

Site #3 is located south of Snug Harbor, north of Hidden Harbor on Steamboat Slough.

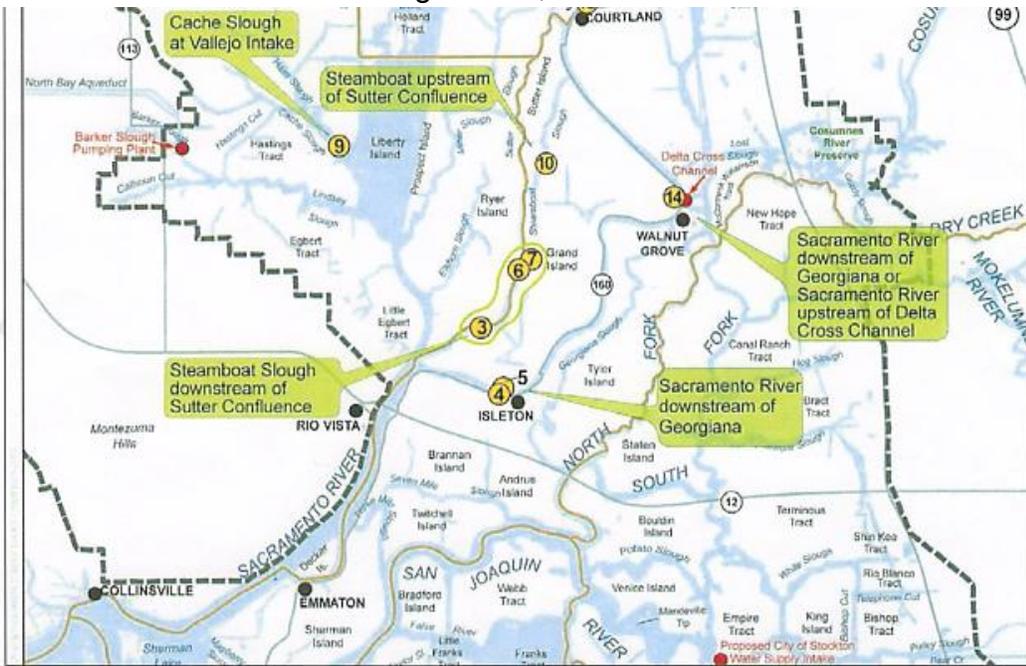


Figure C.5-9. Bench Habitat Analysis Sites

For example, all of the land owners along the Snug Harbor peninsula have seen an increase of high water incidents on our lands over the last 10 years. Prior to the Liberty Island flooding and the DCC closure experiments, we might have had one “high water” event every 10 years, and it always coincided with record rain flows. High water incidents at Snug Harbor is defined as

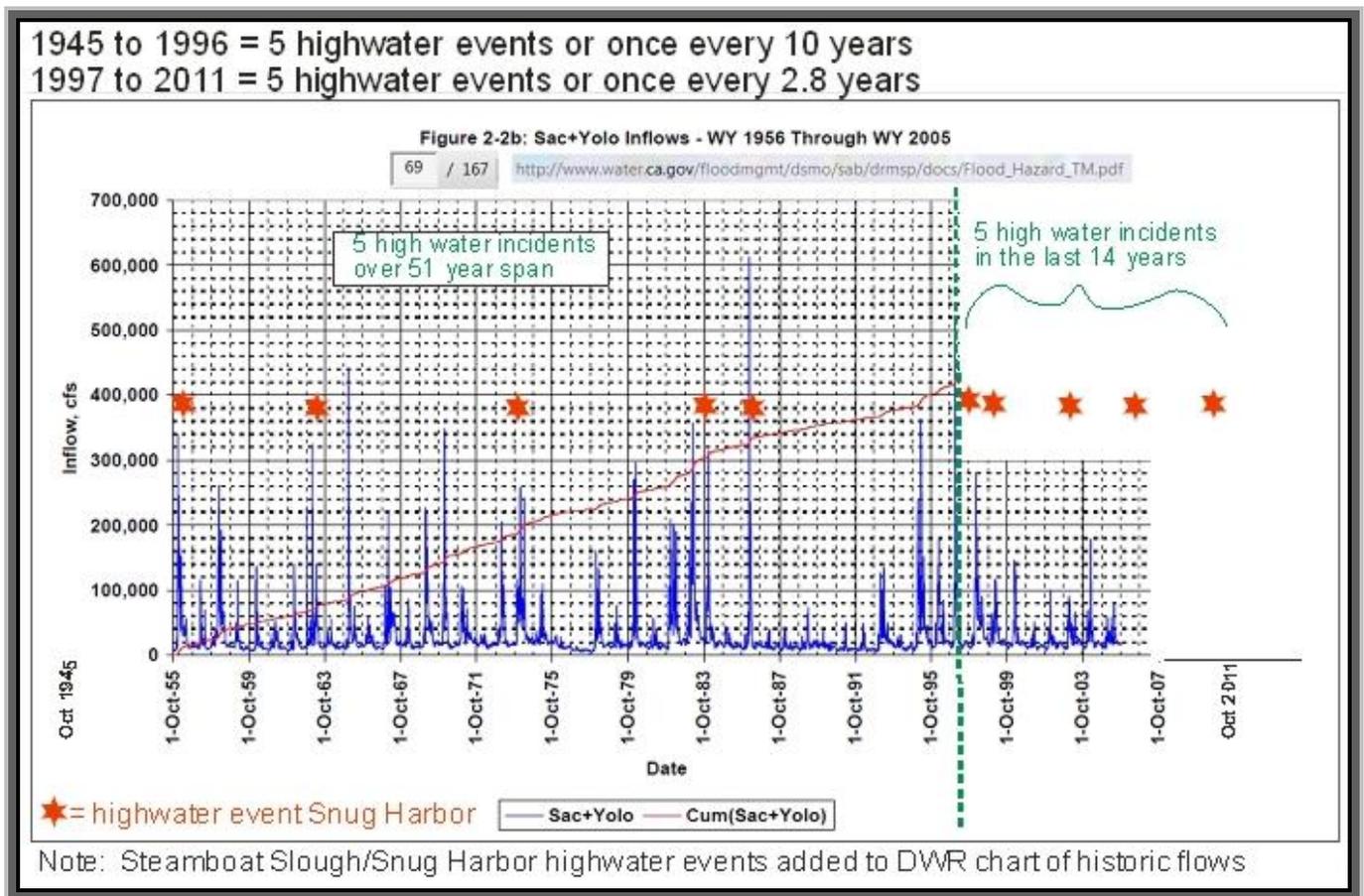
standing water on the access road of the peninsula, and between six and 12 inches of river water encroaching into the lower yards of some areas of the peninsula, during one high tide period at least one day. The water here simply rises like a bath tub being filled up-its not rushing flood waters as portrayed in the media. However, since 1998 we’ve experienced a high water incident approximately every 2.8 years which is about triple the number of high water incidents based on local historical records. One of the main causes of the back up of water seems to be the “bottle neck” effect created by the Grand Island restoration project south of Snug

Ryer Island levee toe bank pilot project reduces slough width by at least 50 feet.

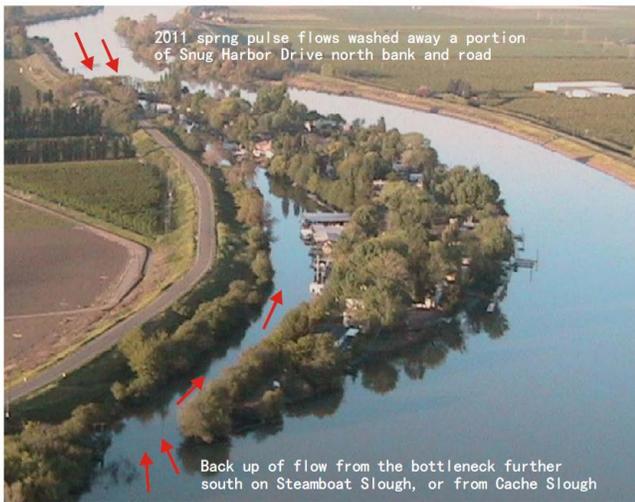


Grand Island Restoration project &/or silting and sandbar expansion on Steamboat Slough reduces slough width at least 100 feet.

Harbor, coupled with the levee berm added to Ryer Island on Steamboat Slough, south of Snug Harbor also. The two projects combined to reduce the width of Steamboat Slough to 150 feet, half of its former width in that area. While land owners who live on the river know to expect and prepare for floods, it is not right for DWR to intentionally or negligently cause rising waters on private properties in the name of “restoration”. If the repeated flooding of Snug Harbor about every 2.8 years is planned to continue, DWR should also plan for mitigation measures that would pay for clean up of properties after the floods, and also repair damages caused by the excess back up of waters. In addition, the BDCP should include in its planning for setbacks of levees in the area mitigations for impacts to the landowners that could be further affected by the BDCP plan to convert at least portions of Steamboat Slough and/or Sutter Slough to shallow habitat for a portion of the year.

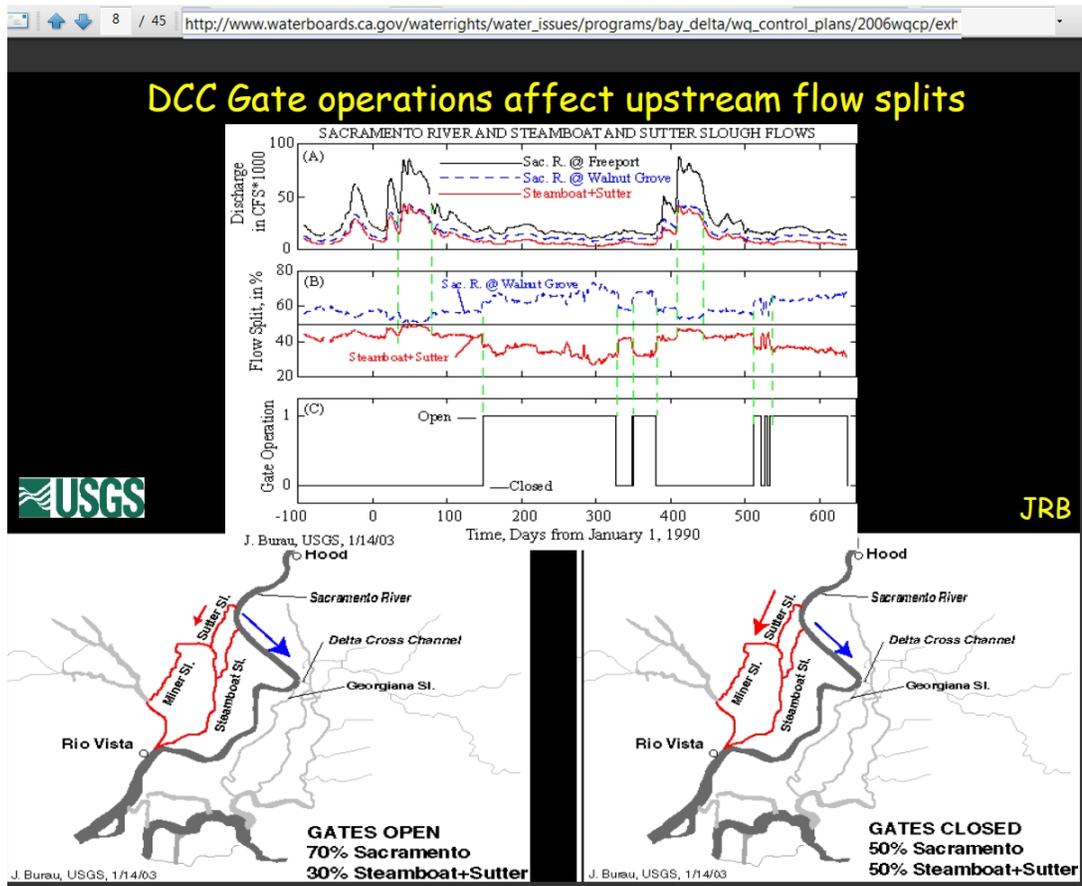


Snug Harbor peninsula under normal circumstances, and the effects of the BDCP channel bench “improvements”:



DWR/BDCP actions have been creating repeated unnatural high water incidents at Snug Harbor at times when no other places in the Delta are flooding, and records show the extra water flow and back up are most likely due to the channel bench studies and the fish passage flow studies, resulting in tripling Snug Harbor incidents of high water over a span of ten years!

So to summarize comments 6 and 7 above, under the Delta Plan Steamboat Slough and therefore also Snug Harbor may receive both to little and to much water flow, depending on the time of the year, as we've experienced during the fish flow studies of the last few years!



Please go to Part 3 for completion of comments on the Delta Plan

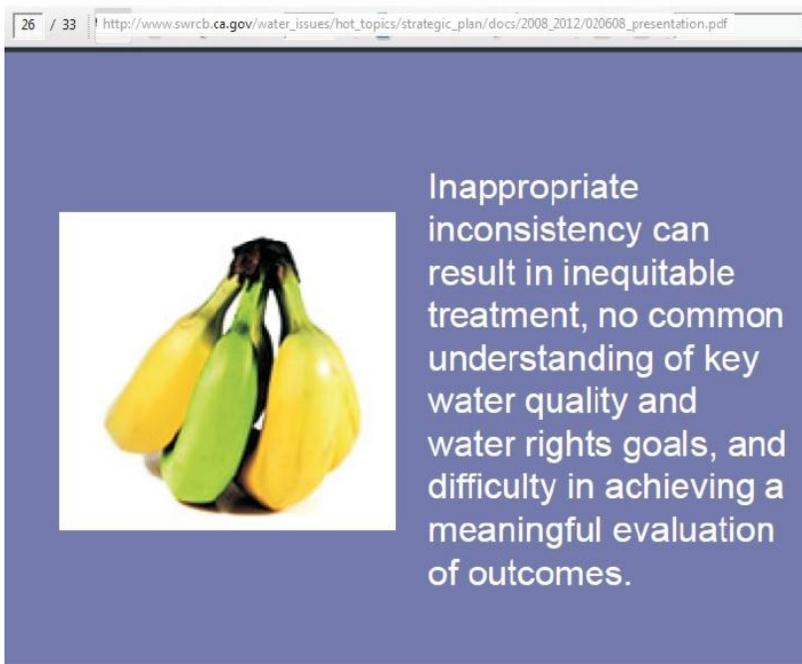
SPECIFIC COMMENTS SUBMITTED TO THE DELTA STEWARDSHIP COUNCIL REGARDING THE DELTA PLAN ... PROCESS AND USE OF DATA

COMMENTS submitted by Nicole (Nicky) Suard, Esq., Managing Member, Snug Harbor Resorts, LLC <http://snugharbor.net> email response to: sunshine@snugharbor.net or mail response to:

Snug Harbor Resorts, LLC, 3356 Snug Harbor Drive, Walnut Grove, CA 95690.

CONTINUED FROM PART 2:

8. Definitions used in the Delta Plan: Inconsistencies create confusion. Please note again the slide from Part 2 regarding inappropriate inconsistency. There should be consistency in use of words.



Any new or revised meanings must be stated within the narrative of the document, and must also provide the former definition of the same word or phrase. For example, if the definition of a “flooded island” has been revised to include scour holes when in former DWR reports, studies and documents scour holes were *not* included as a “flood” of the particular island, the revised definition *and the reason* for the revision must be stated within the narrative description.

Another example is the confusion caused by the Delta Plan’s renaming of

historic waterways, such as was found on page 8, section 8 of the Delta Plan. The photo below is actually of Ryer Island with Steamboat Slough the waterway on the left and the Sacramento Ship Channel/Cache Slough on the right. The caption included in the Delta Plan gives the waterways different names, but does not provide reference as to how, when or why the waterways are proposed to be renamed. Given that the drafters of the Delta Plan have closely studied the Delta lands and waterways, the caption can not be assumed a simple mistake but an intentional renaming of a historic waterway. The Delta Plan should give plausible reasons for renaming common land and water features prior to publication and use. Given the long term history of both Ryer Island and Steamboat Slough, I am opposed to the renaming of both of these locations in the Delta. (screen

print below)

- 1 **Figure 8-6** 8 / 62
2 **Aerial View of Agricultural Land**
3 *The photograph shows the confluence of Elk Slough (left) and the Sacramento River (right), looking south. This*
4 *provides a sense of the various textures and color schemes provided by agricultural land in the Delta. Note the right*
5 *angles, concentric line series within agricultural plots, and the variation of greens and browns, indicating fields at*
6 *different production stages.*
7 *Source: Photograph taken by EDAW (now AECOM) in 2009*



If the viewer is interested in seeing the wrong maps of the draft BDCP, see Attachment J¹ and Attachment C² for the Delta Plan maps reviewed

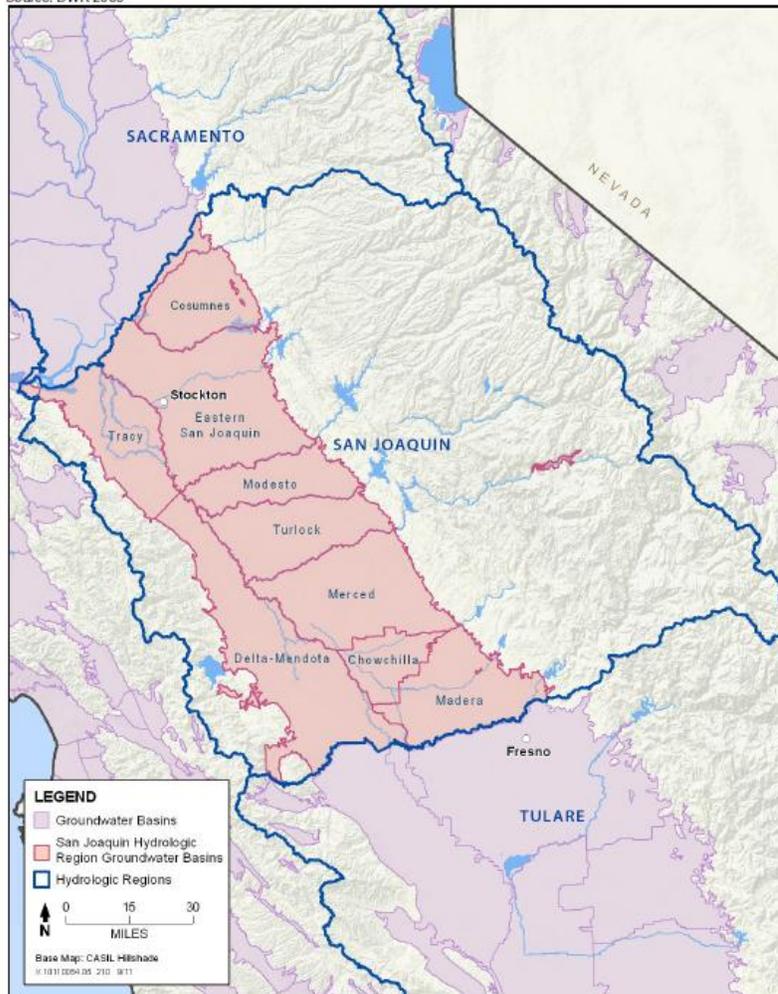
Another inconsistency and certainly an irony is that the Delta is often referred to as the “hub” of California’s water system, but the map showing the groundwater basins of California fails to define the Delta area, the “hub” of California’s water resources. I believe a more correct single word description for the area is the “cornerstone” of California’s water system. In any case, if this is a “DELTA Plan, shouldn’t there be consistency in recognition of the location of the subject of the plan?

