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IRRIGATION DRAINAGE

# RECLAMATION DISTRICT NO. 2068

September 1, 2008

The Honorable Phillip Isenberg
Chair Delta Vision Blue Ribbon Task Force
428 J Street, Suite 440
Sacramento, CA 95814

Re: The Position of Reclamation District No. 2068 on the Delta Vision and Strategic Plan

## *General Comments*

Reclamation District No. 2068 makes these comments on the third draft of the Delta Vision Strategic Plan with the understanding that this agency fundamentally disagrees with the priorities expressed in the Vision document.

This agency has invested in planning since 1917 and providing agricultural waster service and flood control in the upland portions of the northwest Delta since the completion of its works in 1925. We have been involved locally and regionally in developing a sustainable and robust water supply and secure flood protection system. We have invested heavily in the development and protection of these resources relying on the statutory assurances and by contractual obligations entered into with the State of California for the continued protection and operation of these works.

Delta export contacts do not have similar levels of protection, moreover, those contracts provide for a water supply that is subject to declining reliability due to changing conditions in the areas of origin and as a result of the failure to complete projects necessary to develop contracted yields.

Regulatory expectations that have evolved in the past three decades do impact everyone. We find, however, no justification in these conditions that warrant the level of dislocation envisioned by the Strategic Plan. The State and federal projects promised more than was deliverable resulting in the now obvious effects. Sharing the pain of these failures throughout the broader water community does nothing to encourage better behavior in the future, but simply rewards poor planning and unrealistic expectations.

It is stated that no uses are to be remain vested with privileged position. It remains abundantly clear that the two identified co-equal goals do, in-fact, create a situation of extraordinary advantage whereby the failure of the CVP and SWP and their contractors to operate within the bounds of current statute and the recognized limitations imposed by

statute, their permits and constrained yield are being held harmless for these actions at the expense of much of Northern California's, including in-Delta, water users.

The basic principles that this agency supports in pursuing a Delta solution are captured in the following:

1. Any Delta solution must include guarantees that lands within North Delta Water Agency (NDWA) will continue to receive both the quantity and quality of water guaranteed under the 1981 Contract between NDWA and the California Department of Water Resources and under applicable California law, including the Delta Protection Act.

2. High quality agricultural land should not be taken out of production as a result of any Delta solution. To the extent that agricultural lands will be affected by new Delta infrastructure or habitat restoration, the focus should be on those lands owned by public agencies such as the California Department of Fish and Game, the U.S. Bureau of Reclamation, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and by non-governmental organizations such as Trust for Public Lands or Nature Conservancy or those involving willing buyer/willing seller transactions. To be made whole does not mean to be bought out; non-willing sellers should not be forced to give up their property through eminent domain or other coercive processes.

3. Landowners and water users within NDWA should be protected from short-term and long-term "collateral damage" arising from habitat restoration efforts. This includes, but is not limited to, regulatory actions that may affect the right to divert (i.e. fish screen requirements), ability to use available water (i.e. water quality) and the timing of diversions. Any Delta solution must include robust and secure "take" authorization for existing, in-Delta covered activities. Assurances must be flexible and open-ended, and must not shift the risk for changed conditions away from the state.

4. Any solution 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.

5. Habitat restoration efforts must not trump all other concerns, and must particularly yield to public health and safety concerns, particularly in relation to (i) mosquito-borne diseases such as malaria or West Nile virus, and (ii) flood risks.

6. BDCP participants should not implement other activities and/or Delta projects prior to the completion of environmental review for BDCP. The process is designed to be comprehensive, so piecemeal maneuvers should be avoided and/or discouraged.

7. Existing local taxes and/or assessments should be maintained, including the payment of assessments and fees to cities, counties, and special 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 public services.

8. The BDCP and Delta Vision processes must be open, fair, and transparent. Documents, including initial plans and/or workgroup materials, should be widely distributed and available on the internet as this is a state-wide issue. It is also imperative that the process remain open to alternate ideas, rather than a mechanism to reach a predetermined outcome.

9. It is critical to examine the socio-economic impacts on communities and preserve and expand the local farm economies and small, in-Delta communities. Rural communities and agriculture require a critical mass to be viable, and shifting too much of a community into habitat could decrease the available pool of commercial support services to those communities and agriculture. In addition, removing agricultural land from production has the effect reducing the pool of available mitigation lands for local uses, resulting in adverse secondary and tertiary effects in the region.

So as to not restate many of the comments of our neighboring agencies for which there is substantial mutual agreement, the District supports the attached comments submitted by the following entities;

- North Delta Water Agency, July 29, 2008
- County of Sacramento, August 13, 2008
- South Delta Water Agency, August 19, 2008
- Public Works San Joaquin County, August 4, 2008
- Yolo County, August 4, 2008 (as to those items included as "Flood and Emergency Preparedness", "Agriculture" and "Finance")
- California State Board of Agriculture, August 28, 2008

**Strategic Direction**

Under the current regulatory environment, wherein individual agencies continue to have single focus mandates, any new governance structure will continue to be reactionary rather than proactive and collaborative. Real change will come only with a realignment of regulatory focus at the State and federal levels. The SWRCB has repeatedly tasked both the CVP and SWP with this multi-objective role within the Delta. Repeatedly these agencies have failed to live up to those responsibilities. The result is the current situation in the Delta we are faced with today. The strategic plan does not adequately address the federal role in a collaborative solution or implementation of a solution.

The apparent creation of a share-the-pain solution to water supply reliability is contrary to any equitable resolution of a problem created by the failure of the export projects to provide an adequate exportable yield, failure to ensure that water supplies were appropriately utilized when they became available and failure to link land use and resource expectations to the foreseeable decline in the reliable export project water supplies.

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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. It is note worthy that much of the Environmental Water Account supplies have originated from the current system. The multiple benefits of increased surface storage for both water supply and flood protection need additional focus and attention.

## *Specific Comments*

**Financing the Future (pg. 23)**

Sub. 1.) Public financing should include those funds necessary to mitigate or indemnify for redirected impacts as created by implementing the strategies and reductions in taxes, fees 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.

Number of days the North Delta Water Agency agreement's water quality standard is violated 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**

Reference to specific legislative bill, ie. AB 2175, is inappropriate due to the fluid nature of proposed legislation as it moves through the legislative process. The reference is only valid and certain at the time of authorship and provides no long term certainty to the Vision's intent if the bill is amended. That level of required certainty is not present until specified legislation has been chaptered.

The chapter fails to adequately account for market driven influences on the cost of water. The current mechanisms of a robust water market will, without the need for state prescriptive policy, provide a reliable and cost effective price points for a variety of water uses. They can account for a wide range of water prices based upon the conditions of time, place, efficiency, demand and scarcity.

**Strategy 2**

There is insufficient clarity as to whether additional new surface storage, and the location of such is recommended.

**Strategy 3**

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**

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.

**Strategy 5**

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, the protection of these local intakes should be provided protection by the State through the BDCP or an equivalent mechanism.

**Strategy 6**

All potential ssers 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 activity.

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 levee maintenance and water diversion for agricultural uses, will be protected from the presence of special status species.

The economic health of activities in and adjacent to the Yolo Bypass can be severely degraded by disruptions in the use of the bypass for agricultural production. By example, the DFG's Yolo Basin Wildlife Area is heavily dependent on agricultural revenues for support of the operation of the Wildlife Area. Flooding that displaces revenue generating agricultural uses depletes the funding available for sustaining this DFG facility. Additionally, substantial higher elevation agricultural lands in the northwest delta are solely dependent on water pumped from the Yolo Bypass/Cache Slough region. Redirected impacts and imposed costs have a direct adverse effect on those agricultural economies.

As a general comment, 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.

**Strategy 7**

This plan needs to recognize the terms and conditions of the North Delta Water Agency agreement (1981), landowner sub agreements and subsequent MOU with the State of California for the provision of water of adequate quality and quantity to satisfy the needs of the North Delta Water Agency jurisdiction. This agreement may be an impediment to a variable salinity strategy in the North Delta region.

**Strategy 9**

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 nor abandoned without a recovery mechanism.

**Strategy 10**

See comments on Strategy 6.

Envisioned improvements must, as a component of those projects, 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**

We take strong exception to the implication that these actions will in any significant way alter or mitigate 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.

The net effect of this strategy is that the very character being recognized is in fact significantly and irretrievably altered.

**Strategy 13**

As an agency that have partnered with the State of California for decades to provide effective flood protection to people, infrastructure and economic activity in the northwest Delta, we find this strategy offensive. 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 and production has no value.

See comments of California Board of Food and Agriculture

**Strategy 14**

The District supports the concept of not allowing inappropriate residential, commercial and industrial development in high risk flood areas. We also believe that local government is a better land use steward than state agencies. Appropriate legislative and incentive mechanisms that preserve local authority is preferred to prescriptive state action.

**Strategy 15**

Any delta governance structure should include substantial (i.e. majority) local Delta representation.

The DPC, as currently constituted, should not be play an increased role in Delta governance. The District does not support the expansion of the DPC authorities without a revision of the current DPC governing board membership. Given the expanded role proposed, the DPC Board should be smaller and be comprised of County, City, North, Central and South Water Agency and Reclamation District representation, State agencies should be advisory only.

Levee issues should remain within the purview of the Sate Reclamation Board and Division of Flood Management. 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.

