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DELTA STEWARDSHIP COUNCIL

A California State Agency

August 30, 2016

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RE: Decker Island Restoration Project Mitigated Negative Declaration, SCH# 2016082013

Dear Mr. Riordan:

Thank you for the opportunity to comment on the Mitigated Negative Declaration (MND) for the Decker Island Restoration Project (hereafter referred to as the "project"). The California Department of Water Resources (DWR) will restore up to 140 acres of tidal wetlands and riparian habitat on the eastern portion of Decker Island as part of the Fish Restoration Program (FRP). Additionally this project is one of the priority projects under the California Natural Resource Agency's EcoRestore Initiative.

As you know, the Delta Stewardship Council (Council) is a state agency created by the California Legislature through the Delta Reform Act of 2009 to develop and implement a legally enforceable long-term management plan for the Delta and Suisun Marsh. The Delta Plan applies a common sense approach based on the best available science to achieve the coequal goals of protecting and enhancing the Delta ecosystem and providing for a more reliable water supply for California, while protecting and enhancing the unique cultural, recreational, and agricultural values of the Delta as an evolving place.

Council staff met with FRP staff from DWR and the California Department of Fish and Wildlife (CDFW) in May 2016 to talk about the scope and goals of the project. Additionally, we discussed potentially relevant Delta Plan regulatory policies as well as the process of filing a certification of consistency with the Delta Plan, if DWR determines that the project is a "covered action" subject to Delta Plan regulations (Water Code Section 85225).

"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

We appreciate how DWR staff followed our recommendation of incorporating references to relevant Delta Plan policies and recommendations in the MND as part of compliance with Section 15125(d) of the CEQA Guidelines, which calls for a discussion of any inconsistencies between the proposed project and applicant regional plans.

Delta Plan Policies

The Delta Plan includes 14 Policies that are applicable to all covered actions. The MND states Delta Plan Policies G P1, ER P2, ER P5, and DP P2 as relevant to the project and identifies a certification of consistency with the Delta Plan as one of the regulatory requirements for the project. This comment letter describes the aforementioned policies and their relevance to this project in more detail, which we hope DWR staff will find useful when preparing a certification of consistency.

Best Available Science and Adaptive Management

Delta Plan Policy **G P1** (23 California Code of Regulations [CCR] Section 5002) calls for covered actions to document use of best available science. This documentation should be consistent with the criteria listed in Appendix 1A of the Delta Plan regulations (available at <http://deltacouncil.ca.gov/docs/appendix-1a>), which include relevance, inclusiveness, and objectivity.

Additionally, Policy **G P1** calls for ecosystem restoration projects to include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action; this requirement can be satisfied through the development of an adaptive management plan that is consistent with the framework described in Appendix 1B of the Delta Plan (<http://deltacouncil.ca.gov/docs/appendix-1b>), along with documentation of adequate resources to implement the proposed adaptive management process. Since ongoing funds originating from the State Water Project contractors will be used to support and monitor the project, we anticipate DWR will have the ability to describe access to the funding, equipment and staffing necessary to implement adaptive management for the project. The adaptive management plan should be based on best available science and include documentation to demonstrate this fact (e.g., one method would be to include scientific references in the adaptive management plan).

Staff from the Delta Science Program can provide consultation to assist in preparation of documentation of use of best available science and adaptive management. Science Program staff have met with representatives from the Decker Island project to discuss preparation of an adaptive management and monitoring plan, and are currently reviewing a preliminary draft. These are great first steps and the Science Program looks forward to continued engagement. Please contact Karen Kayfetz (karen.kayfetz@deltacouncil.ca.gov) of the Delta Science Program to arrange further discussions.

Mitigation Measures

Delta Plan Policy **G P1** (23 CCR Section 5002) also requires that actions not exempt from the California Environmental Quality Act (CEQA) and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with those identified in the Delta Plan Program Environmental Impact Report (PEIR) or substitute mitigation measures that are equally or more effective. The Delta Plan Mitigation and Monitoring Reporting Program (MMRP) is to be used to ensure compliance with the Delta Plan mitigation measures (this document is available at http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf). Additionally, Council staff can provide a slightly reformatted Microsoft Word document version of the MMRP document which may help DWR staff with the process of cross-referencing between Delta Plan mitigation measures with those in the project's MND.

