



**Delta  
Stewardship  
Council**

A CALIFORNIA STATE AGENCY

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March 10, 2023

Cal OES

3650 Schriever Ave, Mather, CA, 95655

Delivered via [email]: SHMP@CalOES.ca.gov

**RE: Public Review Draft of the 2023 State Hazard Mitigation Plan  
(SHMP)**

Dear Jessica London:

The Delta Stewardship Council (Council) appreciates the opportunity to comment on the Public Review Draft of the 2023 State Hazard Mitigation Plan (SHMP). The SHMP is California's primary hazard mitigation guidance document. It details historical and current hazards, identifies mitigation strategies and actions to address those hazards, and provides guidance to local jurisdictions developing Local Hazard Mitigation Plans (LHMPs). The SHMP is updated every five years by the California Governor's Office of Emergency Services (Cal OES) as required by the federal government in the U.S. Code of Federal Regulations (CFR) Title 44, Section 201.4.

The Council is an independent State of California 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 the State's coequal goals for the Sacramento-San Joaquin Delta (the Delta) of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem, 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. (Cal. Water Code section 85054.)

Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a legally enforceable management framework for the Delta and Suisun Marsh for achieving the coequal goals. The Delta Reform Act requires the Delta Plan to attempt to reduce risks to people, property, and state interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments. The Council may incorporate into the Delta Plan the emergency preparedness and response strategies for the Delta developed by the California Emergency Management Agency pursuant to Water Code section 12994.5. (Cal. Water Code section 85305).

The Cal OES SHMP's mission to reduce or eliminate potential risks and impacts of natural and human-caused disasters and to help communities with their mitigation and disaster resiliency efforts are critical for reducing risk across the state and in the Delta. We offer our comments on the 2023 SHMP – Public Review Draft below to align efforts in a coordinated approach to reducing risk and managing resources consistent with the Delta Plan.

### [Draft 2023 SHMP Volume 1, Part 2 – Profiles and Risk Assessments for Natural Hazards of Interest](#)

#### **Drought – Section 13.7.2 Opportunities for Mitigating the Hazard**

Roughly 30 million California residents and more than 6 million acres of agricultural land in California depend on Delta exports for their water supply. Levees throughout the Delta hold back salinity and protect water quality for human and ecological use for both Delta water exports and for water used within the Delta. A sunny-day levee failure under dry conditions could result in a large intake of brackish water from the Suisun Marsh that could threaten Delta exports for an extended period. Such a levee break could require upstream reservoirs to release freshwater to push the brackish water out of the Delta in order to preserve the export water supply and maintain water quality. Under drought conditions, the reservoirs would be low, placing further pressure on an already strained system.

The Council's [Delta Adapts Climate Change Vulnerability Assessment](#) found that the costs borne by California residents, farms, and businesses would be approximately \$1 billion/per year if exports were interrupted due to levee failure. The State has

funded Delta levee maintenance and improvements through the Department of Water Resources (DWR) Delta Levees program to mitigate this hazard.

The Council appreciates the inclusion of *SHMP Action 2018-059: Delta Levees Program* as one of the proposed hazard mitigation actions. This action calls for continued funding of the program to support levee maintenance and improvement activities. However, the nexus between flood hazards in the Delta, and the vulnerability of statewide water supply reliability under drought conditions should be explicitly addressed in the mitigation plan for drought. Cal OES should consider identifying Delta levee maintenance and improvement in Table 13-2 *Potential Opportunities to Mitigate the Drought Hazard* as a government-scale action to reduce exposure and vulnerability and including an Action under Section 13.7.3 expressly calling for continued funding of the Delta Levees Program to mitigate this risk to the State's water supply exports.

#### Levee Failure – Section 16.7.1 Opportunities for Mitigating the Hazard

The Council is concerned that the proposed update to the SHMP does not explicitly address the need to renew a Memorandum of Understanding (MOU) previously established in 2010 between the California Emergency Management Agency (now Cal OES) and the Federal Emergency Management Agency (FEMA). The MOU clarified the requirements within the Reclamation Districts (Districts) in the Sacramento/San Joaquin Legal Delta for FEMA Public Assistance reimbursement funding for emergency flood fighting, emergency repair, permanent restoration, and/or replacement of eligible damaged non-project levees.

The MOU was terminated by FEMA in a letter dated October 23, 2012 stating:

*FEMA has determined that the MOU as currently drafted is vague and fails to adequately address both current levee standards and FEMA Public Assistance Policy.....*

*Although the rainy season is quickly approaching, FEMA's Public Assistance staff have already begun work with your staff to determine the best standards and terminology for a new agreement.*

To date, a new agreement has not been executed.

The MOU clearly outlined the criteria and State and local responsibilities that needed to be met to receive federal assistance. It created a mechanism for documenting and reporting compliance for disaster events under the Robert T.

Stafford Disaster Relief and Emergency Assistance Act. (P.L. 93-288) Without this understanding, Districts were not able to access this critical federal assistance.

The State has made significant strides toward meeting obligations outlined in the FEMA-State of California Agreement for Disaster FEMA-677-DR-CA (1983). The State has spent millions of dollars under its Delta Levee Program to improve Delta levees to the geometry described in the Flood Hazard Mitigation Plan and Section VI.B of the MOU. However, after the high water event in 2017, reclamation districts in the legal Delta were denied reimbursement by FEMA for expenses associated with emergency response and repairs in the absence of the MOU.

The State has relied on the assurances and the criteria outlined in the Flood Hazard Mitigation Plan and MOU to develop a levee investment policy and target investments. Without a clear understanding of FEMA's expectations, the State and reclamation districts cannot target efforts in a way that aligns with those expectations.

Federal assistance is flood hazard mitigation. We strongly urge Cal OES to reengage with FEMA to execute a new MOU and incorporate this action into the SHMP and stand ready to assist in any way possible.

Thank you for the opportunity to provide a comment. Should you have any questions, please contact Erin Mullin at (916) 589- 0081

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Sincerely,

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Deputy Executive Officer  
Delta Stewardship Council

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Attachments:

HMP MOU

HMP MOU Notice of Termination