Serving the Flood Control Community Since 1926

California Central Valley Flood Control Association

Melinda Terry, Executive Director
Mike Hardesty, President
William G. Darsie, Vice President
Kenneth A. Ruzich, Treasurer

910 K Street, Suite 310, Sacramento, CA 95814
melinda@cvflood.org
Tel (916) 446-0197
Fax (916) 446-2404

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Via e-mail to: dv_context@calwater.ca.gov

Phil Isenberg, Chair
Delta Vision Blue Ribbon Task Force
c/o California Resources Agency
1416 – 9th Street, Suite 1311
Sacramento, CA 95814

RE: COMMENTS ON DELTA VISION STRATEGIC PLAN (THIRD STAFF DRAFT)

Dear Mr. Isenberg:

The California Central Valley Flood Control Association (CCVFCA) respectfully submits the following comments on the Delta Vision Strategic Plan (Third Staff Draft).

The Association was established in 1926 to promote the common interests of its membership in maintaining effective flood control systems in California's Central Valley for the protection of life, property and the environment. Association membership includes over 70 reclamation, flood control, levee, and drainage special districts, as well as cities and counties with flood control responsibilities.

General Comments

While we appreciate the time of Task Force members, we are disappointed with the outcome it appears to be nothing more than a shuffling and renaming of the existing players and calling it a new Vision. The Vision seems to be CalFED with a new name, but without the commitment of the Federal government and with a lot more bureaucracy. The document is general in nature, lacking enough specific details to comment on whether it is feasible or legal, let alone desirable.

The Strategic Plan provides a lot of thought and information on a very complex subject, however many of the goals and strategies are conflicting with each other, not well defined, have not been determined to be technically feasible, have not had any level of economic impact determination, and therefore if implemented would result in numerous legal challenges and unintended consequences.

The Strategic Plan fails to define what actually constitutes an environmentally healthy and economically vibrant Delta or what amount of fresh water flow through the Delta is required to adequately serve the Delta communities and dependent fisheries. Therefore, it seems premature

and reckless for the Task Force to make recommendations for statutory and constitutional changes.

We agree with the concept of a strong link between flood management and water supply in the form of increased storage. Additionally, we strongly support the development of regional self-sufficiency to reduce Delta stressors and as a component of improved flood management. The benefits of this strategy can be seen most vividly in the existing Sacramento River Flood Control Project. The multiple benefits of increased surface storage for both water supply and flood protection needs additional focus and attention by the Task Force.

Delta levees protect all Delta services, including but not limited to: water quality, infrastructure (utilities, transportation, public safety), water supply, ecosystem health, residential protection, and a vibrant agriculture economy. Therefore, it is important that an adequate Delta flow and water quality is assured under any new Vision as it is this vibrant agriculture economy that pays to maintain Delta levees. The infrastructure these levees provide is of statewide importance that requires continued public financing and the continued expertise of local flood management districts to maintain them.

Finally, the Sacramento River Flood Control Project was designed and constructed with the understanding that flooding is a dynamic event, no two flood events are the same. In recognition of this, flood easements anticipate the variable nature of the flood cycles in the valley. It is precisely this understanding that flood control facilities should not and cannot be considered as static and fixed in time. It is neither prudent nor conscionable to attempt to "balance" or bargain away any increment or flexibility in a flood project to other uses. The overriding consideration must remain "flood control first" and all other uses permitted only to the extent they improve or are complimentary to existing and future flood control needs.

Specific Comments

Financing the Future (pg. 23)

Sub. 1.) Public financing should include those funds necessary to mitigate or indemnify for redirected impacts, such as endangered species restrictions or damage to existing levees, as created by implementing the strategies and reductions in taxes and assessments lost to public agencies.

Progress Reporting

Table 2,

Flood Risk The use of a 10 foot below sea level or river flood stage inappropriately minimizes the apparent impacts of flooding the Delta.

Delta Economic Vitality Farm and non-farm employment activity and payroll should be included.

Water Supply Reliability, Water Quality Specific in-Delta acreages impacted by salinity changes in the Delta should be included.

Water Supply Reliability, Flood management Acre feet of new flood storage capacity available, surface and groundwater, above and below the Delta should be included.

Functional Habitat, Restored Habitat Acres of agricultural lands removed from production should be included.

Strategy 1 – Efficient Use of Water

Farms should be provided incentives in order to become more water-efficient, however it should also be recognized that the hydrology and water use systems in the Delta are unique due to natural sub-irrigation. Therefore, a "one size fits all" approach to agricultural water use measurement and agricultural conservation is not appropriate.