The environmental justice section does not adequately address the obvious and serious disproportionate impacts that are imposed on the Delta region as a result of both State and federal water project operations.

**Strategy 17**

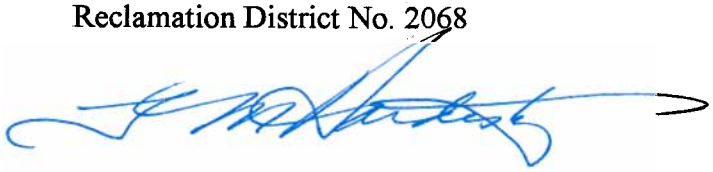
The District does not support the proposed allocation and financing strategy as presented. Without adequate definition of the beneficiaries and an expression of the apportionment utilized, this opened ended approach appears to be a resurrected "share-the-pain" scheme whereby the broader water community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

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

**Strategy 18**

The repudiation of the historical statutory framework of California's existing water right law is divisive and wrong. The future under this strategy is a bitter one that guarantees endless litigation and long-term stalemate. Despite any wishful thinking to the contrary, we are not working with a blank slate. As the document acknowledges, the scale of change will be difficult at best and paralyzing at worst.

Board of Trustees
Reclamation District No. 2068



*by* T. M. Hardesty

# NORTH DELTA WATER AGENCY

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July 29, 2008

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

Phil Isenberg, Chair
Delta Vision Blue Ribbon Task Force
c/o Resources Agency
State of California
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

**Re: COMMENTS ON DELTA VISION STRATEGIC PLAN (SECOND STAFF DRAFT DATED JULY 11, 2008)**

Dear Mr. Isenberg:

The North Delta Water Agency ("NDWA") respectfully submits these comments on the Delta Vision Strategic Plan (Second Staff Draft dated July 11, 2008).

## BACKGROUND

NDWA was formed by a special act of the Legislature in 1973. (North Delta Water Agency Act, Chapter 283, Statutes of 1973). Its boundaries encompass approximately 277,000 acres including all of that portion of the Sacramento-San Joaquin Delta, as defined in Water Code Section 12220, that is situated within Sacramento, Yolo and Solano Counties. Also included within NDWA's boundaries are certain lands in northeastern San Joaquin County comprising New Hope Tract, Canal Ranch and Staten Island.

Beginning approximately 160 years ago, farmers within the area now comprising NDWA began reclaiming lands from flooding, appropriating water to beneficial use and establishing vibrant agricultural communities. The Bureau of Reclamation (Bureau) began constructing the Central Valley Project (CVP) in the late 1930s, damming the major tributaries on the Sacramento River and holding back substantial quantities of the Delta water supply. As it did with landowners along the Sacramento River, the United States conducted extensive studies and negotiations to ensure a sufficient supply for water right holders in the northern Delta. Discussions with Delta landowners were protracted, however, due to the complex issues of both water quantity and quality, and the issues only intensified with the construction of the State Water Project by the California Department of Water Resources (DWR).

Against this backdrop, NDWA was formed to represent northern Delta interests in negotiating a contract with both the Bureau and DWR in order to mitigate the water rights impacts of the Projects.[1] From 1974 to 1979, North Delta, the Bureau and DWR determined the outflow necessary to meet water quality standards for irrigated agriculture and reviewed the paramount water rights of landowners within North Delta's boundaries. The agencies also evaluated the Delta channels' historical function as natural seasonal storage. Before the Projects began withholding much of the Sacramento River system's high winter flows, the Delta channels stored sufficient fresh water to sustain water quality in the northern Delta throughout and often beyond the irrigation season. Since the Projects commenced, however, the Delta functions more like a flowing stream and, as a result, relatively minor decreases in outflow can have a serious impact on northern Delta water quality.

In 1981, DWR and NDWA executed a Contract for the Assurance of a Dependable Water Supply of Suitable Quality (1981 Contract), a copy of which is enclosed. The crux of the 1981 Contract is a guarantee by the State of California that, on an ongoing basis, it will ensure that suitable water will be available in the northern Delta for agriculture and other beneficial uses. The 1981 Contract requires DWR to operate the State Water Project to meet specified water quality criteria while providing enough water to satisfy all reasonable and beneficial uses of water within NDWA's boundaries. (1981 Contract, Art. 2) In return, North Delta makes an annual payment to DWR. (*Id.* Art. 10) Although the two signatories are public agencies, the 1981 Contract also extends to individual landowners who, under the terms of the Contract, have executed Subcontracts guaranteeing that their lands will receive all the benefits and protections of the 1981 Contract. (*Id.* Art. 18) Many of these Subcontracts have been signed and recorded, enabling the subcontractors to enforce the terms of the 1981 Contract.

In connection with the hearings that preceded the State Water Resources Control Board's adoption of Water Right Decision 1641, DWR and NDWA entered into a memorandum of understanding dated May 26, 1998 (MOU), which provides that DWR is responsible for any obligation imposed on NDWA to provide water to meet Bay-Delta flow objectives, so long as the 1981 Contract remains in effect. In Decision 1641, the State Water Board made the following findings and determinations: "Based on the agreement, the SWRCB finds that the DWR will provide the backstop for any water assigned to the parties within the NDWA as specified in the MOU. This decision assigns responsibility for any obligations of the NDWA to the DWR consistent with the MOU." (Decision 1641 at 66). The latter findings and determinations were upheld by the trial and appellate courts that subsequently reviewed Decision 1641.

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[1] Section 4.1 of the Agency Act states: "The general purposes of the agency shall be to negotiate, enter into, executed, amend, administer, perform and enforce one or more agreements with the United States and with the State of California . . . To protect the water supply of the lands within the agency against intrusion of ocean salinity; and ... To assure the lands within the agency of a dependable supply of water of suitable quality sufficient to meet present and future needs."

## COMMENTS ON THE DRAFT STRATEGIC PLAN

***General Comments***

The Draft Strategic Plan does not adequately protect NDWA or the communities within its service area. In revising the Plan, the Task Force should be guided by the following principles:

1. Any Delta solution must include guarantees that lands within NDWA will continue to receive both the quantity and quality of water guaranteed under the 1981 Contract and under other applicable law, including but not limited to the Delta Protection Act, Cal. Water Code §§ 12201-12204 and the area of origin laws, Cal. Water Code §§ 11460-11465.

2. Productive agricultural land should not be taken out of production as a result of any Delta solution. To the extent that agricultural lands within NDWA will be affected by new Delta infrastructure or habitat restoration, acquisition of property rights should be limited to willing buyer/willing seller transactions, especially those involving lands owned by public agencies such as the California Department of Fish and Game, the U.S. Bureau of Reclamation, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and by non-governmental organizations such as Trust for Public Lands or Nature Conservancy. To be made whole does not mean to be bought out; non-willing sellers should not be forced to give up their property through eminent domain or other coercive processes.

3. Landowners and water users within NDWA should be protected from short-term and long-term "collateral damage" arising from habitat restoration efforts. This includes, but is not limited to, regulatory actions that may affect the right to divert (i.e. fish screen requirements) and the timing of diversions. Any Delta solution must include robust and secure "take" authorization for existing, in-Delta covered activities. Assurances must be flexible and open-ended, and must not shift the risk for changed conditions away from the State of California.

4. Any solution 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.

5. Habitat restoration efforts must not trump all other concerns, and must particularly yield to public health and safety concerns, particularly in relation to (i) mosquito-borne diseases such as malaria or West Nile virus, and (ii) flood risks.

6. The Strategic Plan should make clear that no irretrievable commitments will be made to implement any project until all required environmental review processes are completed. The "piecemealing" of projects, including habitat restoration projects, is contrary to the California Environmental Quality Act and the National Environmental Policy Act and must be avoided.

7. Existing local taxes and/or assessments should be maintained, including the payment of assessments and fees to cities, counties, and special districts, and North Delta Water Agency assessments. Removing even a small part of the local funding for these agencies could compromise the ability to execute their critical roles in community governance.

8. The Delta Vision process must be open, fair, and transparent. Documents, including initial plans and/or workgroup materials, should be widely distributed and explained to Delta residents through ongoing public meetings. Such documents should also be available on the internet. It is imperative that the Delta Vision process be open to alternative ideas, rather than a mechanism to reach a predetermined outcome.

9. The most significant failing of the Draft Strategic Plan is its complete failure to examine or consider (i) the feasibility of the proposed actions relating to habitat restoration; and (ii) the socio-economic impacts of the proposed actions on local economies and communities within the Delta. It is critical that the Strategic Plan consider and discuss the latter category of impacts. Rural communities require a critical mass of agricultural activities to remain viable, and shifting too much of a community into habitat could very well increase development pressures by undermining the viability of local agriculture-based economies. In addition, removing agricultural land from production may reduce the pool of available mitigation lands, resulting in adverse secondary and tertiary effects in the region.

10. NDWA has reviewed the three letters dated July 2, 2008, July 9, 2008 and July 15, 2008 from Deputy Attorney General Virginia A. Cahill to John J. Kirlin, Executive Director of Delta Vision. These letters purport to examine the authority of the State of California to reallocate water under various legal theories. It is the position of NDWA that any attempt by the State of California to "reallocate" water from water users within NDWA to other uses would constitute an actionable breach of the 1981 Contract and a taking of private property. NDWA reserves the right to respond in detail to Ms. Cahill's assertions.

