

Delta Counties Coalition

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"Working together on water and Delta issues"

June 21, 2017

Randy Fiorini, Chair
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: June 22, 2017 Delta Stewardship Council Meeting - Amendments to the Delta Plan

Dear Chair Fiorini and Members of the Council:

The Delta Counties Coalition, on behalf of four million people throughout the Delta region, opposes the proposed amendments to the Delta Plan along with the Delta stakeholders and local elected officials who testified and provided written comment at DSC meetings in March, April, and May. The amendments warrant greater consideration before advancing to the environmental review process as stated in our April 21, 2017 letter. Thank you for your consideration.

Sincerely,

Don Nottoli
Supervisor, Sacramento County

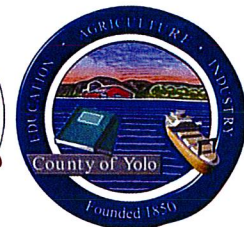
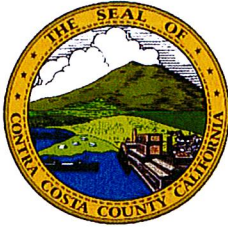
John M. Vasquez
Supervisor, Solano County

Karen Mitchoff
Supervisor, Contra Costa County

Jim Provenza
Supervisor, Yolo County

Chuck Winn
Supervisor, San Joaquin County

Enclosures: DCC Letter dated April 21, 2017
County Letters



Delta Counties Coalition

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"Working together on water and Delta issues"

April 21, 2017

Randy Fiorini, Chair
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: April 27-28, 2017 Delta Stewardship Council Meeting - Amendments to the Delta Plan

Dear Chair Fiorini and Members of the Council:

The Delta Counties Coalition (DCC), comprised of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo counties, reviewed the Notice of Preparation (NOP) for a Draft Program Environmental Impact Report (Program EIR) for the proposed Delta Plan amendments that cover: (1) Delta Levee Investment and Risk Reduction Strategies, (2) Delta Conveyance, Storage and Operations, and (3) Performance Measures. The DCC respectfully requests the Council's consideration of the comments below as it develops the Delta Plan amendments and the Program EIR.

While the California Environmental Quality Act sets forth the legal requirements by which the Council must evaluate potential environmental impacts, it is the Trial Court's May 2016 ruling that truly drives the need for the proposed Delta Plan amendments related to topics (2) and (3) above. The California Water Code is clear in its directive that coequal goals for the Delta to provide a more reliable water supply for the state, while protecting the Delta's ecosystem, "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."

The Council acknowledges in the NOP that the definition of coequal goals includes "Delta as an evolving place;" however, the 19 Principles for Water Conveyance in the Delta, Storage Systems, and for the Operation of Both to Achieve the Coequal Goals (as adopted by the Council in November of 2015) do not directly address protections for Delta communities and their unique cultural values as provided for in law. To continue to use the 19 Principles to guide the Council's views on conveyance, storage, and operations is a fatal flaw; therefore, the DCC strongly urges the Council to commit to the coequal goals of the Delta in the entirety of its statutory definition. This course correction is necessary to develop any Delta Plan amendments that are consistent with the statute.

The 19 Principles also do not recognize senior water rights and the promise that the areas of California where the water originates shall not be deprived of the prior right to all water reasonably required to meet the needs of the watershed (Water Code § 11460). These two major cornerstones of California water law are critical to determine how much water can be exported from the Delta.

The DCC is also concerned that the 19 Principles and the information contained in the NOP seem to pre-determine that the California WaterFix is the preferred conveyance solution for the Delta. This approach is especially troubling because it appears that the Council prematurely promotes the WaterFix despite impacts to other legal users of water. These potential impacts have come to light in the testimony provided by multiple parties in the State Water Resources Control Board's Change in Point of Diversion Hearings.

The WaterFix, as proposed as a standalone project, does not satisfy the criteria outlined in the Delta Reform Act for automatic incorporation into the Delta Plan. The DCC agrees with Council staff's assertion that the WaterFix is subject to the Delta Plan covered action consistency certification process. The DCC strongly urges the Council to commit to the coequal goals of the Delta in the entirety of its statutory definition and make the appropriate Delta Plan amendment course corrections.

Furthermore, the Trial Court was clear in its ruling to uphold the Council's authority beyond the boundaries of the legal Delta and to reduce reliance on the Delta for water supply reliability consistent with the coequal goals (Water Code § 85021). To lessen the impact of reduced water supplies, the DCC supports Council's direction for investments for above- and below-ground water storage, improved regional and local supply projects, water conservation, recycling, desalination, and other advanced water technologies that address water supply and water management priorities for the state.

