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September 30, 2008

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Sent via USPS and EMAIL

Re: PUBLIC COMMENT TO THE LATEST DRAFT  
Bay Delta Conservation Plan  
Delta Vision Strategic Plan  
Delta Blue Ribbon Task Force

Dear Staff and Committee Members of the above:

We are re-submitting our questions (1-10) and our public comments. These questions and comments were submitted on June 26, 2008. No answers have been provided and in fact, when the town hall meeting was held in Ryde, CA, on August 27<sup>th</sup> past, (North and Central Delta territories) not one member of the Delta Blue Ribbon Talk Force was in attendance! According to the moderator, six were in Los Angeles and Phil Isenberg, the seventh, was ill. We do not believe the questions or public comments submitted are being considered or analyzed.

We request that this letter and your written responses to each question be made part of the record and are reflected in the final report.

We own the unique and priceless 1927 residence at 12330 Highway 160 on the Sacramento River on Sutter Island near Courtland, and the adjacent 44 acres. We have lived on Sutter Island since 1984 and enjoy raising our two daughters here surrounded by the wonderful diverse agricultural heritage established over 200 years ago. We have recently purchased the adjacent acreage to our home and currently are designing vineyards. These properties have been utilizing water from the Sacramento River for over 100 years.

We do not agree to give up either our property or our water rights to send water to Southern California.

Water Export from the Delta is the primary damaging factor to water quality in the Delta.

With shockingly quiet speed and little public notice, it appears that several state and private agencies are mobilizing a plan to take water rights from Northern California residences and businesses and use them to satisfy Southern California's need for water. The better approach would be to request Southern California to institute strict conservation methods and explore desalination of ocean waters. With global predictions of a rise in sea levels, this alternative makes sense.

Has this alternative or any other alternatives be fully scientifically and economically analyzed? (1)

The California voters denied the request for a peripheral canal. Now calling it a "duel conveyance system", the Department of Water Resources is attempting to do what the public rejected.

What is the legal authority to proceed with a project that the public rejected? (2)

To dramatically alter the ecosystem of the Delta and try to purchase unique and priceless properties and businesses seems both economically unwise and scientifically unsupported. There are tremendous revenues that are generated by local industries; Bogle Wineries, to name the largest, would be lost to the State's income. Currently, the Delta represents 17% of the total wine grape production in the State and soon will be at 25%. Besides wine grapes, the Delta is one of the leading producers of pears and numerous farmers have diversified to include cherries, apples, kiwis, asparagus, olives and many open row crops.

Removing 100,000 acres of highly productive farmland, which has been producing for over 100 years, purchasing custom and unique residences, ranches and farmlands, and channeling the water resources to Southern State farmers with inferior land makes no sense. In addition to the conveyance costs, significant water is lost by evaporation.

Has the exact cost per cubic acre of water to transfer been determined, including the evaporation loss? (3)

Has a realistic cost to purchase the lands from the existing owners been calculated? (4)

Where is this money coming from? (5)

Without an overriding public good, such dramatic changes such as flooding working islands, makes no sense. The purpose and effect have not been disclosed.

“Stonelake Wildlife Refuge” does not have the money to maintain their existing eco-habitat. Prospect Island is another example of an expensive attempt to restore an ecosystem that has failed.

What is the funding and procedure to maintain thousands of acres in their natural state, free of invasive non-native species? (6)

Most Delta residences will not agree to sell at any price and will resist eminent domain. The law protects private property for other than clear and necessary public good. That has not been claimed or shown. This potential land grab is all about Southern State farming and development and development dollars. The state is moving too fast without studying the impact on people.

The claim to study “the Delta as a place” without analyzing the families who will be affected and the business and employment revenues that will be lost lacks insight into the overall process.

