



SAN JOAQUIN COUNTY

## FLOOD CONTROL & WATER CONSERVATION DISTRICT

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Sent via Internet Electronic Mail

July 2, 2010

Mr. Joe Grindstaff, Executive Officer  
Delta Stewardship Council  
650 Capitol Avenue, 5th Floor  
Sacramento, California 95814

SUBJECT: COMMENTS ON THE DELTA STEWARDSHIP COUNCIL INTERIM DELTA PLAN

Dear Mr. Grindstaff and Honorable Council Members:

With nearly two-thirds of the Delta located within San Joaquin County (County), we are very concerned about the protection of water quantity and quality available within the Delta, and with the potentially significant negative effects that additional planning processes may have, as evidenced by the Delta Visioning and continuing Bay Delta Conservation Plan (BDCP) process, on the County's communities, land use, flood protection, infrastructure, agriculture and business economy, industry, recreation, wildlife and our way of life.

Please find the following general comments submitted by the San Joaquin County Flood Control and Water Conservation District regarding the Delta Stewardship Council's (Council) development of its Interim Plan and future planning activities.

### **Consider Regional Self-Sufficiency, Enhanced Through-Delta and other Near-term Actions**

The County supports the "Better Way" concepts of regional self-sufficiency, enhanced Through-Delta and other near-term actions to develop a truly sustainable Delta that provides water quantity and quality for all beneficial needs, strengthened levees and flood control structures, improved fisheries and wildlife habitat and the protection of transportation corridors and other vital infrastructure in the Delta.

The County recommends that the Council should evaluate the potential effectiveness of other short-term and interim alternatives that may benefit both the Delta and those throughout the State that are now dependent on the Delta as a water source including:

**Regional Self-Sufficiency Concept** - Reactivates historical floodplains and basins to lessen flood peaks and enhance wildlife habitat; reoperates upstream reservoirs to increase flood control and water storage operations; replenishes depleted groundwater basins as proposed by San Joaquin County's MORE WATER Project.

**Delta Corridors Proposal** - An enhanced Through-Delta conveyance concept that would reconnect the San Joaquin River to the Delta by installing 12 flood gates, barriers, fish screens and/or pumping facilities in the Delta to help avoid the mix of saline waters and endangered fish species from the San Joaquin River with freshwater sources in the Delta.

**South Delta Recirculation** - South Delta recirculation concepts to enhance water quality, protect fisheries, and allow water exports. Under consideration, South Delta Water Agency proposes releasing freshwater sources from the Delta Mendota Canal to the San Joaquin River to combat salinity and reduce reliance on New Melones Reservoir flows.

**South Delta Bypass** - A South Delta flood bypass and habitat restoration area in the vicinity of Paradise Cut could ease flood pressures in the lower San Joaquin River that threaten the residential areas of Lathrop, Manteca, and Stockton.

### **Abide By Existing Water Rights Law**

A vast number of water users within the Delta beneficially use water pursuant to riparian and/or overlying rights, which are among the most senior of water rights in the State, and are duly protected from the State Water Project and federal Central Valley Projects' (Projects) export operations which are based on *junior* appropriative water rights. In the development of a Delta Plan centered on the concept of coequal goals, the Council must also abide by established laws designed to protect the Delta and area of origin protections.

The Watershed Protection and the Delta Protection Acts impose fundamental limitations on the Project's ability to transfer surplus water from the Delta watershed to water-deficient areas to the south and west of the Delta. These protections are in place regardless of the coequal goals of water supply reliability and environmental protection strategy as put forth by the Delta Vision and now the Council's planning efforts. These acts contain the historic protections and assurances including the Delta "common pool doctrine", which the Legislature afforded such water users when the State and Federal Projects were initially authorized, "that the Projects will indeed be limited to the transfer of water that is truly surplus to their needs."

Situated within the Delta watershed, and with a substantial portion of lands within the boundaries of the "legal Delta", San Joaquin County relies on the proper interpretation of these acts and other protections as of paramount importance to all in-Delta water users, both human and environmental, that depend on water from the Delta watershed.

Additionally, planning to meet these coequal goals of the Delta Plan should not consist of burdening the local economies in the Delta by:

- Converting prime agricultural farmland in the Delta into habitat mitigation for terrestrial and aquatic species caused by Central Valley Projects (CVP) and State Water Project (SWP) operations.
- Flooding of prime agricultural farmland in the Delta due to seepage impacts to adjacent islands.
- Publically acquire private property in the Delta.
- Create access points to the Delta without adequate funding for additional law enforcement and protections for local landowners.