***Comments on In-Delta Water Use***

Proposal: Action 9.3 proposes to "[s]hift major in-Delta diversions away from sensitive habitats (high priority restoration areas, low-flow channels and terminal sloughs) to channels where drinking water quality is higher." Action 9.5 proposes to "[i]dentify mechanisms to connect legal in-Delta water users to improved Delta conveyance facilities."

Response: NDWA generally supports the two proposed actions described above, provided that all costs associated with the shifting of major in-Delta diversions (including major diversions by districts and landowners within NDWA) or the implementation of mechanisms to connect in-Delta water users to improved Delta conveyance facilities are borne by the State of California or export water users.

***Comments on Governance***

Proposal: A new gubernatorially-appointed California Delta Ecosystem and Water Council ("Delta Council") would adopt a California Delta Ecosystem and Water Plan ("Plan"). The Plan would address water conditions and land uses, in the Delta and possibly outside of it. The actions of state and local agencies that make decisions that affect the Delta – including the State Water Resources Control Board ("SWRCB") – would have to be consistent with the Plan. The Council would decide if an agency's action was consistent with the Plan.

Response: NDWA opposes creation of a Delta Council and the Plan because the SWRCB, DWR and the Delta Protection Commission, collectively, can achieve the same things without an additional agency. Counties should retain the principal decision-making role with respect to land use in the Delta.

***Comments on proposal to "restore" the Delta Ecosystem***

Proposal: The strategic plan proposes that: (i) "appropriate" Delta flows be "restored;" (ii) floodplains, including the Yolo Bypass, be flooded more often to improve the Delta ecosystem; and (iii) water for ecosystem restoration not be purchased, but "will be provided within the California's systems of water rights and the constitutional principles of reasonable use and public trust." (Pp. 23, 28, 30-31, 34-35.)

Response: These proposals presumably would require involuntary contributions of water by water users upstream of and potentially within the Delta. These proposals, however, appear to respond primarily to two conditions: (i) loss of habitat within the Delta caused by levee construction; and (ii) adverse stream conditions created by Delta export pumping. These conditions were not created by NDWA water users. NDWA water users have borne their fair share of the cost of maintaining water supply and water quality in the Delta through the payment requirements under the 1981 Contract. NDWA will oppose any involuntary and uncompensated reallocations of water.

***Comments on Proposed Diversion Fees***

Proposal: The strategic plan proposes "multiple revenue streams" and states (p. 25): "'Layering' revenue generation systems better allows matching revenues collected to perceived value and actual beneficiaries. [¶] For example . . . there should be a per-acre-foot fee levied on water diversions within the Delta watershed, and a separate fee on any water conveyed through or around the Delta."

Response: NDWA opposes diversion fees where there is no clear nexus between the fees imposed and impacts of diversions on the Delta ecosystem. No such nexus exists for diversions by NDWA water users. General funding of operations of agencies interested in the Delta is not an appropriate basis for imposing fees on Delta-watershed water users where there is no demonstration that those water users' activities have adversely impacted the Delta. Eliminating the Delta Council and its associated budget would limit any need for new funding sources.

***Comments on Proposed California Water Utility***

Proposal: The draft strategic plan proposes that control of the SWP be removed from DWR and placed in a new "California Water Utility." The Utility eventually would take over the CVP, too. The Utility would manage Delta exports in coordination with a Delta operations team comprised of relevant state and federal agencies. (Pp. 18-19.) The draft strategic plan does not say how the Utility would be organized. Delta exporters have proposed a JPA in which they would participate.

Response: NDWA opposes the establishment of a new "California Water Utility." The State Water Project should continue to be operated by the Department of Water Resources. A California Water Utility funded and operated by export interests would not adequately represent the broader public interest in the operation and administration of the State Water Project. NDWA would object to the assignment of the 1981 Contract to a new entity of this type.

***Comments on Proposed Conveyance System***

Proposal: The draft strategic plan proposes dual Delta conveyance facilities with a peripheral canal and in-Delta channel improvements that are designed with capacity to deliver high wet-season supplies, which capacity would not be fully used during drier seasons. (Pp. 58-62.)

Response: The Strategic Plan must explain how the State of California intends to maintain through-Delta flows adequate to meet its water supply and water quality obligations under the 1981 Contract. NDWA will support cost-effective Delta-conveyance solutions, provided that such solutions are consistent with the ten general principles set forth on pages 3-4 of this letter.

***Comments on Proposed Requirements for Water Use Reporting and Ag Water Conservation***

Proposal: The draft strategic plan suggests requiring all water users to report their diversions to some entity, probably the SWRCB. (Pp. 4, 22-23, 42.) In addition, the draft

strategic plan proposes to increase agricultural water conservation with incentives for farmers to convert to "state-of-the-art drip or micro irrigation systems, or other equipment and methods that eliminate any return flows to surface water systems." The incentives would include: (i) increasing funding, and streamlining procedures, for grants and loans to farmers to implement these measures; and (ii) considering exemptions from Regional Board agricultural-runoff regulations for farmers who install heightened water-conservation measures. (P. 45.)

Response: While NDWA generally agrees that farms should be water-efficient, the Task Force must recognize that the hydrology and water use systems in the Delta are unique. Specifically, natural sub-irrigation occurs in many agricultural lands within the Delta; as a result, traditional methods for increasing agricultural water use efficiency (such as drip or micro-irrigation techniques) may have limited application in many parts of the Delta. NDWA opposes a "one size fits all" approach to agricultural water use measurement and agricultural water conservation. NDWA is willing to work cooperatively with the SWRCB, DWR and other agencies to develop an agricultural water conservation program for the Delta that makes sense given the unique characteristics of the Delta.

***Comments on Proposed Storage Diversion Limits***

Proposal: Under a conjunctive-use heading, the draft strategic plan proposes, among other limits, the following two limitations that are intended to "shift operations to take the greatest volume of exports during times of high flow": (i) "Do not divert to storage into upstream reservoirs until 15 days after inflows to on-stream reservoirs require real-time flood control operations;" and (ii) "Limit total monthly diversions to a percentage of the inflow to on-stream reservoirs so that high flows are not limited to those required by regulation." (Pp. 36-37.)

Response: These limits are not clear and must be clarified before NDWA can make complete comments on them.

***Comments on Proposal to Store More Floodwater Upstream of Delta***

Proposal: The draft strategic plan proposes "infiltrating and storing more floodwater upstream of the Delta using both groundwater and floodplain storage . . . ." (P. 73.)

Response: It is not clear what this proposal would entail. If it would entail expanding

floodplains onto existing private property within NDWA, then NDWA would oppose the proposal because such a proposal would adversely affect the rights of NDWA landowners to exercise their rights under the 1981 Contract.

Thank you for the opportunity to comment on the Draft Strategic Plan.

Very truly yours,

Melinda Terry
Manager

**Municipal Services Agency**
Paul Hahn
Agency Administrator

**County Executive**
Terry Schutten

**County of Sacramento**

August 13, 2008

The Honorable Phillip Isenberg
Chair Delta Vision Blue Ribbon Task Force
428 J Street, Suite 440
Sacramento, CA 95814

Re: The Position of the County of Sacramento on the Delta Vision and Strategic Plan

Dear Mr. Isenberg:

The County of Sacramento has not, to date, directly commented on either the Delta Vision or the various drafts of the so-called "Delta Vision Strategic Plan" (most recent draft dated July 11, 2008, hereinafter referred to as "Strategic Plan").[1] Nor has Sacramento County been contacted by the "Blue Ribbon Task Force" or any of its staff regarding the critical Sacramento County governmental functions that may be adversely affected by the Delta Vision. This omission, which is of great concern to Sacramento County, should be corrected prior to the Blue Ribbon Task Force Delta Vision proceeding with or finalizing its work. In addition, and related to this point, the following positions must be addressed by the Blue Ribbon Task Force:

1. The Delta Vision Recommendations Must Be Modified to Better Address the Interests of Those Who Work and Reside in the Delta and within the Sacramento Valley

> *Governance*

There is no question that the Delta is of critical statewide importance. Nonetheless, this fact should not be utilized as a means to ignore local governments and their needs to act for the welfare of their citizens. Nor should the importance of the Delta be used to create a governance in which County and local governmental oversight and control are ignored. The Blue Ribbon Task Force itself is devoid of this type of essential membership. The proposals in the Delta Vision and in the Strategic Plan fail to acknowledge County and other local agency governance.

Comments, relevant to Sacramento County's interests and concerns, have been provided by the Sacramento Regional County Sanitation District, dated July 1, 2008, and August 1, 2008. These letters are attached hereto.

In this regard, the Delta Vision Recommendation No. 10 is of great concern. It not only recommends modification of Delta boundaries, but also a change in Delta governance systems. While citing a rationale of environmental protections, the recommendation is driven by the need for an improved water supply for areas in the San Joaquin Valley and in Southern California. After all, ignoring local land use and governments for the purposes of exporting water away from areas of origin is not a new concept. However, there is no need to repeat historic errors.

