



CVCWA

Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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September 30, 2008

The Honorable Philip L. Isenberg
Chairman of the Governor's Delta Vision
Blue Ribbon Task Force
650 Capitol Mall, Fifth Floor
Sacramento, CA 95814

SUBJECT: Fourth Staff Draft of the Delta Vision Strategic Plan (September 12, 2008)

Dear Mr. Isenberg:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the Fourth Staff Draft of the Delta Vision Strategic Plan (Strategic Plan), released for public review and comment on September 12, 2008. CVCWA's comments provided here are in addition to and supplement previous comments provided by CVCWA on earlier versions of the Strategic Plan.

As indicated in previous comments, CVCWA represents the interests of more than 60 wastewater agencies in the Central Valley in regulatory matters related to water quality and the environment. Included in that membership are a number of wastewater agencies that will be directly or indirectly impacted by the actions identified in the Strategic Plan.

We would like to begin by thanking the Task Force for making some of the changes we recommended in our comments on previous drafts. The fourth draft provides a better framework for measuring progress on its goals, without setting specific water quality criteria absent of the scientific review and public participation required by state law.

CVCWA continues to have the several concerns regarding the fourth draft of the Strategic Plan.

Strategy 3.5 – Achieve sufficient water quality improvements to meet drinking water, agriculture, and ecosystem long-term goals.

Per our previously comments, this strategy continues to require the State and Regional Water Boards to develop water quality objectives that are “fully” protective of beneficial uses. As currently drafted, the Strategic Plan would apply a legal standard that contradicts the state's water quality laws and case law. The legal standard for the protection of beneficial uses is

“reasonable” protection, not “full” protection. (See *United States v. State Water Resources Control Board* (1986) 182 Cal.App.3d 82, 121-122, [“The Board’s paramount duty was to provide ‘reasonable protection’ to beneficial uses, considering all demands made upon the water.”]) In general, CVCWA supports the concept of the State and Regional Water Boards evaluating and developing water quality objectives where necessary and appropriate. However, when doing so, the Water Boards must develop such objectives in a manner that is consistent with state law, which requires the “reasonable” protection of beneficial uses. We recommend that the Strategic Plan be revised to be consistent with the mandates of state law.

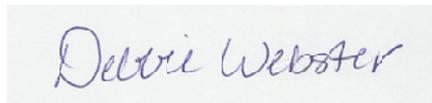
Strategy 7.1 to 7.3 – CDEW Council and CDEW Plan

CVCWA continues to be concerned that the proposal to create a California Delta Ecosystem and Water Council (CDEW Council), as well as the implementation of legally binding California Delta Ecosystem and Water Plan (CDEW Plan), which could duplicate authority and functions of other existing agencies, such as the State Water Resources Control Board and applicable Regional Water Quality Control Boards (Water Boards). Although the fourth draft provides more clarity of some of the responsibilities, it still directs significant requirements on these other agencies, in potential conflict with their authority and functions, thereby still creating confusion of how the CDEW Council and CDEW Plan will interrelate with these other agencies.

CVCWA maintains that water quality authority should remain with the Water Boards. Issues related to water quality and wastewater treatment are complex, technical and unique. The Water Boards, having dealt with such issues for more than three decades, are best suited to determine the potential impact that treated wastewater may have on the Delta ecosystem. Such decisions and determinations should not be removed from those with the expertise and frameworks in place for decision-making. To the extent that the CDEW Plan sets performance targets for water quality and requires the Water Board to modify other water quality control plans, the plan must be adopted in accordance with the principles and requirements set forth in the Porter-Cologne. (Wat. Code § 13000 et seq.)

CVCWA appreciates the opportunity to comment on the fourth draft and we look forward being a participant on this and subsequent processes that concern our member agencies in the future. If you have any questions, please do not hesitate to contact me at (530) 268-1338.

Sincerely,



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