### **Recognize Water Quality Standards**

The San Joaquin County Board of Supervisors has taken strong positions regarding water quality in the Delta because the United States Bureau of Reclamation, and the California Department of Water Resources (DWR), are obligated by State Law under their water right permit terms to

operate the CVP and SWP in a manner to meet the salinity standards at Vernalis, on the Lower San Joaquin River, and in all locations within the Delta.

Unfortunately, the CVP and SWP have been operated in violation of their permit terms. The Council in its formation of the Delta Plan must obligate the United States Bureau of Reclamation and DWR to take corrective actions to meet the salinity standards in the Delta. Water quality objectives exist to protect all beneficial uses of water. In the Sacramento-San Joaquin River Delta, water quality objectives have been set to protect drinking water supplies, agriculture, fish and wildlife. Recreation in the Delta is also a major attraction to County taxpayers and visitors. As discussed, over the past two years, the salinity objectives set forth by the State Water Resources Control Board have been regularly exceeded in the South Delta.

### **Embrace Flood Protection and Levee Maintenance Needs**

The Council should not stand in the way of local Reclamation Districts as they put Proposition 1E funds towards the use taxpayers intended they be used. The fortifying of Delta levees should be expedited without further complication. The notion of incorporating habitat improvements to levee projects is noble, but a moot point if levees cannot attain and maintain the PL84-99 Levee standard. Without the PL84-99 designation, the loss of Federal assistance should a levee failure occur would have effects not only locally, but also for those who rely on Delta exports and those who rely on levees to protect key infrastructure such as aqueducts, highways, railroads, natural gas storage and lines, and power lines.

### **Rely on Sound Scientific Peer-Reviewed Process**

The development of additional plans for the Delta are moving ahead at a remarkable pace given the magnitude of the issues involved and the scale of the changes under consideration. Yet rather than ensuring the planning effort proceeds in a cautionary manner that emphasizes sound science, the recent legislation simply cedes all control over the process to interests that—aside from not sufficiently representing the Delta Counties and our constituents—have no direct responsibility for ensuring that sound science is integral to the end result. Accordingly, Council must ensure that it takes all steps possible to foster the application of sound science for the benefit of the Sacramento-San Joaquin River Delta and estuary.

While some scientific work and findings have resulted through CALFED and other processes, fundamental questions remain unanswered. This level of uncertainty makes it difficult to develop solid policy and viable implementation measures necessary to address the problems we face in restoring the Delta. For example, we do not yet know how much water a healthy Delta needs in any given season of any given water year. This is a fundamental question that must be answered before drafting or adopting additional plans.

The State Water Resources Control Board flow criteria hearing will result in the State Water Resources Control Board giving "only guidance" to the Bay Delta Conservation Plan process and not Delta out-flow standards. Further, the opinions and experience of the local geotechnical engineers who manage the Delta levees have been ignored when forecasting the needs of the Delta levee system. Fundamental scientific questions need to be answered while remaining out of the political debate. The use of the Delta Risk Management Strategy findings and recommendations for any decision making process is suspect because the County believes that

the Delta Risk Management Strategy contains significant technical flaws and is based upon errant assumptions.

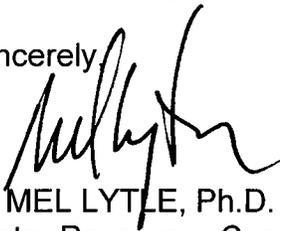
**Include a Fair, Balanced and Transparent Stakeholder Process**

The Council is commended on its request for comments and suggestions on current and upcoming planning activities. As these activities move forward, the Council must take every action to include a fair and transparent stakeholder process that includes individual property owners and local agencies that are affected most by the Council's recommendations. A collaborative timely approach that allows sufficient time for local agencies to interact with the Council, meets mutual goals and addresses specific concerns of property owners in the Delta as well as local governments that potentially have the most to lose in this process will be most effective. The County suggests that the Council work directly with all Counties, Cities, Reclamation Districts and other local agencies that are located in the Delta by encouraging an open on-going dialogue.

The San Joaquin County Flood Control and Water Conservation District urges the Council to take these comments into consideration as the Delta planning process moves forward and recommends that the Council works collaboratively with local land owners and government agencies as the Interim Plan is developed.

We look forward to working with and submitting additional more specific comments to the Stewardship Council in the future on this important effort. Should you have further questions or comments, please feel free to contact me at (209) 468-3089.

Sincerely



C. MEL LYTLE, Ph.D.  
Water Resources Coordinator

CML:LC:mk  
WR-10G004-M1

c: T.R. Flinn, Director of Public Works  
Thomas M. Gau, Chief Deputy Director