



August 19, 2019

Via email to oal_amendRRP1@deltacouncil.ca.gov

Erin Mullin, P.E., Senior Engineer
Anthony Navasero, P.E., Senior Engineer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Comments on Proposed Rulemaking to Implement Delta Levee Investment Strategy

Dear Ms. Mullin and Mr. Navasero,

Please accept these comments on the Economic and Fiscal Impact Analysis of Proposed Amendments to Prioritization of State Investments in Delta Levees and Risk Reduction ("EFIA.")

Sincerely,

A handwritten signature in black ink, appearing to read "D. Des Jardins", with a stylized flourish at the end.

Deirdre Des Jardins
Director
California Water Research
ddj@cah2oresearch.com



Issues with the Economic and Fiscal Impact Analysis of Proposed Amendments to Prioritization of State Investments in Delta Levees and Risk Reduction

After careful review, the EFIA does not adequately consider impacts on small businesses or local governments in the primary Delta. The two assertions are not adequately supported by the analysis.

1. The proposed amendment would have negligible impacts on the creation or elimination of jobs within the State (see Section 7 of the EFIA for discussion).
2. Creation of new businesses or elimination of existing businesses within the State: The proposed amendment would have negligible impacts on the creation of new businesses or elimination of existing businesses within the State (see Section 5 and Section 14.1 of the EFIA for discussion).

The economic analysis states:

Using the method and data described above, each dollar invested in levee improvements on High Priority or Other Priority islands or tracts that are included in this analysis reduces expected annual damages (EAD) by approximately \$0.037 (that is, provides an expected benefit of \$0.037). Therefore, reducing levee improvement expenditures on High Priority or Other Priority islands or tracts by \$47.1 million would reduce benefits to those islands or tracts by \$1.77 million. This loss is largely offset by benefits on other islands or tracts. Every dollar invested in levee improvements on Very High Priority islands or tracts included in the analysis reduces EAD by (provides a benefit of) \$0.032. Therefore, increasing expenditures by \$47.1 million on Very-High Priority islands or tracts would increase benefits to those islands or tracts by \$1.50 million. It follows that the net quantifiable economic cost equals \$0.27 million.

(p. 33.)

This extremely coarse-grained analysis fails to adequately consider impacts on small businesses in the Delta. The California State Administrative manual states that “an

agency shall follow the Department of Finance instructions in the State Administrative Manual sections 6601, 6602, and 6604 through 6616” in assessing impacts of a major regulation. While the EFIA provides a long list of reference studies, there is no documentation that any of these studies were made to address the requirements in the California State Administrative Manual for assessment of the impacts of the regulation.

The authors of the EFIA appear not to have made any independent attempt to comply with the instructions in the California State Administrative Manual to gather working data on the impacted communities (SAM 6607.) Data from the U.S. Census on the number of businesses in Rio Vista and Discovery Bay is readily available. Nor do the authors appear to have attempted to identify local governments which are most affected and gather data from those local entities on impacts to businesses and local government revenues (SAM 6607.) The assertion that the losses to small businesses is largely offset by benefits on other islands or tracts is the basis of the assertion that the impacts of the regulation are negligible. But this assertion is not adequately supported.

In addition, the EFIA does not adequately analyze the fiscal impacts on Delta communities, including likely increased risk of damage to property and infrastructure, and increased annual risk of fatalities. As explained below, this increase would come from shifting funds for improvements of levees protecting Rio Vista, Discovery Bay, and North Delta legacy towns to improvements of levees on much less populated Delta Islands which are important for Delta exports. These water supply islands have other revenues available for levee improvement, which are not taken into account in the EFIA.

Inadequacy of analysis of impacts on small businesses in the Delta

The regulation ranks Libby McNeil Island, Netherlands Island, Pearson District, and Walnut Grove as “other priority.” These Delta Islands contain the Delta legacy communities of Locke, Clarksburg, Courtland, and Walnut Grove. Small businesses in the Delta primary zone are disproportionately concentrated in these towns. The historic buildings in these towns are also the foundation of the area’s emerging heritage tourism industry. The EFIA fails to analyze the impacts on the businesses in these towns, or on the Delta’s heritage tourism industry.