¹ <http://snugharbor.net/images2012/DELTACOMMENTS/ATTACHMENT-J.pdf>

² <http://snugharbor.net/images2012/DELTACOMMENTS/ATTACHMENT-C.pdf>

- 1 Figure 3-5
- 2 Groundwater Basins in the San Joaquin Watershed
- 3 Source: DWR 2003

Where's the Delta?



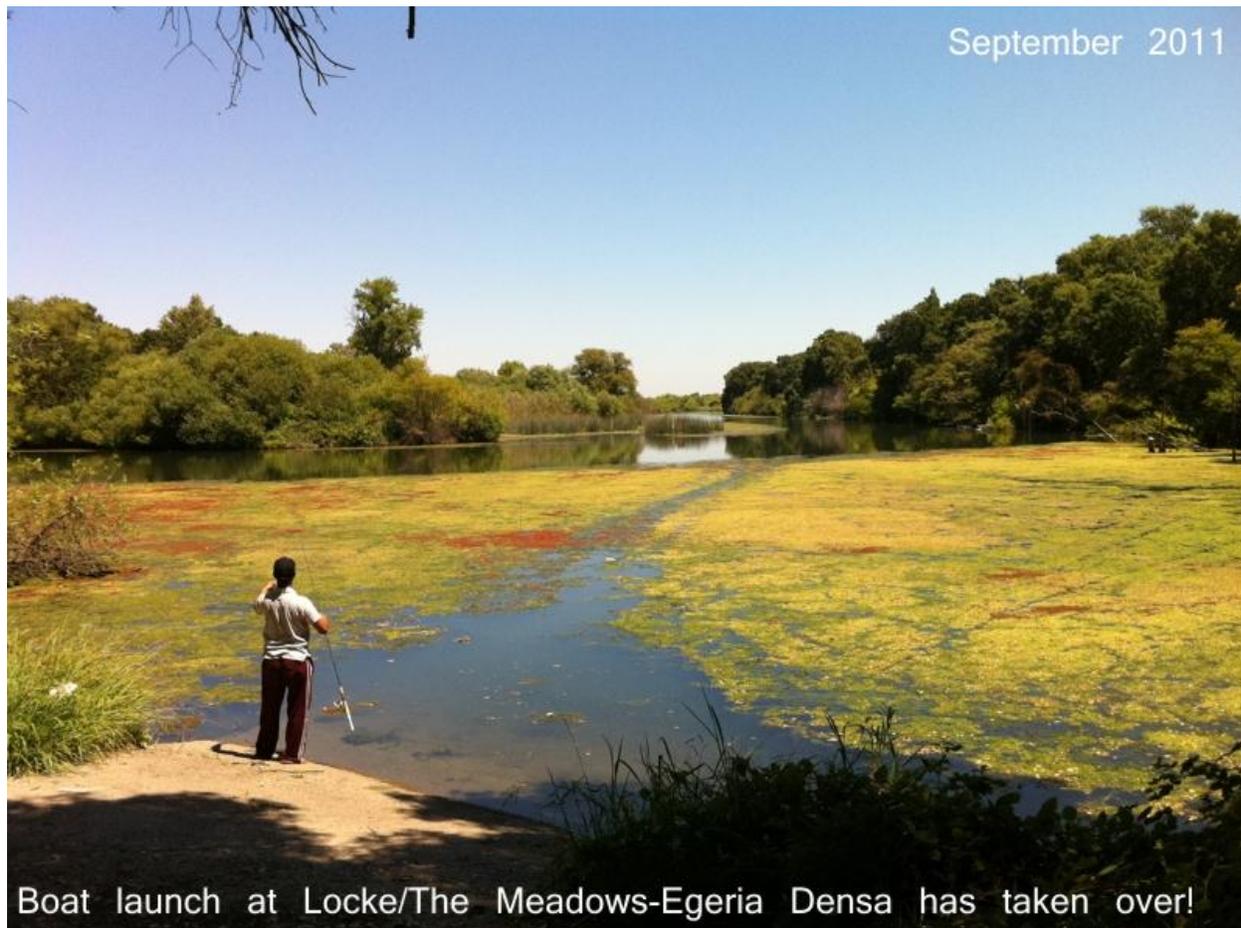
3-28

9. Mitigation for Invasive Species: Delta Plan Section Sections 22 and 23 (BDGP): See Attachment G³. Inadequate mitigation for effects of low water flow that lead to the growth of non-native aquatic species:

The Delta Plan does not adequately recognize the long term effect of reduction of fresh water flow in the North Delta, which will increase the infestation of egeria densa along the banks of navigable waterways and will clog sloughs and areas that once were good fish spawning habitat. Lower water flow, especially in summer and fall months, will expedite the increased growth of non-native aquatic species, and the Delta Plan provides neither mitigation nor funding sources to take care of this long term problem. Below is a photo taken in fall 2011 at the “meadows” area boat launch. Attachment G provides other recent photos of egeria

³ <http://snugarbor.net/images2012/DELTAComments/ATTACHMENT-G.pdf>

densa, duck weed and other invasive aquatic species at the Decker Island restoration area, along Steamboat Slough, and other water weeds in other areas of the Delta. Increased water exports will further exasperate the situation without adequate plan for mitigation, an issue basically ignored by the Delta Plan cost estimates, not just the proposed actions.

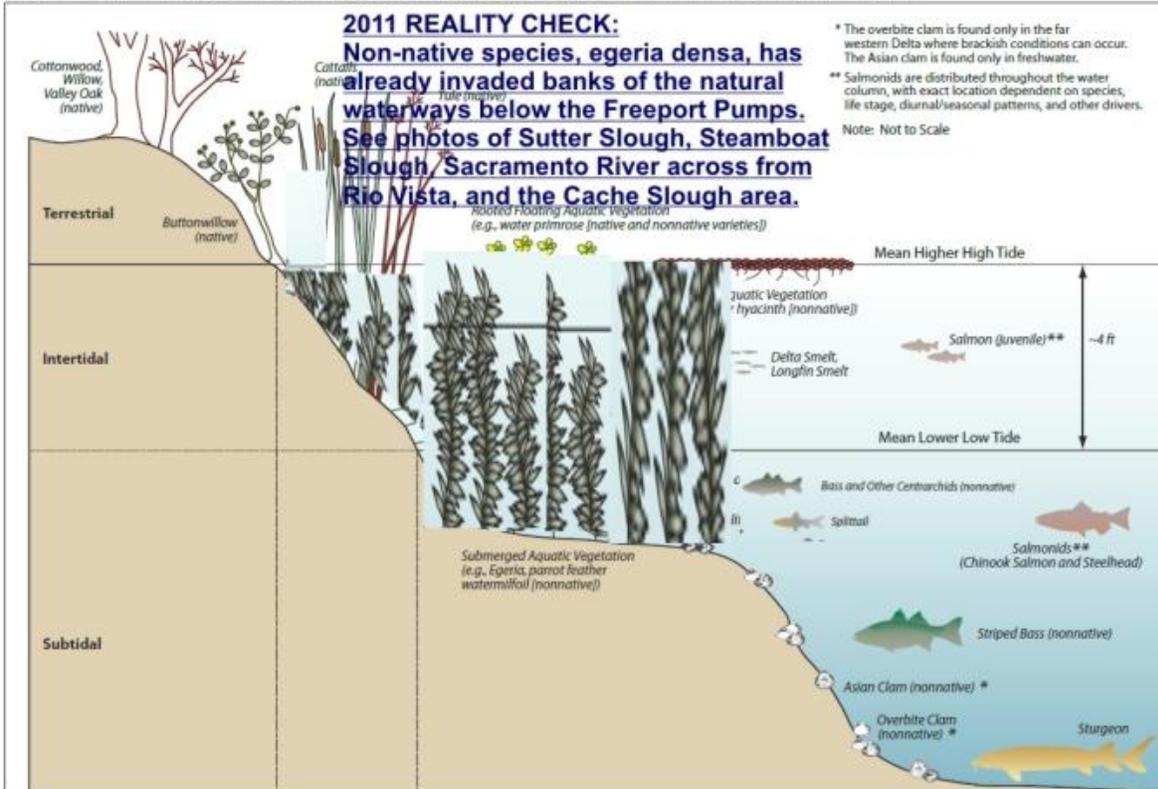


Boat launch at Locke/The Meadows-Egeria Densa has taken over!