The Delta is also home to Father Dan Madigan, the originator of the Sacramento Food Bank. Father Dan Madigan started this organization 20 years ago. Now, Father Dan presides over St. Joseph’s Catholic Church in Clarksburg, (celebrating 115 years July 2008), and he has grown the charitable Food Bank to a 20 million dollar service organization. Our Delta Community provides support to needy communities throughout Northern California.

Given the countless meetings that are taking place, how many millions of dollars of the taxpayers’ monies have been spent on an inadequate “strategic plan”? (7)

How much money by each State of California Department is allocated to complete this Delta Vision Strategic Plan? (8)

The North Delta Water Association has a forty-year contract signed in 1981 that prevents any of these changes. Had the Department of Water Resources complied with the contract and provided and maintained increased water flows, the health of the Delta would be intact.

How does the State of California intend to address the legal issue of the contractual water rights of the North Delta Water Association landowners? (9)

(Page 3)

We chose to live on the “Delta” precisely because it is the “Delta” with Riverfront property. We purchased land here because there was water with water rights adjacent to our properties. The desert lands of Bakersfield and the “West Side” never had water or water rights. Why should what exists on the Delta be destroyed to subsidize for land south of Tracy?

The loss of water from the Colorado River is unfortunate but our land should not be destroyed in order to give a “desert” water. Saying you are taking the Delta back to its’ natural wetlands is a lie. These lands were never wetlands or swamp lands. There have always been natural riverflows and that is what has created the Delta and its’ rich agricultural heritage and base. Please review and address the issues raised above. (10)

Given the short period of time and the urgency of this matter, there may be additional questions and concerns besides the nine questions raised above.

Please provide detail responses to each question both on your websites and to the public.

An excellent reference to more fully understand the complex issues is hereby attached. In October 2007 John Herrick wrote this letter to Mr. John Kirlin, Executive Director of the Delta Vision Blue Ribbon Task Force at 650 Capitol Mall, Sacramento. His letter has yet to be addressed. Please answer the questions he has raised. We also hereby attach the Alex Hildebrand letter of this past July which has yet to be addressed. Please include these letters in the comments to the Blue Ribbon Task Force.

Sincerely,

Daniel and Donis P. Whaley

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# SOUTH DELTA WATER AGENCY

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October 24, 2007

Mr. John Kirlin, Executive Director  
c/o Delta Vision Blue Ribbon Task Force  
650 Capitol Mall, 5<sup>th</sup> Floor  
Sacramento, CA 95814

Re: October 16, 2007, Draft Vision

Dear Mr. Kirlin:

The following are the South Delta Water Agency's comments to the October 16, 2007 draft Delta Vision prepared by the Blue Ribbon Task Force staff.

1. The draft Vision contains a wide range of assertions and proposed goals as guiding principles for the future operation and development of the Delta and surrounding areas. However, the draft Vision continues the unfortunate "new policy" to treat the water system and ecosystem as co-equal values. This position is contrary to not only the historic operation of the Delta and existing water rights, but also to over 50 years of legislation. By adopting this new policy, the Task Force avoids the critical issue facing the Delta; how much water is available for export under any set of conditions. By discussing reliability without a determination of what amount is, can or should be reliable, the solutions to the Delta's problems are once again deferred to future generations.

2. For almost a hundred years after the Delta was reclaimed, fisheries and local and in-Delta activities thrived together. The ecosystem was not significantly impacted as the numerous fisheries were stable, if not growing. Under these conditions, the Delta remained a fresh water area, and the mixing zone was still located downstream near the Suisun marsh. Upstream development decreased outflow such that the mixing zone was moved upstream closer to the Delta under certain conditions. The construction and operation of the state and federal projects resulted in the mixing zone moving much farther upstream and being relocated to areas where it had only been under extreme drought conditions. As the Contra Costa Water Agency

submittals show, the projects have made the Delta saltier than it was in the past. The projects have substantially increased salinity in almost all falls, erased the winter and spring freshening of the system in dry years, and lessened the wet year flushing of salts from the system. Hence, contrary to the PPIC Report, the Delta has been made much more salty with the projects. [Consequently, invasive species have multiplied under the un-natural salty condition.]