Strategy 2 – Regional Self-sufficiency

Statewide regional storage and self-sufficiency are important to reducing reliance on the Delta for a reliable supply of water.

Strategy 3 – Central Valley Flood Management

Forecast based reservoir management is a sound recommendation.

Additional surface storage should be addressed as a flood management/water supply tool before the consideration of increased delta outflow capacity.

Increased through Delta flood conveyance comes with the significant downside risk of complicating salinity intrusion management, levee stability and redirected flood impacts. New and existing surface storage and upstream detention/retention storage practices offer equivalent protections.

The lower San Joaquin River system does require a new flood conveyance analysis.

Strategy 4 – Water Conveyance

Given the clear nexus between exports and the current conditions within the Delta, we do not agree with the timing of decision making on new storage and isolated canal construction. It is imperative that storage and the demonstrable increase in available yield for environmental and export uses come before the construction of new conveyance capacity. Anything less simply parallels the conditions that created the current situation.

More information regarding construction integrity of a new canal and its impact to adjacent lands and levee integrity is needed. This is also needed to understand how the design features will alter flood flows in order to properly determine impacts on public safety due to increased or decreased flood risks from the project.

Strategy 5 – Improved Water Quality

We agree that relocated intakes for in-Delta diversions will be required in the future. Greater emphasis needs to be placed on the concept of relocating current non-project in-Delta intakes, particularly those impacted by new or expanded habitat projects. Additionally, local intakes should be provided protection by the State through the BDCP or an equivalent mechanism and should be funded by the State or export water users.

Strategy 6 – Habitat Restoration

Habitat development on levees should not be pursued until the conflict between necessary operation and maintenance of flood protection facilities and environmental requirements is resolved.

Users of the Yolo Bypass need to recognize and commit to the understanding that the Bypass is the largest component of the Sacrament River Flood Control Project. It is first and foremost a flood management facility in which all other uses must be secondary and compatible with that primary flood management use.

Activities resulting in the introduction and enhancement of special status species should come with the assurance that existing unimpaired uses in the bypass and adjacent slough region, such as water diversion for agricultural uses, will be protected from the presence of special status species.

The Strategic Plan promotes the conversion of thousands of acres of land to habitat. If these lands are also transferred from private landowners to public entities for maintenance, then existing local taxes and/or assessments should be maintained, including the payment of assessments and fees to cities, counties, and special districts such as reclamation districts. Removing even a small part of the local funding for these agencies could compromise the ability to execute their critical roles in community governance and protection of public safety.

Finally, the Strategic Plan seems to assert that the Delta was originally a "tidal marsh," however this is not accurate. When California became a State and acquired under the Arkansas Act all of the tidal and overflowed lands from the federal government, the State Surveyor General began to survey the "tidal lands" and the "swamp and overflowed lands" to allow their disposition. The tidal lands were not to be conveyed. The "swamp and overflowed" lands were to be surveyed and conveyed to those who would "reclaim" them from the overflow and allow them to be put to an economic use. This is what in fact occurred when the Delta lands were reclaimed in the 19th Century. The natural bands of the Delta islands did not keep out periodic floods. Nor did the natural banks of the Sacramento River. But they did keep out the daily tides, which is why the Delta islands were surveyed as "swamp and overflowed lands" and not as "tidelands" of the State, which is a very important distinction in California law.

Strategy 7 – Restore Delta Flows

The Strategic Plan needs to explain how the State intends to maintain through-Delta flows adequate to meet its water supply and water quality obligations under current law and contracts within the Delta.

Strategy 8 – Manage Ecosystem Stressors
Invasive species are a significant threat to the Delta ecosystem and maintenance of flood facilities, therefore we agree that it is important to actively control and manage endangered species.

Strategy 9 – Adaptive Management.

An effective adaptive management plan should include both the anticipated and observed responses to both successful as well as unsuccessful actions. There needs to be a commitment to examine the effects of scaling up projects before implementing changes, identifying mechanisms to reduce the footprint of projects, and a communication mechanism to distribute knowledge learned. The adaptive process should provide assurances that successful projects are sustainable and flawed efforts are not repeated.

In addition, action items must include adequate, reliable, and permanent financing mechanisms (i.e. an endowment, annuity, or dedicated stream of revenue), especially for maintaining the properties and habitat so that they do not impact neighboring land uses or ongoing maintenance of levees.

