effectiveness of proposed mitigation measures with corresponding applicable and feasible Delta Plan mitigation measures for each of these impacts. (Please note that this regulatory requirement has been amended since SMUD issued the NOP for this project.)

Ecosystem Restoration Policy 3: Protect Opportunities to Restore Habitat

Delta Plan Policy **ER P3** (23 CCR section 5007) states that within priority habitat restoration areas depicted in Appendix 5, significant adverse impacts to the opportunity to restore habitats at appropriate elevations (as described in 23 CCR section 5006) must be avoided or mitigated. Appendix 5 is available at <http://deltacouncil.ca.gov/pdf/delta-plan/2013-appendix-b-combined.pdf> (starting on page 72). Based on Exhibit 2-2 in the DEIR Project Description

(DEIR, p. 2-3) portions of the Solano 4 West site are located within the boundaries of the Suisun Marsh Priority Habitat Restoration Area (PHRA).

Exhibit 2-2 does not identify any project components (e.g., turbines, access roads, collection and home run lines) within the Suisun Marsh PHRA, but the DEIR states that “the final locations of [wind turbine generators] would be determined after SMUD completes the procurement process” (Page 2-10), leaving open the possibility that these primary project components could ultimately be sited within the PHRA. In addition, the DEIR discusses other potential project elements (including meteorological towers, road improvements, and staging areas) that are not mapped. Therefore, the Council is unable to ascertain whether such features would be sited within the PHRA. Please include a discussion in the Final EIR that clarifies whether any project components or temporary project elements would be located within the Suisun Marsh PHRA, and if so, how any adverse impacts to the opportunity to restore habitats at appropriate elevations within the PHRA would be avoided or mitigated. Regardless of the proposed location of project components, SMUD should consider whether significant adverse impacts to the opportunity to restore habitat at appropriate elevations could occur within the Suisun Marsh PHRA due to construction activities or operation of project components.

Please discuss in the Final EIR whether the project could result in significant adverse impacts to the opportunity to restore habitat within the Suisun Marsh PHRA, and if so, how those impacts would be avoided or mitigated. Specifically, in the Biological Resources section, please identify whether any of the freshwater wetland acreage that would be impacted by project construction (as identified in Table 3.3-7) is located within the Suisun Marsh PHRA. Also, in the Geology and Soils section, please identify whether Impact 3.5-1: Substantial soil erosion or loss of topsoil could occur within and/or affect wetland or marsh habitat within the Suisun Marsh PHRA.

Ecosystem Restoration Policy 5: Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species

Delta Plan Policy **ER P5** (23 CCR section 5009) requires that the potential for new introductions of or habitat improvements for invasive, nonnative species must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem. This policy applies to projects that have a reasonable probability of introducing or improving habitat conditions for nonnative invasive species. The Biological Resources section of the DEIR identifies Impact 3.3-12: Indirect Impacts on Riparian Habitat as less than significant with implementation of Mitigation Measures 3.3-12a through 3.3-12d. Impact 3.3-12 states that, “Project construction and operation could indirectly affect riparian habitat by altering existing topography and hydrology, causing fugitive dust to accumulate on vegetation, and potentially contributing to the introduction and spread of nonnative invasive plant species” [emphasis added] (DEIR, p. 3.3-128). The DEIR also states that “[o]perational impacts, including the potential for introduction and spread of invasive plant species, would be addressed by continuing implementation of SMUD’s land management plan, which includes management of

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invasive weeds (Althouse and Meade 2018).” (DEIR, pp. 3.3-128 – 3.3-129) Mitigation Measure 3.3-12c also describes a reclamation and revegetation plan that SMUD would prepare prior to implementation of the project. That plan would draw upon the goals and objectives of SMUD’s land management plan, and would require, among other things, weed control measures which may include cultural, mechanical, and/or chemical methods (DEIR, pp. 3.3-130 – 3.3-131).

The only riparian habitat discussed or described in the DEIR appears to be located within the Solano 4 East subarea which is located outside of the boundaries of the Legal Delta and Suisun Marsh (DEIR, pp. 3.3-18 – 3.3-19). However, portions of the Solano 4 West subarea that fall within the boundaries of the Legal Delta and Suisun Marsh include other sensitive habitat types that could be susceptible to the introduction and spread of nonnative invasive plant species through the same types of construction activities that could lead to potentially significant impacts described for Impact 3.3-12. Based on Exhibit 3.3-1, these existing habitat types include estuarine and marine wetlands, freshwater wetlands, tidal brackish wetlands, and tidal marsh upland (DEIR, p. 3.3-17).

Please revise this impact discussion in the Final EIR to discuss the potential for introduction and habitat improvements for invasive, nonnative species in the Solano 4 West subarea in greater detail, describing how implementation of SMUD’s land management plan and Mitigation Measure 3.3-12c would avoid introduction and habitat improvements for invasive, nonnative species, or mitigate these potential impacts in a manner that appropriately protects the ecosystem. Also, please describe specifically how SMUD’s land management plan and Mitigation Measure 3.3-12c are consistent with Delta Plan Mitigation Measure 4-1, as described in the Delta Plan Mitigation Monitoring and Reporting Program (MMRP) (<http://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf>).

Closing Comments

We invite SMUD to continue to engage with Council staff in early consultation. We are available to discuss topics outlined in this letter as you proceed in the next stages of your project and approval processes. Please contact Avery Livengood at (916) 445-0782 (Avery.Livengood@deltacouncil.ca.gov) with any questions.

Sincerely,



Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council