



# Delta Stewardship Council

A CALIFORNIA STATE AGENCY

July 8, 2021

Dudley Ridge Water District  
Attn: Rick Besecker  
455 W. Fir Ave.  
Clovis, CA 93611

Via email: [rbesecker@ppeng.com](mailto:rbesecker@ppeng.com)

## **RE: Comments on Notice of Preparation and Consideration of Negative Declaration for Adoption and Implementation of the 2020 Agricultural Water Management Plan**

Dear Rick Besecker:

Thank you for the opportunity to comment on the Notice of Preparation and Consideration of Negative Declaration for Adoption and Implementation of the 2020 Agricultural Water Management Plan (2020 AWMP) by the Dudley Ridge Water District (DRWD). The Delta Stewardship Council (Council) recognizes the objectives described in the Initial Study, Environmental Checklist, and Proposed Negative Declaration (IS/ND): CEQA review of the 2020 AWMP's water management strategy and streamlining the Department of Water Resources (DWR) approval process for water transfer water requests. Of interest to the Council are potentially requested and proposed multi-year water transfer transactions between DRWD and water suppliers and entities who are physically located upstream from the Sacramento-San Joaquin River Delta (Delta).

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Delta ecosystem. (Wat. Code, § 85054.) The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan. (Wat. Code, § 85300.)

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**DELTA COUNCIL.CA.GOV**

Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh that furthers the coequal goals. The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, Title 23, sections 5001-5015. A state or local agency that proposes to carry out, approve, or fund a qualifying action in whole or in part in the Delta, called a "covered action," is required to prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that certification to the Council prior to implementation of the covered action. (Wat. Code, § 85225.) Water Code section 85057.5, subdivision (a), defines a covered action as a plan, program, or project as defined pursuant to Section 21065 of the Public Resources Code that meets all of the following conditions:

- (1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh;*
- (2) Will be carried out, approved, or funded by a State or a local public agency;*
- (3) Is covered by one of the provisions of the Delta Plan; and*
- (4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta.*

For purposes of compliance with both the Delta Reform Act and California Environmental Quality Act (CEQA), we offer the following comments on the IS/ND.

### **Comments on the IS/ND**

The IS/ND states that although DRWD considers that adoption of the 2020 AWMP is exempt from CEQA, DRWD is providing CEQA documentation (the IS/ND) to ensure full public disclosure of its analysis and to assist other agencies, including DWR, for approvals to facilitate implementation of the water management strategies identified in the Plan. While further CEQA compliance may be undertaken or required with specific projects that implement the plan, DRWD notes that those projects will be evaluated if and when they are proposed. (IS/ND, p 1) Projects exempted from CEQA are not generally considered covered actions unless there are unusual circumstances indicating a reasonable probability that the project will have a significant impact as described in Water Code section 85057.5, subdivision (a)(4), summarized above. (Cal. Code Regs., tit. 23, § 5001(dd)(4).) Thus, the 2020 AWMP itself likely does not meet the definition of a covered action. However, specific projects that implement the plan may be considered covered actions, including multi-year water transfers between in-Delta or north-of-Delta suppliers and DRWD.

**Comments Regarding Potential Specific Water Operations Described in the 2020 AWMP**

As described in the IS/ND and the 2020 AWMP (IS/ND, p. 2; 2020 AWMP, p. 29), water operations of potential interest to the Council include:

- transfers to/from other SWP contractors (or their member units) for annual or multiyear transfers and transfer packages (exchanges)
- transfers to/from other SWP contractors (or their member units) with established water transfer, banking, or exchange programs

These water operations, should they occur between water suppliers and entities who are physically located within or upstream from the Delta, are of potential interest to the Council. If DRWD determines that such water operations are covered actions, DRWD is required to submit a certification of consistency with applicable Delta Plan regulatory policies to the Council. Applicable regulatory policies may include, but are not limited to, the following:

**General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan**

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002) specifies what must be addressed in a Certification of Consistency by a project proponent of a project that is a covered action. The following is a subset of policy requirements which a project shall fulfill to be considered as consistent with the Delta Plan:

**Best Available Science**

Delta Plan Policy **G P1(b)(3)** (Cal. Code Regs., tit. 23, § 5002(b)(3)) states that actions subject to Delta Plan regulations must document use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines best available science as “the best scientific information and data for informing management and policy decisions.” (Cal. Code Regs, tit. 23, § 5001 (f).) Best available science is also required to be consistent with the guidelines and criteria in Appendix 1A of the Delta Plan (<https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf>).

**Adaptive Management**

Delta Plan Policy **G P1(b)(4)** (Cal. Code Regs., tit. 23, § 5002(b)(4)) requires that ecosystem restoration and water management covered actions include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through: a) the development of an adaptive management plan that is consistent with the framework described in Appendix 1 B of the Delta Plan (<https://deltacouncil.ca.gov/pdf/delta-plan/2015->

[appendix-1b.pdf](#)); and b) documentation of adequate resources to implement the proposed adaptive management plan.

### **Water Resources Policy 1: Reduce Reliance on the Delta through Improved Regional Water Self-Reliance**

Delta Plan Policy **WR P1** (Cal. Code Regs, tit. 23, § 5003) provides that “[w]ater shall not be exported from, transferred through, or used in the Delta” if the following three factors – set forth in subdivisions (a)(1), (a)(2), and (a)(3) – apply: 1) one or more water suppliers that would receive water as a result of the export, transfer, or use have failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance consistent with the requirements of WR P1 subdivision (c)(1); the failure to reduce reliance has significantly caused the need for the export, transfer, or use; and 3) the export, transfer, or use would have a significant adverse environmental impact in the Delta. Multi-year water transfers resulting from the 2020 AWMP that propose to transfer water through the Delta would be required to demonstrate consistency with **WR P1**.

### **Ecosystem Restoration Policy 1: Delta Flow Objectives**

Delta Plan Policy **ER P1** (Cal. Code Regs., tit. 23, § 5005) requires the State Water Resources Control Board's Bay Delta Water Quality Control Plan flow objectives shall be used to determine consistency with the Delta Plan. Future multi-year water transfers resulting from the 2020 AWMP should document how the transfer may impact or alter Delta flows that are subject to meeting the Bay Delta Water Quality Control Plan flow objectives.

### **Closing Comments**

As DRWD proceeds with water operations described in the 2020 AWMP, the Council invites DRWD to engage with Council staff in early consultation to discuss potential project elements and mitigation measures that would promote consistency with the Delta Plan.

More information on covered actions, early consultation, and the certification process can be found on the Council website at <https://coveredactions.deltacouncil.ca.gov>. Please contact Anthony Navasero at [Anthony.Navasero@deltacouncil.ca.gov](mailto:Anthony.Navasero@deltacouncil.ca.gov) with any questions.

Sincerely,



Jeff Henderson, AICP  
Deputy Executive Officer  
Delta Stewardship Council