The DCC supports a comprehensive approach that 1) takes a broader view rather than promote the WaterFix and disregard other statutory protections for the Delta and senior water rights holders, 2) incorporates all statutory requirements to be included in the Delta Plan, and 3) includes programs to develop new water, such as wastewater reuse, storm water capture, desalination, and appropriate surface and groundwater storage. The Council, which is in its seventh year of having policy and regulatory oversight in the Delta and Suisun Marsh, is well-

Delta Stewardship Council

April 21, 2017

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positioned to move state water policy and Delta management forward in a productive, sustainable way, and we look forward to working with you on these important considerations.

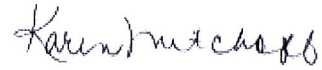
Sincerely,



Don Nottoli
Supervisor, Sacramento County



John M. Vasquez
Supervisor, Solano County



Karen Mitchoff
Supervisor, Contra Costa
County



Jim Provenza
Supervisor, Yolo County



Chuck Winn
Supervisor, San Joaquin County

Department of
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Development

Water Agency

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Martinez, CA 94553

Phone: 925-674-7824

**Contra
Costa
County**

John Kopchik
Director



June 13, 2017

Delta Stewardship Council
980 9th Street, Suite 1500
Sacramento, CA 95814

Re: Draft Amendments to Delta Plan and Performance Measures

Dear Chair Fiorini and Council members,

Contra Costa County borders on the Sacramento-San Joaquin Delta and San Francisco Bay and is vitally interested in a real sustainable solution for the myriads of problems facing the Delta and its ecosystem and California's water supply reliability. We agree with Council staff and many others that the status quo of dramatically declining fish populations, degraded water quality in the Delta, and unreliable water supply is unacceptable.

We were actively engaged in the Stewardship Council's development of the 2013 Delta Plan, the 19 Principles for Water Conveyance in the Delta, Storage Systems, and for the Operation of Both to Achieve the Coequal Goals, and have provided input to the Council in 2017 regarding the Delta Plan amendments. We have also provided critical but constructive comments to the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) during the development of their Bay Delta Conservation Plan (BDCP) and California WaterFix proposals.

Our County appreciates the extensive work done by Council staff to develop and refine the Delta Plan Amendment and Performance Measures documents. Staff has been very responsive to comments made by the Delta Protection Commission's representatives of the Council¹ and to our written comments.

It is critical that any current and future projects or actions within the Delta or affecting the Delta contribute to achievement of both coequal goals (not trade one off against the other) and contribute to achieving the inherent objectives of improving water quality and protecting the Delta as an evolving place.

¹ Most recently, Supervisor Mary N. Piepho from Contra Costa County and currently Supervisor Skip Thomson from Solano County

We request that the Council consider the following issues and comments when further refining the Delta Plan Amendments. Our more detailed comments are provided in the attachment to this letter.

1. The Council should promote **joint storage-conveyance** actions that are capable of capturing “new” water during wet months when flows in the Delta are very high, and significantly reduce exports from the Delta during dry months when flows are low and the Delta ecosystem is most stressed. This is consistent with the Council’s Principle #12², aka “Big Gulp, Little Sip” concept. This concept is discussed on page 19, Line 33 of Agenda Item 10, Attachment 5 for the May 25, 2017 meeting. Conveyance-only projects are unable to consistently capture more water during wet months, and must rely on the Delta to export more water during dry months. Indeed, operations simulations for the conveyance-only WaterFix project indicate the State Water Project (SWP) would increase its exports by up to 54% during the periods when Delta outflows are lowest, typically in the fall. This large increase occurs because SWP exports at Clifton Court are limited to 6,680 cubic feet per second (cfs) with the existing system but the SWP will be able to divert and export a total of 10,300 cfs from the north and south Delta if WaterFix is implemented.
2. The Council should promote a “Plan B” that incorporates new storage with conveyance (joint storage-conveyance), plus a portfolio of other actions consistent with the January 2014 California Water Action Plan, and the Natural Resources Defense Council’s earlier portfolio approach (Barry Nelson). Plan B would include water conservation, local water supplies, levee strengthening, restoring and sustaining groundwater basins, especially in the San Joaquin Valley, as well as more natural Delta flows, consistent with the SWRCB’s 2010 Delta Flow Criteria.
3. Current State law requires that new Bay-Delta projects contribute to achievement of the coequal goals. It is no longer sufficient to merely balance the beneficial uses of Delta water. Achievement of the coequal goals as well as the inherent objectives of improving water quality in the Delta and protecting the Delta as an evolving place is a win-win-win situation. The Council should avoid use of the terms balance or balancing because that implies a lose-lose situation where the Council or the SWRCB approve Bay-Delta projects that are unable to capture excess flow during wet months and continue to exports large amounts of water during dry months when flows are low and the Delta is most vulnerable. For example, the WaterFix project fails to contribute to achieving either coequal goals because it lacks the additional storage needed to consistently capture “new” water. Unless the Council and SWRCB require new projects to contribute to achievement of the coequal goals, there will