The EFIA also fails to consider the distribution of wineries in the North Delta. The Clarksburg Appellation wines map shows many wineries in Clarksburg on the Netherlands Island and in the Lisbon District. The wine grapes and associated facilities are also an asset of the wineries, and the cost to plant them is reported to be between \$10,000 and \$20,000 an acre.¹ Their economic value as an asset to the region is significantly larger. The EFIA also fails to consider the Hemly Pear Cider brewery, and the pear orchards and pear packing shed that are assets of the brewery.

¹ Mark Wilson, Wilson Vineyards, personal communication.

The high economic value of the wineries, pear cider brewery, and associated wine grapes and pear orchards is consistent with an independent 2012 analysis by Dynamic Solutions, Inc., which was incorporated in a risk assessment for the Delta levees funded by the U.S. Army Corps of Engineers.² (Map reproduced on p. 7.) The EFIA fails to analyze the impacts on these wineries and breweries, or on the Delta’s growing wine tourism industry.

The EFIA also fails to consider the impact on marinas on Delta islands marked as “other priority,” including marinas near Walnut Grove, and on Ryer Island, King Island, and Empire Tract. Maps of the marinas are shown on p. 8 and 9.

The proposed regulation also ranks the towns of Rio Vista and Discovery Bay as only “high priority.” The EFIA failed to gather any statistical or local information on the 443 businesses in Rio Vista, or the 894 businesses in Discovery Bay, recorded by the US Census in 2012. The EFIA thus failed to follow the State Administrative Manual guidelines in analyzing the impacts on Rio Vista and Discovery Bay.

The EFIA also largely failed to consider the potential fiscal impacts from loss of revenue on local government in the Delta, including school districts, Reclamation districts, cities, and counties, including direct funding for levee upgrades, and indirect losses due to flooding. This analysis is required under the California State Administrative Manual (SAM 6610.)

The EFIA also fails to analyze the possibility that general funds for improvement of urban Delta levees, which are ranked as “very high priority” could be shifted to levee improvements on Delta Islands that are also ranked as “very high priority” based on impacts to Delta exports. This could have a major impact on businesses and local government revenues in the secondary Delta.

Failure to consider water sales revenues in analysis

The Economic and Fiscal Impact Analysis states that “all expenditures allocated to Other Priority or High Priority islands or tracts were conservatively assumed to be reallocated to Very-High Priority islands or tracts,” and concluded on the basis of this assumption:

Every dollar invested in levee improvements on Very High Priority islands or tracts included in the analysis reduces EAD by (provides a benefit of) \$0.032.

² McAnally, W., Wallen, C., Sanborn, S. , and Maak, E. (2014). “Composite Risk Assessment for the Sacramento–San Joaquin Delta Levee System.” *Journal of Water Resources Planning and Management*. 140. 734-743. 10.1061/(ASCE)WR.1943-5452.0000362. Available at <https://ascelibrary.org/doi/10.1061/%28ASCE%29WR.1943-5452.0000362>,

Therefore, increasing expenditures by \$47.1 million on Very-High Priority islands or tracts would increase benefits to those islands or tracts by \$1.50 million.

The EFIA implicitly assumed that other sources of funds are not available to pay for needed levee improvements for Delta Islands that are ranked as “very high” or “high priority” based on water supply impacts. For the following Delta Islands that have water supply or mitigation benefits, this assumption appears unwarranted. The reallocation of state general funds could replace spending from water sales revenues, resulting in a net loss of funding for Delta levee improvements.

1. Clifton Court Forebay

Improving Clifton Court Forebay levees is ranked as “high priority” in the proposed regulations. Clifton Court Forebay is a dam that is part of the State Water Project. The outer levees for Clifton Court Forebay are also part of the facility. Under the Burns Porter Act, all water sales revenues received from the State Water Project are pledged first to pay for needed maintenance and repairs of the dam. (Wat. Code, § 12937, subd (b).) Therefore, shifting state taxpayer funds to pay for improvements to Clifton Court Forebay levees from North Delta legacy towns may not result in an increase in water supply reliability and may have significant impacts on Delta communities.