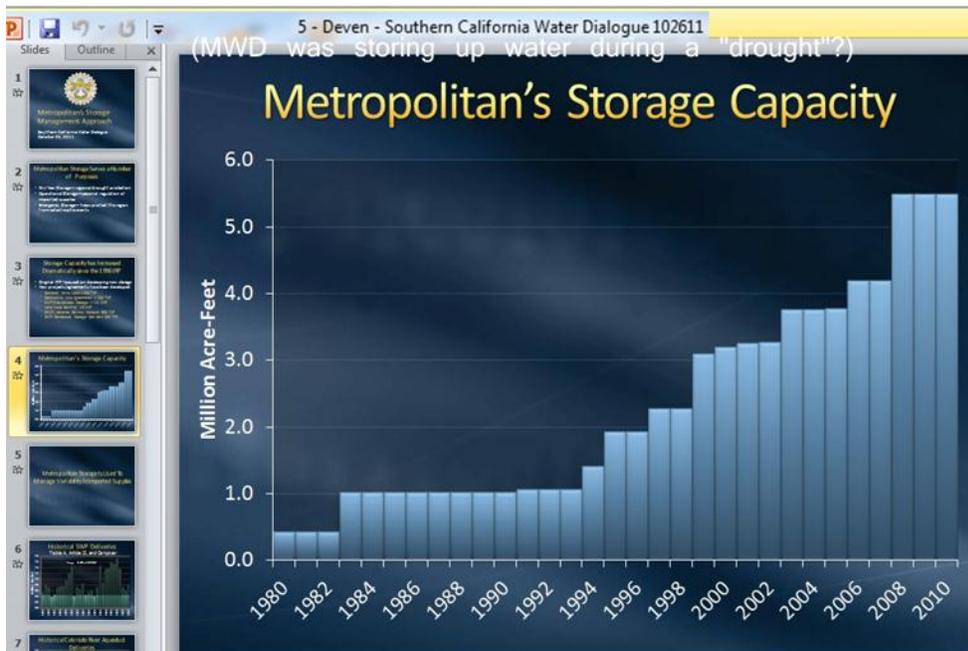
The spreading problem of invasive aquatic species in the Delta may be one of the major factors limiting the effectiveness of the proposed channel shelf berms or projects because the submerged area intended to be a refuge for smaller fish will instead be infested with aquatic weeds, thereby limiting access to the small fish. Most locals say the egeria densa along the banks of Steamboat Slough and the Sacramento River, in the Meadows area, on Snodgrass Slough and along smaller tributaries of the San Joaquin River, and in Franks Tract (until treated) is the worst condition or infestation in anyone's memory. The increase in Egeria densa seems to coincide with the increase in exports to other areas of California. Perhaps its time to add 10% to the cost of the exported water to pay for Delta waterway clearing programs

that will be needed due to the extra exports?

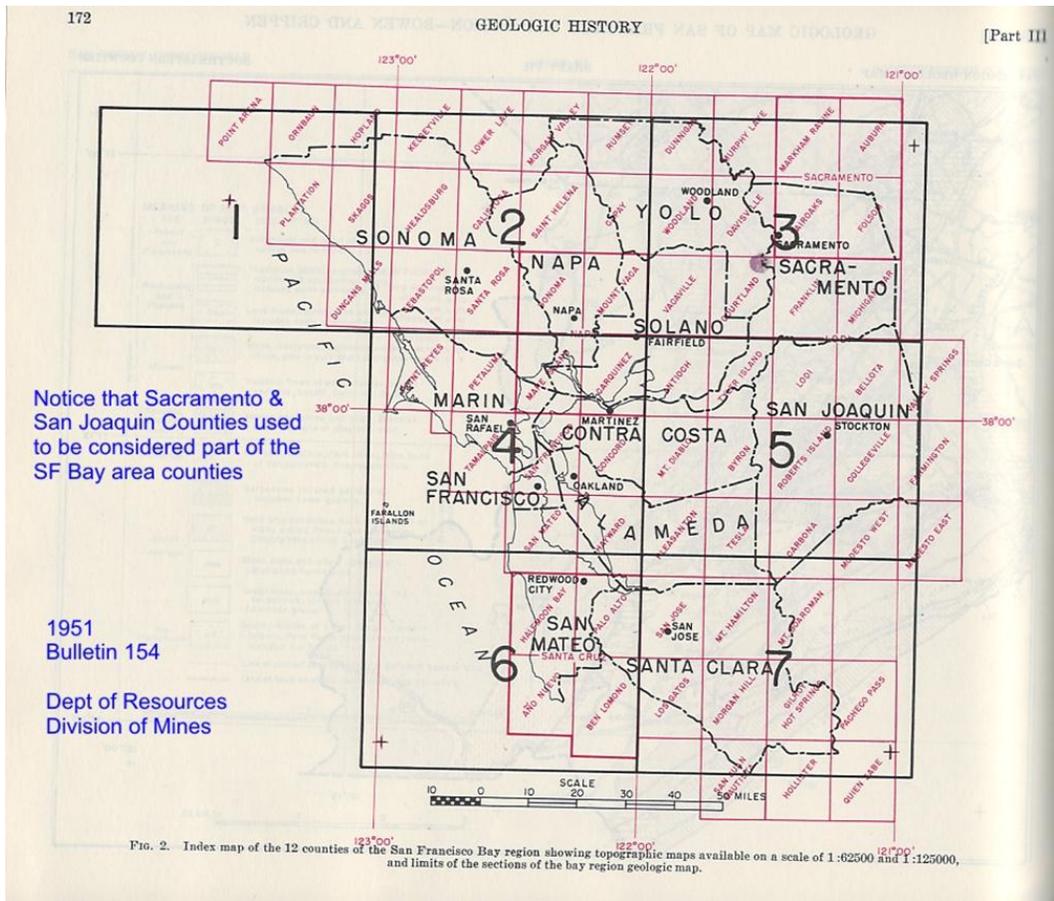
DRAFT http://www.bdcpcweb.com/Libraries/Whats_in_Plan/figures/Chtp_2_figs/2-23_DeltaAquaticCommunitySchematic.pdf



During a “drought” period MWD was able to store up extra water at the same time as invasive aquatic species grew substantially, and fish populations declined dramatically. Has the BDCP addressed this connection?



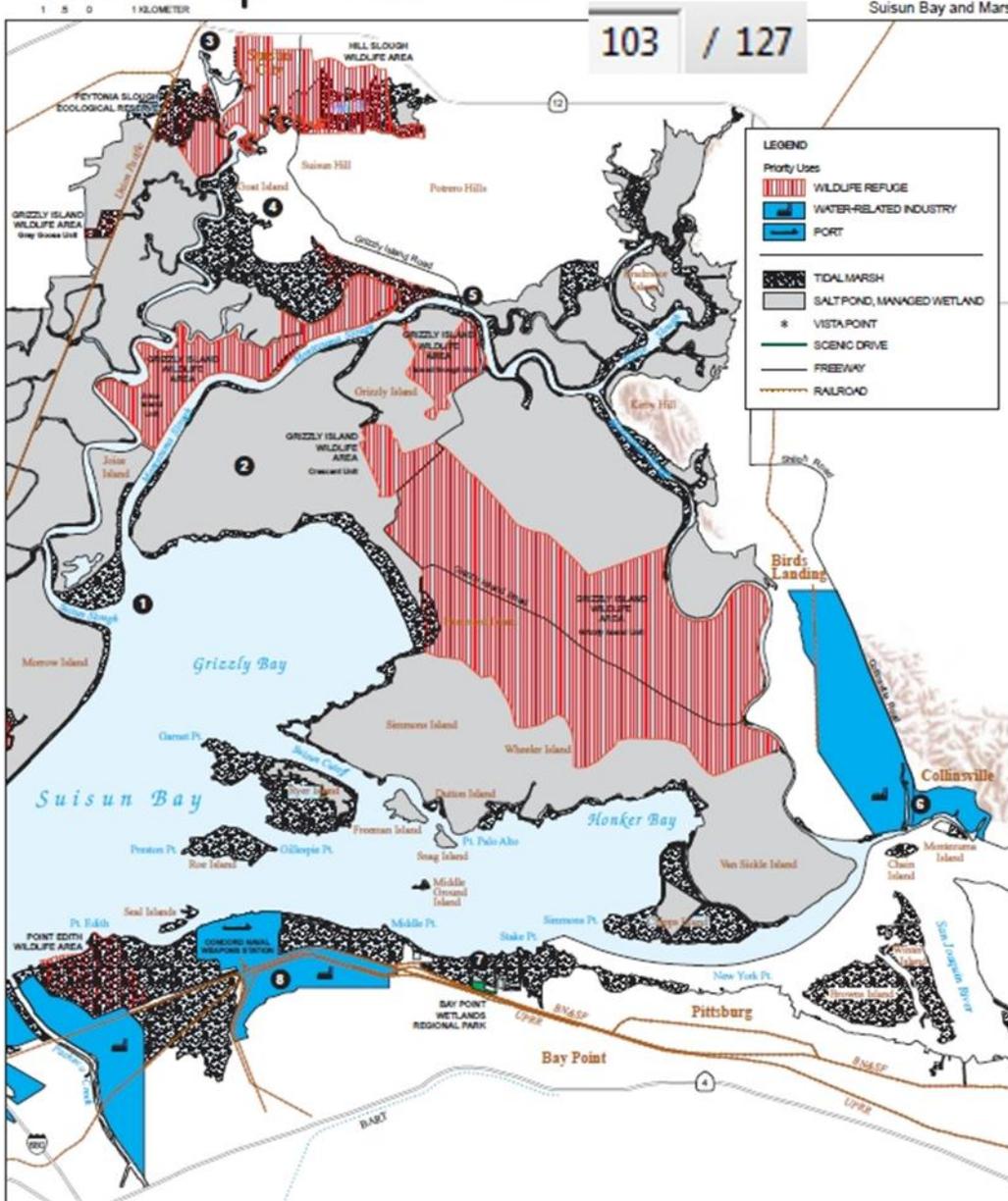
10. Revising the legal Delta Region to include the Suisun Marsh area: The Suisun Marsh area has been the subject of planning and restoration through two SF Bay Area organizations, the BCDC⁴ and the SF Estuary Project⁵. Until a few years ago, the Suisun Marsh was never listed as part of the Delta region, and it was not legislatively included in the legal Delta region when the region was defined and approved. To make changes now by adding the Suisun Marsh to the Delta appears to be an intentional creation of confusion and conflict for an unknown long term purpose. If approved in the Delta Plan, there will be overlap and duplication or conflict of planning between the BCDC, SF Estuary Project, and the BDCP and Delta Plan. There is no stated logical purpose to include the Suisun Marsh area as part of the Delta at this time and inclusion will lead to conflicts and confusion, unless an unstated long range goal is to combine the planning, operations and control of all 12 counties of the historic SF Bay area into one single jurisdiction? I.E. combine the BCDC and BDCP and DSC jurisdictions and plans like for the Joint aquatic Resources Permit⁶?



