



Municipal Services Agency

Department of Water Resources
Keith DeVore, Director

Steven C. Szalay,
Interim County Executive

Paul J. Hahn, Administrator

County of Sacramento

August 3, 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 Draft #2 of the Interim Delta Plan

Dear Mr. Grindstaff and Honorable Council Members:

Thank you for the opportunity to comment on the Delta Stewardship Council's (DSC) Draft # 2 of the Interim Delta Plan. Sacramento County commends DSC staff for the improved format and expanded content incorporated into the second draft of the Interim Plan (IP). These revisions provide greater clarity and certainty as to how the DSC will implement certain policies and guidelines to protect and to enhance the unique resources in the Delta until the Delta Plan is adopted in January 2012. In accordance with the DSC's letter of July 19, 2010, Sacramento County's recommendations focus on those actions that can effectively address issues regarding water supply, water rights protections, and local land use approval and appeals authority.

Water Supply and Water Rights Protections: The draft IP contains numerous references to the statutory requirements resulting from the 2009 Delta Reform Act related to "reducing reliance on the Delta in meeting California's water supply need" (pgs 4, 8, 21, 50, 76 and 79). As an example:

"The Act establishes new policies – including reduced reliance on the Delta in meeting California's future water supply needs in the future through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency – and also affirms that the "longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta" (Water Code Section 85023). (page 4).

However, the draft plan still does not adequately describe specific guidelines and actions (with near-term implementation timelines and the requisite fiscal analysis) that will result in large-scale water supply reductions and protect water rights priorities. Therefore, Sacramento County strongly recommends that one of the IP's top-tier "early actions" should specially address how

"Managing Tomorrow's Water Today"

reliance on the Delta as source of water for municipal and agricultural purposes will be reduced in both the near- and long-term. Sacramento County has previously gone on record citing the importance of developing realistic and comprehensive policies that set the framework for providing a long-term and reliable water supply in the Delta and protect water rights and areas of origin. See the County's 2008 comment letters prepared in connection with drafting of the Delta Vision Strategic Plan (attached).

Land Use Authority: As indicated in our July 1, 2010 comment letter on Draft #1, Sacramento County remains concerned that the consistency findings requirement for "covered actions" (Water Code (WC) sections 85057.5 and 85225) will have significant ramifications on the local land use decision-making process. The "covered actions" definition (WC section 85057.5) cites Public Resources Code (PRC) section 21065, which, in turn, defines "a project" as:

[A]n activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- a) An activity directly undertaken by any public agency.
- b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies."

Based on the above statute, local land use projects meeting the "covered action" definition would essentially be subject to oversight by the DSC (via the consistency findings requirement). This is especially troubling to Sacramento County. Land use policy and regulation in California, with a few exceptions (e.g., Coastal Zone requirements), have long been under the exclusive purview of local governments. In accordance with the 1992 Delta Protection Act, land use review and appeal authority currently rests with Delta Protection Commission (DPC) (PRC section 29770). Establishing yet another policy and/or regulatory review layer creates an unnecessary development constraint and usurps existing local agency authority. Therefore, to provide greater transparency and certainty, Sacramento County recommends the IP's "early actions" refine and define the land use review process and specifically list which types of discretionary land use entitlements and water management projects (private and public) will be subject to the DSC's consistency findings described in WC section 85225.

Sacramento County appreciates the opportunity to provide substantive input on Draft #2 of the Interim Plan. The County believes the Plan's policies and guidelines are critical to creating the framework and structure for long-term management of the Delta's unique resources. The County is committed to being a collaborative partner in all future land use and water policy development and looks forward to the release of Draft #3.

Joe Grindstaff, Interim Executive Officer
August 3, 2010
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Should you have any questions regarding our comments, please contact Don Thomas, Senior Planner, at (916) 874-5140.