2. Sherman Island and Twitchell Island.

Improving Sherman Island and Twitchell Island levees is ranked as “very high priority.” Lands on Sherman Island and Twitchell Island were acquired by the Department of Water Resources (DWR) in the early 1990s as part of the West Delta Water Management Program. The acquisition and conversion of the lands to grazing and wildlife uses allowed the Department of Water Resources to change their contract with North Delta Water Agency to move the salinity compliance point from Emmaton to Three Mile Slough.³ This was estimated in to provide a benefit to critical period SWP deliveries of more than 100,000 acre-feet per year.⁴

The impacts of DWR’s land acquisition and use conversion on the levees of Sherman Island and Twitchell Island was mitigated by bond funds dedicated by the Delta Flood Protection Act of 1988. But no funding for long term mitigation of the impacts was provided. On the basis of improved water supplies, and importance to preventing salinity intrusion at Clifton Court Forebay, water sales revenue could and likely would be used to pay for maintenance of these two islands owned by the Department of Water Resources. Therefore, shifting state taxpayer funds to pay for improvements to

³ North Delta Water Agency, 1997 amendment to contract with Department of Water Resources. Available at <http://www.friendsoftheriver.org/wp-content/uploads/2016/06/7-29-14-ndwa-agreement-08488.pdf>.

⁴ An excerpt from the analysis is available at https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/PPorgans/porgans_4.pdf.

Sherman Island and Twitchell Island from Rio Vista, Discovery Bay and North Delta legacy towns may not increase water supply reliability and may have significant impacts on small businesses, life, and property in the Delta.

3. Bouldin Island and Webb Tract

Bouldin Island and Webb Tract are designated as “high priority” for state funding. Webb tract and Bouldin Island were purchased by Metropolitan Water District of Southern California as part of a purchase of five Delta Islands in 2014. In 2009, MWD arranged with the previous owner, Delta Wetlands, to fallow up to 5,426 acres on Bouldin Island and 4,189 acres on Webb tract. The fallowing allowed the transfer of up to 17,941 acre-feet of water to MWD under water rights licenses 1405 and 1572.⁵

In 2014, land on Bouldin Island and Webb tract was fallowed for another drought year transfer. This time water was transferred to four Northern California water agencies that had water stored in Semitropic water bank in Kern County. The banked water was inaccessible without the transfers, and the water agencies stated in the application that the transfer was necessary for “health and safety” supplies. The Northern California water agencies included Santa Clara Valley Water District, Alameda Zone 7, Alameda County Water District, and the City of Tracy. For the 2014 transfer, Delta Wetlands estimated that up to 20,734 acre feet of water would be made available by the fallowing of up to 9,550 acres of land.⁶

Ownership of these two islands therefore provides significant drought year water supply and water transfer benefits to Metropolitan Water District. Water sales revenue could therefore be dedicated to maintaining the levees on these islands, proportional to the benefits to MWD’s water supplies. The Economic and Fiscal Impact Analysis did not take into account the potential revenues available from Metropolitan Water District for levee improvements on Bouldin Island and Webb Tract.

4. McCormack-Williamson Tract

McCormack-Williamson Tract is designated as “very high priority” for state funding. The McCormack-Williamson Tract was purchased with \$5.4 million in funds from the CALFED Ecosystem Restoration Program, and ownership was transferred to the Nature Conservancy. The land is being converted to subtidal habitat as part of the EcoRestore program.⁷ While it is a worthy project, it is also mitigation for the impacts of the State Water Project. State Water Project revenues could pay for some of the costs, including

⁵ State Water Resources Control Board, Order WR 2009-0037-DWR. Available at https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/orders/2009/wro2009_0037_dwr.pdf.

⁶ State Water Resources Control Board, Order approving two temporary transfers. Available at https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_orders/docs/2948tt2014_order.pdf.

⁷ Natural Resources Agency, MCCORMACK-WILLIAMSON TRACT RESTORATION PROJECT. Available at http://resources.ca.gov/docs/ecorestore/projects/McCormack_Williamson_Tract_Project.pdf.

the costs of modification of the levees needed for the project. The Economic and Fiscal Impact Analysis fails to consider the potential mitigation revenues available for the project.