⁴ <http://www.sfbayjv.org/pdfs/SFBJV%20Restoration%20Meeting%20NotesOct%204.2010.pdf>

⁵ <http://www.sfestuary.org/pages/home.php> and <http://www.sfestuary.org/StateofSFBay2011/>

⁶ <http://www.sfestuary.com/projects/detail2.php?projectID=17>



11. Discrimination: The entire Delta Plan as written discriminates between one class of persons for the benefit of another class of persons. If one of the coequal goals is to assure a reliable drinking water supply, that goal should be achieved equally within the Delta watershed as without. If 15,000 cfs is diverted from the Sacramento River before reaching the North Delta area, the result will be provision of fresh water to non-Delta residents at the expense and detriment of in-Delta residents, who hold original water rights. The Delta Plan does not state a valid public policy that demonstrates a public good need to take discriminatory action against one class of senior water and land rights holders in favor of less senior rights holders located in non-Delta areas of the state.

12. Delta Transportation and Access (Section 19 of Delta Plan):

Section 19 reviews major roads of the Delta, but is *silent* regarding impacts to the more minor roads, and long term impacts to Delta through flow of traffic. In addition, on the map the locations of ferrys are noted, but there is no full written description of the long term plans for those ferry routes. **The Delta Plan should provide a very detailed and complete map of ALL Delta roads, ferrys, bridges and other access ways.** Please see Attachment C⁷ for a comparison of the Delta Plan map to previous DWR/DPC road maps. In addition, to preserve the Delta's historical character, the Islands should be named on the maps, based on island names that were common in the 1990's. The Delta is not just a few small historic towns linked along State Route 160; there are beautiful antebellum homes along many of the levees of the other roads and islands of the North Delta, and historic buildings like old school houses on some islands. The Transportation Plan for the revised Delta should include several different bike and hike trails connected to the Bay and Delta Trails also in the planning stages.

If the conveyance and restoration elements proposed are completed, the result will be elimination of some islands and roadways of the Delta. Elimination of islands and roadways will potentially have a negative impact on transportation and access, which in turn will have a residual negative impact on recreation and overall income from agriculture and recreation due to the increased cost associated with driving further distances around inaccessible areas. Navigation is a valid and historic⁸ form of transportation in the Delta and Bay Area, and actions taken under the Delta Plan have the potential to severely limit both navigation and road travel in the Delta not just during construction time but also thereafter. For example, permanent closure or blockage of the Delta Cross Channel gates will limit boater navigation between the Sacramento River and Mokelumne River, which was possible prior when California first became a state and is still possible when the DCC gates are open and its low tide.

Continued navigation on all historical waterways of the Delta should be protected, and use of county and levee roads that have been open to the public should also be protected. In addition, as a mitigation measure, the Delta Plan should direct and fund the placement of permanent road signs at all Delta major road intersections, with the sign including the road names, not just the fact that the traveler has entered the Delta. Large junction signs with solar lighting should also be placed in higher traffic areas of the delta and at the road entrance to each public accessible island of the Delta. At a minimum, the sign(s) should include the name(s) of the roadways at the junction as well as the island being approached or entered. Direction arrows pointing to logical destinations on a specific island or areas would be helpful to travelers as well. DWR should also encourage the repair or replacement of the Real McCoy Ferry, that has not been operating since September 2012, which has caused substantial transportation hardship for North Delta residents who regularly used the ferry. And please note that contrary to the Delta Plan statements, CalTras online data indicated the former Real McCoy Ferry carried 400 or more vehicles per day on average and up to 700 on week ends, per CALTRANS online reporting⁹. The

⁷ <http://snugharbor.net/images2012/DELTAComments/ATTACHMENT-C.pdf>

⁸ <http://snugharbor.net/images2012/DELTAComments/ATTACHMENT-H.pdf> and

⁹ <http://snugharbor.net/images2012/DELTAComments/ATTACHMENT-N.pdf>

reduced numbers reflected in the Delta Plan are due to the fact the older ferry kept breaking down and the new ferry, which replaced the old ferry, breaks down even more!

13. Use of existing public lands within the Delta: The Delta Plan should clearly direct that Conveyance or Restoration projects must be planned and completed using only public lands first, and on nonprofit owned or managed lands, second, if public funding was used to purchase the nonprofit-owned land. For example. Public funds were reported to be used to purchase Staten Island, Liberty Island, McCormack/Williamson Tract, Prospect Island, most of Sherman Island, the Meadows and Stone Lakes area, to name a few. Therefore Staten Island and the other public-funded Delta land purchases should be the locations targeted for restoration or conveyance as determined by studies and planning, so long as such use does not negatively impact other private property uses within the Delta. In addition, restoration projects that could create the possibility of salinity encroachment above 1 ppt in the Delta should be prohibited due to the impact on prime privately-owned farm lands of the Delta, but it would be up to the scientists and Delta Plan or legislative authority to determine the long term public benefit use of converting *public lands* to brackish marshes or other uses.. **No privately-owned lands should be condemned for use in conveyance or restoration projects until all public land use has been exhausted, and additional land use becomes necessary.** In addition, if any private lands are sought through condemnation proceedings, the state can only utilize the property for the specific purpose stated, and the original property owners shall have the right to retain mineral rights for the lands claimed via eminent domain proceedings. Creation of this rule within the Delta Plan would help to assure landowners that the target of an eminent domain proceeding is truly for the stated purpose and not for an underlying purpose like capture of mineral rights that attach to the property unless stated otherwise.

14. "Use of Eminent Domain actions for lands needed for conveyance or restoration: The Delta Plan could establish a "Value added to others" measure of value for privately-owned lands targeted for eminent domain under the Delta Plan. In order to discourage planning for unnecessary take of private lands, the Delta Plan should state that compensation to private land owners should be no less than 250% of the highest established market value of the land. Highest value time period can range from 1998 to the time of an actual eminent domain process instigation by the responsible state agency. The "Value Added to Others" rule would apply to privately owned lands needed for conveyance, restoration and any buffer zones, if the buffer zone restricts use of the private lands. The higher valuation method is proposed to recognize and help compensate the families who will lose family homesteads and lands that have been family-owned for many generations, a special class of ownership that carries sentimental value as well as economic value. In any case, land owners shall retain the mineral rights if such existed with the property, as is the case with many Delta properties that remain in the same family for many generations. Other alternatives to consider when privately-owned lands are needed for conveyance or restoration, could include the offer to "trade" lands of like kind and use, and would necessarily include the requirement that family homes and historic or sentimental structures would be moved to new "trade" site, with all expenses covered by the state or implementing agencies. Legislative changes to tax laws would be requested by the DSC such that

there would be no tax impact to Delta private land owners who agree to the “trade” of lands instead of undergoing eminent domain process, even if the net result is a benefit of newer or better housing and lands for the displaced Delta land owner.

15.Preserve Delta History: Delta history has been revised several times in last few years, with important facts omitted. For example, the first section of the Delta Plan fails to recognize that the state SOLD the lands of the Delta specifically to be reclaimed to be used for irrigation. Another example is the lack of historic details that PGE and its related power companies over the years have played in the development of dams that prohibit water flow into the Delta, and the impacts of PGE actions on the Delta, including the use of McDonald Island for natural gas underground storage, and the possible impacts of additional withdrawal of natural gas which can cause further subsidence of Central Delta islands. The Delta Plan should direct that a detailed summary of Delta history be compiled by DPC or a consultant, to be reviewed and approved by delta area land owners, validated with corroborative independent maps and publications, and then published, and all subsequent reports that refer to the Delta will be required to use the verified Delta History and refer to the document. Note that I have a collection of incorrect Delta maps and Delta data published by DRW, its consultants or scientists, and the state should make an effort to notify the publishers of incorrect data to make corrections. You might start with DWR and PPIC and those who still refer to the original DRMS Phase 1 Report published in 2008, containing false data regarding Delta Island flood history, Delta seismic risk, and Delta elevations in some areas, which was partially corrected in December 2009, but many writers even as late as December 2011 continue to use the incorrect data from the DRMS technical attachments.