Habitat Restoration

Delta Plan Policy **ER P2** (23 CCR Section 5006) states that habitat restoration must occur at appropriate elevations and be consistent with Appendix 3 of the Delta Plan regulations, which is an excerpt from the 2011 Draft Ecosystem Restoration Program Conservation Strategy. Appendix 3 describes the many ecosystem benefits related to restoring tidal wetlands, but it also includes two cautions. The first is that restored tidal marsh could be colonized by non-native species, which would in turn limit the benefits to native species (see comments below regarding invasive species). The second concern is the potential methylation of mercury in sediments. The MND does identify methylmercury as a potential water quality concern for the project and that increased tidal influence could export methylmercury off site, but it ultimately concludes that the impact from the project would be less than significant. Given though the uncertainty of the effects of tidal wetland restoration on methylation rates and off-site export, we suggest DWR consider monitoring of methylmercury as part of the project's monitoring and adaptive management plan.

Invasive Species

Delta Plan Policy **ER P5** (23 CCR Section 5009) states, "The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem." Nonnative species, such as terrestrial and aquatic weeds, are a major obstacle to successful restoration because they affect the survival, health, and distribution of native wildlife and plant species. Although there is little chance of eradicating most established nonnative species, management can be designed to reduce their abundance.

To help reduce the risk of invasive species to the project, we recommend the inclusion of Delta Plan PEIR's **Biological Resources Mitigation Measure 4-1** in the MND. This measure calls for an invasive species management plan to be developed and implemented for any projects that could lead to introduction or facilitation of invasive species establishment. The plan must

ensure that invasive plant species and populations are kept below preconstruction abundance and distribution levels and be based on best available science and developed in consultation with Department of Fish and Wildlife and local experts (e.g., UC Davis, California Invasive Plant Council). This mitigation requirement also calls for the plan to include the following elements:

- Nonnative species eradication methods (if eradication is feasible)
- Nonnative species management methods
- Early detection methods
- Notification requirements
- Best management practices for preconstruction, construction, and post construction periods
- Monitoring, remedial actions and reporting requirements
- Provisions for updating the target species list over the lifetime of the project as new invasive species become potential threats to the integrity of the local ecosystems

Respect Local Land Use

Delta Plan Policy **DP P2** (23 CCR Section 5011) calls for habitat restoration projects to avoid or reduce conflicts with existing uses. Additionally, it calls for consideration of comments from local agencies and the Delta Protection Commission.

In its analysis of agricultural and forest resources, the MND claims the project area is not zoned as agriculture. The Solano County General Plan appears to designate Decker Island as agricultural land (A-160) and the Department of Conservation's Farmland Mapping and Monitoring Program identifies the area as "grazing land" – which is land on which existing vegetation is suited to the grazing of livestock. Although presently the project area may be unsuitable as grazing land, given the vast majority of it is currently muted tidal wetlands, we encourage you to consult with Solano County staff on this matter and explain either why the land should no longer be designated as agricultural land or how the proposed project is consistent with the existing land use classification.

Delta Plan Recommendations

The Delta Plan contains 74 recommendations, which we encourage project proponents to consider as they design and implement their projects and programs. Although these recommendations are non-regulatory in nature, progress towards their implementation will help with achieving the coequal goals in a manner that protects and enhances the unique values of the Delta.

Restore Habitat

Delta Plan Recommendation **ER R2** calls for prioritizing and implementing projects that restore Delta habitat, particularly in the six priority habitat restoration areas (PHRA) identified in Delta

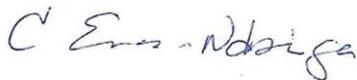
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Plan Appendix 5. Decker Island is located within the Western Delta/Eastern Contra Costa County PHRA and the Delta Plan calls for this area to be restored to tidal marsh and channel margin habitat to support native species. The project would make progress towards this recommendation by restoring tidal wetlands within a PHRA designated for tidal marsh restoration. Furthermore, this recommendation calls for proponents to consult with the California Department of Public Health's *Best Management Practices for Mosquito Control in California* (this document is available at <https://www.cdph.ca.gov/HealthInfo/discond/Documents/BMPforMosquitoControl07-12.pdf>), which includes specific measures for mosquito control in permanent wetlands and tidal marsh projects; we recommend DWR incorporate these measures as appropriate.

Final Remarks

We support DWR in this effort to restore tidal wetland and riparian habitat in an area identified by the Delta Plan as a PHRA. We look forward to working with DWR FRP staff and providing additional guidance regarding the requirements of filing a certification of consistency for the Delta Plan. If you any questions, please do not hesitate to contact Daniel Huang at 916-445-5339 or Daniel.huang@deltacouncil.ca.gov.

Sincerely,



Cassandra Enos-Nobriga
Deputy Executive Officer
Delta Stewardship Council