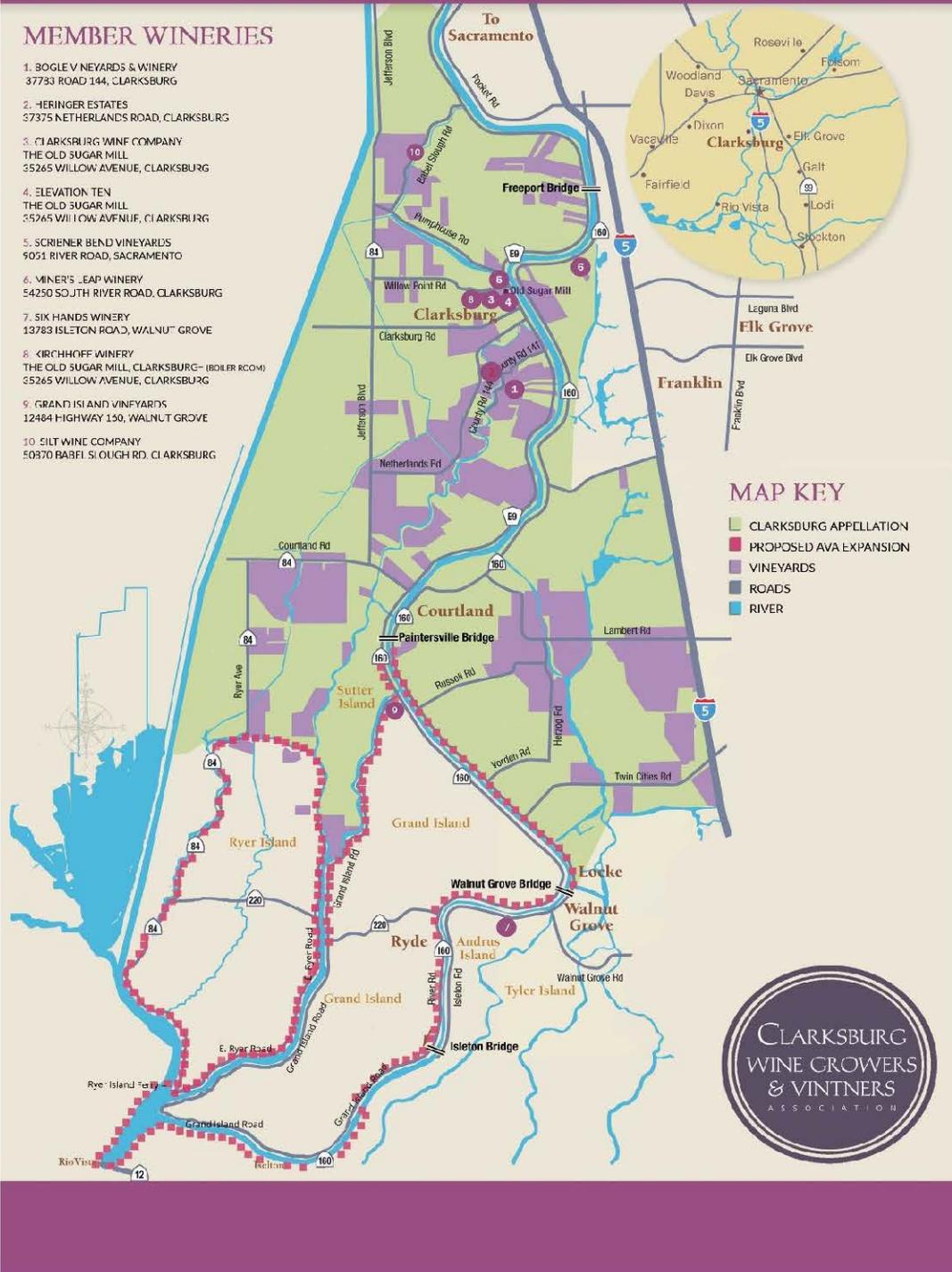
Conclusion

In conclusion, the proposed regulations seem likely to shift funds that are going to protect Delta communities to subsidies for upgrades to levees on Delta Islands owned by the Department of Water Resources and the Metropolitan Water District of Southern California, or to subsidies for mitigation of impacts of the State Water Project. Such a shift would have negligible impacts on water rates for the State Water Contractors or MWD's retail agencies, but would have significant impacts to improvements to levees needed to protect Rio Vista, Discovery Bay, and the North Delta legacy towns of Clarksburg, Courtland, Locke, and Walnut Grove from flooding. The Economic and Fiscal Impact Analysis fails to adequately analyze impacts on Delta businesses and local government, which is required by the California State Administrative Manual.

