



County of Yolo

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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 or 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

Comments on Delta Vision draft strategic plan

August 4, 2008

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cc: Senator Mike Machado
Assemblymember Lois Wolk
Solano County Board of Supervisors
Contra Costa County Board of Supervisors
Sacramento County Board of Supervisors
San Joaquin County Board of Supervisors