² 12. *Storage and conveyance should be operated by storing water in wet periods and reducing diversions in dry periods to (a) protect water quality in the Delta, (b) provide more natural, functional flows, and (c) enhance Delta inflows and outflows, consistent with the needs of the Delta ecosystem and water users.*

be no motivation for DWR to develop a sustainable solution to the problem of the Delta, and the Delta ecosystem will be harmed rather than restored.

4. The current amendments to the 2013 Delta Plan should also include adding **water quality policies**. The 2013 Delta Plan contained no water quality policies. The Sacramento Superior Court's May 18, 2016 decision in Delta Stewardship Council Cases, Coordinated Proceeding JCCP No. 4758, on pages 21-22, found the Council need only encourage others (e.g., the SWRCB) to take actions by way of recommendations. However, the Decision further found recommendations that promote water quality improvement are sufficient even if they are not implemented. The Council members as Stewards of the Delta should not be satisfied with water quality recommendations that don't even need to be carried out. This does not help achieve the 2009 Delta Reform Act's inherent objective of improving water quality in the Delta. Note that the Decision (on page 15) cited the water quality recommendations in its finding regarding water supply reliability and the need for quantified or otherwise measurable targets. This part of the Court decision further supports the need for specific legally enforceable water quality policies and corresponding performance targets.
5. The salinity performance measure should include chloride concentrations as that is the form of the SWRCB's municipal and industrial (urban) water quality standards. The performance measures should also include bromide and organic carbon concentrations as these are factors affecting the concentrations of disinfection byproducts in treated drinking water. The performance measures should also measure the net improvement in water quality in the Delta. Compliance with Delta standards is less important as a measure of performance because 100% compliance is legally required under California water right law.

Thank you for considering our comments on the proposed Delta Plan amendments. We stand ready and willing to work with Council staff to further improve the Council's Delta Plan. If you have any questions, please contact Ryan Hernandez at (925) 646-7824.

Sincerely,



Ryan Hernandez
Manager
Contra Costa County Water Agency



Michael J. Penrose
Deputy County Executive

Navdeep S. Gill
County Executive

Department of Water Resources
Michael L. Peterson, Director

County of Sacramento

May 19, 2017

Mr. Dustin Jones, Supervising Engineer
Delta Stewardship Council
Integrated Regional Water Management Division
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Comments on Amendments to the Delta Plan: Delta Levee Investment Strategy (DLIS)

Dear Mr. Jones:

Sacramento County has reviewed the materials prepared for the DLIS Delta Plan amendments and respectfully submits the following comment(s). The County's comments focus on the draft revisions to Chapter 7 of the Delta Plan, as presented to the Delta Stewardship Council (Council) on August 25, 2016 (Agenda Item #8), specifically the staff report and table titled "*Draft Priorities for State Investment in Delta and Suisun Marsh Levee*" (Attachment 3).

The County has long expressed its position that the Delta legacy communities are critical features of the region's socioeconomic structure. Reducing flood risk by investing in flood protection facilities in the Delta is important if these communities are to continue to thrive and prosper.

As a result, the County is concerned that only Brannan-Andrus Island (City of Isleton) and Grand Island (west Walnut Grove and Ryde) are ranked in the "very high" tier, as shown on the draft priority investment list. The following is an excerpt from the Council's August 25th staff report:

Very high priority: *These islands and tracts are the highest priority because their levees pose the highest risk to lives and property and State interests, especially water supply reliability.*

Council staff is well aware that "water supply reliability" is just one piece of the coequal goals statutory provision:

Water Code section 85054: *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.*

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Further, the Delta as a Place language cited in Section 5001, subdivision (j), paragraph (3) of the Delta Plan states:

- (3) *“Achieving the coequal goals in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place” means accepting that change, including change associated with achieving the coequal goals, will not cease, but that the fundamental characteristics and values that contribute to the Delta's special qualities and that distinguish it from other places can be preserved and enhanced while accommodating these changes. In this regard, the following are core strategies for protecting and enhancing the unique values that distinguish the Delta and make it a special region:*
- (A) *Designate the Delta as a special place worthy of national and state attention;*
 - (B) *Plan to protect the Delta's lands and communities;*
 - (C) *Maintain Delta agriculture as a primary land use, a food source, a key economic sector, and a way of life;*
 - (D) *Encourage recreation and tourism that allow visitors to enjoy and appreciate the Delta and that contribute to its economy;*
 - (E) *Sustain a vital Delta economy that includes a mix of agriculture, tourism, recreation, related industries and business, and vital components of state and regional infrastructure; and*
 - (F) *Reduce flood and other risks to people, property, and other interests in the Delta.*

As expressed both in statute and the Delta Plan, communities in the Delta are unique and irreplaceable resources. Long-term protection and enhancement of these communities is dependent on a holistic set of metrics, not just ensuring for water supply reliability. Therefore, Sacramento County strongly recommends the Council reconsider its priority investment ranking protocols and add those islands/tracts home to Delta legacy communities (defined in Public Resources Code section 32301(f)) to the “very high” tier.

In closing, Sacramento County is hopeful the DSC and its staff find our comments helpful and looks forward to the formal release of the Delta Plan's amendment language related to the Delta Levee Investment Study (DLIS). Should you have any questions or would like to meet to discuss the enclosed comments, please contact Don Thomas, Senior Planner, at (916) 874-5140.

Sincerely,



MICHAEL L. PETERSON, Director
Sacramento County Department of Water Resources

Cc: Ms. Cassandra Enos-Nobriga, Deputy Executive Officer, Delta Stewardship Council



Robert B. Leonard
Chief Deputy County Executive

Navdeep S. Gill
County Executive

Department of Water Resources
Michael L. Peterson, Director

County of Sacramento

April 17, 2017

Ms. Cassandra Enos-Nobriga, Deputy Executive Officer
Delta Stewardship Council
Planning and Performance Division
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Comments on Amendments to the Delta Plan: Conveyance, Storage and Operations (CSO)

Dear Ms. Enos-Nobriga:

Sacramento County respectfully recommends additions/revisions to the framework document titled "Discussion Draft of the Delta Plan Amendment for Water Conveyance, System Storage, and the Operation of Both", presented at the Delta Stewardship Council's (DSC) February 23, 2017 hearing (Agenda Item 12, Attachment 1).

The importance of ensuring compliance with the "Delta as an Evolving Place" provision set forth in the Delta Reform of 2009 is anecdotally mentioned throughout the 19 page document. However, the discussion of "New and Improved Water Conveyance" (beginning on Page 5) neither indicates that impacts to Delta communities will be included in any future analyses of new or improved conveyance or diversion facilities in the Delta, nor will the construction and operation of new or improved conveyance infrastructure in the Delta be designed and implemented consistent with Delta as a Place language from Section 5001, subdivision (j), paragraph (3) of the Delta Plan regulations and included at the conclusion of the "Principles" document, also presented at the February 23rd DSC hearing.

(3) "Achieving the coequal goals in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place" means accepting that change, including change associated with achieving the coequal goals, will not cease, but that the fundamental characteristics and values that contribute to the Delta's special qualities and that distinguish it from other places can be preserved and enhanced while accommodating these changes. In this regard, the following are core strategies for protecting and enhancing the unique values that distinguish the Delta and make it a special region:

- (A) Designate the Delta as a special place worthy of national and state attention;*
- (B) Plan to protect the Delta's lands and communities;*
- (C) Maintain Delta agriculture as a primary land use, a food source, a key economic sector, and a way of life;*
- (D) Encourage recreation and tourism that allow visitors to enjoy and appreciate the Delta and that contribute to its economy;*

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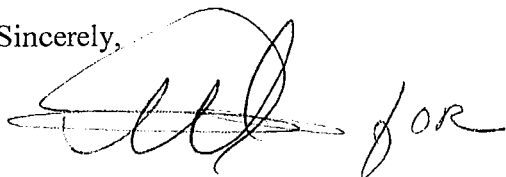
(E) Sustain a vital Delta economy that includes a mix of agriculture, tourism, recreation, related industries and business, and vital components of state and regional infrastructure; and

(F) Reduce flood and other risks to people, property, and other interests in the Delta.

As a result, Sacramento County recommends that impacts to Delta communities be added to the list items that will be analyzed under Section 1B.1, **AND** added to the list of consistency parameters described in Section 1B.2.

