

EWC COALITION LETTER REGARDING THE DELTA PLAN DRAFT ENVIRONMENTAL IMPACT REPORT

February 2, 2012





SIERRA NEVADA ALLIANCE

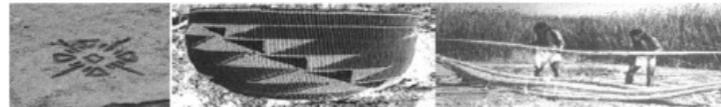


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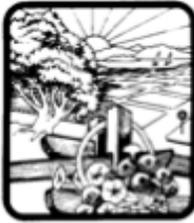


Tuolumne River Trust



CA Save Our Streams Council

Sacramento River Preservation Trust



Santa Clara Organization
for Planning and the
Environment (SCOPE)



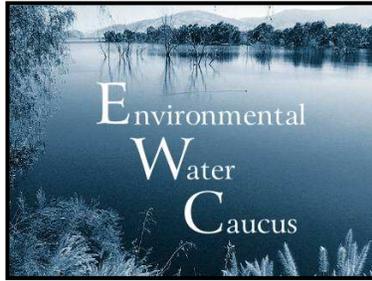
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ENVIRONMENTAL WATER CAUCUS

To: Joe Grindstaff, Executive Officer, Delta Stewardship Council

From: Environmental Water Caucus

Subject: Delta Plan DEIR Comments

Via Email to: eircomments@deltacouncil.ca.gov

February 2, 2012

The Environmental Water Caucus is pleased to provide you with our responses and comments on the Draft Environmental Impact Report as you continue the development of this critically important Delta Plan. The Environmental Water Caucus has responded to the multiple releases of the Draft Delta Plan starting with the Scoping Comments in January 2011 and continuing with the release of the current Draft Environmental Impact Report.

In addition to our comments below, we incorporate by reference the following comments, as they are consistent with these EWC comments, by:

- Law Offices of Rossmann & Moore LLP
- Law Offices of Steven C. Volker
- Law Offices of Michael Jackson
- Law Offices of Lozeau/Drury LLP
- Law Offices of Lewis, Brisbois, Bisgard & Smith
- South Delta Water Agency
- C-WIN, CSPA, AquAlliance Comments on Delta Plan DEIR
- Environmental Advocates – Supplemental Delta Plan DEIR Comments & Supporting Materials (Hand Delivered)

EXECUTIVE SUMMARY

“Reliable” Does Not Mean “Increased Exports”

Since the Legislature has required the Delta Stewardship Council to meet the co-equal goals of ecosystem restoration and water supply reliability, we have consistently urged the Council, without success so far, to define a level of “reliability” and to adopt measureable goals to ensure ecosystem restoration for the Delta Plan, and to allow the basis for a successful adaptive management plan.

The Draft EIR perpetuates the myth that existing water exports are sustainable. Worse, it suggests that “water supply reliability” is shorthand for a policy to increase Delta water exports. This interpretation is incorrect; the message is contrary to science and the many alternate methods of increasing the reliability of water supply and only leads to false hopes. In fact, even the current levels of water exports are not “reliable”; they are unsustainable and have led to the current ecosystem collapse. Increasing water exports from the Bay Delta beyond current levels will continue the collapse and harm to the Delta ecosystems, thereby defeating a primary goal of your legislative mandate to restore the Delta estuary ecosystem – one half of the legislative mandate.

Simply put, the Draft EIR and proposed Delta Plan are patently inconsistent with the increased Delta outflows recommended by the State Water Board in their adopted flow criteria. This required inflow and outflow, essential to the very ecological foundation of one of North America's most important estuaries, is also confirmed by the California Department of Fish and Game's assessment of flows needed to sustain other beneficial uses, including critical habitat for endangered species, such as Salmon, Steelhead, Sturgeon and other critical aquatic species needed to sustain these beneficial uses. As EPA stated, “*Significantly increasing exports out of a stressed Delta is the wrong policy... EPA questions the goal of increasing exports out of a severely distressed estuary.*”¹

The State Water Resources Control Board (SWRCB) echoed the need to increase Delta outflows into the bay when it evaluated flows needed to sustain the public trust resources of the Delta ecosystem, as well as beneficial and public trust values, and adopted flows to protect these values in August 2010: “*Recent Delta flows are insufficient to support native Delta fishes for today's habitats....In order to preserve the attributes of a natural variable system to which native fish species are adapted, many of the criteria developed by the State Water Board are crafted as percentages of natural or unimpaired flows. These criteria include:*

- *75% of unimpaired Delta outflow from January through June;*
- *75% of unimpaired Sacramento River inflow from November through June; and*
- *60% of unimpaired San Joaquin River inflow from February through June.”*²

¹ <http://www.epa.gov/region9/water/watershed/sfbay-delta/pdf/EpaR9CommentsBdcpPurpStmt6-10-2010.pdf>

² http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/

The SWRCB's public trust flow report was designed to guide and inform the Delta Plan, as it was required by the same enabling legislation. That the Delta Plan does not incorporate or ensure compliance with the SWRCB's recommendations is a clear sign of violation of the public trust obligations for the Delta, as detailed by its primary state trustee, the SWRCB.

These points are further reinforced by The Bay Institute's Report on Fresh Water Flows in the Central Valley,³ which stated, among numerous similar points, that:

- Fresh water flow is the dominant force controlling riverine and estuarine ecosystem processes and covered species populations – *flows define fish species' habitat.*
- Fresh water flows into, through, and out of the Delta are already severely impaired (in magnitude and timing) by Project operations.

Absent defined levels of water exports in relation to acceptable levels for the Delta, and measureable levels of ecosystem restoration health, one cannot determine if the legal requirements of the Delta Plan are met and what the environmental impacts of such a plan will be. As can be seen in Figure 1, the increase of water exports and resulting habitat degradation have led to the largest salmon collapse in U.S. history over the last decade.⁴ The Sacramento-San Joaquin Delta is the most important estuary on the West Coast. It is the nursery for many fish species of commercial importance. A study commissioned by Southwick Associates showed that the 2008-2009 salmon fishing closure has cost an estimated 23,000 jobs and \$1.4 billion annually to the California economy. California has over 2,000 businesses that derive most or all of their income from the recreational and commercial salmon industry.⁵ There is no information provided in the Draft EIR as to how the proposed Delta Plan will impact these jobs, the local regional economy, the statewide or west coast regions. These impacts need to be disclosed and evaluated.

³ The Bay Institute. January 10, 2012. Fresh Water Flows in the Central Valley.

⁴ <http://water4fish.org/>

⁵ http://www.asafishing.org/newsroom/documents/salmon_recovery_economics.pdf

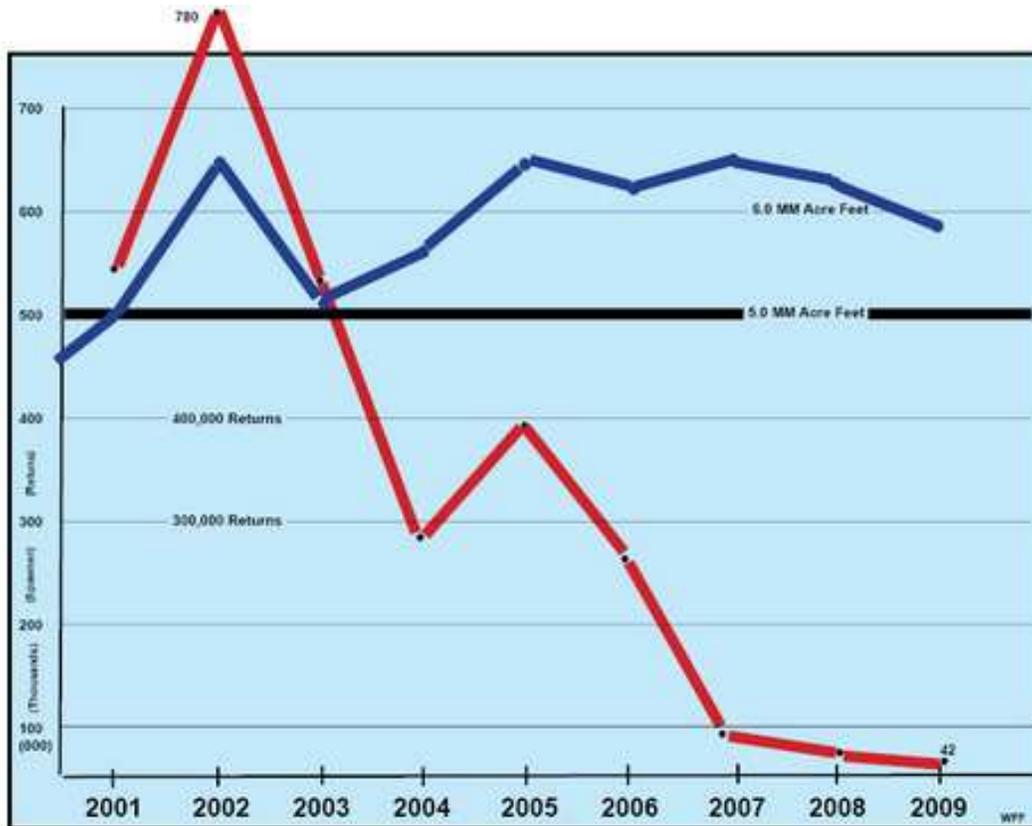


Figure 1. *Pumping increased and salmon crashed*⁶

The DEIR fails to consider a full range of alternatives and has selected a Proposed Project that does not comply with state law.⁷ In each of the sections of the report discussing the Proposed Project, there is a lack of data to support the choice of the Proposed Project, leaving the reviewer with the impression that it is not a fact-based EIR. The lack of substance is insufficient to ensure the provision of a more reliable water supply for California and the protection, restoration, and enhancement of the Delta. The Plan ignores the Legislature’s direction that the Plan should “include quantified or otherwise measurable targets associated with achieving the Plan’s objectives” and “be based on the best available scientific information.” Use of the best available scientific information would enable the Plan to set meaningful, quantified targets that would place California on a path to a more reliable water supply and a healthy Delta ecosystem.

Given the general nature of the Proposed Project’s policies and recommendations and the uncertainty concerning the extent to which the Proposed Project will result in any particular action, it is unclear what types of projects will actually be implemented as a result of the Proposed Project’s policies and recommendations. Nevertheless, this EIR concludes that the Proposed Project will lead to an increase in local and regional water

⁶ <http://water4fish.org/>

⁷ Reform Act of 2009 (Delta Reform Act), Water Code section 85000 et seq.

Ibid. A Programmatic EIR does need to evaluate alternatives that achieve the fundamental objectives of a project.

reliability projects; it concludes that the Proposed Project’s recommendations regarding storage will lead to an increase in water storage projects, and; it assumes that the Proposed Project will lead to an increase in Delta ecosystem restoration projects.” Fact-based conclusions are totally absent.

A program EIR cannot rationalize vague or evasive analysis. The CEQA guidelines’ list of “advantages” to preparing a program EIR include a “more exhaustive” examination of effects and alternatives, “full consideration” of cumulative impacts, and allowance for analysis of “broad policy alternatives and program wide mitigation measures” at a time when the lead agency has the best opportunity to address them properly. This Draft EIR does not come close to meeting these standards. At this stage, and with such a vague project to evaluate, the Draft EIR does not meet the requirements of a Programmatic EIR, nor can any future EIR’s be logically tiered from this Proposed Project. *This Draft EIR should be significantly revised into a CEQA-qualified and legally enforceable Delta Plan that demonstrably meets the legislatively mandated co-equal goals,⁸ with permanent protection of the Delta’s natural and scenic resources.⁹*

Omission of Significant Impacts

Further, the analytical route that is used to arrive at findings of “significant impact” or “less-than-significant impact” is not explained. As a result, the document fails the test of “full disclosure” required by CEQA. Unfortunately, we see no *measurable* differences between the DEIR’s Proposed Project and the present status quo – where fish and wildlife are facing extinction and exports of water exceed sustainable quantities available. By allowing and/or encouraging increased Delta exports – exports which the Delta Plan has the power to constrain but apparently is choosing not to – the EIR must, but did not, evaluate the consequences of increased impacts as a result of those increased exports.

Under a legislative mandate to produce a timely Delta Plan, it is understandable that efforts have been made to meet specified deadlines even though critical documents such as the Bay Delta Conservation Plan, which are essential elements of the proposal, are not completed or available for public review and comment. Absent these documents and any clear measurements, mechanisms, or criteria with which to judge whether these major state and federal actions meet state law, the public and decision makers are left without necessary information regarding the environmental impact of the Delta Plan.

Public Trust and Appropriate Baseline

We understand that members of the Council have expressed a preference not to address the public trust in the plan under review, but instead to defer to subsequent determinations of the State Board. We question that premature deference and ask the Council in its final plan and EIR to seize the unprecedented opportunity that the Legislature has created to restore the public trust in the Delta to the stature of its venerable roots. Public trust analysis of the Delta Plan is a mandatory duty of the DSC

⁸ See California Water Code Section 85300. Particularly note 85300 (d) (1) The council shall develop the Delta Plan consistent with all of the following: (A) The federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et seq.), or an equivalent compliance mechanism. (B) Section 8 of the federal Reclamation Act of 1902. (C) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

⁹ California Water Code Section 85022 (C)(2)

Plan and the DEIR. The action-forcing sentence in *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 446, reads, with emphasis added, "*The state* has an affirmative duty to take the public trust into account in *the planning* and allocation of water resources, and to protect public trust uses wherever feasible." This Council, as an agent of *the state*, must embrace the public trust doctrine in its *planning* for the future of the Delta.

Further, the document abrogates the Delta Stewardship Council's duty to carefully weigh and protect public trust values and beneficial uses that will be impacted by this fifty year planning document. Public trust resources including the beneficial uses of the Delta and estuary, such as recreation, fishing, agriculture, navigation, and domestic water supply, have not been balanced against the continued damage to them caused by the present level of water exports or increased exports. There is a lack of quantifiable data and, thus, the public and the Council have insufficient information with which to evaluate alternatives in relation to the Public Trust Doctrine. As required by the same enabling legislation as the Delta Plan, the State Water Resources Control Board made a public trust determination with reference to the Delta which recommended significantly reduced exports.

Yet the harm to public trust resources caused by current exports is not analyzed in the EIR, under either the public trust or CEQA, because the export baseline for the project is set at a high level, which already assumes, and therefore does not evaluate, the destructive impacts to public trust resources caused by that pumping. The "existing baseline" is presumed to be well above the level of existing exports – *if* the "existing conditions" include environmental constraints and low precipitation conditions. The baseline here should not be the maximum amount that has been exported, as that does not represent a complete picture of "existing conditions." The present project baseline, set in the DEIR at a level similar to that for exports envisioned for the Proposed Project, is the same level that resulted in the closing of the 2008-2009 salmon fishing season, costing an estimated 23,000 jobs and \$1.4 billion annually to the California economy, as previously mentioned above.¹⁰ No cost figures are provided for the existing Proposed Project, so one must conclude that these impacts and job losses are underestimated and will likely go higher.

We also call to your attention numerous incorrect interpretations of the Environmental Water Caucus' Alternative 2, related to but not limited to the following specific subjects: ocean desalination; restoring flood plains, water transfers; levee maintenance; environmental restoration actions; and your incorrect implication that the EWC is proposing a 6,000 cfs conveyance option (Table 23-1). Corrections to these subjects are described in the comments below and are required prior to a final EIR.

¹⁰ The 2008-2009 salmon fishing closure has cost an estimated 23,000 jobs and \$1.4 billion annually to the California economy. California has over 2,000 businesses that derive most or all of their income from the recreational and commercial salmon industry. http://www.asafishing.org/newsroom/documents/salmon_recovery_economics.pdf

The revised EIR should be withdrawn, rewritten, and re-circulated for public review and comment. At a minimum the new Draft should include an analysis of the following information:

- Citing the authority given to the Delta Stewardship Council by the 2009 Delta Reform Act, the Delta Stewardship Council should undertake to accomplish an economic and sociological determination of public trust resources in order to provide the State of California with a thorough and legally enforceable Delta Plan. That authority is provided in numerous parts of the legislation, such as the requirement to reduce reliance on the Delta and the requirement to achieve the co-equal goals of water supply reliability and the Delta estuary restoration. Absent quantifiable measurements to determine an acceptable Bay Delta Conservation Plan that meets water quality, flow, and public trust objectives and achieves the co-equal goals of Delta estuary restoration and water supply reliability, the public is left in the dark as to the ecological, sociological, and economic impacts of the Delta Plan.
- The Delta Plan is de facto a statewide plan with a fifty year horizon, thus, by law, it must reflect a statewide vision and assure the citizens of California that you have discharged your duty to “protect the people’s common heritage in streams, lakes, marshlands, and tidelands” as called for in the Public Trust Doctrine.
- Critical to the adoption of any Delta Plan that meets the legislatively mandated goals is one that also meets existing water quality laws including those regulating salt, selenium, temperature, flow, and other contaminants harmful to public health and ecosystem health. In EWC’s five submissions and comments to previous drafts, all adopted here by reference, comments and evidence were provided regarding the importance of meeting water quality standards, flow requirements, and temperature standards to the health of the ecosystem and its viability. The Draft EIR and proposed Delta Plan fails to enforce existing water quality laws or ensure that any future covered actions will be required to meet these flow requirements, water quality constraints, and protect public trust values, to ensure these beneficial uses are protected.
- In scoping comments, and a series of comments on the five drafts, the EWC has presented a clear alternative for achieving water supply reliability and the Delta ecosystem restoration. Our proposed alternative has relied on strict enforcement of water quality laws, adoption of the State Water Resources Control Board and Fish and Game flow recommendations, shoring up of existing levees, ceasing the unreasonable use of water to irrigate toxic soils that return pollution to the estuary ecosystem, while also providing for exports and water supply along with water conservation measures to ensure existing supplies are extended to meet demand. This reasonable alternative has not been fully considered under the Draft EIR.
- The Draft EIR fails to accurately characterize the EWC’s proposed Alternative 2 and instead piles on “poison pills” that render the alternative expensive, risky, and

likely to increase pollution and harm to the Delta estuary. Thus, the Draft EIR fails to present this alternative for consideration. The Environmental Water Caucus' superior alternative of ecosystem protection and water supply reliability should be more accurately reflected in Alternative 2 and then selected as the Proposed Project (Preferred Alternative) for this EIR. Such an alternative is environmentally superior and meets the legislatively defined objectives and definition of the project, as required by CEQA. This is based on the superior weight of the "less-than-significant" impacts and superior ratings of Alternative 2 in all areas, including but not limited to, Delta restoration, water supply reliability, flood risks, water quality, biological resources, hazardous materials, greenhouse gas emissions, and climate change impacts. Additionally, when economics are considered, these ecological and economic balancing requirements which are met by Alternative 2 would meet the legal requirements of a preferred Proposed Project.

- The Monterey Amendments to the State Water Project long-term contracts are a "covered action" as defined by Section 2.1.2 of the Delta Plan, and therefore must be analyzed. These Amendments have already been successfully challenged in court before, and were not finalized again until DWR issued a Notice of Decision in 2010, at which point another legal challenge began. These Amendments cause increased export activities to occur in the Delta; they directly impact Delta water users, and the manner, amounts, and timing of exports; and are not part of "routine operations" of the State Water Project, as evidenced by their requiring their own EIR for approval.
- In particular, as a part of water supply reliability, especially for Southern California urban areas, analysis of Delta impacts should include the use of Kern Water Bank as a public reservoir under state control. The Kern Water Bank transfer was authorized by DWR in 2010 as part of that agency's approval of the Monterey Amendments, severely constraining its future ability to improve water supply reliability. The transfer of the Kern Water Bank should be evaluated in terms of whether this action increased supply reliability, whether returning it to state control would improve such reliability, and how such a public resource could be incorporated into future Delta planning models. Conversely, the water bank's current displacement via the Monterey Amendments to private industry, depriving the state of a public resource to improve water supply reliability should be included as well.
- Analysis is also required for additional changes caused by implementation of the Monterey Amendment to the long-term contracts for the State Water Project. These changes do not fall under "routine operation" and were not authorized by DWR prior to the creation of the Article 18 urban preference, which must be restored, and the misuse of Article 21 surplus water, which must be eliminated. These items were inappropriately modified in State Water Project contracts as a part of the privately negotiated Monterey Amendments.

- Demonstrate compliance with Water Code Section 85021, by documenting the Delta Plan’s action to reduce reliance on the Delta to meet California’s water supply needs, promote conservation, and take into account scientific findings that affirm the reuse of municipal wastewater that has significant potential to augment future water supplies and protect water quality.¹¹
- In order to be a thorough Environmental Impact Report, a cost/benefit analysis of the various alternatives needs to be performed. It is inconceivable that such a major undertaking as the Delta Plan has so far had no information or comparisons on the costs of these alternatives, yet a (preferred) Proposed Project has been selected with no references to costs or quantified benefits. The state of California and its citizens deserve costs and benefits information for a fifty year plan. Additionally, if the BDCP is examined in future for its certification as a component of the Delta Plan, the state will need information on the various Delta Plan alternatives that were examined and compared to the BDCP. The responsibilities given to the Delta Stewardship Council by the Delta Reform Act would require that you be prepared for that kind of complete cost/benefit analysis.
- In order to be considered a legally acceptable analysis, each alternative must include pertinent information on the phasing of proposed actions, especially in the identification of short and medium range actions. We did not see any information on phasing of actions or projects within the more than 2,000 pages of information.

In order to contribute to a legally enforceable plan, and to ensure the Delta ecosystem beneficial uses are adequately restored and protected along with ensuring long term water supply reliability, we have highlighted other inconsistencies and inaccuracies in the attached comments pertaining to applicable sections of the proposed Draft EIR.

In summary, we repeat: *This draft EIR should be withdrawn, rewritten, and re-circulated for public review and comment.*



Co-Facilitator
Environmental Water Caucus



Co-Facilitator
Environmental Water Caucus

¹¹ http://www.nap.edu/catalog.php?record_id=13303 —“ With recent advances in technology and design, treating municipal wastewater and reusing it for drinking water, irrigation, industry, and other applications could significantly increase the nation’s total available water resources, particularly in coastal areas facing water shortages, says a new report from the National Research Council.”

COMMENTS ON THE DELTA PLAN DRAFT ENVIRONMENTAL IMPACT REPORT

Section ES – EXEC SUMMARY

Description of the Proposed Project. Page ES-2

The Proposed Project description is inadequate as a CEQA project description. A “project” under CEQA is considered to be an activity directly undertaken by a public agency. Although the CEQA definition of a “project” is very broad, the series of Policies and non-binding Recommendations, which are defined in this EIR as the Proposed Project, fails the tests of an adequate CEQA project definition, even though the policies might lead to an activity, as stated in the Draft EIR. There is little or no attempt at quantifying the significance of policy statements, despite the attempts to attach significance ratings in the DEIR. Without an adequate project description, there is no way to apply the CEQA “rule of reason” regarding the range of alternatives that must be evaluated, as attempted in this DEIR; there is no way to complete a cumulative impacts analysis, which is also attempted; there are no described thresholds of significance for any of the described activities; and there is no way to describe specific mitigations to be undertaken since there is no project being described. (CEQA Guidelines 15151, Standards of Adequacy for an EIR, 15146, Degree of Specificity).

We would use the California Supreme Court’s CALFED decision (*In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings*) to conclude that alternatives that do not meet the Project Description’s co-equal goals should not be considered in the DEIR. Therefore, the Proposed Project, with its anticipated increase in Delta exports which contribute to continued harm to the Bay-Delta, would defeat one of the co-equal goals and should not be considered as a legitimate alternative.

"An accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (County of Inyo v. City of Los Angeles (3d Dist. 1977) 71 Cal.App.3d 185, 193, Discussion following CEQA Guidelines §15124).

Although we recognize that the evaluation of economic effects is optional under CEQA Guidelines (15131), as we pointed out in our cover letter, the economic and social effects of the differing alternatives is so significantly different and the economic weighing of public trust values so important, that economic effects should not be optional in the case of this DEIR. The elimination of a \$12 to \$15 billion expenditure, by not investing in a canal or tunnel around the Delta, and the economic tradeoffs of reduced Delta diversions, as indicated in Alternative 2, is so significant to the state budget, and to reduced environmental impacts to the Bay-Delta, that it must be considered. At a minimum, the environmental impacts of the increased economic development caused by increased delta exports should be quantified and analyzed as reasonably foreseeable impacts under CEQA. If not analyzed as direct impacts, the increased exports foreseen under the Delta Plan should be analyzed for indirect impacts on increased development.

Under Alternatives to the Proposed Project, and per CEQA guidelines, it is stated that: “This EIR describes and evaluates five Alternatives to the Proposed Project, which are analyzed at the *same level of detail* as the Delta Plan.” However, in Section 2A, Proposed Project and Alternatives, the Proposed Project is described in 54 pages, while the combination of the other four alternatives plus the No Project Description covers 21 pages. The same disproportionate analysis is carried through in the other sections of the DEIR where comparisons are described.

In this section, we also note incorrect interpretations of the Environmental Water Caucus’ Alternative 2, related to but not limited to the following specific subjects: ocean desalination; restoring flood plains, water transfers, Tulare Basin farmlands, and; levee maintenance. Corrections to these subjects are described in the Section 2A comments below.

Section 1 – INTRODUCTION

Water Supply Reliability. Section 1.3.1.1

This section fails to recognize the predicted reduction in total precipitation for California as a result of climate change. CEQA requires that reasonably foreseeable futures must be considered in an EIR. Instead this EIR recognizes only “reduced annual water availability” because of “water storage” in reservoirs and recognizes changes in supply volatility or changes in precipitation patterns (Page 1-6, lines 41-46). The importance of recognizing that Sacramento River inflows may be reduced by 20% by the 2050’s¹² is the effect that this predicted change will have on CVP and SWP contracted amounts and the clear possibility that a Peripheral Canal or Tunnel, as being planned by BDCP and anticipated by this DEIR, may become a stranded asset by the time it could be built.

There should also be a discussion of underground storage and recharge as provided by the Kern Water Bank, estimated to be the state’s third-largest reservoir. The development of additional capacity for south-of-Delta reliability should be discussed, in connection with the recommendation for the facility to be returned to state control. This is linked to Groundwater Monitoring, below (2.2.1.3).

Project Area. Section 1.4.2

In the controversy surrounding the definition of the Delta area, we have supported the Delta Stewardship Council’s definition of the Project Area as shown in Fig 1.4 and have so stated in our previous comments to the Council.

Section 2A – PROPOSED PROJECT AND ALTERNATIVES

PROPOSED PROJECT.

¹² Margaret A. Palmer, et al. 2008. *Climate Change and the World’s River Basins*. Frontiers in Ecology and the Environment. Vol. 6, No 2, pp. 81-89. <http://www.esajournals.org/doi/full/10.1890/060148>

Policies and Recommendations. Section 2.1.1

Page 2A-2, Paragraph beginning at Line 8: This paragraph makes reference to policies and recommendations that could directly or indirectly lead to construction of new or modified facilities. The paragraph continues: “At this time, it is not known which agency would implement any such projects, where the facilities would be located, or how the facilities would be operated. Therefore, for the purposes of this Environmental Impact Report (EIR), general types of projects and facilities are considered possible outcomes of implementation of the policies and recommendations.” For purposes of a CEQA EIR, and although this is considered a Programmatic EIR, this statement and many more like it throughout the document are too vague and lacking the precision that would allow decision makers to proceed with evaluation, approval, public trust balancing of alternatives, or tiering of future EIR’s (CEQA Guideline 15151, Standards of Adequacy for an EIR).

Administrative Exemptions of a Covered Action Section 2.1.2.2

“Temporary Water Transfer” (line 21) does not meet the exemption under CEQA; such a transfer is only exempted if it does not have a significant impact on the environment. The language should be changed to reflect this.

Along these lines, temporary transfers are occurring in recent increments of up to 100,000 AF, involving transferring water rights between the State Water Project and the Central Valley Project. Such transfers function to evade environmental constraints on exports imposed on one or the other export project at any given time, causing the very harm such restraints on their sister projects’ were intended to avoid.

As a result, significant temporary transfers which impact Delta exports should be evaluated under the Delta Plan as covered actions. Moreover, these transfers are occurring for multiple consecutive years; the Plan should evaluate the impacts on the Delta in the instances where such “temporary” transfers are repeated multiple times.

Reliable Water Supply. Section 2.2.1

Page 2A-5, Lines 16-20: It is not clear how the “Proposed Project” can include ongoing projects whose outcomes cannot yet be evaluated and whose environmental significance cannot yet be determined. The projects cited are still in process and include: North of Delta Offstream Storage Investigation, Los Vaqueros Reservoir Project - Phase 2, the Upper San Joaquin River Basin Storage Investigation Plan, and the next update of the Department of Water Resources (DWR) Bulletin 118 *California’s Groundwater* (DWR 2003). (CEQA Guidelines 15151, Standards of Adequacy for an EIR, Guideline 15146, Degree of Specificity). There is no way to judge the environmental significance of any of these projects at this time.

Surface Water Projects. Section 2.2.1.2

Beginning with Paragraph 2.2.1.2.1 Surface Water Intakes and Diversions from Streams and Rivers and continuing through Page 2A-11, Line 10, are descriptions of construction steps or techniques for building a variety of facilities. Although interesting descriptions, the requirement is that an EIR will inform agencies and the public of **significant**

environmental effects; it is not clear what applicability these descriptions have in the document. (Guideline 15121(a), Informational Document).