In the last five years, exports have been at record levels and the results are obvious. The species whose habitat was diminished and moved by the projects have now been brought to the brink of extinction. Notwithstanding that the export of water has caused the breakdown of the Delta ecosystem, one might *still* want to protect exports in the absence of some other guiding principles. There are such other principles which have been ignored by the Task Force.

When the projects were authorized, the Legislature passed and there were enacted laws which specifically give the areas of origin and the Delta a priority of rights to the water that could be exported. These laws not only make the provision of an adequate supply (of good quality) to the Delta (including ecosystem needs) and upstream areas of origin a precondition to any exports, they anticipate that those same areas will slowly take back portions of the developed water, thus decreasing exports.

Further, the existing system of water right priorities places nearly all Delta and upstream diverters ahead of the export projects while the public trust doctrine requires that exports maintain and protect such things as the fisheries before exports can occur.

Finally, the development of water for export was anticipated to include an additional 5 million acre feet from north-western rivers; none of which will ever be made available. Hence, when the projects export 4, 5 or 6 million acre feet of water, they are taking water originally intended to remain in the system and provide for in-Delta and upstream needs.

In this situation, it is unreasonable to give export needs a co-equal priority with ecosystem needs (or local in-Delta needs wholly ignored by the Task Force's "new policy").

To further complicate the solutions to Delta problems, the draft Vision continues to call for the creation of "new" conveyance, and that the protection of a resilient Delta requires a "separation of water for human uses from water for the ecosystem." Again, the draft Vision not only ignores the functions of the Delta but the established law governing it.

In light of upstream development, there are many times when there is insufficient downstream flow to meet all needs, both human and ecosystem. In order to address this situation, the projects are required by law to meet Delta outflow needs (ecosystem) and to provide in-Delta uses. In addition, the projects are required to coordinate reservoir releases to meet these needs. This idea is known as the "common pool," meaning that the projects are

required to keep the Delta fresh, healthy and fully supplied (see Water Code Section 12200 et. seq.).

Any isolated conveyance therefore does the exact opposite; it removes the fresh water needed for the ecosystem and in-Delta uses to the detriment of both. It is hard to imagine the basis for adopting a vision which reverses all existing priorities, undoes statutory protections and worsens Delta water quality in order to insure the supply of water to certain areas. Needing more and more water (or even current levels) is not a basis to ignore the law and destroy others. If arid regions need more water, that is not a Delta problem, that is an arid region problem, and perhaps a state problem. However curing that problem should not come at the expense of the Delta. No matter how the needs are couched, it does not change the fact that the current levels of exports have ruined the Delta. Protecting exports through an isolated facility means you want to protect that which has caused the harm.

As the developing Vision examines these issues, it should not avoid addressing them directly. The draft Vision has numerous references to “conveyance” and “separation” and “isolated facilities.” If the drafters mean a peripheral canal, they should say so and explain why and how. It does not serve the public that such an important debate is only alluded to and subtly implied.

#### Fragility and Repair of Levees

The last paragraph on page 3 states “A multiple levee failure event in the Delta could flood dozens of islands, badly damage the ecosystem, and entirely halt water exports from the Delta for years”. We believe that this statement is extreme and needs substantial qualification.

- The statement apparently assumes that measures, including those proposed in this draft, will not be implemented. These are measures to strengthen critical levees, channel closures in critical locations to impede the flow of Bay water into the Delta during island fill up after levee failure, and preplanning for levee repairs.
- Multiple levee breaks can only occur due to extreme floods or to major seismic events. Levee breaks that occur during floods do not cause cessation of exports. The statement about halting exports therefore is only germane to seismic events that are associated with major quakes in the Bay Area.
- The in-Delta coalition’s CWMP plan also makes it possible to pump back to the Bay, via the Old River corridor, Bay water that reaches the central Delta. If these things are done, we believe a cessation of exports would be unlikely to be as long as a year. The Vision Draft should not imply that a multi-year loss of exports can not be avoided without a PC.