Sincerely,



Keith DeVore
Director of Water Resources

KD/dt:sa

Attachments: Sacramento County Comments on 1st Draft
Sacramento County Comments on 3rd Draft
Sacramento County Comments on 4th Draft
Sacramento County Comments on 5th Draft

cc: Robert Ryan
Stuart Somach
Leslie McFadden
Pete Kutras
Don Thomas

Municipal Services Agency
Paul Hahn
Agency Administrator



County Executive
Terry Schutten

County of Sacramento

August 13, 2008

The Honorable Phillip Isenberg
Chair, Delta Vision Blue Ribbon Task Force
428 J Street, Suite 440
Sacramento, CA 95814

Re: The Position of the County of Sacramento on the Delta Vision and Strategic Plan

Dear Mr. Isenberg:

The County of Sacramento has not, to date, directly commented on either the Delta Vision or the various drafts of the so-called "Delta Vision Strategic Plan" (most recent draft dated July 11, 2008, hereinafter referred to as "Strategic Plan").¹ Nor has Sacramento County been contacted by the "Blue Ribbon Task Force" or any of its staff regarding the critical Sacramento County governmental functions that may be adversely affected by the Delta Vision. This omission, which is of great concern to Sacramento County, should be corrected prior to the Blue Ribbon Task Force Delta Vision proceeding with or finalizing its work. In addition, and related to this point, the following positions must be addressed by the Blue Ribbon Task Force:

1. The Delta Vision Recommendations Must Be Modified to Better Address the Interests of Those Who Work and Reside in the Delta and within the Sacramento Valley

> Governance

There is no question that the Delta is of critical statewide importance. Nonetheless, this fact should not be utilized as a means to ignore local governments and their needs to act for the welfare of their citizens. Nor should the importance of the Delta be used to create a governance in which County and local governmental oversight and control are ignored. The Blue Ribbon Task Force itself is devoid of this type of essential membership. The proposals in the Delta Vision and in the Strategic Plan fail to acknowledge County and other local agency governance.

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Comments, relevant to Sacramento County's interests and concerns, have been provided by the Sacramento Regional County Sanitation District, dated July 1, 2008, and August 1, 2008. These letters are attached hereto.

In this regard, the Delta Vision Recommendation No. 10 is of great concern. It not only recommends modification of Delta boundaries, but also a change in Delta governance systems. While citing a rationale of environmental protections, the recommendation is driven by the need for an improved water supply for areas in the San Joaquin Valley and in Southern California. After all, ignoring local land use and governments for the purposes of exporting water away from areas of origin is not a new concept. However, there is no need to repeat historic errors.

As a first step in addressing these concerns, the two so-called co-equal values of Delta ecosystem protection and a reliable water supply for California, i.e., "South of Delta California," articulated in Recommendation No. 1, must be modified to provide, either as a condition of moving forward with the "two co-equal values," or as a third equal value, the following:

In meeting the goals of ecosystem protections and a reliable water supply for areas of California that are south of the Delta, counties and areas of origin assurances, protections and priorities to water will be honored and adhered to. Programs or facilities implemented or constructed in the Delta will be subject to Delta counties and other local governance, and will not result in significant adverse environmental, economic or social impacts to Delta counties or the watersheds of origin of Delta waters.

The concepts articulated in the Strategic Plan are of equal concern to Sacramento County and other local governments. These concepts also focus on improved water delivery through or around the Delta. To this end, it is proposed that the roles of Sacramento County, other Delta counties and other local governments be replaced by a strengthened Delta Protection Commission "to govern land use" in the Delta. Also proposed are the development of "Councils," "Commissions," "Boards" and a "Conservancy." If accomplished, this proposal would supplant County and local governments, and create a State non-elected authority governing questions that have historically been matters of County and local governmental concern and control. Indeed, other than an apparent role in the Conservancy, and an indirect seat on the Delta Protection Commission ("DPC"), the role of the County of Sacramento in the Delta is virtually ignored.

Consistent with the manner in which County and local governments within the Delta are dealt with in Recommendation Nos. 1 and 10, Recommendation Nos. 5 and 7 appear to be a means to ignore water rights priorities and watersheds of origin protections for the benefit of Delta exporters. Sacramento County believes in the importance of providing reliable water supplies to areas of California south of the Delta. However, those areas developed predicated upon promises, borne out of the experience of Inyo and Mono Counties, that the export of water would be subject to the then existing and future needs of those within the counties and areas of origin, and that those prior rights to water would be honored. The Blue Ribbon Task Force attempts to re-write these protections so that the diversion of water upstream and within the Delta become subservient to meeting the "two co-equal goals," including the export of water south of the Delta. Recommendation Nos. 5 and 7 and their implementation within the Strategic Plan must be modified to fully honor and protect these senior water rights.

> Flood Control and Land Use

As noted, it is undisputed that the Delta is a unique and valued area. The Delta Vision concedes that the Delta is a place of natural beauty, with historic towns, productive farming and close-knit communities. It then ignores those local communities. Decisions with respect to levees and other means of flood protection must not be based upon meeting the limited "two co-equal goals" alone, but must also be based upon concepts that seek to protect the existing economies and communities within Sacramento County and the rest of the Delta. In this regard, Recommendation No. 9 must be revised to include these regional interests.

