



Municipal Services Agency

Department of Water Resources

Keith DeVore, Director

Steven C. Szalay,
Interim County Executive

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County of Sacramento

July 1, 2010

Joe Grindstaff, Interim Executive Officer
Delta Stewardship Council
650 Capitol Avenue 5th Floor
Sacramento, CA 95814

Re: Comments on the Delta Stewardship Council's Initial draft of the Interim Delta Plan

Dear Mr. Grindstaff and Honorable Council Members:

This first draft of the Interim Plan (IP) does a laudable job in describing and outlining the key statutory governance and policy plan requirements set forth in the 2009 Delta legislative package. As a suggestion, the initial reference to SB7X 1 on page 2 should also include its statutory citation, chapter 5, "7th Extraordinary Session of the Statutes of 2009." However, the interim plan should not merely repeat statute, it should contain substantive policy and performance standards that will act as a short-term implementation toolbox to guide water and land use management decisions over the next 16 months.

It is noted that many of the IP's goals and principles mirror those found in the Delta Vision Strategic Plan (i.e., chapter III, "Policy Objectives" and chapter IV, "Interim Implementation Framework"). As you know, the Delta Stewardship Council (DSC) received numerous pre-plan comments (and public testimony) that strongly encouraged the use of other existing Delta-related policy documents in creating the IP's baseline policy statements and procedures. Further, as stated in the current draft, the IP is not a regulation and is only intended to guide the Council's actions (Introduction, page 2) until the Delta Plan is adopted in January 2012. This acknowledgment provides the flexibility for the DSC to take a more holistic and broad-based approach in its development of reasonable and implementable policy "guidelines" to govern over the short term. As a result, rather than developing a set of guidelines that focus solely on Delta Vision's objectives, Sacramento County recommends that the DSC consider and include existing policies and actions found in the Delta Protection Commission's recently revised Resource Management Plan (RMP), adopted on February 25, 2010. In doing so, the IP would include a hybrid set of land use and water management "guidelines" distilled from both plans, with an emphasis on land use authority and water rights protections.

Interestingly, this approach would not be precedent-setting. The governance provisions of the legislative package (e.g., SB 457 (Wolk), SB 12 (Simitian), and SB 68 (Steinberg), which

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Joe Grindstaff, Interim Executive Officer
July 1, 2010
Page 2

ultimately morphed into SB 7X 1) clearly illustrate an intent to rely on a combination of existing plans/policies to act as the interim plan or policy guidelines for the Delta.

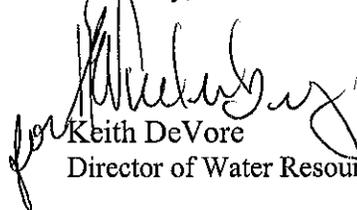
Lastly, Sacramento County suggests the drafting of the IP provides an opportunity to clarify specifically what types of projects would be subject to the "covered actions" provisions cited in Water Code (WC) sections 85057.5 and 85225. For example, policy/commitment statement No.1, listed at the bottom of page 22 of the draft, states:

No state or local agency should undertake or approve a project that is potentially a covered action enumerated in SB7X 1.

The numerous project-type and geographic exceptions cited in WC section 85057.5(b), particularly with respect to compliance with the sustainable community strategies pursuant to SB 375 (Steinberg, chapter 728, Statutes of 2008), in concert with the undefined references to Public Resources Code section 21065 could make future statutory interpretation and implementation difficult and confusing. Therefore, in the name of providing greater certainty and transparency, the DSC should take this opportunity to develop an interim policy statement that clearly describes and defines those projects (i.e., cover actions) that would be subject to Council oversight and review.

In closing, Sacramento County has consistently stated and advocated that sound, reasonable, and collaborative-based policies are critical in order for the DSC to effectively manage and administer the Delta and its related resources. The County appreciates the opportunity to share our comments on the first draft of the IP and remains committed to staying engaged as subsequent draft plans are released for comment and input. Should you have any questions regarding our initial comments, please contact Don Thomas, Senior Planner, at (916) 874-5140.

Sincerely,


Keith DeVore
Director of Water Resources

KD/dt:sa