In closing, Sacramento County is hopeful the DSC and its staff find our comments helpful and looks forward to the formal release of the Delta Plan's amendment language related to Conveyance, Storage, and Operations (CSO). Should you have any questions or would like to meet to discuss the enclosed comments, please contact Don Thomas, Senior Planner, at (916) 874-5140.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Peterson" followed by "for". The signature is written in a cursive, flowing style.

MICHAEL L. PETERSON, Director
Sacramento County Department of Water Resources

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April 17, 2017

Delta Stewardship Council
980 9th Street, Suite 1500
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Subject: Notice of Preparation for Program Environmental Impact Report for Proposed Delta Plan Amendments

To Chair Fiorini and Council Members:

Solano County appreciates the opportunity to comment on the Notice of Preparation for the Draft Program Environmental Impact Report (EIR) for Proposed Amendments to the Delta Plan. Our comments focus on the need for a broader environmental review of all Delta Plan components, and the need to broaden the project description to encompass a greater range of programmatic alternatives.

I. Scope of the EIR: Programmatic review of all Delta Plan Chapters, rather than selected elements

The three proposed programmatic amendments (Conveyance, Storage & Operations (CSO), the Delta Levee Investment Strategy (DLIS), and Performance Measures) would have significant impacts on the Delta, and would in turn affect other Delta Plan elements not currently proposed for amendment, including those sections addressing Delta as a Place, Water Quality, and Ecosystem Restoration. All Delta Plan components are inextricably linked, and must be reviewed regularly and revised as appropriate. The programmatic review must encompass all Plan elements in a comprehensive Delta Plan amendment. Programmatic review of all components together would allow for the range of topics to be addressed together, so that impacts, cumulative and otherwise, in these areas can be adequately evaluated. For example, the CSO amendment will have significant impacts on the Delta as a Place and on Water Quality. The DLIS will impact Delta as a Place, and Performance Measures should affect all categories.

II. Delta Plan Amendment for Storage, Conveyance and Operations of Both

An amendment for Conveyance, Storage and Operations is premature at this time, given the significant work currently underway by the State Water Resources Control Board (SWRCB) and others that could significantly change the proposed dual conveyance project and the base assumptions used in operational scenarios. The SWRCB is poised to make changes to Water Quality Control Plans that will change flow dynamics and could significantly affect any analysis of the CSO amendments.

The DSC must also broaden the project description for the CSO amendments. As currently written, the amendment appears to promote a specific project, the CA Water Fix. The project description specifies "new intakes and diversions and conveyance facilities in the North Delta" and "conveyance improvements that allow use of multiple Delta intakes to increase operational flexibility". The discussion draft

document's reference to "New and Improved Water Conveyance" is more explicit, stating "The California Department of Water Resources (DWR) and the U.S. Department of the Interior, Bureau of Reclamation (Reclamation) should pursue a dual-conveyance solution for the Delta by constructing new facilities for isolated below-ground conveyance of State Water project (SWP) and Central Valley Project (CVP) water supplies from the Sacramento River to the South Delta via multiple intakes." The charge to the Council in Water Code Section 85304 is broader: "The Delta Plan shall promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals." The proposed "project," i.e. the CSO amendment, is very specific. The DSC should not make the proposed project description unreasonably narrow, such that it guarantees that the CSO amendment that is eventually adopted essentially ratifies WaterFix. A broader project description is essential to establishing a reasonable range of alternatives for the EIR.

Both the Discussion Draft of the Delta Plan Amendment for CSO and the accompanying staff reports highlight the need for conveyance "so that water supplies can be moved when they are available, allowing more water to be taken in wet periods and reducing exports in dry periods." This is known as the big gulp, little sip concept. While the big gulp little sip concept is quite sound, the supporting modeling for the CA Water Fix dual conveyance project does not demonstrate that that project will actually adhere to this concept. In fact, in recent years when water has been available, the limitation on export has been the lack of adequate storage, rather than conveyance.

III. Achievement of the Co-Equal Goals

Sections 85054 and 85300 of the Delta Reform Act require the Council to promote the co-equal goals of water supply reliability and ecosystem restoration, with protection and enhancement of the Delta as an evolving place. Our reading of the NOP suggests that the Program EIR will not adequately address the Delta as a Place, water quality, or ecosystem restoration. As a result, these amendments will only advance one of the Co-Equal Goals.

Thank you for the opportunity to comment.

Sincerely,



Bill Emlen
Director, Resource Management