> Water Quality

A great deal of time has been spent recently on unsubstantiated speculation with respect to alleged impacts of the operation of the Sacramento Regional Wastewater Treatment Plant. These substantive issues have been addressed in the attachments hereto. Nonetheless, and as a matter of policy, focusing statewide resources, including billions of dollars in Bond funds, to meet water supply needs in south of the Delta, but at the same time requiring that the Sacramento Region alone bear the substantial costs of proposed infrastructure modifications to its wastewater treatment facilities to enable enhanced water exports, as is suggested in the Delta Vision is unacceptable. The interests of Sacramento County and the Delta should not be dealt with as being secondary to the interests of other areas of the State. At a minimum, if there is a statewide interest in modifying the Sacramento Regional Wastewater Treatment Plant, then State funds must be provided to pay for these modifications.

2. The Delta Vision Strategic Plan Action Items Need to Incorporate and Defer to County and Local Governmental Decision Making

At core, the Delta Vision recommendations and the draft Strategic Plan adopt a position avoiding County and local elected governmental structures in favor of appointed "Boards," "Councils," "Commissions," "Teams," a "Conservancy" and other similar bodies.

In this regard, the Blue Ribbon Task Force should explain the following:

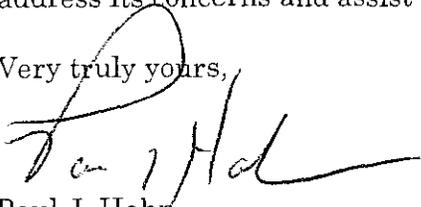
- How would a "small body ... appointed by the Governor" (as the so-called California Delta Ecosystem and Water Council is described in the Strategic Plan (Action 1.1)) provide better governance for those who live and work in the Delta than elected County and local officials?
- How would this body be best positioned to control funds allocated to the Delta and to guide the other new, also non-elected, governmental bodies proposed in the Delta vision and Strategic Plan?
- Why is there no provision, at all, formal or ex officio, for County or other local governmental participation in this small body?
- Why should the appellate function of the DPC be moved to this appointed, small body?

- Why should the actions of the proposed Conservancy be answerable to the new small body instead of the elected governments within the Delta? How will the actions of the Conservancy be controlled to insure that local land use planning and decision making are not ignored or impaired?
- Why the efforts associated with a Delta Science Program and adaptive management can't be implemented consistent with elected government as opposed to the non-elected "Council" and "Board" governance that is proposed in the Delta Vision?
- The California Delta Ecosystem and Water Plan must recognize and honor senior water rights and the rights of those within the counties and areas of origin. The Blue Ribbon Task Force and Strategic Plan must make specific commitments in this regard, including commitments that the application of the public trust and the reasonable use doctrines will not be used as a means to reallocate water to the detriment of those with senior water rights or those within the areas of origin.
- How will the Delta Vision and Strategic Plan insure that the County of Sacramento and other local jurisdictions will not assume the financial burdens associated with Delta ecosystem restoration and water supply reliability?
- How will the Delta Vision and the Strategic Plan insure that the Delta is maintained as more than just an environmental preserve or a means to convey water to Southern California?
- How will the restoration proposals be undertaken to preserve local agriculture and communities in Sacramento County including providing adequate flood protection?
- How will the restoration activities, including the purchase of lands within the Delta, not turn into a means to send water and water rights secured for beneficial uses in Sacramento County to areas south of the Delta? What provisions are contemplated to insure that there are no lost tax revenues caused by the dedication of lands to environmental restoration?

3. Sacramento County Remains Willing to Assist the Blue Ribbon Task Force

Sacramento County is eager to receive your responses and comments with respect to the issues and concerns noted above. The Delta Vision and Strategic Plan have many concepts and proposals that, if properly implemented and not coupled with unacceptable mandates, would provide Statewide benefits as well as specific and meaningful benefits to the Delta. In this regard, Sacramento County is willing to work with the Blue Ribbon Task Force to address its concerns and assist in the development of a final plan that it can accept.