CLARKSBURG APPELLATION

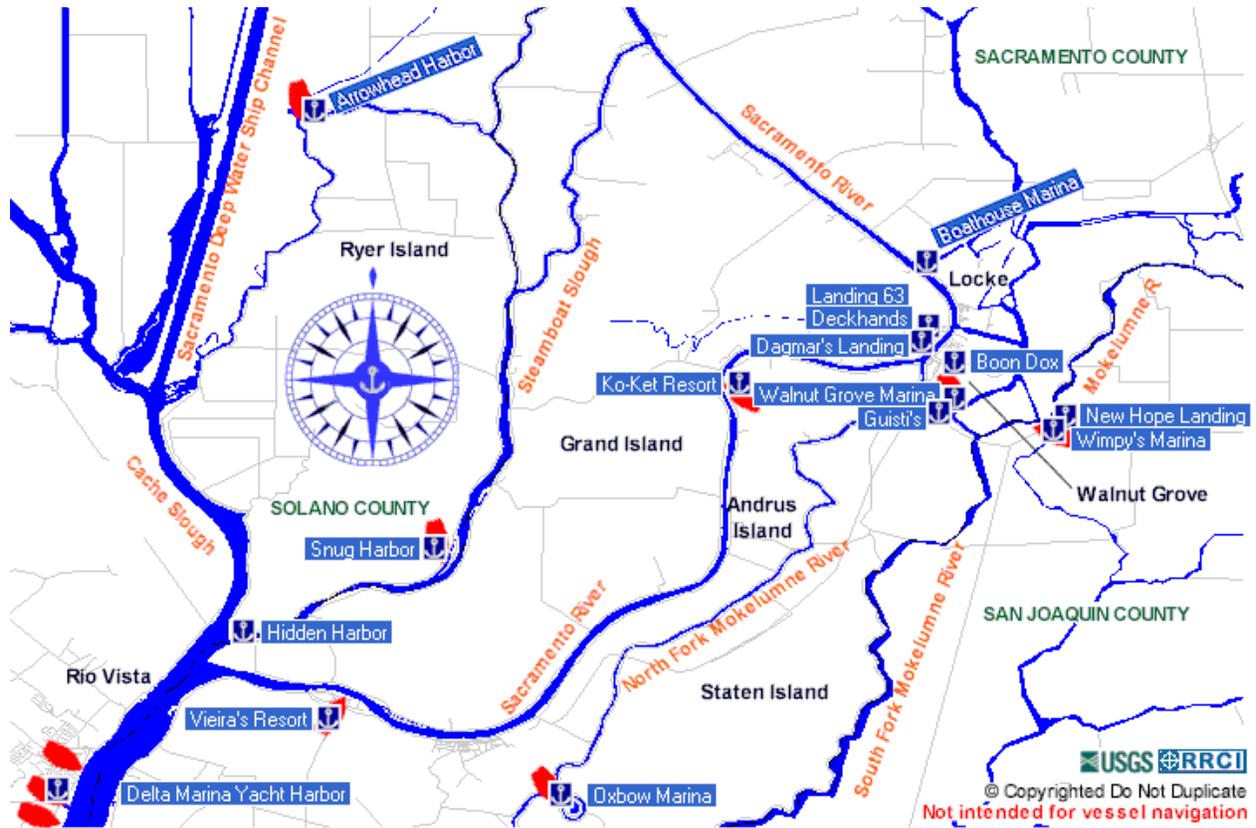
MEMBER WINERIES

1. BOGLE VINEYARDS & WINERY
37733 ROAD 144, CLARKSBURG
2. HEFINGER ESTATES
57375 NETHERLANDS ROAD, CLARKSBURG
3. CLARKSBURG WINE COMPANY
THE OLD SUGAR MILL
35265 WILLOW AVENUE, CLARKSBURG
4. ELEVATION TEN
THE OLD SUGAR MILL
35265 WILLOW AVENUE, CLARKSBURG
5. SCRIBNER BEND VINEYARDS
9051 RIVER ROAD, SACRAMENTO
6. WINER'S LEAD WINERY
54250 SOUTH RIVER ROAD, CLARKSBURG
7. SIX HANDS WINERY
13783 ISLETON ROAD, WALNUT GROVE
8. KIRCHHOFF WINERY
THE OLD SUGAR MILL, CLARKSBURG--(BODLER ROOM)
35265 WILLOW AVENUE, CLARKSBURG
9. GRAND ISLAND VINEYARDS
12484 HIGHWAY 150, WALNUT GROVE
10. SILT WINE COMPANY
50370 BABE SLOUGH RD, CLARKSBURG