16.Delta Recreation and Agriculture: Delta Plan Section 18

The Delta should be recognized on the state *travel* website as a uniquely- defined destination¹⁰ recreation and agriculture area of historical significance, and not just one part of the “Central Valley”. The Delta is the cornerstone of state’s water supply system, navigation history¹¹, prime farm lands and has maintained its rural charm. One of the best ways to promote the Delta recreation and agriculture is to *consistently* recognize the area in state literature and at public shows and displays. For example, the state display at the most recent fishing & boating show in Sacramento did not recognize the existence of the Delta at all-not even Brannan Island State Park! Instead, the focus of the DWR display was lakes located in other areas of the state, when the Delta Region starts within two miles of the boat show! Obviously the state says one thing, but does another when it comes to Delta recognition and promotion. Note that the map showing Delta marinas should be revised to differentiate between marinas, camping and RV, lodging, and the fishing/hunting clubs. In addition, the free guest docks provided by Delta communities, like the one at Walnut Grove, should be noted on the recreation map, so that the free docks will not be confused with the privately-owned marina

¹⁰ <http://www.youtube.com/watch?v=hLmpVV3bq9M> (<http://youtube.com> “Delta 101: Sacramento San Joaquin Delta Facts”

¹¹ http://snugharbor.net/historic_steamboat_slough.htm

docks that do charge for overnight or day use. See Attachment C for recreation map comparisons. The effort to designate the Delta as a National Heritage Area is still not clear on how it will help promote the Delta as a unique destination, and does not provide long term funding for promotion of the unique area, so as currently described it does not appear to be a benefit to the Delta recreation businesses.

17. Matters of silence: One cannot comment on important facts or considerations that are *not* in the Delta Plan but should be covered in the effect analysis. For examples: Why does the Delta Plan ignore the impact of subsidence due to extraction of natural gas below the Delta? Will drilling for oil in the Antioch area be allowed and how will this impact the area water quality? Why does the Delta Plan ignore the impact of the PGE-owned/managed dams north of the Delta which most likely contribute greatly to the loss of fish spawning areas and provide only enough energy for conveyance of water to Southern California? Why doesn't the Delta Plan acknowledge and list all the interim conveyance projects, flood control projects and restoration projects already underway or nearing completion which are basically pre-approved under the Delta Plan, and describe which of those current conveyance projects are included in the computer effects analysis and which are not, and why? Why does the Delta Plan ignore the fact that many of the farms held by the same families for many generations hold mineral rights to the property and the state probably wants to own those mineral rights, so there is the appearance that the planners have targeted Delta lands for "conveyance or restoration" if they have known oil and natural gas reserves below, so the state can validate eminent domain of those properties? Why doesn't the Delta Plan provide accurate elevation data for the targeted areas, when such data is available? Finally, why does the Delta Plan drafters (and BDCP, incorporated by reference) intentionally misrepresent the location of Steamboat Slough and the property owned by this commentor? (see attachment J¹²) What reasonable purpose does this serve?

In summary, the Delta Plan was determined many years ago¹³ before there was opportunity for meaningful input by the "stakeholders" who will be most negatively affected by the plan. In any case, at the meetings I attended, and the agency representatives I've met with, I have simply asked that the public be provided with the truth, that is verified facts about the Delta, not just the media hype. The final Delta Plan might be a good time to start correcting the false data disseminated by DWR and its allies over the last 8 or more years, wouldn't you say? Taking action to revise the Delta based on false data will certainly result in liability for those agencies and individuals who intentionally ignore the incorrect data.

Respectfully submitted

Nicole S. Suard, Esq.

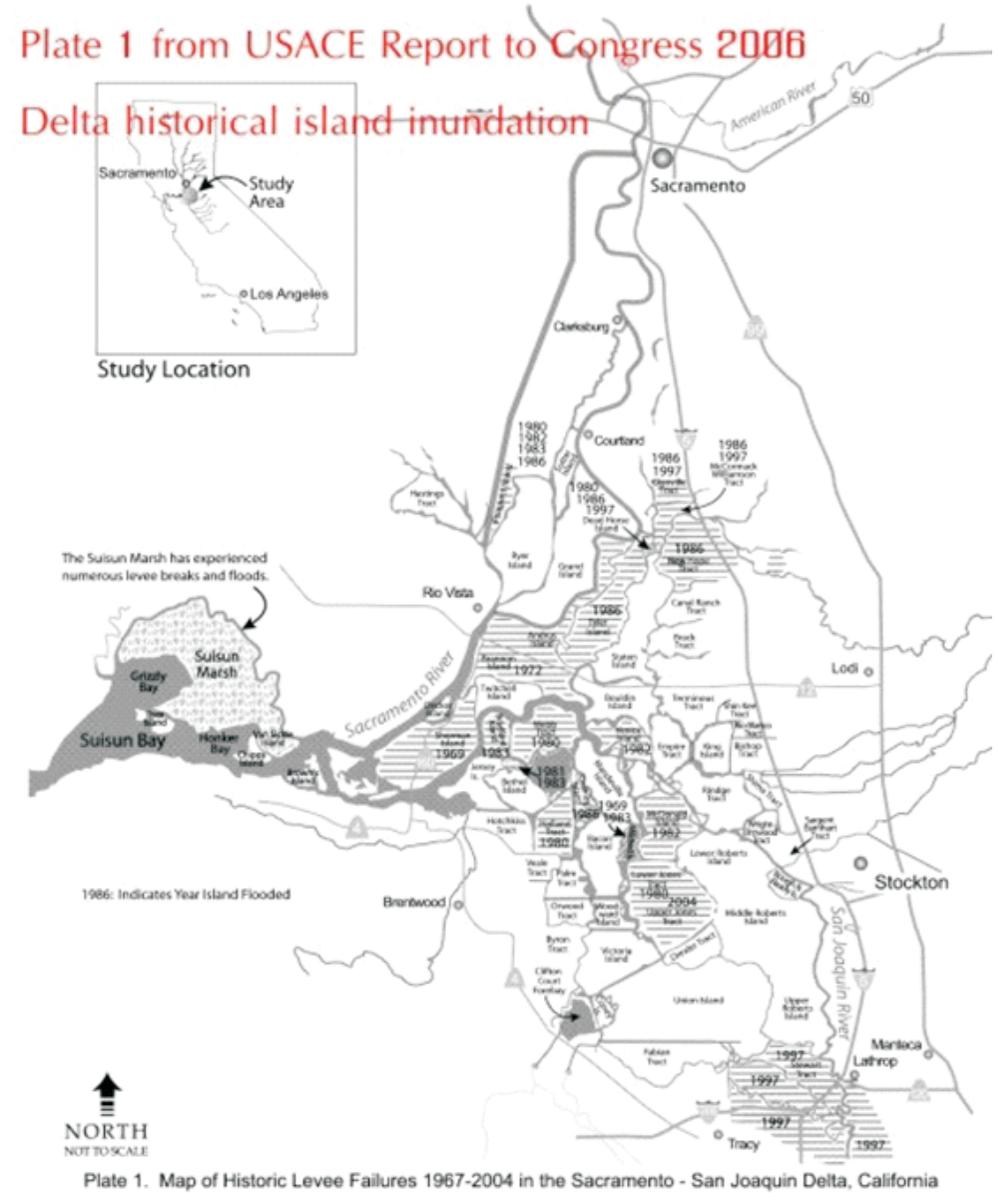
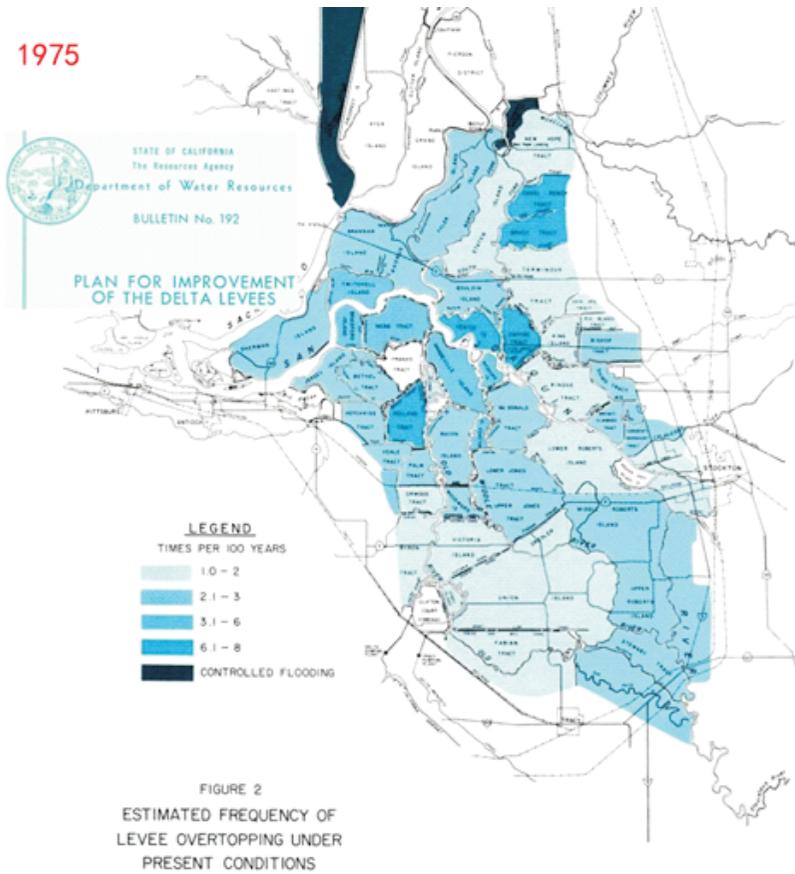
Nicole S. Suard, Managing Member, Snug Harbor Resorts, LLC

Incorporated by reference are all links and attachments.