Very truly yours,



Paul J. Hahn
Agency Administrator

PJH:ds

Enclosures: July 1, 2008 and August 1, 2008 letters to Phil Isenberg, Chair,
Re: Comments on Staff Draft Delta Vision Strategic Plan

cc: Board of Supervisors, County of Sacramento
State and Federal Legislative Representatives
Terry Schutten, County Executive
Delta Vision Blue Ribbon Task Force

Municipal Services Agency
Paul Hahn
Agency Administrator



County Executive
Terry Schutten

County of Sacramento

September 3, 2008

Honorable Phillip Isenberg
Chair, Delta Vision Blue Ribbon Task Force
428 J Street, Suite 440
Sacramento, CA 95814

Re: Comments of the County of Sacramento on the third draft of the Delta Vision Strategic Plan

Dear Mr. Isenberg:

Thank you for allowing the County of Sacramento an opportunity to comment on the third draft of the "Delta Vision Strategic Plan (dated August 14, 2008). As one of the five Delta counties that will be most directly affected by the Plan, the County has a keen interest in this matter.

A copy of the County's comments is included with this letter. Sacramento County appreciates the Blue Ribbon Task Force's careful consideration of these comments. The County also looks forward to working with the Task Force to address the County's concerns and assist in the development of a final Plan the County can accept.

Should you have any questions about any of the issues raised in the County's comments, please do not hesitate to contact myself by phone at (916) 874-5889 or via email at hahnp@saccounty.net.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul J. Hahn". The signature is fluid and cursive.

Paul J. Hahn, Agency Administrator
PJH/sb/ds

Honorable Phillip Isenberg
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September 3, 2009

Attachments (2):

Sacramento County Comments on Delta Vision Strategic Plan – Third Staff Draft
submitted September 3, 2008

August 26, 2008 letter to Mike Chrisman, Secretary for the California Resources Agency
and Karen Scarborough, Chair of the Bay-Delta Conservation Plan Steering Committee in
regards to The Position of the County of Sacramento on the BDCP

Cc: Sacramento County Board of Supervisors
Terry Schutten, County Executive for Sacramento
State and Federal Legislative Representatives
Delta Vision Blue Ribbon Task Force
Delta Task Force
County Administrators for Alameda, Contra Costa, San Joaquin, Solano, and
Yolo County
City Manager of Sacramento
City Managers for Elk Grove and Galt

Municipal Services Agency
Paul Hahn
Agency Administrator



County Executive
Terry Schutten

County of Sacramento

September 30, 2008

Honorable Phillip Isenberg
Chair, Delta Vision Blue Ribbon Task Force
428 J Street, Suite 440
Sacramento, CA 95814

Re: Comments of the County of Sacramento on the Fourth Staff Draft of the Delta Vision Strategic Plan

Dear Mr. Isenberg:

Sacramento County has reviewed the fourth staff draft of the Delta Vision Strategic Plan. Sacramento County has commented on previous staff drafts of the Strategic Plan and will not repeat those specific comments here. Those comments, as well as the comments of the Sacramento Regional County Sanitation District ("SRCSD"), are fully incorporated herein.

Comments on Volume 1:

1. Pages 6, 24-27. Sacramento County disagrees with the Delta Vision's stated preference for an appointed body to govern the Delta. As the County has previously noted, elected representation on governing bodies that deal with traditional governance issues is the superior way to proceed. Those who live and work in the Delta (primary and secondary zones) should not be disenfranchised as is proposed by the Delta Vision. The last two checked items under the heading "Existing state agencies retain existing authorities" should be separated into items under a new heading captioned "Local jurisdictions retain existing authorities." We have provided further more specific comments with respect to governance below in our comments related to Strategy.
2. Pages 7-8. Sacramento County believes the modification in wording (as compared to prior drafts) regarding California's water rights laws. However, the reference to and focus on the public trust and reasonable use doctrines remains troubling. The Delta Vision must not disregard prior rights to water and must afford protections to those within the areas of origin. Expressly confirming water diverter's prior rights to water and adding protections to those within the area of origin will alleviate this concern.
3. Page 16. The reference to the "Delta as a place" recites something that those who work and live in the Delta understand very well. Added to that concept is that areas upstream of the Delta are also places that need to be protected. A test for the appropriateness of many of the Delta Vision strategies will be how well the Delta Vision

Philip Isenberg, Chair

Re: Comments of the County of Sacramento on the Fourth Staff Draft of the Delta Vision Strategic Plan

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protects the Delta and areas upstream of the Delta, as places. Co-equal goals of Delta ecosystem and water supply reliability do not adequately address this concern.

