



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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Mr. Joe Grindstaff, Executive Officer
Delta Stewardship Council
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RE: Comments on Sixth Draft Delta Plan

The California Sportfishing Protection Alliance (CSPA) has reviewed the Delta Stewardship Council’s (“Council”) Sixth Draft Delta Plan and, on behalf of its thousands of members statewide, submits the following comments.

It is not surprising that the ecological tapestry of the estuary is collapsing. Over mere decades, water projects have deprived the estuary of half its flow; turned the natural hydrograph on its head; reduced temporal and spatial variability; eliminated crucial habitat, complexity and diversity and deprived the estuary of dilution necessary to assimilate increased pollutant loading. No estuarine ecosystem in the world has survived this level of abuse.

Nor is it surprising that California finds itself in a water supply crisis. The state has over promised, wasted and inequitably distributed scarce water resources. The legal right to divert water from the Central Valley exceeds average unimpaired runoff by a factor of four and exceeds the wettest year on record. The system is oversubscribed, operating in deficit and incapable of meeting competing demands.

What is surprising and deeply disappointing is that the Council, tasked by the state Legislature with developing a legally enforceable plan to achieve the coequal goals of “providing a more reliable water supply for California” and “protecting, restoring, and enhancing the Delta ecosystem,” has instead proposed a blueprint that accomplishes little more than perpetuating the status quo.

The Legislature also tasked the State Water Resources Control Board (SWRCB) to gather the best available science and develop flow criteria for the Delta ecosystem necessary to protect public trust resources, including the volume, quality, and timing of water needed under different conditions. It directed the California Department of Fish and Game (DFG) to identify quantifiable biological objectives and flow criteria for species of concern in the Delta. Together, those reports represent the best scientific information on minimum flows and objectives needed to protect the estuary’s public trust resources.

Both the SWRCB and DFG reports call for substantially greater outflow. Given finite water resources and the necessity of increased outflow and adequate upstream storage, it is inescapable

that water diversions must be reduced. A Delta Plan should have been predicated on how to prioritize, equitably allocate, conserve and reuse scarce water resources.

Unfortunately, the Council failed from the beginning to define the “coequal goals” or provide defensible and quantifiable goals, yardsticks and mileposts for achieving the goals or establish consequences for failing to make progress toward those goals. It refused to undertake a water availability analysis that is essential to separating real water from paper water, addressing the legal rights to it and providing the information necessary for informed decision-making. It rejected conducting a comprehensive socioeconomic benefit/cost analysis indispensable for maximizing the use of limited resources for the greatest good for all Californians. It brushed off multiple appeals to develop a public trust analysis crucial for ensuring that the common property rights of all Californian’s are protected and balanced against those of special interests. And it declined to conduct a water quality analysis to evaluate the impacts to pollutant concentration and residence time from diverting additional dilution flows around an already degraded estuary. Instead, the Council only recommends that agencies continue to pursue existing programs that have led to pervasive water quality impairment throughout the Valley. The absence of these analyses has sabotaged the entire Delta planning process.

The Council has not even been able to ask the basic and foundational questions necessary for making intelligent and informed decisions on how to allocate scarce water resources. Examples of such questions include:

- What does water supply reliability mean in an arid state where we have granted rights to far more water than actually exists?
- Does water supply reliability apply to both public trust resource needs and consumptive uses (i.e., should fish have rights to water)?
- Are statutory requirements to protect water quality and listed species equivalent to water supply reliability for lawns or surplus and non-food crops?
- Is the standard by which we measure water supply reliability the same for junior and senior appropriators?
- Does efficient and multiple use of water have higher priority over waste, inefficient and unreasonable use?
- Should we prioritize consumptive use on the basis of economic benefit?
- Does health and safety take precedence over certain agricultural uses of water?
- Are food crops more important than non-food commodities?
- Is it reasonable that the Westside of the San Joaquin Valley, comprising 0.5 % of the state’s economy and population, should receive two-thirds of Delta exports while urban areas representing half the state’s population and economy get one-third?
- Is protection of a “national treasure” and one of the world’s great estuaries more valuable to society than irrigating impaired soils, that by the nature of being irrigated, discharge prodigious quantities of toxic wastes back to our waterways?
- If someone uses water that generates pollutants that eliminate assimilative capacity and beneficial use of water for others, should the degraded water be deducted from the water supply provided the polluter?
- Should water supply reliability be conditioned upon specific and quantitative requirements to maximize reclamation, reuse, conservation and development of alternative local sources of water?