Strategy 10 – Create Migratory Corridors

See comments on Strategy 6.

Envisioned improvements must, as a component of the project, provide reliable assurances and protection to the remnant activities that will be required to coexist with the newly altered physical and regulatory environments in order that these existing activities are not expected to bear increased operational, maintenance or financial burdens as a result of the projects or their operation. Assurance could take the form of take authority, relocated intakes, design/construction/operation of protective facilities, offset or in-lieu payments or other mechanisms agreeable to local interests.

See comments on Strategy 7, Yolo Bypass

Strategy 11 – Delta As A Place

We take exception to the implication that these actions will in any significant way alter the economic decline that will result from the implementation of this Strategic Plan. California's experience in the timber industry is an example of the misplaced expectation that recreation and tourism is a viable substitute for a thriving production industry.

The strategy seems to ignore or seriously underestimate the economic and practical difficulties associated with wholesale changes in production agriculture to other economic models. Increased tourism and recreation both present enormous need for new capital for infrastructure, transportation, increased cost for levee maintenance and public services and the very real probability of market and resource saturation. Similar impacts are experienced in shifting to specialty or high value crops. The scale of change would be unprecedented and contrary to the successful niche market development principles.

A vibrant agricultural economy must be protected for many reasons including the fact that is the primary funding source for maintaining levees in the Delta, without which levee maintenance and liability may become a State responsibility. Therefore, an analysis of the cumulative economic loss of agricultural lands of regional and statewide value and significance should be done before pursuing habitat projects.

Strategy 12 – Emergency Protection

This strategy seems to ignore the role that local reclamation districts provide in protecting the public, infrastructure, and existing wildlife habitats. The Strategic Plan should provide better recognition of the resources, knowledge, technical expertise available at the local level and the important role of local reclamation districts in managing flood risks in the Delta. Local districts are first responders in all levee events, including flood events. As part of that line of defense, they are the ones that inspect levees everyday and identify problems before they become emergencies, which is critical to protecting public safety. They prevent more emergencies than they respond to, which is more valuable and lower cost than emergency response to a levee failure. The Delta Levee Subventions program and the target of establishing PL 84-99 protections is a reliable and low-cost mechanism to prevent emergency response, so it should be highlighted as a funding priority.

Strategy 13 – Levee Design and Investment

It is recognized that the overall value of an area to the state of California varies throughout the whole of the State, but this proposal to Balkanize the provision of flood assistance based on the gross economic return to the State is the abandonment of a longstanding principle of California governance. Is this benefit/cost strategy sustainable? We think not. It provides the best incentive available to encourage the building of high value infrastructure in the worst places (flood plains) and sends a strong signal that agricultural open space has no value.

Strategy 14 – Delta Land Use

The concept of not allowing residential, commercial and industrial development in high risk flood areas is generally supportable, however, the local government is a better land use steward than state agencies. Appropriate legislative and incentive mechanisms to preserve local authority is preferred to prescriptive state action.

Strategy 15 - Governance

Any delta governance structure should include substantial (ie majority) local Delta representation. The DPC, as currently constituted, should not play an increased role in Delta governance.

Levee issues should remain within the purview of the Sate Reclamation Board and Division of Flood Management, not a new Delta Conservancy. Another level of review or separation of Delta levee responsibilities is duplicative, wasteful and not in the best interests of levee-protected Californians.

Governance should not be vested in entities other than public agencies. Non-profits do not operate under the same requirements of openness and transparency required of public agencies.

Strategy 17 – Financing New Vision

The Association does not support the proposed allocation and financing strategy as presented. Without adequate definition of the beneficiaries and an expression of the proportioning utilized, this open ended approach appears to resurrect a "share-the-pain" scheme, whereby the broader water community is required to pay for the consequences of the CVP and SWP's failure to operate within the constraints the projects created. It would be marginally more acceptable if these costs, including mitigation of local impacts, were to be assumed under a new State Water Plan "in the interest of the State as a whole".

This strategy perpetuates the decades old "blame game" and will only lead to litigation and substantial delay.

Strategy 18 – Water Rights

The repudiation of the statutory framework of California's existing water right law is wrong. The future under this strategy is a bitter one that guarantees endless litigation and long-term stalemate.

Conclusion

The CCVFCA appreciates the opportunity to provide comments on this latest version of a Strategic Plan. We hope the next version of the Strategic Plan will begin to incorporate our comments and many others received to date.

Sincerely,

Melinda Terry, Executive Director