4. Page 18. The goal of revitalizing the Delta ecosystem and restoring habitats is laudable. The County recognizes the public benefits associated with these types of projects and supports the efforts of the Task Force to promote these goals. However, the County notes that the Delta ecosystem is extraordinarily complex; uninformed implementation of habitat restoration projects within the Delta may create unintended negative consequences. For example, projects that are intended to create additional wildlife habitat, restore wetlands, prevent or reverse subsidence, sequester carbon, or manage flood control risk all have the potential to increase environments that favor in-Delta processes that create methyl mercury and other non-conservative pollutants such as TOC. The County therefore urges the Task Force and the State to proceed cautiously in Delta habitat restoration efforts and to work cooperatively with knowledgeable affected local entities, such as the County. All projects, including habitat restoration projects, must be evaluated for impacts on water quality, and responsibility for the impacts of those projects must be equitably distributed within the context of regulatory requirements such as NPDES permits and TMDLs. NPDES permittees should not bear the burden of mitigating for water quality impacts caused by restoration projects. Rather, since these projects confer a statewide benefit, the State should assume the responsibility for mitigating their unintended and potentially negative consequences.

5. Page 20. Strategy 3.5 is to “achieve sufficient water quality improvements to meet drinking water, agriculture, and ecosystem long-term goals.” The fourth draft of the Strategic Plan indicates that “management of water quality is essential” and urges “source control efforts” for “some contaminants, such as mercury, agricultural pesticides, and urban runoff”. The County also recognizes the importance of water quality and urges the State and Federal governments to support broad source control methods that address pollutant sources that may not be effectively regulated or addressed by local agencies. The Extended Producer Responsibility policy adopted by the California Integrated Waste Management Board and the State's Green Chemistry Initiative are examples of such efforts.

The County is also concerned because it is not clear what activities are encompassed within the fourth draft's cryptic reference to “management of water quality.” The previous draft of the Strategic Plan contained many more specific provisions, some of which could be implemented as part of a strategy to “manage water quality.” For example, the third draft of the Strategic Plan suggested that the Central Valley Regional Water Quality Control Board should develop and implement Total Maximum Daily Load programs for areas upstream of the Delta “to reduce the loads of organic and inorganic mercury entering the Delta from tributary watersheds.” If mercury TMDLs are adopted for the Delta and its tributaries, those TMDLs should recognize and fairly allocate responsibility for in-Delta processes that increase methyl mercury loads. The TMDL designation process should be completed in a manner that addresses the watershed as a whole, utilizes public and private resources efficiently, and allocates equitably the responsibility for reducing mercury discharges.

Philip Isenberg, Chair

Re: Comments of the County of Sacramento on the Fourth Staff Draft of the Delta Vision Strategic Plan

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Concerning agricultural pesticides, the County notes that pesticides used by agriculture in California are already subject to an extensive regulatory regime. The registration process should not allow any pesticide uses that result in water quality impairments. When use of a pesticide is shown to impair a water body, it should trigger timely re-evaluation by the Department of Pesticide Regulation.

Comments on Volume 2¹:

1. Page 1. Sacramento County has previously commented on the inappropriateness of a focus that considers only co-equal goals of Delta ecosystem and reliable water supply. This is particularly true when one considers the governance principles that are advocated within the Delta Vision. We again recommend either a third equal goal or a condition on the implementation of the two co-equal goals that recognizes that all of California is not similarly situated and that activities implemented to advance or accomplish the two co-equal goals should not redirect substantial adverse impacts to those in the Delta or those who are upstream from the Delta.
2. Page 13. A consideration that should be specifically identified as “constraint criteria” is a recognition of the existing and future operations of the Freeport Regional Water Project as well as SRCSD facilities.
3. Page 35. It is unclear why the Strategic Plan advocates water transfers, but then qualifies that recommendation through ambiguous statements about the public trust doctrine and the California Constitution. The second sentence in sub-section “j” should be deleted or explained to eliminate ambiguities.
4. Page 44. Sacramento County does not support the modifications proposed to the Delta Protection Commission (“DPC”). Primary land use decisions should be left with local government and the DPC should not intrude on activities and decisions within the so-called “secondary zone.”
5. Page 52 and following. The Delta Vision takes all things “Delta” and lumps them together. Not all of the Delta Vision’s recommendations with respect to the California Delta Ecosystem and Water Plan (“CDEW”) are appropriately subject to governance by the proposed California Delta Ecosystem and Water Council (“Council”). Issues associated with local land use planning, infrastructure that is not “water” infrastructure, and public health and safety issues are better left to the locally elected governments to consider. As noted above, even the Delta Vision recognizes that certain agencies need to retain existing authorities. As also noted above, the Council should not be appointed and must include local elected representatives. Even the TRPA model cited by the Delta Vision, as a governance example, has six locally elected representatives among its 15-member Board. An appointed Council should not be granted the responsibility to determine consistency of

¹ References are to the non-redlined version of the Strategies.