Mr. John Kirlin, Executive Director  
October 24, 2007  
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### The Delta's land use pattern

The draft at the bottom of page 11 and elsewhere speaks of the importance of preserving the pattern of land use, including agriculture. This at least implies that the basic pattern of channels and lands must be preserved. However, the draft elsewhere seems to suggest that this can be done even if the salinity in Delta channels is unavoidably increased by an isolated conveyance of Sacramento water for export. It also implies that Delta agriculture can survive even if substantial areas of farm lands are converted to wetlands. This would put remaining farmers out of business because the regional need for support businesses, such as food processing facilities would no longer be sufficient to keep those facilities in business. If farmers are put out of business, who will maintain non-urban levees?

### Ecosystem/Habitat

The draft Vision lists numerous habitat related actions including tidal marshes, seasonal flood plains, non-tidal wetlands and dendritic channels. Whether or not or to what extent these actions are necessary should first be shown. If the fisheries were healthy before the projects, they may still be healthy if project operations are adjusted and additional habitat not needed. This may sound like heresy, but many proposals for new habitat locate it on land 5 - 20 feet above sea-level. Such proposals are obviously based on some perceived need, not any realistic analysis fishery needs or practicality of the habitat. In addition, even if the "too high" land were converted into wetlands, it would create large stagnant pools of warm water; the exact opposite of habitat.

Please call me if you have any questions or comments.

Very truly yours,

JOHN HERRICK

JH/dd

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July 1, 2008

**Via E-Mail [dv\\_context@calwater.ca.gov](mailto:dv_context@calwater.ca.gov)**

Delta Vision Blue Ribbon Task Force  
650 Capitol Mall, 5<sup>th</sup> Floor  
Sacramento, CA 95814

Ladies/Gentlemen:

We are writing to provide an initial technical response to your invitation for constructive comment on the June 18 Preliminary Staff Draft of a Delta Vision Strategic Plan.

The length and breath of the Draft attest to the complexity of the subject, and the long range difficulty of restoring and protecting the Delta while also providing an adequate California water supply as the population grows. However, much of the draft is little more than an unrealistic wish list by people with different knowledge bases and perspectives. It includes conceptual solutions to various perceived needs without regard to compatibility or feasibility, or the extent to which the compatible measures could collectively achieve the strategic goals. It also fails to identify the technical analyses needed to determine whether a dual facility would be a viable solution.

For example, page 7 and Action 4.1 on page 29 and elsewhere propose that a large part of the Delta's agriculture be converted to various kinds of wetland and upland habitat. There is no discussion of the fact that this would reduce the developed water supply because open water and wetlands consume much more water pre acre than farmlands. There is no discussion of the consumptive use of water in the Delta. There is no discussion of whether the remaining farms could survive if there is no longer enough business for food processors, and farm service organization to be viable. There is no discussion of the pros and cons of destroying agriculture in the Delta or elsewhere when we have 5 million more people to feed every ten years. Agricultural Code 411 says we must have a sufficient farm water supply so that we don't become dependent on a net import of food. The State Water Plan ignores this legislated policy. Will the Vision Plan also ignore it? How does the Strategic Plan decide what laws and water rights to honor and which to ignore.

Page 35 proposes large controlled increases in outflow to the Bay. There is no discussion of the source of this water.

In discussing the need for a reliable California water supply there seems to be an unexplained assumption that part of that supply must derive from intercepting a substantial part of the remaining but reduced Delta inflow, and exporting it through an isolated canal. Yet it is stated on page 41 that “the surest path to supply reliability is through regional self sufficiency ---” On page 59, Action 9.2 it is acknowledged that exports from the Delta should be reduced in low river inflow conditions and increased in high outflow situations. It is not clearly stated that this increases the developed water supply by capturing excess Delta outflow.