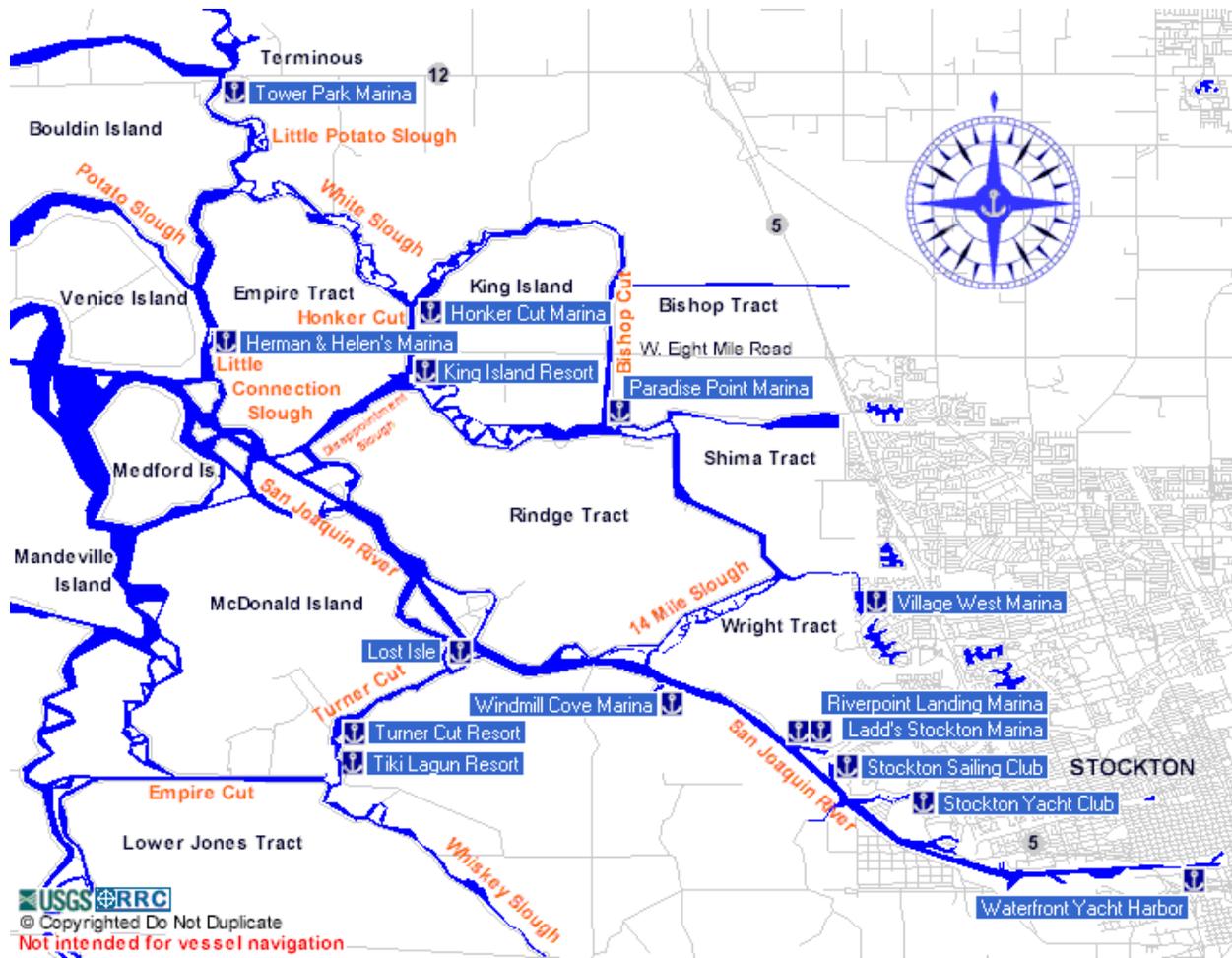


Source: <http://www.clarksburgwinecountry.com/wp-content/uploads/2019/04/CWGA24inx36inFeb-2019.jpg>

Source: McNally, W., Wallen, C., Sanborn, S., and Maak, E. (2014). "Composite Risk Assessment for the Sacramento–San Joaquin Delta Levee System." *Journal of Water Resources Planning and Management*. 140. 734-743. 10.1061/(ASCE)WR.1943-5452.0000362. Available at <https://ascelibrary.org/doi/10.1061/%28ASCE%29WR.1943-5452.0000362>,



Source: http://www.boatharborslocator.com/sac_delta_northern_delta_area_map.htm



Source: http://www.boatharborslocator.com/sac_delta_stockton_area.htm.