- Do uses of water that require vast public subsidies have the same priority to uses that don't require subsidy of public funds and are uses that internalize adverse impacts equal to uses that externalize them?

Discussion and answers to these and similar questions would have facilitated the development of equitable and effective solutions to California's water crisis.

Because the Council cannot bring itself to conduct the necessary analyses or ask the critical questions, it is left with little but to propose a bureaucratic Taj Mahal and advocate continuance of a status quo that is responsible for getting us into this crisis in the first place. The Delta Plan has become an omelet of half-truth and distortion to justify a predetermined conclusion and, like its failed CalFed predecessor, will simply become another poster child of a golden opportunity lost.

Events are already rapidly bypassing the Council's efforts. Reports by the National Research Council, Independent Science Board and Bay Institute, as well as the Red Flag Responses by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, California Department of Fish and Game and U.S. Bureau of Reclamation on BDCP's Constraints Analysis demonstrate that BDCP is unlikely to qualify as a HCP or NCCP. Indeed, the project will not promote recovery but is more likely to increase the risk of extinction of several species.

Consequently, the California Resource Secretary has unveiled BDCP-Plus: a desperate scheme to commit to peripheral conveyance now and develop the science and assurances on how the project is to be operated over the next fifteen years. That the state would even consider approving a \$17 billion project (\$51 billion including financing), without first developing the necessary science or assurances on how it will be operated, defies description: especially for a proposed project with an uncertain water yield. The fact that such a preposterous scheme is being seriously considered is both proof that the Council's Delta planning process has already failed and an indictment of that failure.

Little more remains to be said except to lament a missed opportunity to resolve the impasse between people and the environment. There is sufficient water for both if efficiently used and equitably allocated. Delta water can provide a bridge to increased regional self-sufficiency in the South Coast. However, the estuary and Delta agriculture cannot survive the waste of subsidized water to grow subsidized crops in the desert.

We incorporate by reference, for this Sixth Draft Delta Plan, the 13 June 2012 and 30 September 2011 comments on the Delta Plan submitted by the Environmental Water Caucus and the following comments submitted on the Draft Program Environmental Impact Report, as they pertain equally to the Sixth Draft of the Delta Plan:

- The 28 January 2011 comments on the Notice of Preparation for the Completion of the EIR on the Delta Plan submitted by the California Sportfishing Protection Alliance.
- The 2 February 2012 comments on the Draft Delta Plan Program Environmental Impact Report submitted by Michael B. Jackson on behalf of the California Sportfishing Protection Alliance, California Water Impact Network and the Pacific Coast Federation of Fisherman's Associations.
- The 2 February 2012 comments on the Fifth Staff Draft Delta Plan (Administrative Draft)

and Delta Plan Program Environmental Impact Report submitted by Lozeau Drury LLP on behalf of the California Sportfishing Protection Alliance and the Pacific Coast Federation of Fisherman's Associations.

- The 2 February 2012 comments on the Fifth Staff Draft Delta Plan and its Program Environmental Impact Report submitted by Stephan C. Volker on behalf of PCFFA, FOR, NCRA, CalSPA, IFR and Winnemem Wintu Tribe.
- The 1 February 2012 comments on the Delta Plan Draft Environmental Impact Report submitted by Rossmann and Moore, LLP.
- The 2 February 2012 comments on the Fifth Staff Delta Plan and PEIR submitted by the Law Offices of Michael A. Brodsky on behalf of the Save the California Delta Alliance.
- The 2 February 2012 comments on the Delta Plan Draft Environmental Impact Report submitted by the Central Delta Water Agency.
- The 2 February 2012 comments on the Draft Delta Plan Program Environmental Impact Report submitted by Lewis Brisbois Bisgaard & Smith on behalf of San Joaquin County, South Delta Water Agency and Central Delta Water Agency.
- The 2 February 2012 comments on the Delta Plan DEIR submitted by Environmental Advocates on behalf of fifteen environmental and fishing organizations.
- The 2 February 2012 comments on the Delta Plan DEIR submitted by the Environmental Water Caucus on behalf of fifty environmental, fishing and tribal organizations.

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Sincerely,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance