



10545 Armstrong Avenue

Mather, CA 95655

Tele: [916] 876-6000

Fax: [916] 876-6160

Website: www.srcsd.com

August 1, 2008

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

Board of Directors

Representing:

County of Sacramento

County of Yolo

City of Citrus Heights

City of Elk Grove

City of Folsom

City of Rancho Cordova

City of Sacramento

City of West Sacramento

Re: Comments on Second Staff Draft Delta Vision Strategic Plan

Dear Chairman Isenberg:

The Sacramento Regional County Sanitation District (District) appreciates the opportunity to offer comments on the July 11, 2008 Delta Vision Strategic Plan, Second Staff Draft Report.

The District provides wastewater collection and treatment services to 1.3 million residents of the greater Sacramento area. Our mission is to protect human health and keep the Sacramento River clean and safe. We take our mission very seriously and work on a daily basis to meet our obligations to protect water quality and beneficial uses in the Delta. Our excellent compliance record with our NPDES permit speaks to this commitment and performance.

As stakeholders and environmental stewards, the District is actively involved in the protection of the Delta ecosystem and water supplies derived from the Delta and support the goal of the Delta Vision to ensure the long-term sustainability of the Delta and its ecosystem. The District understands the co-equal goals of the Blue Ribbon Task Force between Delta ecosystem and reliable water supply, but we believe that any changes to the operation or structure of the Delta must be carefully evaluated to ensure that the goals of attaining a healthy ecosystem and providing a reliable water supply are actually equal and result in the ecosystem that is desired.

Considering the changes to this version are not extensive the District's July 1, 2008 comments are still appropriate and are included as an attachment. However we would like to take this opportunity to add a few new comments and suggested revisions, and emphasize previous suggested revisions on the following sections:

- Strategy 3, Financing,
- Action 8.5 Preventing contaminants from entering waterways, and
- The Delta as a Place

Strategy 3, "Finance the activities called for in the California Delta Ecosystem and Water Plan (CDEW Plan) by creating effective and transparent revenue-

Mary K. Snyder
District Engineer

Stan R. Dean
Plant Manager

Wendell H. Kido
District Manager

Marcia Maurer
Chief Financial Officer

generation mechanisms that reflect the true value of resources and are linked to value creation for beneficiaries and future generations of Californians.” (Strategic Plan at p. 25, lines 29-32) needs more clarification and detail on how funding will be provided, and mechanisms for how the funding will be allocated to state, regional, and local agencies. The District feels strongly that without clearly defined financing any governance structure will fail.

The third principal to guide design of financing systems states access to state funding for any purpose related to the implementation of the CDEW Plan is contingent upon the contractor or water right holder *demonstrating full compliance with all aspects of California resources laws and policies....*(italics added, Strategic Plan at p. 26, lines 11-17). The District would like to see clarification of the intent of this principal. If a facility has not had a violation or exceeded a standard for five years, and then has a violation of a permit limit or exceeds a standard are they no longer in full compliance? Would the facility be excluded from funding? The District has many years of experience striving to achieve full compliance, faced with increasingly complex permits and increasing regulatory standards. Even USEPA recognizes that full compliance is not necessary to adequately protect aquatic organisms from unacceptable affects of a given pollutant, at a specified concentration, within a specified timeframe as the following quote demonstrates:

“The procedures described in the *Guidelines for Deriving National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* [1985] indicate that, except possibly where a locally important species is very sensitive, aquatic organisms and their uses should not be affected unacceptably if the four-hour average concentration of [a given pollutant] does not exceed [a specified concentration] more than once every three years on the average and if the one-day average concentration does not exceed [a specified concentration] more than once every three years on average.”

The fact is that full compliance with every requirement is not a reasonable performance standard. The District recommends defining compliance other than in terms of “all” or “full, to recognize the reality of managing a utility in an increasing complex regulatory environment. The District suggests a revision to the guidelines as follows:

3. *Access to state funding for any purpose related to the implementation of the CDEW Plan must be contingent upon a project contractor or a water right holder demonstrating full **substantial compliance with all aspects of California resources laws and policies, including:***
 - a. *possessing a legal right to divert, store, convey, and use water*
 - b. *satisfying ~~all~~ complying with applicable water quality and ecosystem **regulations to the best of their knowledge and ability, as** determined to protect the resources and values of the state: and*
 - c. *complying with provisions of the CDEW Plan and the decisions of the Council*

Additionally, institutional and policy process improvements to encourage consistency in actions (Strategic Plan, p. 27, line 41-42) should be revised as follows:

3. *Condition access to and participation in any Delta related program on substantial compliance with ~~all~~-existing policies and programs.*

The District strongly supports CALFED's proposed principal for financing decisions that includes the concept of "beneficiary pays", but it would be helpful to have a discussion of who those beneficiaries actually are, such as the ecosystem, water districts for municipal or agricultural water supply, wastewater dischargers, municipalities, etc. The Strategic Plan needs to clearly recognize the full range of costs and beneficiaries, and make sure that there are appropriate, equitable funding mechanisms.

The District finds that Action 8.5, preventing contaminants from entering waterways, also has an extremely problematic cost component. This action could be interpreted as requiring every molecule of a contaminant needs to be removed, regardless of whether there is any environmental benefit from removing the contaminant, and regardless of the cost. It also suggests that it is always more cost-effective and efficient to remove drinking water contaminants at the source, rather than at the point of treatment and distribution, which is not always the case. Lastly, it has not been factually demonstrated that increased population growth will negatively impact water quality, nor has it been demonstrated that existing source control methods will not be adequate to preserve the future reliability of Delta water supplies.

We are again providing the following revisions to Action 8.5 in ~~strikeout~~ deletions-bolded underline additions:

Action 8.5: Control *drinking water constituents of concern anthropogenic (i.e. human-generated) contaminants at the source, before they enter the Delta or at the source and/or through drinking water treatment processes.*

~~Given current trends of~~ **If population growth and land use trends proceed unchecked, and climate change continues, Delta water quality will** ~~may~~ **be degraded and the Delta will** ~~may~~ **no longer provide a reliable drinking water supply unless steps are taken to further protect water quality. Preventing drinking water constituents of concerns from entering waterways is one alternative to protect Delta water quality for drinking water uses, another alternative is to treat drinking water supplies upon delivery to drinking water provider. Other options may include some combination between these alternatives or collaborative watershed or offset projects which may be the most cost-effective and efficient way to improve water quality and protect public health .** ~~The Central Valley Regional Water Quality Control Board (Regional Water Board) is charged with protecting the beneficial uses in the Delta watershed. However,~~ **The Central Valley Drinking Water Policy Workgroup is evaluating if water quality objectives have not been established for several key drinking water quality constituents of concern eontaminants (organic carbon, nutrients, mercury salts, and pathogens) need to be established. One effort of that workgroup is to form a partnership of watershed owners and users and water quality beneficiaries to develop funding options for source control efforts. Existing souree-control-methods will not be adequate to protect water quality as the population increases. Preventing eontaminants from entering waterways will be the most effieient and sustainable strategy to protect Delta water quality for drinking water uses.**

Among specific actions to be analyzed and implemented ~~as judged effective are~~ if appropriate:

- *Improved Enforcement – Provide adequate staff to the Regional Water Quality Control Board to improve inspections and enforcement of water quality regulations.*
- *Water Quality Objectives – Provide adequate staff to support the Regional Water Board's work to evaluate the need to develop water quality objectives for organic carbon, nutrients, salts, and pathogens and to conduct the program of implementation to achieve the objectives.*
- *Wastewater Treatment – Based on the beneficial uses and adopted water quality objectives implementation of source control or advanced treatment may be necessary. Another strategy that may be employed to more effectively reduce these constituents is through a watershed approach (e.g., offset projects, collaborative watershed projects). ~~Implement source control necessary to achieve water quality objectives. Advanced treatment will likely be required at all wastewater treatment plants discharging to Delta source waters. Many of the larger wastewater treatment plants including Stockton, Modesto, and Lodi have already installed or are planning to install advanced wastewater treatment.~~*
- *Drinking Water Treatment – Control drinking water constituents by removal of the constituents at drinking water treatment plants.*
- *Urban Runoff – Implement best management practices (BMPs) and source control necessary to meet water quality objectives. This may include treatment of dry weather and first flush storm flows.*
- *Agricultural Discharges - Implement management plans to reduce loads of contaminants identified through monitoring required under the Regional Water Board's Irrigated Lands Regulatory Program.*
- *Confined Animal Feeding Operations - Implement BMPs for animal agricultural operations including Confined Animal Feeding Operations.*
- ~~*Provide adequate staff to support the Regional Water Board's work to develop water quality objectives for organic carbon, nutrients, mercury and pathogens, to conduct the program of implementation to achieve the objectives, and to improve inspections and enforcement.*~~
- ~~*Develop a regulatory approach that can expeditiously address emerging contaminant problems as they are identified.*~~
- ~~*Implement advanced treatment at all wastewater treatment plants discharging to Delta source waters and implement source control programs for their service areas.*~~
- ~~*Implement best management practices (BMPs) and source control necessary to meet water quality objectives. This may include treatment of dry weather and first flush storm flows.*~~
- ~~*Implement BMPs for agricultural discharges identified through the Regional Water Board's Irrigated Lands Program, to reduce pesticides and other contaminant loads.*~~

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- ~~Implement BMPs for animal agricultural operations including Confined Animal Feeding Operations.~~
- ~~Develop land use planning policies that ensure adequate protection of waterways from non-point source contamination. For example, policies may include mandatory buffer areas between urban or agricultural development and waterways to allow percolation and natural treatment of run-off.~~

Discussions by State Water Resources Control Board members at the July 16, 2008 Water Board hearing on the June 2008 "Draft Strategic Workplan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary" clarified the Water Boards have the authority over water quality and water rights and would be the lead in this arena. They indicated that they would coordinate with other Delta efforts, such as Delta Vision and Bay Delta Conservation Plan (BDCP) and would consider information developed in these venues, but any information, studies or suggested recommendations from Delta Vision or BDCP would be subject to the review and due process under the Water Boards.

Delta As A Place Section

The Special Area Management Plans for the Delta Islands should also cover water quality, as the water quality impacts to the delta from Delta Islands is only beginning to be investigated (Strategic Plan, p. 73-74)

We hope the Task Force will consider the above comments as they continue developing the Delta Strategic Plan. As always, the District stands ready to participate in the process to investigate and find solutions for the Delta. We encourage you to help establish an open process that we and other stakeholders can participate in and add value to the process.

Sincerely,



Wendell Kido
District Manager

Cc: Delta Vision Blue Ribbon Task Force Members
Delta Vision Committee Members
State Water Resources Control Board Members
Central Valley Regional Water Quality Control Board Members
Lester Snow, Department of Water Resources
Debbie Webster, Executive Officer, Central Valley Clean Water Agencies
Wendell Kido, District Manager, SRCSD
Terrie Mitchell, Legislative and Regulatory Affairs Manager, SRCSD
Stan Dean, Plant Manager, SRCSD

Attachment



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ATTACHMENT

July 1, 2008

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

Re: Comments on Staff Draft Delta Vision Strategic Plan

Dear Chairman Isenberg:

The Sacramento Regional County Sanitation District (District) appreciates the opportunity to offer comments on the June 18, 2008 Delta Vision Strategic Plan, Preliminary Staff Report.

The District provides wastewater collection and treatment services to 1.3 million residents of the greater Sacramento area. Our mission is to protect human health and keep the Sacramento River clean and safe. We take our mission very seriously and work on a daily basis to meet our obligations to protect water quality and beneficial uses in the Delta. Our excellent compliance record with our NPDES permit speaks to this commitment and performance.

As stakeholders and environmental stewards, the District is very concerned with the ecosystem and water reliability in the Delta and supports the goal of the Delta Vision to ensure the long-term sustainability of the Delta and its ecosystem. The District understands the co-equal goals of the Blue Ribbon Task Force between Delta ecosystem and reliable water supply, but we believe that the restoration of the health of the Delta ecosystem should be the top priority of the Delta Vision Blue Ribbon Task Force and that any changes to the structure or operation of the Delta should be carefully evaluated to ensure that it does not conflict with or hinder such restoration.

The District's comments focus on the following three key issues:

1. Governance structure and how that relates to State Water Resources Control Board/Regional Water Quality Control Board permitting and regulatory activities,
2. Ecosystem stressors, and
3. Water supply as it relates to water quality and water recycling issues.

Hopefully, future revisions of the Delta Vision Strategic Plan (July, August and September versions) will allow more time for review and comment of this extremely important effort. Our comments on these three areas are outlined below in more detail. However, the District will have additional comments, as

it has more time to more thoroughly evaluate the contents of the Strategic Plan through the upcoming revisions.

1. "GOVERNANCE AND FINANCE" SECTION

Comment 1: Generally speaking, the District supports the Delta Vision Strategic Plan Strategies with regard to appropriate governance approaches for the Delta. While the preamble to the Governance and Finance section of the Strategic Plan states that, "*strengthened governance is at the heart of much of what ails the Delta,*" the District also believes that *inconsistent* and *uncoordinated* governance of the Delta has caused many of the problems we see today. To clarify and more comprehensively describe the governance problems associated with the Delta, we suggest revising the first sentence of the preamble to read:

"The need for strengthened, consistent and coordinated governance is at the heart of much of what ails the Delta, and the California water system generally." (Strategic Plan at p. 13, line 4.)

Comment 2: The preamble to the Governance and Finance section also notes the need to "*empower local residents to pursue a prosperous and secure future without having to bear disproportionate burdens from statewide priorities. All financing systems should mirror this principle, with clear and consistent linkages between financing sources and the benefits received.*" (Strategic Plan at p. 13, lines 41-44.) The District strongly supports these principles. It is often forgotten, in many debates concerning necessary solutions to "fix the Delta," that the Greater Delta Region is home to more than two million people, with at least half a million people residing in the legal boundaries of the Delta.

Not only is the Delta "in our backyard," it is in our front yard, our side yards, and in our living rooms. We are the people who live in and depend on the Delta in more ways than just a source of drinking or irrigation water. It is vitally important that any future Delta governance body not just be *aware* of this, but to make decisions that reflect this reality.

From a finance standpoint, it is crucial that the principle of requiring "clear and consistent linkages between financing sources and the benefits received" be paramount when deciding who will pay. In making such decisions, all of the work needed to restore the Delta must be considered in addition to enhanced water supply delivery systems that will benefit over 23 million people who do not live in the Delta Region.

Strategy 1: Creation of California Delta Ecosystem and Water Council

Comment 3: Strategy 1 calls for the creation of the Delta Ecosystem and Water Council, which would then be required to develop a "Delta Ecosystem and Water Plan." The discussion contained in this section of the Strategic Plan indicates that the Council would have "responsibility to create *and implement* the CDEW Plan." (Strategic Plan at p. 14, lines 18-19; emphasis added) It is unclear to the District what "implementation" is intended to mean. Will the Council have permitting and enforcement authority related to the myriad of permits currently issued and enforced by the Central Valley Regional Water Quality Control Board and local agencies? If so, then the District opposes this aspect of Strategy 1.

Comment 4: Strategy 1 also provides that “[t]he Council would not subsume the authority of existing agencies, but would have the authority to determine whether the actions of those agencies are consistent with the CDEW Plan...” (Strategic Plan at p. 14, lines 19-21.) The interplay of these two cited provisions of Strategy 1, and the provision cited in Comment 3 above, seems to be in conflict, and the District suggests that the roles of the Council and the various existing agencies be more specifically clarified. For example, what happens if the Regional Board issues a permit to a specific entity and some interested party believes that the permit does not conform to the CDEW Plan? Does the Council have authority to revoke the contested permit or to change it? If so, what public hearing rights would there be, and how is the current, appellate role of the State Board affected?

The District strongly believes there must be an appropriately funded, single line of permit issuance and enforcement authority, with adequate opportunities for public comment and due process before any actions are taken regarding permits and enforcement.

Comment 5: Strategy 1 further provides that “[t]he State Water Resources Control Board should retain its existing responsibilities and authority, but its activities should likewise be brought into consistency with the CDEW Plan.” (Strategic Plan at p. 14, lines 38-40.) We note that there is no mention of the existing responsibilities and authority of the Central Valley Regional Board, which also has certain primary responsibilities (e.g., various permits under the Federal Clean Water Act and California’s Porter-Cologne Act, policy development and Basin Planning such as “TMDLs” related to water quality impacts). The Strategic Plan needs to be comprehensive in addressing these existing authorities and responsibilities.

Comment 6: Strategy 1 seems to imply that the State and Regional Boards will be required to revise existing, formally-adopted policies or Basin Plan provisions to conform to the anticipated CDEW Plan. If this is the intent, we believe the *Strategy* needs to be revised to provide a sequential approach in developing the CDEW Plan so that it is based **first** on existing water quality-related plans or policies that have already been adopted by the State and/or Regional Boards. These existing policies and plans are developed only after review, public comment, and deliberation by the State and Regional Boards, and to ignore them in the process of developing the CDEW Plan would be inefficient, in some cases redundant, and effectively denigrate the historical efforts of these agencies.

Strategy 1; Action 1.1: Creation and Make-Up of Council

Action 1.1 also calls for the creation of a Council consisting of five-to-seven members appointed by the Governor, subject to confirmation by the State Senate. (Strategic Plan at p. 15, lines 18-21.) Action 1.1 further provides that the Council’s voting membership should include “legal, science and engineering, policy and governance expertise.” (Strategic Plan at p. 16, lines 9-10.) Further, Action 1.1 calls for the creation of a permanent Public Advisory Group to offer advice and formal recommendations to the Council. (Strategic Plan at p. 16, lines 17-18.)

Comment 7: The District generally supports the creation of the Council as set forth in Action 1.1. However, it would be useful to provide suggested guidance in the language of Action 1.1 relative to the type of “expertise” that these broad appointment categories should have. For instance, it seems appropriate that the “science and engineering” expertise required to be appointed to the Council should be specifically related to water supply and water quality issues.

Comment 8: The District supports the notion of a Public Advisory Group (PAG) to provide advice and formal recommendations to the Council on critical issues to be included in the development and implementation of the CDEW Plan. What is unclear from the language in Action 1.1 is whether this PAG will be convened *before* the CDEW Plan is developed, or at some time thereafter. The District believes that the PAG should be convened *before* the Plan is developed, so that a broad spectrum of ideas and expertise can be brought to the process while the CDEW Plan is first being developed, and remain in place during future revisions of the Plan.

Comment 9: Action 1.1 provides that the PAG should be made up of “water users, environmental groups, local Delta communities, agriculture, business, and environmental justice advocates, among others.” (Strategic Plan at p. 16, lines 20-22.) Noticeably absent from this list of “public constituencies” to participate on the PAG are municipal agencies such as stormwater and wastewater treatment agencies. Because a great deal of the Strategic Plan - - and presumably any future CDEW Plan that will be developed - - concerns water quality-related issues facing the Delta, it is crucial that the PAG also include representatives from these municipal agencies present in the Delta.

Strategy 1; Action 1.4: Creation of Delta Operations Team and California Water Utility

Action 1.4 specifies the creation of a “Delta Operations Team” that would be given broad authority to “make operational decisions on water flows within the estuary on a day-to-day basis.” (Strategic Plan at p. 18, lines 31-32.) This Team is envisioned to operate “as a Delta water manager, determining what inflows, outflows and exports are necessary to achieve both healthy estuarine function, and a reliable water supply, on a continuing basis.” (Strategic Plan at p. 18, lines 35-37.) Implementation of decisions made by the Delta Operations Team is to be implemented by the California Water Utility, (Strategic Plan at p. 18, lines 37-38.) which itself is to “*assume ownership, operation and maintenance of the State Water Project.*” (Strategic Plan at p. 18, lines 42-43.)

Comment 10: It is unclear to the District whether Action 1.4 is intended to substitute regulatory authority of the State and Regional Water Boards by the Delta Operations Team and the California Water Utility. If it is, the District opposes this proposal. If the purpose is to remove the operations from the influence of the policy and planning functions of the Department of Water Resources then the District supports this proposal.

Development and implementation of permits issued by the Regional Board (based on plans and policies adopted by the State and Regional Boards) is best left to the state agencies with expertise in water quality. Although not specifically stated in the Strategic Plan, it is possible to interpret Action 1.4 to mean that the Delta Operations Team and California Water Utility would have unilateral authority to impose new, different, or more restrictive permit requirements on entities such as municipal wastewater treatment facilities (as well as city and county stormwater agencies, industry, and any other permittees) that would be *outside* of the permit process, and without any opportunity for public comment and agency deliberation.

The NPDES (and other) permits issued by the Central Valley Regional Board are lengthy and complex. Once they are adopted, permit holders may be required to spend considerable amounts of taxpayer and ratepayer money to construct and operate wastewater treatment facilities designed to achieve the limits imposed through those permits. From a technical and economic standpoint, it is simply infeasible (and unreasonable) for the treatment facility to be required to change - - potentially on a “day-to-day basis” its operations as may be directed by the Delta Operations Team.

Permits issued by the Regional Board under both federal and state law are for five year periods. The Strategic Plan (and any future CDEW Plan) must formally recognize this permit paradigm, and any authorities granted to the Delta Operations Team or the California Water Utility that would affect performance of NPDES permittees must conform to this legal process.

Moreover, the District opposes any proposal that would vest within the newly-created California Water Utility the authority to interpret, implement or enforce permits issued by the Regional Board. It is apparent from the description of the California Water Utility contained in Action 1.4 that the purpose of the Utility is to manage water transfers through the State Water Project, and potentially, the Central Valley Project. As such, the Utility would have little experience or expertise in water quality issues as derived from interpreting or implementing NPDES permits. Unless the California Water Utility ultimately and totally assumes the role (and staff resources) of the Central Valley Regional Board - - something which is not called for in the Strategic Plan and something the District would oppose - - then there must be a clarified description of the Utility's authority and responsibilities.

Comment 11: Action 1.4 further provides that the State Water Board "should incorporate and approve the CDEW Plan through a water quality control plan amendment . . . as appropriate", (Strategic Plan at p. 19, lines 10-12.) and "should regulate based on existing water rights and on the water quality and flow standards identified in the CDEW Plan." (Strategic Plan at p. 19, lines 12-13.)

This language appears to suggest that entirely new water quality standards are to be developed and adopted by the Council and included in the CDEW Plan, without regard for the existing Central Valley Regional Basin Plan, or other Regional and State Board policies and plans currently in force. The District opposes such an approach. As noted above, the existing Basin Plans and other policies and plans currently adopted by the Central Valley Regional Board and the State Board have undergone substantial public comment and, in some cases, extensive scientific scrutiny. There is simply no advantage to setting aside those plans and policies, just to spend years and millions of dollars re-considering them

Strategy 1; Action 1.5: Creation of Delta Science Program and Delta Science and Engineering Board

Comment 12: The District strongly supports the creation of both the Delta Science Program and the Delta Science and Engineering Board to advise the Council. We believe strongly that *all* decisions made by the Council should be predicated on sound, objective science. We suggest that the Program and Board be created *in advance* of the Council's development and adoption of the anticipated CDEW Plan, in order that the Plan itself is based on sound, objective science.

Strategy 1; Action 1.6: Development of Robust, Science-Based Adaptive Management Program

Comment 13: The District generally supports the development of a robust, science-based adaptive management program as described in Action 1.6. (Strategic Plan at p. 20, lines 27-28.) More specifically, the District supports the concept of state-funding of a more robust data collection and scientific analysis effort to support any decisions that are to be made under the CDEW Plan. That said, the District reiterates the comments made above relative to the need for any adaptive management decisions to fully respect the five-year permit cycle associated with NPDES permits issued by the Regional Board. It is simply infeasible and unreasonable to impose any requirements

upon permit holders, under the pretext of “flexible adaptive management”, which are not contemplated under the terms of the NPDES permits.

Strategy 2; Action 2.1: Development of Legally Binding CDEW Plan

Comment 14: Action 2.1 states that the anticipated CDEW Plan must “establish targets and management objectives for the Delta ecosystem incorporating any plan developed under species protection laws.” (Strategic Plan at p. 21, line 23.) It is unclear from this wording if the Council would establish new water quality standards, targets or other limits, or if the CDEW Plan would instead incorporate those standards and other limits already in force *via* Regional and State Board plans and policies.

The District does not support an approach that would unilaterally replace the carefully drafted and formally approved standards and limits set forth in existing Regional and State Board plans and policies. These existing policies and plans are developed only after thorough review, public comment, and deliberation by the State and Regional Boards, and to ignore them in the process of developing the CDEW Plan would be inefficient, in some cases redundant, and effectively denigrate the historical efforts of these agencies.

Strategy 2; Action 2.2: Ensure Adequate Environmental Justice Protections

Comment 15: Action 2.2 would require the Council to adopt various environmental justice criteria in the formation of the CDEW Plan. (Strategic Plan at p. 22, lines 17-35.) In general, the District supports the concept and approach set forth in Action 2.2 to assure that environmental justice issues are not only considered, but appropriately addressed in the CDEW Plan.

In particular, the District strongly supports the requirement that the CDEW Plan fully consider “[t]he potential existence of regressive fees and taxes” associated with actions taken by the Council, the Delta Operations Team and that California Water Utility. (Strategic Plan at p. 22, line 35.) For too long, regulatory decisions and policies have been adopted without sufficient consideration of the potential for regressive and unreasonable fees and taxes that may be imposed on all ratepayers, including those economically disadvantaged. The District suggests the following modification to the last bulleted criteria contained in Action 2.2:

“The potential existence or future imposition of regressive fees and taxes associated with implementation of the CDEW Plan.”

Comment 16: Strategy 2, Action 2.2 lines 20 -21, mercury is included in the list of water contaminants that impact public health. Are there human health studies conducted specifically within the Delta that cite local human health impacts from local fish consumption? If not, is it appropriate to recommend conducting of these human health studies?

Strategy 3: Financing Activities of CDEW Plan and Linkage to Value Created for Beneficiaries

Strategy 3 provides, in part, that “[p]rivate beneficiaries should be assigned proportional shares of revenue obligations and of risks and liabilities, while the public of California is responsible for activities of broader benefit.” (Strategic Plan at p. 23, lines 38-40.)

Comment 17: The District generally supports this principle for purposes of guiding the design of financing systems for projects and actions undertaken by the Council. However, by using the term “private beneficiaries”, this principle suggests that public beneficiaries of these projects and actions (such as special districts and other local governmental entities that benefit from water transfers out of the Delta) should *not* be assigned proportional shares of revenue obligations, risks and liabilities. The District requests that *Strategy 3* be revised to include the public beneficiaries as well, such as public water purveyors.

Comment 18: The District supports the concept that broad, statewide benefits associated with any actions taken by the Council be paid for by the state generally. As a start, the state should pay for a robust data collection and scientific analytical effort to support any decisions that are to be made under the CDEW Plan. For too long, assumptions have been made regarding the impacts of various stressors to the Delta without adequate data or scientific analysis to justify those assumptions. If the state is serious about “fixing” the problems facing the Delta, the state must also recognize the need for more resources to assess the various perceived problems and to develop objective, sound scientific approaches to confirm and then address those problems.

Comment 19: The District has no specific comments at this time associated with the various capital investment estimates provided in *Strategy 3* for constructing so-called “alternative conveyance” facilities to more efficiently transfer water through the State Water Project, and to protect habitat of endangered and threatened species such as the Delta smelt. However, the District maintains that it is crucial, when developing cost estimates for any such “alternative conveyance” facilities, that adequate consideration be given to the impacts of constructing those facilities in locations that could affect the current, legal operations of municipalities such as wastewater treatment facilities. The District asserts that the costs of conveyance facilities are only part of the total costs that might be required to address the problems in the Delta. The Strategic Plan needs to clearly recognize the full range of costs and make sure that there are appropriate funding mechanisms.

2. “REVITALIZE THE DELTA ECOSYSTEM” SECTION

Performance Target Schedule for Contaminants – Table on Page 10.

Comment 20: It is unclear how the performance targets for concentration of contaminants were established. To place a general reduction in concentration with no relationship to the type of contaminant or associated risk to the Delta ecosystem seems premature.

Strategy 6. Reduce or remove stressors to the Delta ecosystem, including invasive species, contaminants, and entrainment.

Comment 21: An overarching comment the District has regarding potential contaminant stressors affecting the Delta ecosystem is that many of these indicators are currently under investigation. However, as currently written, the document implies that this research has already been conducted and the various hypotheses confirmed – which is not the case. As a result, the District suggests that these statements be modified to reflect this fact until further scientific evidence is obtained or refined. The control of contaminants is regulated under the purview of the State and Regional Water Boards and USEPA in accordance with the Clean Water Act, Water Code and Central Valley Basin Plans. Water quality standards/objectives are then developed to protect beneficial uses. This rigorous process has already taken place for many contaminants. An important concept that must also be

acknowledged is that there may be different strategies that can be employed that more effectively reduce these contaminants through a watershed approach (e.g., offset projects, collaborative watershed projects), rather than just focusing on source controls. In addition, improved assessment of watershed health may be available through the use of biological indicators, assessing the sum of all stressors, rather than individual constituents one by one. The notion that it is always cost effective to remove contaminants at the source is overly simplistic. This is particularly true in the Delta, where large natural flows significantly reduce the impact of individual sources on water concentrations at drinking water intakes. Specifically, the District suggests the following edits to the last paragraph under Strategy 6 (Page 37 lines 34-40).

“Finally, ~~contaminant~~constituent loadings from the Delta watershed are may be having an a significant effect on the Delta ecosystem, and as a result, further research must be conducted to identify contaminants of concern, identify source loadings, evaluate fate and transport mechanisms and determine if cause and effect relationships exist. Pesticides applied in agricultural and residential landscapes, metals and toxins from cars and industrial facilities, mercury from historic mining activities, selenium from the San Joaquin Valley agricultural drainage, ammonia and other nutrients from sewage outfalls – ~~could all have a substantial an~~ impact on the living organisms of the Delta. Reducing ~~Controlling~~ these contaminants at their sources within the watershed may must be an important component of ecosystem restoration.”

Additionally, distinguishing the difference between “contaminants” and “constituents of concern” is useful for the reader. Pesticides and other chemicals that are not naturally occurring are commonly referred to as contaminants. Nutrients and mercury, on the other hand, are naturally occurring and are a concern based on location, form, and concentration. For example, nutrients are not considered “contaminants” when they are in appropriate concentrations needed for environmental health. Further, mercury biological uptake is highly location dependent and local environmental conditions are as equally important as the form of this constituent.

In the case of mercury, studies indicate human and bird health impacts, rather than pelagic organism health. While mercury is recognized as an environmental and human health concern, there is no indication of impacts to pelagic health and it seems inappropriate to group mercury with other pelagic health stressors.

Action 6.2: Minimize methyl mercury production.

Comment 22:

The last bullet (Strategic Plan at p. 39, lines 5 through 7) implies the concentration of methylmercury is constant as it is transported throughout the Delta. However, methylmercury concentrations vary with location and environmental conditions. Transport involves evasion and sequestrations that matters greatly to the amount of mercury that ends up in the food web. The District recommends revising the text to read:

“Continue development and CEQA evaluation of Best Management Practices (BMPs) to ~~control~~minimize the production of methyl mercury at prioritized aquatic habitat sites, and/or to ~~control~~ the prioritize highest biological mercury habitat for control studies.”

An additional comment relates to the order of the actions in this strategy. If order does matter, it seems appropriate to prioritize stressors that kill fish (diversions and fish screens) ahead of stressors, such as mercury, that accumulate through the pelagic food web, but are not known to affect pelagic health.

In general, the discussion of mercury could better represent the state of science and our scientific understanding of the ability to control mercury methylation in natural environments, like the Delta.

Action 6.5: Construct water treatment wetlands wherever feasible at municipal, industrial, and agricultural returns.

Comment 23: The District recognizes that wetlands may be a viable option for some wastewater treatment activities. However, many factors influence the feasibility of implementing this type of treatment, such as volume of discharge and availability of land. Therefore, the District suggests the last sentence on Page 40, line 21-22 be modified as follows:

“For some wastewater discharges, a constructed treatment wetland ~~can~~ may be a cost effective approach to address high nitrogen loads in post-secondary effluent.”

3. WATER SUPPLY AND RELIABILITY SECTION

Action 8.5 Control anthropogenic (i.e. human-generated) contaminants at the source, before they enter the Delta

Comment 24: Action 8.5 (lines 18-20) states that “*Preventing contaminants from entering waterways will be the most efficient and sustainable strategy for protecting Delta water quality for drinking water uses*”. The District finds that Action 8.5 is extremely problematic and could be interpreted that every molecule of a contaminant needs to be removed, regardless of whether there is any beneficial environmental impact or water quality improvement from removing the contaminant. It also suggests that it is always more cost-effective and efficient to remove drinking water contaminants at the source, rather than at the point of distribution. Many so called “contaminants” are naturally occurring constituents of concern and no amount of source control will necessarily resolve Delta water quality issues for drinking water purposes, and in fact, some of these activities could be more harmful to ecosystem water quality. For instance, it may be more cost effective to treat drinking water at a water treatment plant, rather than preventing nutrients from entering waterways and reducing the productivity of the Delta Ecosystem.

The District also believes that Action 8.5 also fails to consider the general principles contained in the California Water Code (Porter-Cologne) that requires that the regulation of water quality must be reasonable - balancing the various beneficial uses, including economic and social costs. On going efforts of the Central Valley Drinking Water Policy Workgroup (CVDWPWG-a broad stakeholder group, http://www.waterboards.ca.gov/centralvalley/water_issues/drinking_water_policy/) should guide future efforts to reduce drinking water constituents of concern.

The CVDWPWG Work Plan lays out a technical and administrative process to establish either numeric or modified narrative objectives for drinking water constituents as elements of an overall drinking water policy for the Central Valley. New or modified objectives must be adopted by the Regional Board in a Basin Plan amendment. The adoption of water quality objectives must be performed in compliance with the requirements of the California Water Code. The Water Code requires consideration of various factors, including the means by which the objectives can be attained, economics, the need for housing and others. This Work Plan includes the development of an implementation plan to demonstrate the means by which proposed objectives will be achieved and other information to fulfill Water Code requirements. Federal law requires treatment of surface waters prior to their use as drinking water. Therefore, the Work Plan includes an assessment of the ability to control sources of key drinking water constituents that are discharged to ambient waters and the ability to remove the constituents in water treatment plants. The feasibility, costs, and risks of both approaches will be evaluated.

The District has the following comments related to Action 8.5 of the Strategic Plan:

- Linking population growth to water quality degradation and asserting that the future reliability of Delta water supplies will be impacted by water quality concerns is **unsupported by facts and this text must be modified.** (page 53, lines 11-13)
- The concept of adopting water quality objectives for drinking water constituents of concern is currently being evaluated by the Central Valley Regional Water Quality Control Board in an ongoing stakeholder process (CVDWPWG). The need to adopt objectives for organic carbon, nutrients salts, and pathogens has not been established to date through that effort. Mercury is not a drinking water contaminant of concern. (Strategic Plan page 53, lines 13-17)
- The statement that existing source control methods will not be adequate is **unsupported by facts and this text should be deleted.** (Strategic Plan page 53, lines 17-18)
- The need for and cost of contaminant control at the source is being examined in the Central Valley Regional Water Quality Control Board led stakeholder process. A potential outcome from that process is a partnership to determine the funding source for such control efforts. Payment for such efforts by the water supply beneficiaries of Delta water supplies will be considered in that partnership discussion. (Strategic Plan Page 53, lines 18-20)
- The responsibility for control of contaminants should be determined in accordance with the Clean Water Act, California Water Code and Central Valley Basin Plan, as implemented by the Central Valley Regional Water Quality Control Board, SWRCB and USEPA. **Controls to benefit downstream diverters or water purveyors should be funded by those beneficiaries.**
- As noted previously, the Central Valley Regional Water Quality Control Board is conducting a stakeholder process to examine the need to develop water quality objectives for organic

carbon, nutrients, salt, and pathogens. Completion of this process will determine the need for objectives for any or all of these constituents. **The Delta Vision Strategic Plan should not mandate or supersede water quality objectives development but rather it should acknowledge the ongoing efforts of the Regional Board and incorporate decisions made through that process into the CDEW.** Strategic Plan Page 53, lines 24-27)

- The need for advanced wastewater treatment at individual treatment facilities is based on the specific discharge conditions, dilution characteristics, and water quality-based requirements as determined under the Clean Water Act and California Water Code regulatory programs. **Delta Vision should not be overriding these programs and mandating treatment levels at any treatment plants in California without substantial justification and site-specific analysis.**
- The cost and energy to treat water supplies taken from the Delta must be evaluated in comparison to the costs and benefits to remove contaminants through watershed management and treatment at the source. This is particularly true in the Delta, where large natural flows significantly reduce the impact of individual sources on water concentrations at drinking water intakes. Water supply agencies benefiting from the use of Delta supplies should fund treatment at the source consistent with a “beneficiary pays” theme. (Strategic Plan Page 53, lines 32-34)

Comment 25: The District received the following proposed revisions of Action 8.5, via an e-mail distributed by the CALFED Water Quality Program, that were not incorporated into the June 18 Strategic Plan version. Although it appears there have been some revisions to this section, the District still has concerns with the narrative. Without any evidence or scientific support, this action would require control of anthropogenic contaminants at the source before they enter the Delta based merely on the presumption that preventing contaminants from entering waterways is the most efficient and sustainable strategy for protecting Delta water quality for drinking water uses. The District disagrees with the basic presumption here because it fails to consider that many “contaminants” are naturally occurring constituents of concern which are problematic at certain concentrations. It is highly likely that no amount of source control will resolve all Delta water quality issues for drinking water uses. Also, this action fails to balance the cost of source control and advanced treatment at all wastewater plants with the efficiency and sustainability of treating drinking water supplies upon delivery to a drinking water provider.