As a first step in addressing these concerns, the two so-called co-equal values of Delta ecosystem protection and a reliable water supply for California, i.e., "South of Delta California," articulated in Recommendation No. 1, must be modified to provide, either as a condition of moving forward with the "two co-equal values," or as a third equal value, the following:

> **In meeting the goals of ecosystem protections and a reliable water supply for areas of California that are south of the Delta, counties and areas of origin assurances, protections and priorities to water will be honored and adhered to. Programs or facilities implemented or constructed in the Delta will be subject to Delta counties and other local governance, and will not result in significant adverse environmental, economic or social impacts to Delta counties or the watersheds of origin of Delta waters.**

The concepts articulated in the Strategic Plan are of equal concern to Sacramento County and other local governments. These concepts also focus on improved water delivery through or around the Delta. To this end, it is proposed that the roles of Sacramento County, other Delta counties and other local governments be replaced by a strengthened Delta Protection Commission "to govern land use" in the Delta. Also proposed are the development of "Councils," "Commissions," "Boards" and a "Conservancy." If accomplished, this proposal would supplant County and local governments, and create a State non-elected authority governing questions that have historically been matters of County and local governmental concern and control. Indeed, other than an apparent role in the Conservancy, and an indirect seat on the Delta Protection Commission ("DPC"), the role of the County of Sacramento in the Delta is virtually ignored.

Consistent with the manner in which County and local governments within the Delta are dealt with in Recommendation Nos. 1 and 10, Recommendation Nos. 5 and 7 appear to be a means to ignore water rights priorities and watersheds of origin protections for the benefit of Delta exporters. Sacramento County believes in the importance of providing reliable water supplies to areas of California south of the Delta. However, those areas developed predicated upon promises, borne out of the experience of Inyo and Mono Counties, that the export of water would be subject to the then existing and future needs of those within the counties and areas of origin, and that those prior rights to water would be honored. The Blue Ribbon Task Force attempts to re-write these protections so that the diversion of water upstream and within the Delta become subservient to meeting the "two co-equal goals," including the export of water south of the Delta. Recommendation Nos. 5 and 7 and their implementation within the Strategic Plan must be modified to fully honor and protect these senior water rights.

> *Flood Control and Land Use*

As noted, it is undisputed that the Delta is a unique and valued area. The Delta Vision concedes that the Delta is a place of natural beauty, with historic towns, productive farming and close-knit communities. It then ignores those local communities. Decisions with respect to levees and other means of flood protection must not be based upon meeting the limited "two co-equal goals" alone, but must also be based upon concepts that seek to protect the existing economies and communities within Sacramento County and the rest of the Delta. In this regard, Recommendation No. 9 must be revised to include these regional interests.

> *Water Quality*

A great deal of time has been spent recently on unsubstantiated speculation with respect to alleged impacts of the operation of the Sacramento Regional Wastewater Treatment Plant. These substantive issues have been addressed in the attachments hereto. Nonetheless, and as a matter of policy, focusing statewide resources, including billions of dollars in Bond funds, to meet water supply needs in south of the Delta, but at the same time requiring that the Sacramento Region alone bear the substantial costs of proposed infrastructure modifications to its wastewater treatment facilities to enable enhanced water exports, as is suggested in the Delta Vision is unacceptable. The interests of Sacramento County and the Delta should not be dealt with as being secondary to the interests of other areas of the State. At a minimum, if there is a statewide interest in modifying the Sacramento Regional Wastewater Treatment Plant, then State funds must be provided to pay for these modifications.

2. The Delta Vision Strategic Plan Action Items Need to Incorporate and Defer to County and Local Governmental Decision Making

At core, the Delta Vision recommendations and the draft Strategic Plan adopt a position avoiding County and local elected governmental structures in favor of appointed "Boards," "Councils," "Commissions," "Teams," a "Conservancy" and other similar bodies.

In this regard, the Blue Ribbon Task Force should explain the following:

> How would a "small body ... appointed by the Governor" (as the so-called California Delta Ecosystem and Water Council is described in the Strategic Plan (Action 1.1)) provide better governance for those who live and work in the Delta than elected County and local officials?
>
> How would this body be best positioned to control funds allocated to the Delta and to guide the other new, also non-elected, governmental bodies proposed in the Delta vision and Strategic Plan?
>
> Why is there no provision, at all, formal or ex officio, for County or other local governmental participation in this small body?
>
> Why should the appellate function of the DPC be moved to this appointed, small body?

Why should the actions of the proposed Conservancy be answerable to the new small body instead of the elected governments within the Delta? How will the actions of the Conservancy be controlled to insure that local land use planning and decision making are not ignored or impaired?

Why the efforts associated with a Delta Science Program and adaptive management can't be implemented consistent with elected government as opposed to the non-elected "Council" and "Board" governance that is proposed in the Delta Vision?

The California Delta Ecosystem and Water Plan must recognize and honor senior water rights and the rights of those within the counties and areas of origin. The Blue Ribbon Task Force and Strategic Plan must make specific commitments in this regard, including commitments that the application of the public trust and the reasonable use doctrines will not be used as a means to reallocate water to the detriment of those with senior water rights or those within the areas of origin.

How will the Delta Vision and Strategic Plan insure that the County of Sacramento and other local jurisdictions will not assume the financial burdens associated with Delta ecosystem restoration and water supply reliability?

How will the Delta Vision and the Strategic Plan insure that the Delta is maintained as more than just an environmental preserve or a means to convey water to Southern California?

How will the restoration proposals be undertaken to preserve local agriculture and communities in Sacramento County including providing adequate flood protection?

How will the restoration activities, including the purchase of lands within the Delta, not turn into a means to send water and water rights secured for beneficial uses in Sacramento County to areas south of the Delta? What provisions are contemplated to insure that there are no lost tax revenues caused by the dedication of lands to environmental restoration?

3. Sacramento County Remains Willing to Assist the Blue Ribbon Task Force

Sacramento County is eager to receive your responses and comments with respect to the issues and concerns noted above. The Delta Vision and Strategic Plan have many concepts and proposals that, if properly implemented and not coupled with unacceptable mandates, would provide Statewide benefits as well as specific and meaningful benefits to the Delta. In this regard, Sacramento County is willing to work with the Blue Ribbon Task Force to address its concerns and assist in the development of a final plan that it can accept.

Very truly yours,

Paul J. Hahn
Agency Administrator

PJH:ds

Enclosures: July 1, 2008 and August 1, 2008 letters to Phil Isenberg, Chair,
Re: Comments on Staff Draft Delta Vision Strategic Plan

cc: Board of Supervisors, County of Sacramento
State and Federal Legislative Representatives
Terry Schutten, County Executive
Delta Vision Blue Ribbon Task Force

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August 19, 2008

Public Comment on August 14, 2008 Staff Draft of Delta Vision Strategic Plan
By Alex Hildebrand, Engineer for South Delta Water Agency

## Introduction

The Delta Vision Task Force has requested public comment on their Staff's draft Strategic Plan. This technical critique of the Plan will be submitted at the 8/28 public meeting in Stockton.

This draft Strategic Plan provides a lot of thought and information on a very complex subject, and it includes many worthy proposals. The worthy proposals include, for example, the need for regional storage and regional self sufficiency, (pages 16, 18); also, the need for an independent Science and Engineering Board rather than just a Science Board (pages 73, 78, 79); the integration of measures for flood management, water supply management, and Delta protection (page 34), etc. However, some of the goals and strategies are somewhat conflicting, are not well defined, have not been determined to be technically feasible, have not been quantified as to approximate water need and water availability, and probable unintended consequences have not been considered.

The Vision Task Force was given a largely impossible assignment. It was to "describe a future in which the Delta can continue thriving over coming generations" (page 3). It was to do this while also meeting a co-equal goal of providing "a reliable state water supply" that is "adequate for its future population" (Figure 2 and page 81). Conflicting with this, the Task Force's assignment included great political pressure to assure that the Strategic Plan would include some form of an isolated canal, which would be physically capable of intercepting and exporting most or all of the remaining fresh water inflow to the Delta during low river flows (pages 18, 44-46, 82). The doubtful feasibility (page 6) of a dual conveyance system and the potential for a greatly improved through-Delta system without a canal was therefore ignored.

## What level of Delta protection is intended?

There is no definition of what would constitute a "thriving" Delta, and no discussion of the amount and reliability of fresh water inflow to the Delta that this would require. There is no

indication of how this inflow would be provided and distributed throughout Delta channels, and how it would be assured, particularly if an isolated canal is used to further deplete and destroy inflow. The Task Force may have relied on DWR analyses that are based on average summer river flows into the Delta including wet year flows. The DWR has apparently not analyzed what would happen if summer river flows were as low as they have been during three of the last four summers.

What constitutes an adequate water supply?

The Task Force has also not quantified even in principle what will constitute an adequate State water supply, and over what time frame. The State's population is growing at a rate of about 5 million people in 10 years. A developed water supply that would be adequate now will not be adequate in 10, 20, or 30 years. It would also not be adequate when our 2 million acre feet overdraft of groundwater becomes unsustainable. The State legislature adopted Agriculture Code 411 (2002) which states that the State Water Plan must provide enough farm water so that the State and the Nation do not become dependent on a net importation of food. DWR ignored the intent of this legislated policy and adopted, without comment, a de facto policy of future dependence on a net importation of food. DWR's attitude was apparently that agriculture was only important for farmers, and that the domestic production of food was not an activity of social importance. Does the Vision Task Force define an adequate water supply based on legislated policy or on DWR de facto policy?