Surface Water Reservoir Projects. Section 2.2.1.2.4

As a matter of environmental policy, many of our organizations will oppose further surface storage projects that are included in the Proposed Project due to the significant negative environmental impacts that they have on California riverine habitat and due to the lack of any consideration of public trust values that should be associated with the questionable cost evaluations that accompany those projects. This includes but is not limited to: expansion of Shasta Dam, Sites Reservoir, and Temperance Flat Reservoir. The Proposed Project supports these projects without any quantitative justification on costs, yield, impacts on the environment, or evaluation of the public trust values involved. (CEQA Guideline 15126.5, Discussion of Alternatives, Guideline 15146, Degree of Specificity).

Groundwater Monitoring. Section 2.2.1.3

Environmental organizations are generally disappointed with the groundwater monitoring features that were built into the Delta Reform Act of 2009. Earlier drafts of the 2009 legislation required groundwater monitoring and reporting throughout the state, while the final legislation was weakened to make groundwater reporting a voluntary effort. As pointed out in the DEIR, groundwater represents 30% of California's water supply in most years. The Proposed Project for the Delta Plan must face this politically difficult situation with a recommendation, similar to Alternative 2, for mandatory groundwater reporting throughout the state since the use of groundwater can have significant environmental impact (CEQA Guideline 15151, Standards for Adequacy of an EIR, and (Guideline 15126.5, Discussion of Alternatives).

Wells and Other Groundwater Storage Facilities 2.2.1.3

This or the previous section on groundwater needs to include a discussion of the Water Code's requirement for additional South-of-Delta underground storage, and the ability to meet that requirement through public control and expansion of the Kern Water Bank. The impacts of the additional capacity for Delta exports as provided by a public Kern Water Bank should be considered here. Given its location, size, and relative cost of development to surface storage (see estimates in DWR 132-87 and 88), the Kern Water Bank is a facility which could greatly assist balanced export controls for the Delta and could be the single greatest improvement to overall state-wide water supply reliability, the DSC should strongly advocate for the return of the Kern Water Bank to state control, and include its return among the recommended additions.

In the alternative, the absence of the Kern Water Bank from South-of-Delta storage should be analyzed.

Ocean Desalination Projects. Section 2.2.1.4

In the discussion of Ocean Desalination, little coverage of the significant adverse environmental impacts of ocean intakes, outflows, and construction is provided. There is only a minimal discussion of the large energy demands of desalination plants and the high costs of produced water when compared with other available water supply alternatives.

ALTERNATIVES TO THE PROPOSED PROJECT

Environmental Water Caucus Alternative 2.

Ocean Desalination. Page 2A-69

This section improperly characterizes the EWC Alternative 2 as advocating more Ocean Desalination. In all of our comments to the Delta Plan, beginning with the Scoping Documents, we have made no mention of Ocean Desalination. To be clear: our view of Ocean Desalination is one of skepticism of this as an alternative for water supply because of the significant environmental and wildlife impacts caused by construction, by ocean intakes, by brine outflows, by the high energy usage, and by the high costs of the produced water. We also remain concerned about the significant impact on land use planning where desalinated water is used to induce growth. Lacking a comprehensive statewide policy on Ocean Desalination, it is premature to promote the most costly, energy intensive, and least reliable source of water supply. Before we reach the point of needing Ocean Desalination, we must exhaust the options of serious water conservation, by maximizing water reclamation, and capturing stormwater and urban runoff for water supply. By adding rainwater capture, graywater systems, and desalination for groundwater cleanup, it is possible to reduce per capita water demand to a level obtained by other countries before they even looked at Ocean Desalination. Spain, Israel, and Australia have each reduced per capita demand to 30 to 60 gallons per day per person, while California's statewide average is 174, with some areas of California using more than 300.

Alternative 2, Storage. Table 2-4, Page 2A-71

The EWC Alternative 2 did not recommend expansion of Friant/Millerton reservoir; we made no comment related to Friant/Millerton. This reference needs to be corrected.

Alternative 2, Conveyance. Table 2-4, Page 2A-72

The reference to the EWC agreement with the recommendation to complete BDCP was in the described context of consistency with the provisions of the Delta Reform Act; we also stated that it is unlikely to lead to BDCP meeting either the flow requirements or the water quality standards envisioned in the Delta Plan, and as such, would likely not meet the recovery objectives. Our qualification is important to include since it expresses our doubts that BDCP can actually achieve the reliability, ecosystem goals, and water quality goals of the Delta Plan. (CEQA Guideline 15146, Degree of Specificity) Also see below under Section 23, BDCP.

Additionally, with the exception of reinforcing core levees above the PL 84-99 standards and the installation of upgraded fish screens, Alternative 2 relies mainly on maximizing

the use and improvement of existing facilities south of Delta. Therefore, Alternative 2 can be shown to have far less significant impact on the Delta environment than any of the conveyance-oriented construction alternatives described or anticipated in the DEIR. Adding further to the beneficial effects of maximizing the use of existing conveyance is the probability that there will be little or no financing available for significant conveyance construction and that there is in all probability will be no further water available from the Sacramento River as a result of a changing climate, as pointed out elsewhere in these comments.

Alternative 2, Conveyance. Table 2-4, Page 2A-72

The EWC Alternative 2 made no recommendation regarding abandonment of South Delta intakes. This error should be corrected.

Alternative 2, Ecosystem Restoration. Table 2-4, Page 2A-74

The EWC Alternative 2 is incorrectly characterized as “Less emphasis than Proposed Project on ecosystem restoration throughout the Delta...” In our comments to the Fifth Draft of the Delta Plan, we indicated the following: “We agree with the Council’s reliance on the *Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions* (DFG 2011). We also support most of the Ecosystem Restoration Program features of the CALFED program. We would recommend that the Council require DFG to fully integrate restoration with inputs from the NMFS and FWS, both for riverine as well as terrestrial habitats. (ER P2).” The finding in the Table that Alternative 2 places less emphasis than the Proposed Project on ecosystem restoration throughout the Delta is in error and our recommendation on this subject should indicate that our emphasis on Ecosystem Restoration is the same as or similar to the Proposed Project.

Alternative 2, Flood Risk Reduction. Table 2-4, Pages 2A-79 & 80

The characterization of the EWC Alternative 2 as “Less emphasis than Proposed Project on reducing flood risk for all lands in the Delta areas...” does not consider the EWC recommendation to immediately initiate planning to upgrade core levees above the PL84-99 standard, in accordance with the recommendations of the Delta Protection Commission. This action is superior to the Proposed Project. If supported by the Delta Stewardship Council, this action would significantly reduce Delta earthquake and sea level rise vulnerabilities, putting Alternative 2 on a par with the Proposed Project (CEQA Guideline 15126.5, Discussion of Alternatives). Our current support of Policies RR P1 and RR P2 (Reduce Risk of Floods in the Delta) also contradicts your finding of “Less emphasis than the Proposed Project on reducing flood risks for all lands in the Delta areas...” and would elevate Alternative 2 to a superior rating compared with the Proposed Project.

Alternative 2, Reliable Water Supplies. Page 2A-98

While we agree with your interpretation that Alternative 2 would eliminate the use of Delta water on drainage-impaired farmlands, we support dealing with drainage problems in the least environmentally damaging manner and the most long-range, cost-effective manner by retiring the drainage-impaired farmland and converting to less

environmentally significant uses. Those uses would include, but not be limited to, dry farming or energy production which would also be more cost-effective through the elimination of plants and infrastructure to recycle the drainage water. The U.S. Geological Survey (USGS), in Open File Report No. 2008-1210 states that “*Land retirement is a key strategy to reduce drainage because it can effectively reduce drainage to zero if all drainage-impaired lands are retired.*” (CEQA Guideline 15126.5, Discussion of Alternatives).

Additionally, agricultural drainage treatment plants will not be part of Alternative 2 because the retirement of 380,000 acres of drainage impaired lands will eliminate the need for that type of facility and also the impacts those facilities will have, such as storage, transportation, and disposal of hazardous waste.

The main reason Alternative 2 is not rated as a better alternative than the Proposed Project is due to the large amount of land retirement, including 380,000 acres in the San Luis Unit and 320,000 acres in the Tulare Basin for Tulare Lake Basin Reservoir, as well as potential land fallowing due to the limitation in Delta exports at 3 million acre feet. However, it is clear that no solution is in place for the 380,000 acres of San Luis Unit drainage impaired lands either financially, technically or otherwise authorized by Congress at necessary funding levels. Ultimately, like the 100,000 acres already retired due to soil salinization, the full 380,000 acres (including the 100,000 acres already fallowed) will go out of production unless they are allowed to reopen the San Luis Drain and dump all of the San Luis Unit’s pollution into the San Joaquin River. Efforts to maintain arability in the root zone of those lands through drainage treatment will require substantial increased public subsidies. According to Reclamation’s 2008 Feasibility Report for San Luis Drainage Feature Re-evaluation:¹³

“To provide drainage service to the San Luis Unit, neither of the action alternatives is economically justified by the Federal government. For the Federal government to provide drainage service to the San Luis Unit, neither of the action alternatives is financially feasible, within existing authorities.”

The Feasibility Report also found that substantial increased subsidies and Congressional funding authorization would be necessary to implement the Preferred Alternative:¹⁴

- Increase the funding authorization for the San Luis Act by \$2.69 Billion (2006 indexing)
- Waive the required collection of full Operation and Maintenance funding (and interest), including payments to the CVPIA Restoration Fund per Section 5 of the Reclamation Act for providing drainage service to Panoche, Pacheco and San Luis Water Districts.
- Authorize indefinitely waiving repayment of San Luis Unit contractors’ contractual obligation for repayment of reimbursable capital and/or reimbursable

¹³See page 97 http://www.usbr.gov/mp/sccaosld/docs/sldfr_report/index.html

¹⁴ Ibid. p xxvi

Operation and Maintenance costs incurred to implement the Preferred Alternative AND the remaining reimbursable capital costs incurred to construct pre-existing CVP facilities until the contractors can “afford to pay” their bills.