Philip Isenberg, Chair

Re: Comments of the County of Sacramento on the Fourth Staff Draft of the Delta Vision Strategic Plan

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major local infrastructure with other Delta plans and it should not be given any authority outside of the Delta. To do otherwise would allow a Delta centric agency the power to intrude on matters that have little, if any, relation to its core focus. The recommendation (on page 64) that the Council hold the power to remedy inconsistent actions by local agencies in the Delta through the issuance of cease and desist orders and litigation should be eliminated from the Strategic Plan. The Council, if formed, can challenge local agency decision making through normal administrative processes.

6. Page 55. A Delta Conservancy should not be given land use authority that would intrude on local jurisdictions. Land acquisition by the Delta Conservancy should not be through eminent domain; any land acquisition should be revenue-neutral and only be allowed if it does not adversely affect revenues to local jurisdictions, including in-lieu taxes.

7. Page 56. The DPC should retain its current authority and not be given more. This recommendation combined with that with respect to the Council will effectively eliminate discretionary decision making of local jurisdictions within the Delta and curtail that decision making within the secondary zone.

8. Pages 57-58. A Delta Science and Engineering Board should develop methodology to insure that its work and recommendations are based upon "good science" and not on preferred policy goals. Its utility and effectiveness will depend on its retaining distance from advocacy groups, no matter what is being advocated.

9. Page 59 and following. A CDEW Plan should be compatible with programs that not only stem from the BDCP, assuming one is developed and implemented, but also other HCPs that may be relevant, including the South Sacramento County HCP.

10. Page 65. Financing should not be through fees on those who divert and use water above the Delta. To levy fees in this manner would be to redirect the costs of addressing Delta problems to those who did not create them. Moreover, there is neither statutory nor constitutional authority to levy such fees. The cost of mitigating for the impacts to the Delta caused by the export of water and the costs of providing improved means to export water should be borne by those exporters, not by those within the areas of origin.

Philip Isenberg, Chair

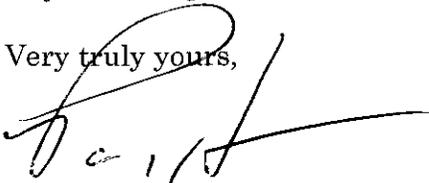
Re: Comments of the County of Sacramento on the Fourth Staff Draft of the Delta
Vision Strategic Plan

September 30, 2008

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Thank you for allowing the County of Sacramento the opportunity to comment on the fourth draft of the Strategic Plan. We hope that you will carefully consider these comments as you develop the final draft of the Strategic Plan.

Very truly yours,



Paul J. Hahn
Agency Administrator

PH:sb

cc: Sacramento County Board of Supervisors
Terry Schutten, County Executive
State and Federal Legislative Representatives
Delta Vision Blue Ribbon Task Force
Delta Task Force
County Administrators for Alameda, Contra Costa, San Joaquin, Solano, and
Yolo Counties
City Manager of Sacramento
City Managers of Elk Grove and Galt

Municipal Services Agency
Paul Hahn
Agency Administrator



County Executive
Terry Schutten

County of Sacramento

October 17, 2008

Honorable Phillip Isenberg
Chair, Delta Vision Blue Ribbon Task Force
428 J Street, Suite 440
Sacramento, CA 95814

Re: Comments of the County of Sacramento on the Delta Vision—Fifth Staff Draft of the Strategic Plan

Dear Mr. Isenberg:

Sacramento County has provided comments to prior staff drafts of the Delta Vision Strategic Plan. For the most part, those comments are also relevant to the current fifth draft. Rather than repeating what has previously been provided to you, we hereby fully incorporate by reference the comments made in our prior letters (of August 13, 2008; September 3, 2008; and September 30, 2008). In commenting on this draft and prior drafts of the Strategic Plan, Sacramento County has been guided by certain policy goals that it believes should be incorporated into the Delta Vision's recommendations and final Strategic Plan. These policy goals are summarized immediately below:

1. Actions associated with the Delta ecosystem and water supply reliability for areas south of the Delta must not redirect unmitigated adverse environmental, economic or social impacts to Sacramento County.
2. Actions and activities associated with the Delta must honor and adhere to water rights priorities and area-of-origin protections. Sacramento County opposes water user fees that would tax water users in the areas of origin for the cost of mitigation efforts in the Delta or to provide a water supply for those south of the Delta.
3. Water conveyance facilities routed through Sacramento County must have no adverse effect on the existing and future operation of the Sacramento Regional County Sanitation District ("SRCSD") facilities or on the Freeport Regional Water Project ("FRWP"). Other adverse impacts of water conveyance facilities routed through Sacramento County must be fully mitigated. Sacramento County must be fully involved in routing and operational issues of water conveyance facilities located within Sacramento County.

Phillip Isenberg, Chair

Re: Comments of the County of Sacramento on the Fifth Staff Draft of the Delta Vision Strategic Plan

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4. Sacramento County will protect its governmental prerogatives in the areas of its local land use authority, tax and related revenues, public health and safety, economic development and agricultural stability.

5. Sacramento County will protect its ability to govern, as an elected body, from proposed usurpation through governance by a non-elected, appointed board or council. Any councils, commissions or boards established to “govern” the Delta must include voting membership for elected representatives from Sacramento County, and elected representatives from the Delta counties must be a majority on any of these bodies.

6. Financial resources must be committed to maintain and enhance vital transportation and flood control infrastructure within those areas of the Delta that are within Sacramento County. Financial resources also need to be committed to improved emergency response within the Delta.

7. Any solution to the problems being addressed in the Delta must account for the multiple causes of the Delta’s decline and not simply focus one or even a limited number of them.

SPECIFIC COMMENTS ON THE FIFTH DRAFT

With the foregoing in mind, Sacramento County has the following comments specific to the Fifth Staff Draft of the Strategic Plan (“Fifth Draft”):

Action Items 1.1.1 – 1.1.3: The Fifth Draft recommends that the co-equal goals of water supply reliability and Delta ecosystem restoration be written into the California Constitution, statutes and be incorporated generally in all activities associated with the Delta. We have commented previously about the co-equal goals noting that the goals are overly simplistic in their articulation and that, among other things, they ignore significant differences that exist with respect to water supply in the various regions of the state and also within the Delta itself. We have noted that, as a matter of policy, this presents problems. The current and new suggestions that these goals be elevated to constitutional status compound this problem. Insofar as they are diametrically opposed, proceeding with these goals as a matter of policy is hazardous. Elevating these goals to constitutional status will create significant and enduring problems, not the least of which is an inconsistent interpretation of what they mean as a constitutional mandate.

As a matter of policy, the co-equal goals need to better reflect adherence to the California water rights system, including priorities that have been established as part of that system, recognition of priorities and protections for areas of origin and the needs of those who live and work in Delta counties. The goals also need to be clarified to insure that meeting them does not re-direct significant adverse impacts to other areas of the state.

Action Items 2.1 – 2.5: These actions focus on the concept of the Delta “as a place.” The Delta is already “a place” where people live and work. These action items ignore these people and prescribe a top-down decision-making process that ignores local involvement

Phillip Isenberg, Chair

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and input. While some of the ideas presented within the action plan for Goal 2 are undoubtedly positive, they cannot be effectively implemented without local involvement and support.

Action Items 3.1 – 3.5: In the Fifth Draft, Goals 3 and 6 (along with Goal 2) are integrated. The problem that is not addressed, however, is that the actions associated with these goals are inconsistent. Goal 2 focuses on economic and other development within the Delta and seeks to calm the nerves of those who live and work in the Delta that implementation of the Delta Vision will merely drive them out of the area. On the other hand, Goals 3 and 6 focus largely on activities that will flood or “restore” major portions of the Delta for ecosystem restoration and modify flood protection in a manner that ignores the promise of Goal 2. No analysis has been undertaken to explain how the actions associated with Goal 3 will accommodate and be consistent with what has been articulated in Goal 2.

Action Items 3.5 – 3.5.1: These actions seem to isolate and focus directly on those who live and work upstream and within the Delta and to create requirements that are more stringent than what will govern other portions of the state. These actions should be re-evaluated. To the extent that they are not re-evaluated, the state will need to provide the dollars necessary to meet the mandates outlined in this proposed action.