Unexplained proposals

It is not clear whether the co-equal Delta preservation and water supply goal is to be achieved statewide or also within the Delta (pages 76, 80, and 83). It is not clear how water will be provided for the flows per pages 46 and 50. It is not clear how the substantial increase in water consumption will be provided when farm lands are converted to open water or marshes (pages 27, 46, 47, 60-61, 66, 71). (Testimony before CALFED or before the SWRCB long ago explained and quantified the increase in evaporation from an acre of open water as compared to an acre of farmland, and the further increase in water consumption for an acre of tulle marsh). These conversions of ag land also appear to be at odds with the statement on page 11 that the strategic plan does not abandon the unique character of the Delta which includes "support for sustainable agriculture". If those conversions combine with other features of the Strategic Plan to substantially reduce Delta farms, the remaining farms may be lost due to loss of food processors and other farm services. Preservation of the unique Delta also appears to require preservation of the channel system rather than an open water Delta.

Neither the State Water Plan nor the Vision Plan adequately distinguishes between water that is used but not consumed, and water that is consumed. Most indoor water is not used consumptively. In the Central Valley most unconsumed water is treated, if necessary, and then either returned to the stream system or percolated to recoverable groundwater. However, a majority of the developed water supply is consumed by farm crops and other plants. Plants must take up a rather fixed amount of water through their root systems and evaporate it through their

leaves in order to grow a pound of plant biomass. Farm crops cannot, therefore, be grown without this consumed water, and in the Central Valley excess applied water is almost all recovered as either surface water or groundwater. The consumed water can not be recovered. Some excess water must be applied to flush from the root zone the salt that is removed by the roots from the consumed water.

On page 51 it is proposed to "reconfigure Delta waterway geometry to increase variability of circulation patterns". This proposal is not sufficiently defined to determine its merit or unintended consequences.

Some strategies would create paperwork bureaucracies

Some of the proposed Strategies would create a lot of expensive paperwork but could do little to increase farm water use efficiency (page 31, Strategy 1). The Strategies should all be examined to determine whether they are needed and whether potential benefits would justify the cost and regulatory burdens.

The proposal on page 33 to "reduce or eliminate any return flows" is unreasonable and unwise. Salt in a water user's source water could then only be disposed of by percolating to groundwater which would then become too salty to use. There must be a salt balance in each watershed. That can only be achieved if both indigenous and imported salt is conveyed to the ocean or some other permanent salt sink.

Restoration of flood plain overflow

On page 69 (see also p. 47 and 50) it is proposed that there be "non-structural floodplain management" in seven of the sixteen Reclamation Districts in the South Delta Water Agency (SDWA). This apparently means no levees. Two more districts, including an urban district, would also be inundated by any adjacent flood plain overflow. This was never discussed with SDWA. Furthermore, the SDWA Flood Conveyance plan is ignored. This is a prime example of "brainstorming" by people outside the Delta without examination of efficacy and consequences. These lands are above channel water level except during floods. They have an area-wide slope from south to north and drain out quickly after a flood if flooded. They are levied farm lands. If not protected by levees some portions would flood on average about once in ten years and other portions once in fifty or more years. There would be no wetland habitat. Any upland habitat would be dry and subject to fire. Minor floods would cover county roads including the south end of Airport Way which is a major travel route that crosses the river. Major floods would inundate several large dairies and flood rural housing beyond the reclamation district boundaries. The proposal would provide no benefit that is not better provided by the SDWA Flood Conveyance Plan which includes increasing the flood conveyance capacity of the Paradise Cut bypass.

The Strategies do not include the restoration of natural flood overflow during major floods onto about 100,000 acres of existing dedicated wildlife refuges and other wetlands in the Los Banos area. The flat terrain lends itself to water retention for transient storage. A U. S.

Corps reconnaissance survey established that up to 200,000 acre feet of flood water could be retained until the river went down. It might be possible to transfer some of this to storage.

The Delta cannot be preserved if there is an isolated canal

The Vision Plan does not explain that a major cause of Delta degradation in the last 60 years has been the very substantial decrease in fresh water inflow to the Delta. Exports from rivers upstream of the Delta and increased consumptive use of water in the watersheds have largely eliminated any effective fresh water inflow from the San Joaquin, Calaveras, and Mokelumne Rivers during summer months of most years. (The San Joaquin inflow has at times been down to about 600 cfs this year, and has been less than needed in the South Delta for farm diversions in many months during the last four years). This low inflow has resulted in increased salinity in Delta channels, and causes stagnant channel reaches where neither salinity nor dissolved oxygen (for fish) can be controlled. The Vision Task Force and others illogically assume that these impacts of low inflow can be corrected by using an isolated canal to further reduce inflow by capturing and exporting most of the remaining Sacramento inflow before it enters the Delta. The canal would also destroy the channel flows that now distribute Sacramento inflow through most Delta channels. They talk vaguely about correcting this impact of low inflow by releases from the canal. Where would that extra canal water come from, how would it be disbursed, and, if the water is available, why is it better to put it in a canal instead of letting it flow into the Delta? To believe that a canal can operate while also restoring and maintaining the Delta as a "special place" is like believing in Santa Claus.

There are no publicly released analyses that show that a canal can be operated during typical summer months of average and drier years without increasing salinity far above salinity standards in most Delta summer months. This would put farmers out of business, and exporters would not want high salinity water taken through the Delta. Furthermore, farmers are the primary maintainers of non-urban levees. When the farm income is lost, the levees will not be maintained, and failed levees will not be restored. This will lead to a salty open water Delta. It will not be much better than San Francisco Bay for endangered fish habitat.

Page 55 discusses "adaptive management". Building a canal is a very expensive, irreversible measure. It could only adaptively manage the tradeoff between preserving the Delta versus sacrificing the Delta for exports. It can do nothing to increase overall water supply.

The Strategic Plan also does not discuss or acknowledge the enormous havoc that a canal would have on the Delta and its preservation as a "special place". It would necessarily go through the Delta and divide it into two parts. It would sever waterways, roads, farms, irrigation systems, drainage systems, recreational boating routes, vistas, evacuation routes, utility lines and pipes, etc., and it would increase flood levels south and east of the canal. It would be vulnerable to the same seismic, wave erosion, seepage problems, etc. as would upgraded nearby levees.

The non-canal alternative is ignored

The Comprehensive Water Management Plan which was developed and presented by in-Delta experts solves many problems without the costs, construction times, irreversible features, uncertainties and havoc that could be caused by a canal. It would provide an Old River Corridor which would keep all San Joaquin fish away from fish screens and exports. It would provide a means for eliminating the "dead end" problem with the existing export screens. Sacramento fish that would still be screened in the South Delta could be provided with a pumped flushing flow past the screens. This flushing flow with its screened fish would then be discharged into the old River Corridor. If multiple levee failures ever caused Bay water to reach the Central Delta, it could be pumped back to the Bay via the Old River Corridor.

No plan, including a canal, can guarantee that there will never be levee or canal bank failures. The In-Delta Group's Plan would minimize that risk and prepare for a quick repair of key levees so that export and in-Delta water needs can be restored within about a year.

The In-Delta Group's Plan covers much more, including measures to reduce peak flood inflows. However, this critique focuses on the reasons why this plan is a much better alternative than a canal plan.

Governance

Other sections of the Vision Strategy deal with how a Vision Plan would be refined, and how its implementation would be governed, and who would pay. The choice is like the choice between the efficiency of a dictatorship and the protections of a democracy. We need a democratic solution. We cannot agree to a governance system in which the people who work and live and produce food, and recreate in the Delta would have little effective voice. We have already seen that people outside the Delta think they know best how to manage the Delta. And we don't want the DWR to decide whether farmers are the primary beneficiaries of farming, or whether there is an overriding social interest in the production of food, and in the future price of food if we don't have enough water to grow enough food.

It is suggested that we should trust that the SWRCB will have the wisdom, the knowledge, and the political independence to protect the Delta from exporters, and that the DWR and USBR will abide by SWRCB mandates. There is no basis for such trust. For example, the Congress authorized the CVP with a stipulation that no water would be delivered until a valley drain was built. We still have no drain. The SWRCB stipulated that compliance with salinity standards by DWR and USBR is a condition of their export permits. The exporters have not complied. DWR and USBR alleged to the SWRCB again this year that there was no way they could comply. The SWRCB did not then enforce the requirement. SDWA and DWR and USBR technical personnel know and have described how the standards could be met, and SWRCB is aware of that fact. Until very recently, DWR has widely and frequently distributed forecasts of South Delta channel salinity which predicted that salinity standards would be met. They knew

that these forecasts were wrong; as much as 40% below measured salinity. DWR and SDWA engineers have known for a long time that the model used to make these erroneous forecasts was wrong because it was incorrectly calibrated. These are just examples of many reasons for distrust. We have cordial relations with DWR and USBR engineers. It is the organizations that we can't trust.

## Conclusion

We do not criticize the individual members of the Task Force. They were given a largely impossible assignment and supplied with erroneous and misleading information. They were not provided with analyses that would reveal what is and what is not physically feasible.

If billions of dollars are spent on a canal, it will be an irreversible monster that cannot preserve the Delta and cannot increase the state's developed water supply. The population has already outgrown the developed water supply to a degree that makes environmental protection and development of an adequate water supply as difficult as it is urgent. We cannot do it with a canal. The alternative proposed by the In-Delta Group would move us in the right direction with less time, less cost, more adaptability, and more potential for further progress.

# County of Yolo

## BOARD OF SUPERVISORS

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August 4, 2008

Phil Isenberg, Chair
Delta Vision Blue Ribbon Task Force
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Chair Isenberg and Members of the Task Force:

Thank you for the opportunity to comment on the Blue Ribbon Task Force's draft strategic plan. We appreciate the difficulty of what you are working to achieve and hope these comments are helpful in improving the plan as it moves forward.

Specific comments focus on the areas of governance and finance and what the Task Force has termed "Delta as Place", since in fact Yolo County is part of the Delta itself. In addition, we offer these two overarching comments on the Delta Vision (DV) process and the role of the final plan you will develop:

This question has been repeatedly asked of the Task Force, those guiding the development of and those participating in the Bay Delta Conservation Plan and the Central Valley Plan of Flood Protection, the Department of Water Resources and other state agencies - how will the DV strategic plan interact with other plans, existing or in development, that address governance and operations of the Delta? It is sophistry for the state to maintain that any of these plans can be developed in a vacuum or that they won't substantially affect each other. We request that the DV strategic plan outline and explain the timing and interactions of the strategic plan with other Delta related plans.

The strategic plan must also address its own implementation, at least in terms of needed next steps and their timing. Once this plan is submitted to the Governor, the public should not have to cast about until the next steps are revealed. The Task Force must take responsibility for describing the next phase(s) and require that the plan contain recommendations on analysis and actions necessary to move the plan toward implementation. The Task Force must lay the course to the next destination.

### GOVERNANCE

**Public Advisory Group**

- The plan recommends that, in addition to a governing Council, a Public Advisory Group be created to "offer advice and, when requested, formal recommendations" to the Council. This is a description of an entity that gives cover to the Council but has no real access to decision making. If such a group is to be created, it must have an authentic, defined role in Council decisions.

**The California Delta Ecosystem and Water Plan**

- The plan recommends development of a California Delta Ecosystem and Water Plan (CDEW) to "establish a detailed management structure for attainment of the co-equal goals as well as identified land use issues in the Delta region". Shouldn't the title reflect land use in it? Where are these land use issues identified, by whom, through what process, and how would they be "attained"?
- It further says that the CDEW should be developed to satisfy the requirements of the federal Coastal Zone Management Act (CZMA), because this is a way of ultimately obtaining consistency with state objectives from the federal government. The state has an approved Coastal Zone Management Plan (CZMP), thus won't this action require a revision to the approved CZMP and further, is federal approval of the revision also required? This process needs to be fully described and the potential pitfalls of opening the current CZMP also noted, such as any potential effect on offshore drilling for oil. How long will it take to obtain federal approval of the revised CZMP, what regulation will obtain in the meanwhile and what is "Plan B" for obtaining meaningful federal participation if the effort does not succeed?

**Delta Protection Commission** – The land use area of governance is particularly confusing because recommendations pertaining to land use and the Commission are scattered through the draft strategic plan and are often divergent in purpose.

- The plan suggests "enhancing the capacity" of the Delta Protection Commission to protect the state's interests in land use in the Delta. If the CDEW addresses land use issues, then why wouldn't the Council directly implement this area of the state's objectives?
- The plan recommends transfer of the current appellate authority of the Commission to the Council – this emphasizes the prior question.
- The plan says that the Commission's "primary new role will be to ensure the consistency of local government plans and decisions with the state interests articulated in the CDEW Plan". Without appellate authority, how would the Commission do that? Local government land use policy is made through a General Plan; if development and enforcement of the CDEW Plan and appellate authority both rest with the Council, the Commission does not appear to be needed.
- The plan says that the Commission should create Special Area Management Plans (SAMPS) under the CZMA that must be consistent with the CDEW but that this consistency will be determined by the Council. Having the Commission in the middle is thus again made ineffectual: given the comments above, wouldn't it make more sense to have local government develop the SAMPS subject to approval of the Council, following the model of Local Coastal Programs approved by the Coastal Commission pursuant to the CZMA?
- The plan suggests that the Commission be "given a stronger economic development component" and that the Commission develop specific plans for legacy communities in the Delta. Both of these functions are legally and traditionally the role of local government. Further, the proposed Delta Conservancy will have far more effective tools at its disposal to provide real assistance to legacy communities than a regulatory agency such as the Commission.
- The plan says that the Commission, while drafting specific plans for the Delta's legacy towns, should plan construction of ring levees and where they are sited. This recommendation is completely inappropriate – the Central Valley Plan of Flood Protection and local land use planning are the venues where flood protection for these communities will be addressed, and the Department of Water Resources (DWR) is already invested with protecting the state's interests in this arena.

**The Delta Conservancy**

- A Delta Conservancy is absolutely necessary to achieve the Task Force's goals. The role of the Conservancy as described in the plan is far too limited, however, given the models of state conservancies already existing in California. Purchasing land and easements for habitat is an obvious potential Conservancy function, but a properly constructed tool box would also enable the Conservancy to foster economic development, tourism, agriculture, recreation, research, and provide a key linkage with nonprofits, local government, and landowners. The Conservancy must be Delta-centric, separate from regulatory institutions and it must have:
    - A clearly defined mission;
    - The flexibility to adapt to future needs and find creative approaches to problems;
    - A governing board that has a broad perspective and is committed to the mission;
    - Local representation on the governing board;
    - Legislative and administration oversight;
    - The geographic scope to fulfill its mission (i.e. the ability to work on issues outside the statutory Delta that are necessary to address in-Delta issues, such as changes to the Fremont Weir to address fish passage in the Yolo Bypass);
    - A non-state "sister" entity to assist with day to day functions in land management; and
    - Predictable, stable and adequate funding outside the state budget process and the boom-bust cycle of bond funding to pay for ongoing adaptive management of habitat and recreation lands.

  The Delta Conservancy must have the ability to:
    - acquire or accept donations of interests in real property and improve, lease, or transfer real property;
    - acquire water or water rights;
    - pursue and accept funds from many sources, including but not limited to federal and state funds or grants, private philanthropy, gifts, donations, bequests, devises, subventions, grants, rents, royalties or other assistance and funds from any public and private sources;
    - accept fees levied by others which are not subject to appropriation;
    - create and manage endowments;
    - have revenue bond authority;
    - make grants and loans;
    - partner with nonprofit organizations, public agencies, local governments, and landowners;
    - develop, plan, conduct environmental review, implement, monitor, and manage projects, or give grants or loans to others to do so;

- provide ongoing adaptive management of habitat lands in perpetuity;
- fund or undertake pilot projects based on research of Delta science and engineering advisory group;
- hold public hearings, create and maintain a strategic plan, report to the Legislature and the public periodically;
- engage in partnership agreements; and
- have simplified contracting authority.

- The Delta Conservancy could undertake these programs:
  - Protection of agriculture and working landscapes;
  - Recreation/public access/tourism, including linkages to areas outside the Delta;
  - Habitat enhancement and restoration;
  - Monitoring of restored lands;
  - Ongoing, adaptive land management in response to monitoring;
  - Create a streamlined restoration permit program;
  - Facilitate safe harbor agreements for adjacent landowners;
  - Watershed planning and projects (floodplains, river parkways);
  - Legacy community support/community river front planning and development;
  - Foster economic vitality of the Delta through planning, grants, and incentives;
  - Carbon sequestration projects;
  - Environmental education;
  - Historic and cultural resource protection;
  - Responses to climate change;
  - Cooperative relationships with local jurisdictions to help implement applicable components of local general plans and state level plan(s);
  - Work closely with science advisory board on research and monitoring;
  - Work closely with the Council balancing co-equal goals on water management and habitat; and
  - Assist local entities in the implementation of HCP/NCCP's.

**FLOOD AND EMERGENCY PREPAREDNESS**

- The plan should include explicit recognition of the value of the flood protection provided in and upstream of the Delta by rural areas to urban areas. Currently DWR is publicly acknowledging that rural areas will not receive the same level of flood protection as urban areas. What is not

acknowledged is the result: rural areas are left as the available floodplains in major flood events, yet there are no grant or other assistance programs to support local emergency communications, evacuation preparedness or other emergency response other than stockpiling rock. Yolo County currently has identified deficiencies in its emergency communications system that will prevent our police and fire departments from communicating in the event of a levee failure of other disaster. While the state and federal government are providing hundreds of millions of dollars for levee improvements, there are NO state funds available for improving emergency communications and evacuation planning

The state must develop policy, programmatic and funding assistance to local jurisdictions legally responsible for on the ground emergency response to address the unmet need described above.

- The Central Valley Plan of Flood Protection will also be examining the role of the Bypass relative to flood protection, which will affect all recommendations on inundation or changes to facilities and this should be recognized in this plan.
- Action 12.2 recommends that assessment districts be created for "levees that provide urban protection". Pursuant to this recommendation, the Sacramento area should be assessed for the flood benefit provided by the Yolo Bypass, which carries 85% of the water in major flood events away from the Sacramento urban core.

**HABITAT RESTORATION, RECREATION, TOURISM AND ECONOMIC DEVELOPMENT**

- Local jurisdictions must be compensated, in perpetuity, for property tax losses resulting from acquisition of private lands for public purposes with funds provided outside the state's budget process.
- Such land use changes require local jurisdictions to increase provision of services in a variety of ways, such as law enforcement, emergency response, roads and other infrastructure. These impacts must be recognized, analyzed and compensated for.
- Habitat restoration recommendations must be consistent with the Yolo County Natural Heritage Program (HCP/NCCP).
- The plan's assumption appears to be that tourism will replace the economic vitality lost to the Delta through other plan proposals. While it is unlikely that tourism will ever replicate the economic impact of the two billion dollar agricultural industry in the Delta, recognition that tourism should be developed in a manner that enhances the economic vitality of the Delta's communities rather than treating them as "museum pieces" is welcome.
- The plan recommends creating a federally designated National Heritage Area ("NHA"). The NHA designation was discussed in joint meetings of the workgroups and more information on this designation and its real benefits and pitfalls was requested but never presented. The plan specifies "identify[ing] a local agency or private nonprofit that can serve as the ongoing management entity", yet the "management" referred to remains undefined. There is insufficient basis in the plan for this recommendation and it should be dropped unless it can be much better substantiated.
- Creating a multi-unit State Recreation Area in the Delta is another perhaps laudable goal, but its implementation should be reconsidered. A Delta Conservancy is proposed to purchase, own and manage restored private lands and to accept title to existing publicly held lands for restoration purposes. Since these are likely to be the same or adjacent to the recreational opportunities, it may make sense to have the Conservancy fulfill both functions, particularly since the Conservancy must have funding sources for land and recreation management not subject to the state budget process. In addition, creating recreational opportunities adjacent to existing land uses such as agriculture will necessitate buffers, protection for agricultural practices, adequate transportation planning, and funding for required additional local services.

Local tourism gateways should indeed be fostered, but not only "near major cities and highways", as specified in the plan. Gateways should be sited using many considerations and benefits to legacy communities should be a primary criterion.

**AGRICULTURE**

- The plan recommends creating market structures and incentives for Delta agriculture intended to produce "public benefits in addition to food and fiber", such as carbon sequestration, habitat, recreation and flood management. Recognizing that these public benefits need to produce economic benefits for landowners is welcome, and further description of how this would be accomplished, including specific policy and funding recommendations describing how to create these market structures and incentives, should also be included.
- As noted above, Action 4.2 recommends inundating floodplains, including the Yolo Bypass, in as many years as possible, and in Action 4.5, additional facilities are recommended to support fish passage in the Bypass. The plan must address the resulting impacts on agriculture from increased inundation, to existing habitat in the Bypass, describe who would be responsible for implementing and maintaining the proposed changes to the Fremont Weir and other facilities necessary to accomplish these goals, and explain how these actions would relate to the Central Valley Plan of Flood Protection and the primary function of the Bypass – flood protection. This speaks to this letter's first point – this plan cannot be created in a vacuum.
- Many of the plan's recommendations describe portions of an effort to create or enhance habitat for endangered species adjacent to existing land uses such as agriculture. If farming Delta smelt is to be introduced in areas adjacent to other types of farming, safe harbor agreements, buffers, protection for agricultural practices and other landowner protections must be provided prior to such actions.
- The plan proposes a level of habitat restoration perhaps never undertaken before in California, much of which will inevitably occur on private lands. The plan must address the resulting loss of agriculture and industrial support for agriculture, other changes in land use, the social effects, and the resulting overall economic effect on the Delta.
- The plan must protect agriculture within the Yolo Bypass and the Clarksburg area, the most valuable wine region in the Central Valley, promote the development of agricultural tourism, and provide for agricultural industrial uses and infrastructure necessary to maintain economically viable agriculture in this region and in Yolo County.

**MERCURY**

- Action 8.5 recommends addressing anthropogenic contaminants at their source, Action 6.2 calls for minimizing methylmercury production and Action 4.2 recommends inundating floodplains in as many years as possible, specifically referencing the Yolo Bypass. While we agree with the first two recommended Actions, inundating the Bypass will prove particularly thorny relative to habitat restoration as mercury contamination already exists in the Cache Creek settling basin and continues to accumulate from historic mining activities in the headwaters of Cache Creek. As described in a recently released report from the UC Davis Biosentinel Mercury Program, episodic flooding is "found to lead to significant increases in methylmercury exposure to fish, and some highly elevated small fish mercury concentrations". Despite legislative hearings, there is no systematic state program to address remediating abandoned mines through either policy or funding assistance, and no plans to clean up the Cache Creek settling basin.
- Relative to Action 6.2, the Task Force should ensure the basin amendments by the Central Valley Regional Quality Control Board in pursuit of a Delta Mercury Total Maximum Daily Load (TMDL) are consistent with the DV's goals. Yolo County believes their most recent proposed recommendations would cause inestimable increases in the cost of many public benefit projects

advocated by the DV, including habitat restoration, floodplain protection and water supply improvements, through requirements for characterization studies and remediation by project proponents.

**FINANCE**

- Funding for many purposes must be provided. As is shown in clear relief this year, certain of the proposals in the plan cannot be subject to the vagaries of the state budget process. The plan is extraordinarily light on finance, and this should be a primary focus of the remaining effort toward its completion.
- The purchase of private land for public use, such as is proposed for habitat restoration and recreation, has the potential to severely affect the tax revenues of local governments in the Delta. Yolo County already has experience with state promises of in-lieu fees - the County is currently owed close to one million dollars because such in-lieu fees never materialize in the state budget. Funds in-lieu of tax revenues must be paid in perpetuity to affected local governments from a source outside the state budget.

**OUTSIDE THE DELTA**

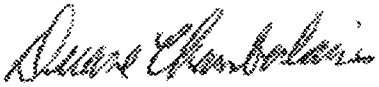
- The plan appropriately recognizes that land use (among other things) in areas outside of the Delta may affect the resiliency of the Delta in the face of changes to climate, management, the amount and type of habitat and agriculture in the Delta, but fails to propose meaningful responses to these issues through regulatory or incentive-based means, presumably putting this off to the CDEW. Both the Council and the Delta Conservancy will have to be able to work with local jurisdictions to address these concerns and this should be described in the plan.

**UPSTREAM OF THE DELTA**

- The plan fails to acknowledge that changes proposed in it could have detrimental effects on the ecosystems (not to mention the communities) upstream of the Delta. Requiring this analysis should be included in the "next phases of implementation" component of the plan requested in the beginning of this letter.
- Likewise, this plan must require guarantees that implementation of its proposals will not redirect significant, unmitigated adverse impacts to those in the Delta or upstream, including local jurisdictions.

The Yolo County Board of Supervisors has been heartened by the Blue Ribbon Task Force's recent interest in the role of local jurisdictions in Delta governance and management and we appreciate the opportunity to submit these comments. We look forward to providing further comments on subsequent drafts and continuing to work with the Task Force on future phases of the Delta Vision process. Please contact Julia McIver, of our staff, if you have any questions.

Cordially,



Duane Chamberlain
Chairman
Yolo County Board of Supervisors

Mike McGowan
Supervisor, First District
Yolo County Board of Supervisors

cc: Senator Mike Machado
Assemblymember Lois Wolk
Solano County Board of Supervisors
Contra Costa County Board of Supervisors
Sacramento County Board of Supervisors
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August 4, 2008

Mr. John Kirlin, Executive Director
Delta Vision Blue Ribbon Task Force
650 Capitol Mall
Sacramento, California 95814

SUBJECT: OPPOSITION TO DELTA VISION BLUE RIBBON TASK FORCE STRATEGIC PLAN SECOND STAFF DRAFT

Over the past several months, the San Joaquin County Board of Supervisors has taken actions in response to your Delta Vision process. Specifically, by Resolution R-08-269, the Board expressed numerous concerns as to the content of your Delta Vision Report of November 2007, and, by adoption of Resolution R-08-363, joined with the other four Counties of the Delta (Contra Costa, Sacramento, Solano, and Yolo) to set forth a statement of principles regarding impacts to the Delta. The concerns and recommendations listed below are crafted around the concepts in the cited Resolutions.

After preliminary review of the Second Staff Draft of the Delta Vision Strategic Plan, San Joaquin County has significant concerns and questions regarding the proposed actions embodied in that document. Due to the short time-frame imposed by the Delta Vision Blue Ribbon Task Force (Task Force) for response to the latest Draft, and because of the preliminary nature of the Task Force's proposed actions, a complete response is not possible. Accordingly, the County will continue to review this Draft, and subsequent drafts, and respond further.

As to the latest Draft, however, the County objects to the apparent preconceived notion that an isolated or dual conveyance system must move forward without a complete and thorough analysis of the impacts of such a system on the Delta, especially when the proposed actions appear to ignore the system of water appropriation and water rights administration developed in the State. The proposed actions do not appear to ensure and promote the idea of local self governance, which is embodied in our State law.

The Plan notes the fact that "with respect to the ecosystem, enforcement of laws and regulations is driven more by court decisions...". We concur this is the case, but it should be noted that it has been driven by forces that see the Delta as a resource rather than an area to be protected. The Plan also cites "inappropriate urbanization" of the Delta; this needs further explanation and justification. It appears that the State is attempting to solve a problem which does not exist.

This County, along with the Counties of Contra Costa, Sacramento, Solano and Yolo, believe that any actions proposed by the Task Force must adhere to the principles embodied in a Joint Resolution adopted by all these Counties, which principles are as follows:

1 Protect and improve water quality and water quantity in the Delta region and maintain appropriate Delta outflow for a healthy estuary;

2. Protect the existing water right priority system and legislative protections established for the Delta;

3. Respect and safeguard Delta Counties' responsibilities related to land use, water resources, flood management, tax revenues, public health and safety, economic development, agricultural stability, recreation, and environmental protection in any new Delta governance structures;

4. Represent and include local government in any new governance structures for the Delta;

5. Protect the economic viability of agriculture and the ongoing vitality of communities in the Delta;

6. Support rehabilitation, improvement, and maintenance of levees throughout the Delta;

7. Support the Delta pool concept, in which the common resource provides quality freshwater supply to all Delta users, requiring mutual responsibility to maintain, restore, and protect the common resource;

8. Support immediate improvements to through-Delta conveyance;

9. Require that any water conveyance plan for the Delta be aligned with the principles established by this Resolution and supported by clearly demonstrated improvement of the entire State's water management;

10. Protect and restore the Delta ecosystem, including adequate water supply and quality to support it in perpetuity; and

11. Include the study of storage options and implementation of conservation, recycling, reuse, and regional self-sufficiency as part of a Statewide improved flood management and water supply system.

Additionally, and without prejudicing this County's opportunity to continue to respond after further review of the Task Force's latest Draft, the County wishes to make the following observations regarding the proposed Strategies and Actions, with specific focus on the Governance and Finance element:

**Strategy 1: Create a multi-part governance structure, with a California Delta Ecosystem and Water Council, a strengthened Delta Protection Commission, a Delta conservancy, and a Delta Science and Engineering Board. The Council will develop and adopt the California Delta Ecosystem and Water Plan, and will have ongoing responsibility for its implementation.**

It is not clear how this structure will be any more successful than was CalFed. This is a complicated structure with many potential points of conflict.

We have a high level of concern as to the relationship of this new Council to the existing local agencies responsibilities and authorities. Another layer of government is not needed. This is not detailed or clearly explained and potentially establishes an element of governance without adequate representation of those citizens living within the Delta or with specific property interests.

Delta as a Place should be included as one of the values of the Council.

*Action 1.1: Create a California Delta Ecosystem and Water Council to govern the co-equal values of healthy estuarine ecosystem function and a reliable water supply, and to approve policies for enhancing the Delta as a place.*

Representatives should include a significant representation from in-Delta residents, local agencies and related interests.

* Exporters of water from the Delta should be limited in their influence in this Council.

The authority of this Council should be limited to the Primary Zone of the Delta only.

The need for this Council to be "quasi-legislative" should be explained and justified.

*Action 1.2: Refine the capacity of the Delta Protection Commission to govern land use and promote economic development in the Delta Region.*

The authority of the Delta Protection Commission should not be expanded beyond the Primary Zone.

The Delta Protection Commission should coordinate land use, not govern it.

One of the basic strategies of the plan is a "strengthened Delta Protection Commission". Why is this necessary? What problems would be solved in such a structure?

It is not clear as to why compatibility with the Coastal Zone Management Act is necessary. This idea needs to be either justified, or eliminated.

The appeal function should be retained by the Delta Protection Commission.

* The State's interests in the lower San Joaquin River floodplain should be detailed and explained.

The economic development component is better managed by local entities that have a direct interest in such activities, and which are better equipped to deal with such issues.

*Action 1.3: Create a California Delta Conservancy to undertake ecosystem restoration and enhancement projects and conduct other activities in support of the California Delta Ecosystem and Water Plan, and to coordinate effectively with non-governmental organizations, businesses, property owners, and all units of government.*

This Conservancy needs local representation.

Property acquisition should be voluntary only.

Please explain in detail the meaning and the intent of the phrase "incentives and support for private interests".

*Action 1.4: Create a Delta Operations Team and a California Water Utility to manage Delta Water flows and the State Water Project in concert with Central Valley Project operating guidelines and measures.*

Since the Operations Team will have control of water within the estuary, and will thus have impacts on in-Delta users, local representation on this Team is essential. The Team should also be charged with satisfying the existing in-Delta needs and adhering to the legal rights of persons and entities with interests in the Delta.

How will the Operations Team control inflow into the Delta; what will be the impact on upstream water rights?

Please explain in detail how this Water Utility will relate to flood control. Will this Utility assume responsibility for all flood control activities within the Delta?

- If the Water Utility will assume responsibility for the management of the State Water Project and the Central Valley Project, what systems will the State Department of Water Resources manage?

*Action 1.5: Create a Delta Science Program and a Delta Science and Engineering Board to support the Council in pursuit of the co-equal goals, and to design and oversee the adaptive management plan (see Action 1.6)*

Membership on the Panel should involve individuals from the Delta who have a local working knowledge of the science and issues in the Delta.

*Action 1.6: Develop a robust, science-based adaptive management program that enables frequent management adjustments in response to changing Delta conditions.*

Any actions under this item must fully address concerns and rights of in-Delta property owners and existing activities.

All financial impacts, both short and long-term, as well as both private and public, must be fully mitigated.

*Action 2.1: Develop a legally binding California Delta Ecosystem and Water Plan to establish a detailed management structure for attainment of the co-equal goals as well as identified land use issues in the Delta region.*

Local and in-Delta interests need to be included in the functions.

What is meant by a "legally binding" plan? What special provisions does this envision?

The State interests in flood control and floodplain management in the Delta and beyond need to be detailed.

*Action 2.3: Improve the compliance of the diversion and use of water with all applicable laws and regulations.*

This should be a State-wide issue, not just focused on the Delta.

The Regional Water Quality Control Board is not presently enforcing water quality standards in the south Delta. Such enforcement should be required by this action.

**Strategy 3: Finance the activities called for in the CDEW Plan by creating effective and transparent revenue-generation mechanisms that reflect the true value of resources and are linked to value-creation for beneficiaries and future generations of Californians.**

Does this item propose that those existing Delta watershed water right holders be taxed, or otherwise charged or assessed to finance delivery of water to those downstream of the Delta? Has an adequate evaluation of costs been performed to review other less costly methods of furnishing water to those downstream of the Delta?

Based on a preliminary review of the latest Draft produced by the Task Force, we are very concerned that the Delta Vision Blue Ribbon Task Force is proposing to fundamentally change the system of governance in the Delta to the detriment of the people and interests represented by the Delta Counties. Nowhere in the proposed strategies and actions is the precise and practical effect of these strategies and actions spelled out with sufficient particularity. How the proposed strategies and actions deal with local land use authority, water rights, property interests, habitat and resource management, emergency response must be explained in detail so that this County, and the people governed in this County, can understand exactly what is being changed and at what cost. Until that happens, this County, and the other Counties in the Delta, cannot reasonably begin to work toward solutions to the Delta's problems.

Sincerely,

T. R. FLINN
Director of Public Works

TRF:NE
SJC OPPOSITION TO DVBRTF.DOC

c: Board of Supervisors
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David Wooten, County Counsel

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August 28, 2008

Philip Isenberg, Chair
Delta Vision Blue Ribbon Task Force
650 Capitol Mall
Sacramento, CA 95814

Subject: California State Board of Food and Agriculture Comments on the Delta Vision Strategic Plan (Third Draft)

Dear Chairman Isenberg:

The California State Board of Food and Agriculture takes strong exception to the Delta Vision Strategic Plan because it is premised upon false assumptions about agriculture's role in the Delta, and in California as a whole, in addressing water rights, the public trust doctrine and beneficial use. As currently written, the Delta Vision Strategic Plan will imperil California's food security by discouraging private investment and the adaptive capacity of working farms and ranches to adjust to ordinary growing conditions and climate change.

We strongly object to the characterization of agriculture's lawful exercise of water rights as "archaic." This assumes that agricultural water use is a low priority in comparison to other beneficial uses and working farms and ranches are something of a legacy industry rather than a strategic resource that is important to California's economy, health and overall welfare. Recasting agricultural water use in this fashion implicates the Public Trust Doctrine and ultimately has a negative impact on private infrastructure investments (such as levees) that provide tangential public benefit (such as flood protection and habitat). Additionally, using the Public Trust Doctrine in this fashion discourages private investments in future sustainable farming and ignores the contribution and foundational investments made by California's working farms and ranches in the basic infrastructure of the Delta and to the statewide water system.

By dictating water use amounts, the Delta Vision Strategic Plan would deny working farms and ranches the ability to provide food, fiber, fuel, and habitat by eliminating the ability to adapt, not only local growing conditions but to factors such as global climate change. The science of farming is a practice closely tied to nature that does not lend itself to prescribed inputs by government. Similar experiments have taken place in the former Soviet Union and the People's Republic of China which regulated farming inputs and lost their ability to feed their own populations.

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In summary, the California State Board of Food and Agriculture emphatically opposes the Delta Vision Strategic Plan's recommendations that are premised on flawed legal analysis and assumptions about agriculture's role in the Delta and the state. These misunderstandings of the natural processes that drive farming cannot promote government managed mandated limits to an input as basic as water. In order to reach our mutual goal of achieving a safe, reliable, and abundant water supply we strongly encourage you to properly characterize working farms and ranches in the proper context illustrating their critical, co-equal contributions to food security, energy independence, climate change, and habitat solutions.

Sincerely,

Alfred Montna
President

cc: The Honorable Arnold Schwarzenegger, Governor
Mr. Mike Chrisman, Secretary, California Resource Agency
Mr. A.G. Kawamura, Secretary, California Department of Food and Agriculture
Mr. Lester Snow, Director, California Department of Water Resources