¹² <http://snugharbor.net/images2012/DELTACOMMENTS/ATTACHMENT-J.pdf>

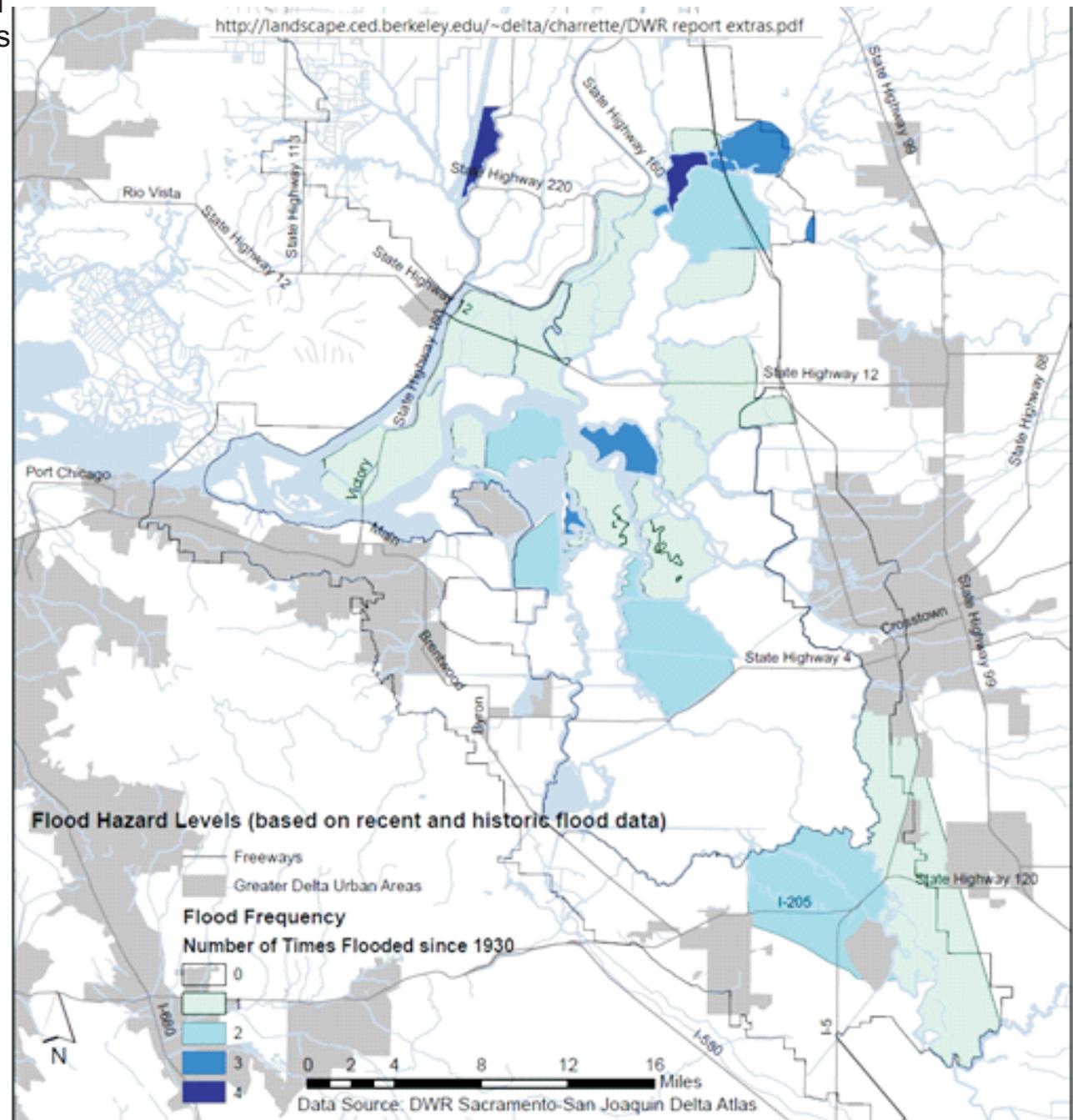
¹³ <http://snugharbor.net/images2012/DELTACOMMENTS/ATTACHMENT-J.pdf>

Prior to the DRMS Phase 1 Report, US Army Corps of Engineers and DWR would report Delta Flood history based on the periods of improvements, such as the DWR 1975 map from DWR's plan for levee improvements, and the USACOE ("USACE") map below from 2006 which reflects floods from 1967 through 2004:



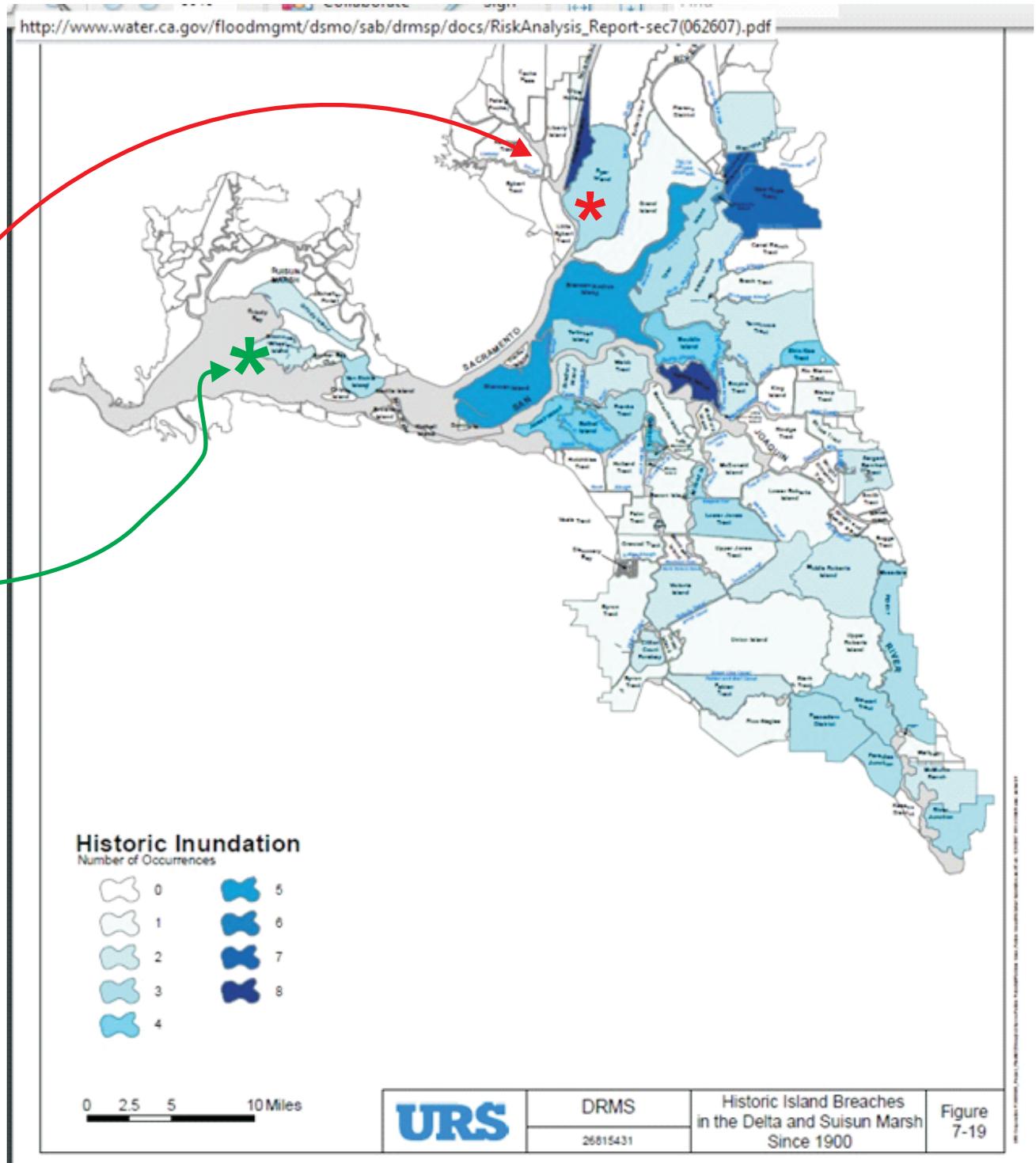
This 2006 map was produced using data provided by DWR, and it reflects flood incidents from 1930 to the present. Note that it includes the controlled flood areas of the McCormack/Williamson Tract(s) but the map key does not define between controlled or planned flood islands and accidental floods.

Note also that NO flood incidents are shown for Ryer Island, and the Jones Tract 2004 flood incident IS reflected in this map, even though the Jones Tract 2004 incident was part of the field studies for the CALFED In-Delta water storage studies.