It also found that if the Preferred Alternative were implemented, the CVPIA Restoration Fund would be adversely affected because there is a pre-existing prohibition on reassigning drainage costs to CVP power customers because the San Luis Unit contractors will be unable to pay into the CVPIA Restoration Fund.

The proposed Panoche Demonstration Selenium Treatment Facility will cost an estimated \$37 million just to remove selenium from drainage, not salt or boron. At a treatment rate of 200 gallons per minute 24/7 for 18 months (470 AF), the cost of treating agricultural drainage only for selenium is \$78,723/AF, not counting transportation and disposal of the processed solid waste to a hazardous waste facility. Even at that cost, the potential for success is low. Previous attempts to use reverse osmosis have failed. A 2010 Report by CH2MHill for the North American Metals Council¹⁵ determined the following:

“While these physical, chemical, and biological treatment technologies have the potential to remove selenium, there are very few technologies that have successfully and/or consistently removed selenium in water to less than 5µg/L at any scale. There are still fewer technologies that have been demonstrated at full-scale to remove selenium to less than 5 µg/L, or have been in full-scale operation for sufficient time to determine the long-term feasibility of the selenium removal technology. There are no technologies that have been demonstrated at full-scale to cost-effectively remove selenium to less than 5µg/L for waters associated with every one of the industry sectors.”

Continued irrigation of the 380,000 acres (really 280,000 acres) of drainage impaired lands in the San Luis Unit will result in continued decline of soil productivity and will ultimately cause retirement of the land because it cannot support agriculture. Irrigation of these lands can only continue with huge subsidies and/or discharge of the toxins to the San Joaquin River and Delta. Therefore, continued irrigation of these lands does not meet the Delta Plan Financing Framework’s key tenets (2A-55) for cost effectiveness and stressors as follows:

- Beneficiaries (those who benefit from the water resources of the Delta and its watershed) should pay for the benefits they receive
- Stressors (those whose actions adversely affect the Delta ecosystem) should pay for the harm they cause the ecosystem.

Taking into account the fact that Alternative 2’s ultimate impact on agriculture by retirement of those 380,000 acres is really no different than Existing Conditions, No

¹⁵Review of Available Technologies for the Removal of Selenium from Water, CH2MHill, June 2010. See <http://www.namc.org/docs/00062756.PDF>, page 8-2.

Action, or the Proposed Project, it removes one reason that Alternative 2 cannot be environmentally preferred to the Proposed Action.

Your finding related to the negative impact of the loss of farmlands in the Tulare Basin needs to be corrected. We did not recommend eliminating those lands from production; the recommendation in the Fifth Draft is to study the feasibility of converting the land to a basin reservoir. Therefore, your negative impact finding is premature and will have to wait until such a feasibility analysis is completed.

Significantly favorable impacts to water supply reliability, especially for Southern California urban areas, would result with the return of the Kern Water Bank to state control, the return of the Article 18 urban preference, and the elimination of Article 21 surplus water.

Summary of Alternative 2.

With the above corrections or modifications applied to Alternative 2 in Section 2A, there will be no basis for selecting the Proposed Project as superior to Alternative 2, especially in view of the fact that even without the modifications, Section 25 – Comparison of Alternatives – indicates that “Alternative 2 is *slightly* (emphasis added) environmentally inferior to the Proposed Project” (Page 25-11, Line 16). With the cumulative impact of the corrections noted above, we recommend that Alternative 2 be designated as the Proposed Project.

No Project Alternative. Page 2A-85

As stated in this section: “The baseline for assessing the significance of impacts of the Proposed Project is the existing environmental setting...” (Lines 18-19). According to CEQA Guidelines (CEQA Guidelines Section 15126.6(e) (2), the Proposed Project is to be compared to Existing Conditions. Since this Existing Conditions section does not provide quantification of important existing conditions such as water supplies, water quality performance, percentage of fish or wildlife restoration goals met to date, or other resource areas normally evaluated in a Draft EIR, there is no ability to actually compare the other alternatives to Existing Conditions or to the Proposed Project (CEQA Guideline 15126.5, Discussion of Alternatives, Guideline 15146, Degree of Specificity).

Given the ongoing poor state of wildlife such as endangered salmon and smelt in the Delta, and given the tangential decline of these species, the “existing conditions” should include as the baseline the condition where exports are severely constrained, as they were when USFWS required substantial export reductions due to impacts to Delta Smelt.

Along the same lines, “existing conditions” for the No Project Alternative should be amended to include a discussion of the present constraints on Delta exports set forth in the relevant SWRCB Decisions and the Delta Flow Criteria, and whether these constraints are currently being implemented in part or in their entirety, and/or whether existing exports exceed recommended levels set forth by SWRCB.

Likewise, the No Project Alternative should also discuss the impacts which strict compliance with current SWRCB decisions, orders, and flow criteria impact would have on the Delta.

Section 3 – WATER RESOURCES

Alternative 2, Impact on Water Quality Standards. Impact 3-1

According to the EIR discussion, all of the actions of Alternative 2 would result in beneficial impacts on water quality. We agree. This includes beneficial impacts when compared with the Proposed Project as well as existing conditions, because of the mandatory requirements, the monitoring, and the enforcement actions called for in Alternative 2.

Rather than definitely improving water quality along a projected and supportable time frame with clear requirements that include specific enforcement mechanisms, the DEIR actually cements into place a weak and ineffective series of water quality actions that would be in place for many years under the Proposed Project. This potentially results in a water quality regime under the Proposed Project that prevents the state from moving forward effectively in response to growing information about the degraded state of our waterways. For example, the Fifth Draft states that “No policies with regulatory effect are included in this section,” when regulatory requirements are absolutely essential to address the health of the Delta. Additionally, there is no indication of how the Proposed Project is going to meet water quality standards. The extraordinarily long time frame for Delta Plan implementation prevents the necessary evolutionary path of the regulatory regime in light of the Delta’s immediate and expected needs. Therefore, the Plan actually creates a situation with significantly more potential negative consequences than the status quo, which accordingly need to be evaluated.

The recommendations we made in the Fifth Draft are enumerated here to reinforce the above points:

- The Central Valley Irrigated Lands Regulatory Program must include mandatory waste discharge requirements for all growers as need to ensure that water quality standards are met, and fees must be charged that are sufficient to ensure the that program is successfully implemented, monitored and enforced. Among other things, this mandatory program must include the following elements:
 - Individual growers must apply for coverage. No third-party applications would be authorized.
 - Growers must develop and implement individual Farm Water Quality Management Plans in order to minimize discharge of waste to groundwater and surface water from irrigated agricultural lands. Ambient surface and groundwater monitoring must be required as needed to demonstrate progress toward meeting water quality standards.
 - All growers must conduct nutrient tracking, pesticide tracking, and implemented tracking of management practices.

- Water bodies must be identified under Clean Water Act Section 303(d) as “impaired” due to low flows, in addition to chemical or biological pollution, and flows must be carefully considered in all Total Maximum Daily Loads later developed to restore the water bodies to health. This has yet to be accomplished in the Central Valley Region. As described in the extensive comments that were submitted by our coalition in the Fifth Draft, the state must identify and restore water bodies impaired by altered flows, as required by the Clean Water Act.

Without these above recommendations and additional recommendations we made in the Fifth Draft, the Proposed Project actually *discourages* their implementation by presenting a state-approved alternative that creates the misperception that water quality is being addressed. For instance, the DEIR mentions the selenium TMDLs for the San Joaquin River, but fails to mention that actual enforcement of basin plan selenium objectives upstream of the Merced River has been delayed until 2020.

Alternative 2, Impact on Groundwater Supplies. Impact 3-2

The suggestion that “water transfers might increase compared to the Proposed Project” is incorrect. Alternative 2 would **decrease** water transfers through the Delta due to the export limits of Alternative 2. (Line 31, Page 4-93). We also expressed our reservations and limitations of “North-to-South through the Delta” type of water transfers in our referenced report *California Water Solutions Now*, Figure 4, Water Transfer Matrix, Page 24. While incorrectly stating that Alternative 2 recommends more emphasis on water transfers than the Proposed Project, this section points out that significant adverse impacts on groundwater supplies and recharge under Alternative 2 would be **less than** the Proposed Project, partially the result of the favorable linkages between reduce exports, reduced water transfers, and the resultant groundwater supply protections for Northern California and our emphasis on regional transfers south of the Delta among willing sellers and buyers.

The State has long looked to the Sacramento River watershed as a solution for escalating demand south of the Delta. An early attempt at conjunctive use in 1994 revealed the folly of moving forward with large ground water extractions when so little was (and still is) known about the hydrologic region. Attempting to establish conjunctive use and ground water banking in the Sacramento Valley, and expanding efforts south of the Delta, exposes serious unanswered questions regarding the risks associated with such ambitious plans that have already devastated the Owens and San Joaquin rivers and valleys. It is helpful that the Fifth Draft of the Delta Plan highlighted some of the significant damage from current and past excess ground water pumping and manipulation of hydrologic systems, yet the DEIR seeks to use the same practices that created the problems that the DEIR seeks to ameliorate. Knowing this, we continue to encourage the Council to consider a new paradigm that was provided in our comments on the Plan’s first draft. However, with ground water storage and conjunctive use an integral part of the DEIR, we believe that it must disclose and analyze the risks associated with these strategies and expound upon the numerous uncertainties.

In our response to the First Draft Delta Plan we stated: “It is imperative that a comprehensive process for evaluating permanent and serial short-term transfers be established within the Delta Plan, including its impact on groundwater and up-stream impacts. We do not see that “comprehensive process” being included in the Proposed Project.

Alternative 2, Water Supply Availability. Impact 3-3

While we agree that Alternative 2 would have significant impacts on water supply availability for south of Delta agricultural and urban water users and that the impacts would be more significant than the Proposed Project, we believe that enough data has been recorded on both agricultural and urban water efficiencies to demonstrate that the impacts can be mitigated to a **less-than-significant** level. Additionally, the development of a Tulare Lake storage basin, the return of the Kern Water Bank to public ownership, the return of the urban preference, and the elimination of Article 21 surplus water would substantially increase water supply availability, especially for urban Southern California, as previously mentioned.

In view of the combination of the continuing growth of California’s population, the growing limitations of statewide water supply, the future effects of climate change on water supplies, and the pricing of energy supplies, the state needs to examine the societal value and the pricing of water on low value crops that are currently grown throughout the state. Although this is a sensitive subject in our market-based economy, the newly constituted Delta Stewardship Council might be an appropriate venue for dealing with this subject.

Alternative 2, Mitigation Measures

The statement needs to be corrected; mitigation would not be required for Impacts 3-1 (Water Quality) and 3-2 (Groundwater), as described in the DEIR. Mitigation would be required only for Impact 3-3 (Water Supply), and can be reduced to a less-than-significant level, as shown in numerous recent analyses, including the latest reports from the Pacific Institute.^{16 17} Alternative 2 would also have less unavoidable impacts than the Proposed Project. Those corrections, plus others pointed out in these comments, would put Alternative 2 as preferable to the Proposed Project, using your judgmental criteria.

Section 4 – BIOLOGICAL RESOURCES.

Study Area. Section 4-1

The Study Area includes the Trinity River, but there is no discussion whatsoever regarding Trinity River basin water obligations in Existing Conditions or the other alternatives. Since the Trinity is one of the sources of water for the Delta, it is inappropriate to leave out impacts, especially since some of the alternatives would retain existing Delta pumping or even increase Delta pumping with resultant impacts to the

¹⁶ Pacific Institute. 2005. California Water 2030: An Efficient Future. ES-2.
http://www.pacinst.org/reports/california_water_2030/ca_water_2030.pdf

¹⁷ Pacific Institute. 2009. Sustaining California Agriculture in an Uncertain Future.
http://www.pacinst.org/reports/california_agriculture/

areas of origin such as the Trinity. Trinity River Coho salmon are listed as a threatened species under federal and state law, but they are not mentioned in the document. This is a significant omission that should be corrected. Evaluation of impacts to Trinity River salmon and steelhead from the alternatives with high Delta exports such as Alternatives 1A and 1B could have been performed through evaluation of the frequency of violation of Trinity River Temperature Objectives contained in the Water Quality Control Plan for the North Coast Region.

The Trinity Record of Decision fishery flows and the 50,000 AF Humboldt County additional entitlement are components of the 1955 Trinity River Division (TRD) federal legislative authorization (PL 84-386) as amended by the 1992 Central Valley Project Improvement Act (PL 102-575).

Trinity River temperature objectives to protect salmon and steelhead have been adopted by the North Coast Regional Water Quality Control Board and the State Water Resources Control Board but have not been put into water permit requirements for the Bureau of Reclamation. In 1958, the Bureau of Reclamation, pursuant to section 8 of the 1902 Reclamation Act applied to the state for water rights to operate the TRD, but those water rights contain minimum fishery flows of only 120,500 AF. Trinity ROD flows and Humboldt County's 50,000 AF amount to a weighted annual average of 644,000 AF. Therefore, in order for the Trinity River to be protected, the Delta Plan should include a recommendation that the SWRCB convene a Trinity specific water right hearing, as directed in SWRCB Water Quality Order 89-18.¹⁸ The water right hearing shall license Reclamation's eight Trinity River water permits as follows:

1. Conformance with the instream fishery flows contained in the Trinity River Record of Decision.
2. Provision for release of Humboldt County's 50,000 AF in addition to fishery flows per the 1955 Trinity River Act under Water Code Section 1707.
3. Inclusion of permit terms and conditions to require Reclamation to comply with the Trinity River temperature objectives contained in the Water Quality Control Plan for the North Coast Region (NCRWQCB).
4. A requirement to maintain an adequate supply of cold water in Trinity Reservoir adequate to preserve and propagate all runs of salmon and steelhead in the Trinity River below Lewiston Dam during multi-year drought.
5. Eliminate paper water in Reclamation's Trinity River water rights.

Alternative 2, Effects on Sensitive Natural Communities. Impact 4-1

We concur with your important conclusion that "Alternative 2 would likely contribute more to improving the Delta ecosystem than the Proposed Project because of the greater emphasis on developing and implementing flow objectives that provide ecosystem benefits, including improvements to sensitive natural communities. Therefore, significant impacts on sensitive natural communities under Alternative 2 would be **less than** under the Proposed Project." The importance of this overall conclusion cannot be underestimated; ecosystems improvements are one of the overriding goals of Alternative 2, as well as the Delta Plan, and in keeping with one of the co-equal goals.

¹⁸ http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/1989/wq1989_18.pdf, page 18.

The DEIR incorrectly states that there will be significant impacts to sensitive natural communities (lines 21-21) compared to existing conditions because of the impacts of increased agricultural treatment facilities. As stated above, Alternative 2 does not contain agricultural treatment facilities because they would not be necessary if 380,000 acres of drainage problem lands in the San Luis Unit are retired. Therefore, Alternative 2 would not have significant impacts to sensitive natural communities as compared to Existing Conditions or the Proposed Project.

Alternative 2, Effects on Special-status Species. Impact 4-2

Once again, we concur with the DEIR finding that significant impacts on special-status species under Alternative 2 would be **less than** under the Proposed Project.

We also would like to point out two needed corrections:

1. Temporary construction-related impacts under Alternative 2 would be **less** than the Proposed Project because fewer projects would be constructed, not **greater than**, as indicated. Lines 1-2 on Page 4-94.
2. The suggestion that “water transfers might increase compared to the Proposed Project” is incorrect. As pointed out above (Section 3-2), Alternative 2 would **decrease** water transfers through the Delta due to the export limits of Alternative 2.

Alternative 2, Reduction of Fish or Wildlife Species Habitat. Impact 4-3

We concur that the overall significant impacts on fish and wildlife habitat under Alternative 2 would be **less than** under the Proposed Project because Alternative 2 would contribute more to improving habitat for fish and wildlife.

To go further, we fail to see how the Proposed Project with its BDCP emphasis on increasing water exports through the Delta can at the same time contribute to improved flows through the Delta and its connected rivers. In view of that obvious anomaly, we would judge the Proposed Project to have a more adversely significant impact on the Delta habitat and fisheries.

One of our major disappointments with the Delta Plan is the absence of a discussion of reduced flows through the Delta. Two key reports accomplished by the State Water Board over the last two decades have pointed out the importance of increasing outflow through the Delta and reducing exports to the level that is recommended in Alternative 2. The Delta Stewardship Council does not need further legal authority to support these past recommendations of the State Water Board, which have proven over time to be required for the recovery of fish and habitat in the Delta.

A full chapter in the report, *California Water Solutions Now*, upon which Alternative 2 is partially based, as well as our comments to the Fifth Draft Delta Plan, recommends studying the feasibility of fish passage above major Central Valley dams and the removal of dams that have outlived their usefulness as a significant favorable contribution to the recovery of listed salmonid species and the improvement of habitat for fish and wildlife.

We expect the DEIR to reinforce this need to allow migrating anadromous listed species to be able to reach more favorable habitat above dams in order to assure their survival.

Alternative 2 Interfere Substantially with the Movement of Any Native Resident or Migratory Fish. Impact 4-4

We concur with the finding that: “Overall, significant impacts on fish and wildlife movement under Alternative 2 would be **less than** under the Proposed Project because of the greater emphasis on flow objectives to achieve environmental benefits and a reduction in construction impacts associated with levees and dredging.” The overall objective of our fisheries recommendations is to provide benefits to ecosystems, fish, and wildlife through the Delta Plan.

Alternative 2, Conflict with Any Local Policies or Ordinances Protecting Biological Resources. Impact 4-5

As stated: significant impacts under Alternative 2 would be **less than** under the Proposed Project. We concur with your finding, and point out the need for the DEIR to support the enforcement of Fish and Game Code 5937, which mandates that dam operators keep fish in good condition below dams.

Alternative 2, Mitigation Measures:

With Alternative 2 having less impact than the Proposed Project in **all** of the five above impacts, it is not clear what analytical route you have used to decide that potential impacts are “significant and unavoidable.” Your analysis needs to be fully disclosed in accordance with CEQA practices.

Section 5 – DELTA FLOOD RISK

Overall, it is impossible in this section to make a reasoned analysis of benefits or impacts to flood risk from the various alternatives. For instance, there is no quantitative list of the number, size, and cost of levee improvements included under the various alternatives. Alternative 2 should have clearly included a list of all levee work necessary to bring all Delta levees up to the PL 84-99 standard as stated in EWC correspondence on the fifth draft of the Delta Plan. Instead, the DEIR incorrectly portrays Alternative 2, as “Actions to reduce flood risk under Alternative 2 would emphasize floodplain expansion and reservoir reoperation rather than levee construction and modification.” Specific impact analysis is put off until subsequent environmental documents. There is no discernible difference between No Action and the Proposed Action in terms of flood risk. No reasoned analysis can be made from the alternative descriptions, analysis, and discussion in this chapter.

Background. 5.3.2

The DEIR acknowledges that the failure rate of Delta levees has declined during the latter half of the twentieth century, although the section is organized to focus on the period of greater failures. Not mentioned are the reasons for failure reductions, which include: 1) many remaining levees in the Delta are in fact quite stable, the weaker ones having

already failed; and 2) local reclamation districts financed by Delta landowners have taken responsibility for levee maintenance, even in times when subventions funds were not available. The role of local agencies is better acknowledged under 5.4.5.1.2, which notes that “The USACE and State and *local agencies* have regularly rehabilitated bank erosion along project levees under the authority of the Sacramento River Bank Protection Project.” (Emphasis added.)

In the Overview, it is important to note that while a variety of upstream facilities affect flood management in the Delta, the reverse is not true: flood plains (flooded islands) in the Delta will not provide any benefit to Sacramento, Stockton, or other cities in the watershed. In fact, flooded islands would contribute to more pressure being placed on local levees.

Earthquake Risks. 5.3.5.2

There is no data or evidence to support the following two conclusions:

- “The risk of earthquakes causing levee breaches and island inundations in the Delta have long been recognized.”
- “It is assumed that an earthquake in the area would pose a significant threat to the Delta water supply because of the potential for liquefaction of levee embankments and foundations.”

There have been one or two minor earthquakes in the Delta and no levee breaches or island inundations caused by earthquakes. Ideas about liquefaction are poorly supported, with some engineers suggesting that peat soils in the Delta would in fact be less vulnerable to liquefaction than other soils. A test in August of 2011 by UCLA researchers of an artificial levee constructed of peat and other materials found that the peat settled but did not liquefy, even though the test machine generated ground motions equivalent to a local quake in the "high 6" range on the Richter scale. Although this research was limited and preliminary, it could be cited in the list of Sources of Information.

Increased Risks to Levees Due to Climate Change and Sea Level Rise. 5.3.5.1 (Page 5-23)

It is worth noting in the second paragraph that a robust levee maintenance program would allow levee height to keep up with any sea level rise on the same gradual basis as the rise itself is expected to occur. Dealing with any kind of increased risks to levees should be viewed not as a potential unavoidable catastrophe but as an ongoing design and maintenance challenge worthy of commitment from all levels of government.

Emergency Management Preparation 5.3.7

Note that preparation includes maintaining rock and sheet piles for levee repairs. These repair resources already exists but need to be expanded and to be accessible (as noted under Flood Risk Reduction for the Proposed Project).

Emergency Response Authorities and Responsibilities. 5.3.7.2

A critical missing piece here is an immediately accessible fund for emergency response. A flood fight can't wait while responding agencies try to decide which authority is going

to pay. Emergency funding should be in local control, not in State control. Such funding might be administered by the Delta Protection Commission or by a joint powers authority.

Assessment Methods. 5.4.1

The first paragraph indicates that: “The Proposed Project and alternatives would not directly result in construction or operation of projects or facilities” although they “could ultimately result in or encourage implementation of actions or development of projects.” Such implementation “could result in changes to flood management conditions *of the places in which they would be located.*” (Emphasis added). But taking just two examples given of typical projects – conveyance facilities and flood control levees – it seems clear that flood management conditions might be affected *outside* the immediate location, and that, in fact, affecting outside flood conditions might be the purpose of a particular project as a quantifiable objective of the Delta Plan. The italicized phrase should be deleted in order to provide a better description.

“The potential increases in flood flows, elevations, and velocities that *could* be caused by the implementation of projects encouraged by the Proposed Project and the alternatives were assessed qualitatively by applying general principles of hydrology and hydraulics to a range of representative conditions in California during the period of analysis.” (Emphasis added.) How can meaningful representative conditions be identified for the wide range of actions or projects that might be encouraged? This is an example of the lack of quantitative data to support the findings in this DEIR, as pointed out in our cover letter. This same comment is applicable to the Thresholds of Significance and Water Supply Reliability paragraphs contained in this section.

Impact 5-1

We disagree that Alternative 2 would have greater impacts on drainage pattern alteration than the Proposed Project because Alternative 2 does not contain ocean desalination projects or agricultural drainage treatment facilities, but it does include significant levee improvements by bringing all levees at least up to the PL 84-99 standards. Therefore, Alternative 2 would have the least impacts and certainly less impacts than the Proposed Project.

Impact 5-2

We agree that Alternative 2 would have less impacts than the Proposed Project for alteration of drainage patterns and polluted surface runoff.

Impact 5-5

We agree that “Overall, significant impacts associated with placement of structures within a 100-year flood hazard area under Alternative 2 would be **less than** under the Proposed Project.”

Based on changes to accurately reflect the EWC’s Alternative 2, Alternative 2 would have fewer impacts and more benefits than the Proposed Action in relation to flood risk.

Section 6 – LAND USE AND PLANNING

Study Area. 6.1

The last paragraph in this section reads: “As described in Section 2A, Proposed Project and Alternatives, facilities could be constructed, modified, or reoperated in the Delta, Delta watershed, or areas located outside the Delta that use Delta water, and other actions could be taken. It is unclear where any such facilities would be located or actions taken. The Delta is the focus of the Delta Reform Act, so the study area for this resource is focused in the Delta.”

Although we recognize the DSC’s wish to pare this subject down to manageable proportions, the statement in the last sentence could be applied equally to any section of the Delta Plan or DEIR. Land use and planning in the Delta watershed and areas outside the Delta that use Delta water may certainly have an environmental impact on the Delta, and the fact that it is unclear where any such facilities would be located or actions taken should not keep those matters from being addressed for regions outside as well as within the Delta for purposes of evaluating programmatic success.

REGULATORY FRAMEWORK. 6.2

Local Land Use Plans. 6.2.1

Missing from this section is any mention of local habitat conservation plans such as the Yolo Natural Heritage Program, a county-wide NCCP/HCP, and the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan. This omission gives the impression that local government has been negligent in dealing with habitat conservation issues and that plans put forward by outside interests should therefore take precedence. In fact, it is essential that local planning efforts of this kind be respected and taken into account in any project planning going forward for the Delta region.

Also missing is any mention of Delta reclamation districts. This document needs to recognize these local authorities and incorporate their five-year plans on an island-by-island basis.

Section 11 – GEOLOGY AND SOILS

The evaluation of impacts in Chapter 11 is inconsequential. If a project were to be built, the geology is not going to change. Major impacts would be on the ecosystem, water supply, and disease vectors while impact rates of erosion could possibly be mitigated.

Regional and Local Seismicity. 11.3.2.2

Mentioned in this section are three earthquakes of magnitude 6.5 or greater. Despite the devastation caused by these earthquakes in the Bay Area and along the coast, there is no record of any levee failure in the Delta associated with these or other seismic events. This fact should be stated clearly. “A moderate, or moment magnitude 6.5 or greater earthquake on the major seismic sources in the San Francisco Bay region would affect the Delta with moderate to strong ground shaking and could potentially induce damage in

these areas.” There is no historic evidence to suggest that this ground shaking and damage would have more than local consequences.

By contrast, Figure 11-3 shows hundreds of seismic events occurring along faults extending south from the San Francisco Bay Region. The California Aqueduct runs down the coast range parallel to the San Andreas Fault, and geologists predict the existence of many blind thrust faults along the east side of the coast range. This document considers blind thrust faults underlying the Delta with the idea that a seismic event could disrupt water deliveries. The analysis should be extended to the potential vulnerability of the California Aqueduct, where damage could be equally disruptive of water supply.

Section 14 – HAZARDS AND HAZARDOUS MATERIALS

Overall, this chapter overestimates the hazmat impacts from Alternative 2 under the incorrect assumption that the EWC alternative includes increased construction and use of ocean desalinization and agricultural drainage treatment facilities and therefore greater exposure to hazardous materials (greater impacts) compared to the Proposed Project. Alternative 2’s reduction in selenium, salt, and boron production and elimination of the need for agricultural pollution treatment facilities more than offsets hazmat impacts from increased recycling and sewage treatment facilities compared to the Proposed Project. Using information from the Broadview Contract Assignment Draft Environmental Assessment (Reclamation, 2004)¹⁹, and extrapolating the savings from retirement of 380,000 acres of drainage impaired lands in the San Luis Unit would result in the reduction of 98,800 AF/year of contaminated agricultural drainage to surface water and groundwater, including a reduction of 646,000 tons of salt, 57,000 pounds of selenium and 1.976 million pounds of boron. Clearly, Alternative 2 cleans up significant sources of surface and groundwater pollution for the Delta and San Joaquin/Tulare basins and is by far superior to any other alternative in this regard. The DEIR does not disclose the magnitude of this improvement in hazardous material production, storage, transport, and disposal, as a result of Alternative 2 because it lacks any quantitative analysis. Alternative 2 is environmentally superior for Hazards and Hazardous Materials.

Section 21 – CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS

We appreciate the effort of the Delta Stewardship Council to comprehensively review the environmental implications of the Delta Plan with respect to climate change and GHG emissions. However, the Plan suffers from the fundamental limitations in that some aspects of climate change, such as sea level rise and changes in precipitation patterns, have been exhaustively studied and evaluated, while some GHG impacts, including the embedded energy use in conveying water for long distances, and the growth patterns

¹⁹ See http://www.c-win.org/webfm_send/195, page 4-2

induced by conveying hundreds of thousands of acre feet of water to certain parts of the state, have barely been considered.

Since water conveyance, distribution, and treatment is a large component of energy consumption in the state, the Delta Plan needs to be integrated with the California Climate Adaptation Strategy²⁰, and the efforts of the Water Energy Task Force of the California Climate Action Team. The Council has the Authority to Recommend Options (Water Code section 85304) and to provide comments as a Responsible Agency, we recommend that the Delta Stewardship Council work with WET-CAT to develop specific guidelines for addressing greenhouse gas emissions that would be required for any project that is or will be incorporated into the Delta Plan. CEQA Guidelines (Section 15064)

GHG Assessment Methods. 21.5.1.1

Section 21.5.1.1 states “Because project-level details of project construction and operation needed to determine quantities and timing of GHG emissions are unknown, impacts for the alternatives were qualitatively evaluated for significance based on the estimated magnitude and types of emissions that might result.” We question the assumption that GHG impacts can be evaluated piecemeal for individual projects. For this reason, we question the criteria used for arriving at findings that some impacts are “less than significant.” We believe that more specific analysis of cumulative impacts and policy impacts are required under CEQA guidelines 15064.4 and are also required to adequately analyze the Proposed Project and alternatives under this document. Below are comments on specific impacts.

Construction and Operations of Projects Could Result in an Increase in GHG Emissions That May Have a Significant Impact on the Environment. Impact 21-1a:

We agree that these impacts are significant; however, we disagree with the assertion that “Project-level impacts would be addressed in future site-specific environmental analysis conducted at the time such projects are proposed by lead agencies.”

An overall, system-level analysis will need to be conducted of the cumulative GHG emissions of the proposed changes to operations of the State Water Project, as well as evaluation of alternatives. This will need to be done when the proposed projects are more fully specified. For this reason, these impacts cannot be subject to tiering from this document, because the impacts cannot be evaluated.

Construction and Operations of Projects Could Conflict with an applicable Plan, Policy, or Regulation Adopted for the Purpose of Reducing Emissions. Impact 21-2a

The EIR concludes that impact 21-2a is less than significant. We disagree with this conclusion. There are potentially significant statewide, cumulative impacts to the

²⁰ 2009 California Climate Adaptation Strategy, California Natural Resources Agency Available at http://resources.ca.gov/climate_adaptation/docs/Statewide_Adaptation_Strategy.pdf

Proposed Project, which could increase exports of water from the Sacramento Valley watershed through the Delta to Southern California. Because water supply ultimately drives growth, one of the biggest impacts would be a shift in growth from the Sacramento Valley watershed, which includes the western Sierras as well as the Sacramento Valley, to the San Joaquin Valley, the Inland Empire, and coastal southern California. Temperature projections from the state's Climate Adaptation strategy show that inland Southern California regions will be some of the hottest areas in the state, with mean peak daily temperatures in July as high as 110 degrees by 2070.

No analysis has been done of the increased greenhouse gas emissions from shifting development to these regions, or of the increased GHG emissions from an increase in demand for air conditioning. For this and other reasons, we disagree with the conclusion that projects implemented under the Delta plan would not conflict with other plans adopted by the state for the purpose of reducing GHG emissions, as long as the individual projects were evaluated for conformance to statewide and regional policies.

We also note that the 20% reduction in per-capita urban water use required under the Delta Plan will only provide reduction in GHG emissions if it is used to reduce consumption of energy-intensive sources of water, including water conveyed for long distances and, water that is actively infiltrated and extracted.

We assert that the cumulative impacts are significant and will require analysis under CEQA guidelines 15126.2(d) and 15064, and are required to be evaluated in planning stages, rather than solely prior to implementation of specific projects.

Section 21.5.3.2 Delta Ecosystem Restoration

This section states that "Project-specific GHG emissions impacts would be addressed in project-specific environmental studies conducted by the lead agency at the time projects are proposed for implementation, and required mitigation and operating conditions would be reflected in needed permits and approvals for the projects." This analysis fails to take into account the cumulative impact of ending agricultural production in an area with moderate rainfall and proximity to a water supply needed for irrigation. Production could be shifted to regions within California that are heavily dependent on imported water supplies, and that will be subject to large temperature shifts, or there could be an increase in imports from out of state. We believe a cumulative analysis of GHG emission impacts is required.

On the subject of impacts, we disagree with your assessment of Alternative 2 on the Mitigation Measures; with two of the three impacts rated as less-than-significant and the other rated the same as the Proposed Project, it is difficult to understand how you arrived at the overall rating of "significant and may be unavoidable." Again, we question the criteria you have used for arriving at these findings in the absence of quantifiable data or measures, as required by CEQA (Guideline 15146, Degree of Specificity).

Section 22 – CUMULATIVE IMPACT ASSESSMENT

CEQA Requirements

Although the evaluation of economic effects is optional under CEQA Guidelines (15131), the economics and social effects of the differing alternatives is so significantly different, and the economic balancing of public trust values so important, that they should not be optional for this DEIR. The possible elimination of a \$12 to \$15 billion expenditure, by not investing in a canal or tunnel around the Delta as anticipated with BDCP, is so significant to the state budget, as well as significant to the environment of the Bay-Delta and the balancing of the public trust, that it must be considered. The longstanding constitutional principle of reasonable use and the **public trust doctrine** shall be the foundation of state water management policy and are particularly important and applicable to the Delta (Water Code Section 85023).

Section 23 – BAY DELTA CONSERVATION PLAN

Alternative 2. Page 23-27, Line 36

In the section on Relationship of BDCP Alternatives to Delta Plan EIR Alternatives, there is an indication that EWC recommends completing the BDCP (Page 23-24, Line 3-4).

Our recommendations have been qualified but clearly stated, as follows:

- In our report, *California Water Solutions Now*, we have recommended “Measures that provide adequate water for all Californians and preclude the need for major new surface storage projects or the currently proposed Peripheral Canal.”
- For the Fifth Draft Plan, we commented that the water use reductions and savings shown in the EWC alternatives make major structural alternatives such as a canal or tunnel around or under the Delta and further surface storage unnecessary for water supply reliability.
- Also in the Fifth Draft, we commented that: “We agree with the recommendation that they complete the BDCP consistent with the provisions of the Delta Reform Act. However, this is unlikely to lead to BDCP meeting either the flow requirements or the water quality standards envisioned in the Delta Plan, and as such, likely would not meet the recovery objectives. Since BDCP is a 50 year plan, it must meet the Delta Reform Act mandates, and from a practical sense, the Council must work closely with BDCP on issues like developing alternatives.”
 - We also stated that: “The purpose of the evaluation of any Delta facility is to decrease the physical vulnerability and increase the predictability of Delta supplies, not to increase Delta diversions.”

We would like to make it clear that we do not support the current BDCP plan to implement a 15,000 cfs canal or tunnel, but are in favor of BDCP analyzing a full range of alternatives, including an alternative similar to our Delta Plan Alternative 2, along with an economics-based balancing of the public trust, as required by state policy. The context of the Fifth Draft comments was that the Delta Stewardship Council should “work with the BDCP to help them establish a list of alternatives for evaluation that would likely provide information based on the Council’s understanding about **“less reliance on the Delta.”**”

- As noted in each section of the DEIR, the Delta Stewardship Council has the Authority to Recommend Options (Water Code section 85304) and the Authority to Comment During the BDCP Process (Water Code section 85320 (c)) as a Responsible Agency. We would go further and expect the Delta Stewardship Council to have a required obligation to recommend and comment. **We recommend that the Delta Stewardship Council exercise those authorities and obligations.**

As a part of the BDCP Section 23, Table 23-1 on Page 23, **Potential Array of Alternatives being Considered for the BDCP Effects Analysis Process**, reviewers could be misled into concluding that the EWC Alternative 2 recommends a 6,000 cfs diversion. We want to clarify: we are not recommending a 6,000 cfs diversion. We repeat our recommendation, stated above, that BDCP analyze a full range of alternatives, including an alternative similar to our Delta Plan Alternative 2, along with an economics-based balancing of the public trust.

Although there are indications that BDCP may do a cost analysis of their preferred 15,000 cfs conveyance alternative, it is unlikely that this exports-driven project will complete a thorough cost/benefits analysis of the various alternatives to a 15,000 cfs conveyance. It is, therefore, incumbent on the Delta Stewardship Council, as a part of its statewide planning and public trust responsibilities, to assure that the BDCP's costs and benefits be compared to the various Delta Plan DEIR alternatives prior to certification of BDCP as a part of the Delta Plan.

APPENDIX C – POLICIES AND RECOMMENDATIONS OF THE PROPOSED PROJECT AND ALTERNATIVES

Table C-7 Alternative 2 Recommendations on Finance Plan Framework

Alternative 2 Recommendations 1 through 13 are described as the same or similar to the Proposed Project recommendations except for the addition of a 14th recommendation in Alternative 2. This recommendation calls for the exploration of a water diversion fee and a Delta export water fee to be used in support of ecosystem restoration efforts. Depending on the results of that exploration, it may contribute to strengthening the findings of superior ecosystem restoration actions for Alternative 2.

Beneficiaries should include not just those who benefit from the water resources of the Delta but those whose access to those water resources is facilitated by levee and other maintenance activities of entities within the Delta. A number of water agencies receiving water from the Delta have expressed support for this principle and a willingness to help pay for levee maintenance.

Regarding funds set aside for flood protection and disaster prevention, an accessible emergency response fund should be established and should be readily accessible to local agencies in the event of an emergency, so that time is not lost deciding what agency will pay for emergency response. Such a fund could be administered by the Delta Protection Commission or by a joint powers authority.

EWC ALTERNATIVE 2 SUMMARY

By following the outline and sequence of subjects of the DEIR, as we have done in these comments, and because of the numerous Draft Delta Plan comments from our caucus over the year, it may be difficult for reviewers to determine concisely which actions the EWC Alternative 2 supports or opposes. The following is a brief outline of those actions:

Supported Actions:

1. Reduce exports to 3MAF, and in keeping with SWRCB flows criteria
2. Public trust protection and thorough economic analysis of reasonable alternatives
3. Keep water transfers within revised Delta export limits
4. Maximize use of existing Delta facilities
5. Installation of improved fish screens at existing Delta pumps
6. Expand statewide water efficiency and demand reduction programs
7. Maximize regional self sufficiency
8. Eliminate irrigation water on drainage-impaired farmlands below Bay Delta
9. Return Kern Water Bank to state control, restore Article 18 urban preference, and restore the original intent of Article 21 surplus water in SWP contracts
10. Restore water quality in the Bay Delta and in impaired rivers
11. Reinforce core levees above PL84-99 standards
12. Monitoring and reporting of groundwater, statewide
13. Restore approximately 18,000 acres of Delta ecosystems
14. Feasibility study for Tulare Basin water storage
15. Provide fish passage above Central Valley rim dams for species of concern
16. Retain cold water for fish in reservoirs
17. Integrate floodplains with rivers
18. Fund agencies with user fees
19. Provide phasing of all above actions

Actions Not Supported:

1. Ocean desalination
2. Increased water transfers
3. BDCP 15,000 cubic foot per second new conveyance capacity
4. Major new or expanded surface storage
5. Expansion of Friant/Millerton reservoir
6. Increased construction and use of agricultural drainage treatment plants

The following Environmental Water Caucus affiliated organizations support the findings and recommendations shown in the attached DEIR comment letter dated February 2, 2012.

Their logos are shown at the front of this document.

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