Additionally, the locations of restoration activities should not only be sensitive to the proposed location of the Peripheral Canal, but also avoid conflict with existing and planned infrastructure, including water and wastewater facilities within Sacramento County.

Action Items 4.1 – 4.2: Sacramento County has invested significant resources to water conservation and the development of water supply reliability through a diverse water supply resource portfolio. The proposed actions, however, include unfunded mandates that cannot be met and again ignore the geographic differences associated with water supply reliability. The fact is that Sacramento County is within the Delta watershed and the Delta, and the “one-size-fits all” actions advanced within the Fifth Draft do not recognize this. The Strategic Plan needs to be further developed to offer proposed actions that are developed in a way that recognizes these regional differences.

Action Items 6.1 – 6.3: The Strategic Plan lacks adequate analysis of how the emergency and risk issues dealt with in these actions relate to the action proposed for Goal 3. Merely recognizing that Goals 3 and 6 are related does not properly address the issue. This is particularly true when one considers that fact that the action items outlined under Goal 3 are fairly specific while the action items associated with Goal 6 (and Goal 2) remain fairly nebulous.

Action Items 7.1 – 7.3: Sacramento County has previously commented in opposition to the Delta Vision’s governance proposals. In particular, we have articulated the County’s concern that the proposal inappropriately usurps the role of local governmental agencies, including Sacramento County. The current draft version of the Strategic Plan ignores our prior comments and, in fact, goes further toward eliminating local governance in the Delta

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by taking *all* local land use decisions away from local agencies (including Sacramento County) and vesting it in a strengthened Delta Protection Commission (“DPC”) and in the appointed Council. This would leave Sacramento County’s governance in the Delta limited to “police power and service provisions.” Sacramento County opposes this proposal and believes that the local jurisdiction must remain the primary local land use planning entity within the Delta. Sacramento County opposes the “strengthening” of the DPC and of the role designated for the new appointed Council in land use decisions.

Additionally, while we have no inherent problem with the development of a Conservancy, we believe that it, as well as the Council, needs to be governed by local elected representatives. Residence within this County does not equate to knowledge or representation of institutional values and requirements or to representation of the citizens. It is not sufficient to have someone who lives in Sacramento County appointed to serve on these bodies and then argue that Sacramento County is represented on these bodies. Ignoring elected representation ignores basic concepts of our governmental system.

TIMING OF THE RELEASE AND ADOPTION OF THE PLAN

The County of Sacramento has used its best efforts to review and comment on the fifth draft of the Task Force's Strategic Plan, which was released just six days ago. Unfortunately, though, the County of Sacramento must note that it may have additional comments on the "final" draft. Today, during the Task Force meeting, it was announced that the fifth draft that was released to the public last Friday has been superseded and the Task Force was working from "version 5.5" of the Strategic Plan. The redline of version 5.5 was posted to the Delta Vision website mid-day today, and the County of Sacramento has quickly reviewed this version.

During the course of today's meeting, the Task Force also announced that further revisions would be made to the Strategic Plan this evening, and the Task Force would vote on that "final" draft tomorrow. The public will not be given any meaningful opportunity to review or comment on this "final" draft before the Task Force recommends it to the Delta Vision Commission. Therefore, the County of Sacramento reserves its right to raise additional issues once it has had an opportunity to review and digest the "final" draft. We understand that you are trying to meet deadlines imposed by the Governor, but we respectfully suggest that the Task Force's approach to public involvement and participation in this process is flawed. As versions 5 and 5.5 of the Strategic Plan acknowledge, we must all work together to solve the Delta's complex problems. The approach the Task Force has adopted is not one that will foster trust among the stakeholders or build the consensus necessary to undertake such an ambitious effort.

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CONCLUSION

Thank you for allowing the County of Sacramento the opportunity to comment on versions 5 and 5.5 of the Strategic Plan. We hope that you will carefully consider these comments before you adopt the final draft of the Strategic Plan.

Very truly yours,



for Paul J. Hahn
Agency Administrator

PH:cr

cc: Sacramento County Board of Supervisors
Terry Schutten, County Executive
State and Federal Legislative Representatives
Delta Vision Blue Ribbon Task Force
Susan Muranishi, County Administrator, Alameda County
Sharon Jensen, County Administrator, Yolo County
John Cullen, County Administrator, Contra Costa County
Manuel Lopez, County Administrator, San Joaquin County
Michael Johnson, County Administrator, Solano County
Ray Kerridge, City Manager, City of Sacramento
Laura Gill, City Manager, City of Elk Grove