This is a screen print of the 2007 DWR map found in the DRMS Phase 1 report, which reflects the technical data distributed to PPIC, UC Professors, legislative offices and FEMA, which clearly shows two important facts:

1. Ryer Island * is listed as having 3 floods for the time period, which is false. (There were 1-2 floods before the levees were improved after 1909); and
2. Ryer Island * located in the Suisun Marsh area, which has been the subject of restoration proposals by this same URS corporation, is NOT shown on the map for some strange reason.



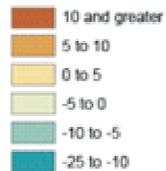
This is a screen print of an interactive map that was still available online from DFG as of December 2011. DFG was provided different flood data by DWR in 2007, indicating the larger Ryer Island had 2 floods from 1900 to 2000, which is different than what the DWR/DRMS technical data reported the same year. Note, also that the smaller Ryer Island located in the Suisun Marsh area is missing on this map.

ELEVATION, HISTORIC INUNDATION, and PROJECTED SUBSIDENCE

The three physiographic layers are visible by clicking each on/off under the PDF document's 'Layers' tab. Only one of the physiographic layers is visible at a time.

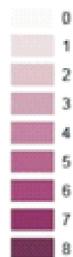
Elevation

NAVD88, in feet



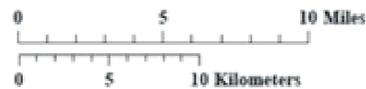
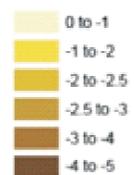
Historic Inundation

Number of events, 1900 to present



Projected Subsidence

Change in feet for the periods 1998-2050 (Delta) and 2006-2050 (Suisun Marsh)



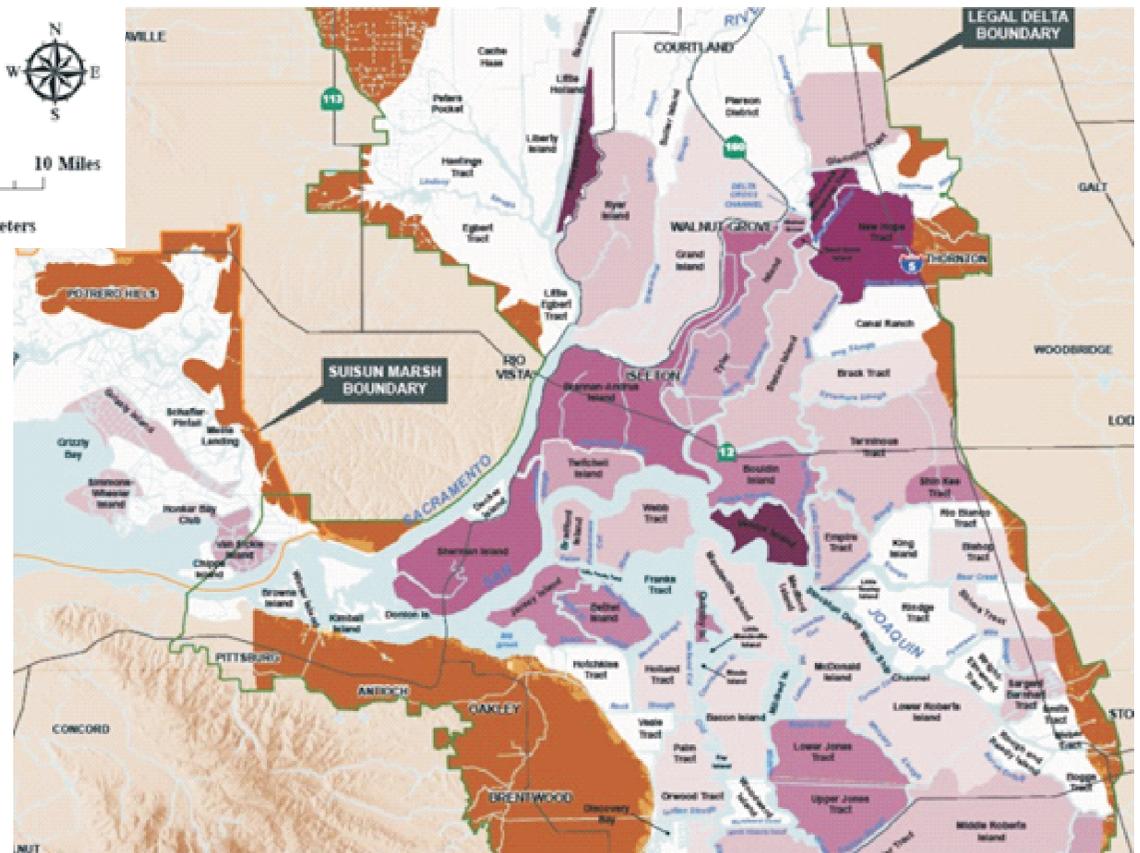
Historic Inundation

Info: Historic inundation of islands in the Delta region 1900 - Present

Source: URS Corporation 2006. Island inundation data provided by Joel Dudas of DWR to URS Corp (12 Jun 2006).

Date: 02/2007

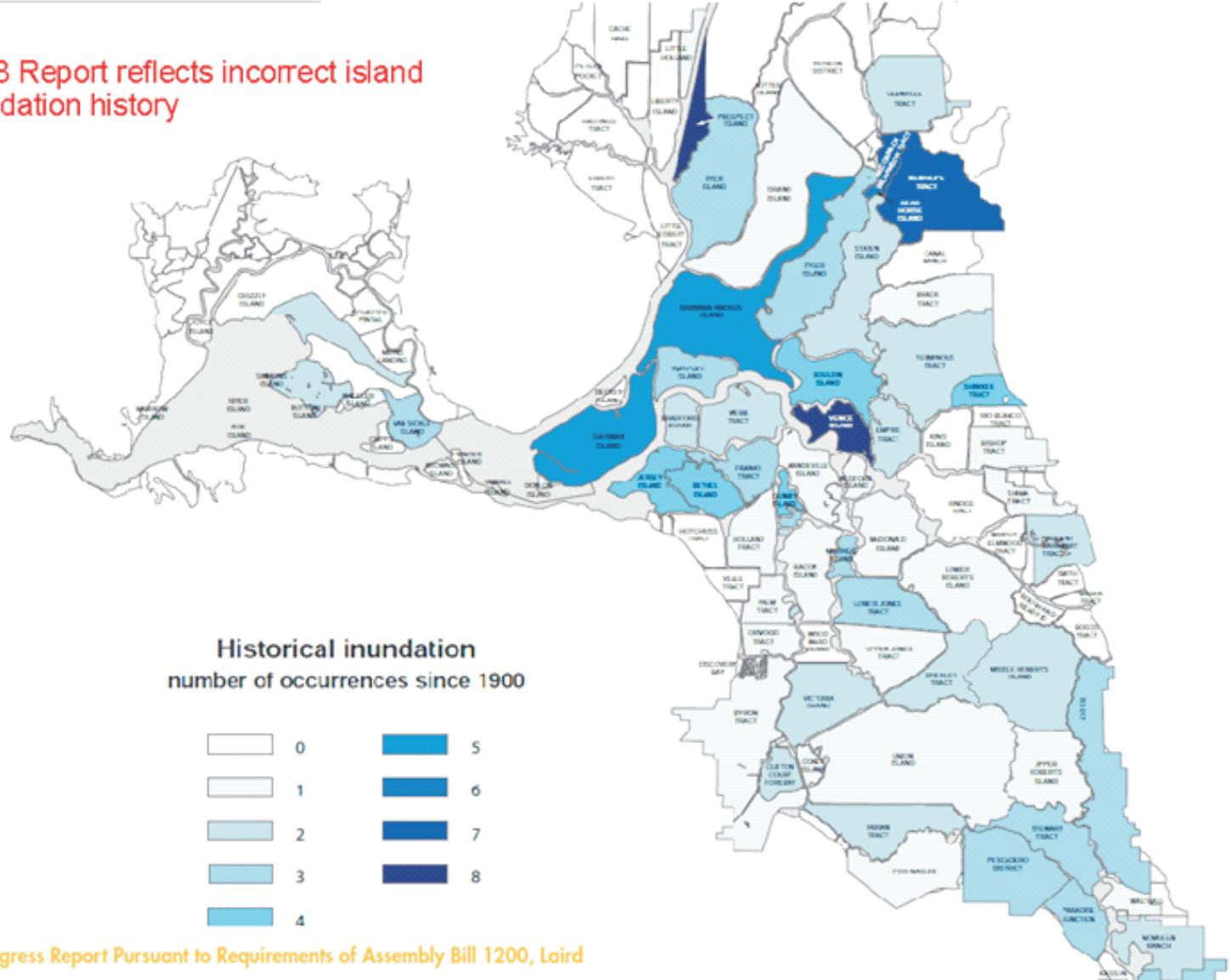
Contact: Sarah Lewis, URS Corporation
sarah_lewis@urscorp.com



This is a screen print of one of the MANY reports still found online that reflect the false Ryer Island data, upon which scientists relied upon to compile studies and reports, and upon which any decisions regarding Ryer Island have been made. One would think the larger Ryer Island was being targeted for some plan, but inflated and false flood risk was deemed necessary to validate the targeted plan! In the meantime, the Delta Plan uses data developed in the DRMS Phase 1 report, which is clearly incorrect.

http://swrcb2.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/strategic_plan/comments/080319_strwp_dwr_ab1200report.pdf

2008 Report reflects incorrect island inundation history



A Progress Report Pursuant to Requirements of Assembly Bill 1200, Laird