On Action 9.1 page 58 it is proposed to implement a “Middle River Conveyance” system. This is similar to the In-Delta Comprehensive Water Management Plan presented to the Task Force last October. That Plan was then never discussed or mentioned in Task force reports. There has been no discussion of considering the Plan as an alternative to a dual facility, rather than just an interim measure. The Delta Corridor portion of the Plan would keep San Joaquin fish away from screens. Our updated Plan would also correct the deadend feature of screening Sacramento and resident fish in water exported from the South Delta. We would create a flow of Sacramento water past the screens and discharge that flushing flow into the Old River Corridor.

The draft Strategic Plan still assumes that we can have a canal and also restore the Delta. This is not physically possible. The DWR’s May response to a question from the Vision Task Force admits that even with average rather than below average summer river flows, the Delta outflow would have to be reduced and X2 moved inland to get any increase in Delta exports by use of a canal. What effect will this have on the City of Antioch and on the ecology of Suisun March? DWR’s analysis is based on 2,000 cfs at Vernalis, but it was about 1,000 cfs in three of the last four years and was about 850 cfs last weekend.

A basic cause of our water problems is that the population has already outgrown the developed water supply. California is unsustainably overdrafting its groundwater by about two million acre feet per year. The fresh water inflow to the Delta from the Mokelumne and San Joaquin Rivers has been largely eliminated much of the time. This is the result of exports upstream of the Delta to the Tulare Basin, and to the Bay area. It also results from increased upstream consumptive use of water to grow food and provide urban needs for the growing population. We have about 5 million more Californians every ten years, but the 2005 State Water Plan makes no provision for the water that must be used consumptively to provide food for the increasing population. Researchers at U.C. Riverside have estimated that it takes about 0.75 acre feet of water consumed to grow an adequate and balanced food supply for each member of the public.

Since the decrease in Delta inflow is a major cause of the problem, it is not logical to believe that we can solve the problem by using a canal to substantially further decrease inflow, and by destroying the dispersal of any remaining inflow through Delta channels, and by increasing exports from the Delta. The draft Plan does not discuss this.

A canal through the Delta would also divide the Delta into two parts. It would sever lands, farm roads, county roads, irrigation systems, drainage systems, levees, all but a few channels, recreational boating routes, etc. It would increase major flood stages by impeding flow across the canal. It would cause seepage problems, and require new fish screens. It would create problems for utilities, gas pipelines, and water pipelines to the Bay area. It would create blind sloughs with no circulation. The draft does not mention this.

On page 23 of the above mentioned May report by DWR to the Task Force it is acknowledged that DWR has not yet investigated the water quality and flow effects within Delta channels. When that is done for both average and low river flow conditions it will show that salinity will be too high for reliable crop production in the Delta south of the Sacramento channel. This will put farms out of business. Farmers are the primary maintainers of non-urban levees. When farming is destroyed, the levees will be abandoned and the Delta will convert to an open salty Bay. How will this affect fishery?

The draft Strategic Plan and the State Water Plan do not distinguish between proposals such as transfers which reallocate but do not increase water supply, and measures which do increase supply. The Plan does not distinguish between non-consumptive uses which can be, and are largely already recovered in the Central Valley, and consumptive uses which can not be recovered. Most of the man made consumptive use is for the production of food. This consumptive use requires far more water than all of the non-consumptive uses of water. Little can be done to decrease the amount of water that must be consumed to produce a pound of crop biomass. Pushing farmers to use drip irrigation will not reduce the consumptive water use. The non-consumed excess applied water is already largely recovered.

We recommend that the Strategic Plan be revised in respect to the above discussion and similar matters.

Thank you for your consideration.

Very truly yours,

Alex Hildebrand

cc: Sunne McPeak  
John Herrick  
Secretary Mike Chrisman