We are providing a redline addition-bold strikeout version with our suggested edits to the amended version below.

Action 8.5: Control *drinking water constituents of concern* anthropogenic (i.e. human-generated) contaminants at the source, before they enter the Delta or *at the source and/or through drinking water treatment processes.*

~~Given current trends of~~ If population growth and land use trends proceed unchecked, and climate change continues, Delta water quality will may be degraded and the Delta will may no longer provide a reliable drinking water supply unless steps are taken to further protect water quality. Preventing drinking water constituents of concerns from entering waterways is one alternative to protect Delta water quality for drinking water uses, another alternative is to treat dinking water supplies upon delivery to drinking water provider. Other options may include some combination between these alternatives or collaborative watershed or offset projects which may be the most cost-effective and efficient way to improve water quality and protect public health . The Central Valley Regional Water Quality Control Board (Regional Water Board) is charged with protecting the beneficial uses in the Delta watershed. However, The Central Valley Drinking Water Policy Workgroup is evaluating if water quality objectives have not been established for several key drinking water quality constituents of concern eontaminants (organic carbon, nutrients, mercurry salts, and pathogens) need to be established. One effort of that workgroup is to form a partnership of watershed owners and users and water quality beneficiaries to develop funding options for source control efforts. Existing source control methods will not be adequate to protect water quality as the population increases. Preventing eontaminants from entering waterways will be the most efficient and sustainable strategy to protect Delta water quality for drinking water uses.

~~Among specific actions to be analyzed and implemented as judged effective are if appropriate:~~

- Improved Enforcement – Provide adequate staff to the Regional Water Quality Control Board to improve inspections and enforcement of water quality regulations.
- Water Quality Objectives – Provide adequate staff to support the Regional Water Board's work to evaluate the need to develop water quality objectives for organic carbon, nutrients, salts, and pathogens and to conduct the program of implementation to achieve the objectives.
- Wastewater Treatment – Based on the beneficial uses and adopted water quality objectives implementation of source control or advanced treatment may be necessary. Another strategy that may be employed to more effectively reduce these constituents is through a watershed approach (e.g., offset projects, collaborative watershed projects). Implement source control necessary to achieve water quality objectives. Advanced treatment will likely be required at all wastewater treatment plants discharging to Delta source waters. Many of the larger wastewater treatment plants including Stockton, Modesto, and Lodi have already installed or are planning to install advanced wastewater treatment.
- Drinking Water Treatment – Control drinking water constituents by removal of the constituents at drinking water treatment plants.
- Urban Runoff – Implement best management practices (BMPs) and source control necessary to meet water quality objectives. This may include treatment of dry weather and first flush storm flows.

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- Agricultural Discharges - Implement management plans to reduce loads of contaminants identified through monitoring required under the Regional Water Board's Irrigated Lands Regulatory Program.
- Confined Animal Feeding Operations - Implement BMPs for animal agricultural operations including Confined Animal Feeding Operations.
- ~~Provide adequate staff to support the Regional Water Board's work to develop water quality objectives for organic carbon, nutrients, mercury and pathogens, to conduct the program of implementation to achieve the objectives, and to improve inspections and enforcement.~~
- ~~Develop a regulatory approach that can expeditiously address emerging contaminant problems as they are identified.~~
- ~~Implement advanced treatment at all wastewater treatment plants discharging to Delta source waters and implement source control programs for their service areas.~~
- ~~Implement best management practices (BMPs) and source control necessary to meet water quality objectives. This may include treatment of dry weather and first flush storm flows.~~
- ~~Implement BMPs for agricultural discharges identified through the Regional Water Board's Irrigated Lands Program, to reduce pesticides and other contaminant loads.~~
- ~~Implement BMPs for animal agricultural operations including Confined Animal Feeding Operations.~~
- ~~Develop land use planning policies that ensure adequate protection of waterways from non-point source contamination. For example, policies may include mandatory buffer areas between urban or agricultural development and waterways to allow percolation and natural treatment of run-off.~~

Comment 26: Documentation from workgroups whether housed in an Appendix or as separate documents need the caveat that they were not peer reviewed nor publically vetted to prevent any future work from using information in these documents as if they were held to the same rigorous public process of adopted regulatory standards or measures.

Delta As A Place Section

Due to time constraints, the District was unable to review and provide comments to this section. Additional comments will be provided at a later date.

We hope the Task Force will consider the above comments as they continue developing the Delta Strategic Plan. As always, the District stands ready to participate in the process to investigate and

Phil Isenberg
July 1, 2008
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find solutions for the POD. We encourage you to help establish an open process that we and other stakeholders can participate in and add value to the process.

Sincerely,



Mary K. Snyder
District Engineer

Cc: Delta Vision Blue Ribbon Task Force Members
Delta Vision Committee Members
State Water Resources Control Board Members
Central Valley Regional Water Quality Control Board Members
Lester Snow, Department of Water Resources
Debbie Webster, Executive Officer, Central Valley Clean Water Agencies
Wendell Kido, District Manager, SRCSD
Terrie Mitchell, Legislative and Regulatory Affairs Manager, SRCSD
Stan Dean, Plant Manager, SRCSD