

**Municipal Services Agency**  
Paul Hahn  
Agency Administrator



**County Executive**  
Terry Schutten

## County of Sacramento

September 3, 2008

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

Re: Comments of the County of Sacramento on the third draft of the Delta Vision Strategic Plan

Dear Mr. Isenberg:

Thank you for allowing the County of Sacramento an opportunity to comment on the third draft of the "Delta Vision Strategic Plan (dated August 14, 2008). As one of the five Delta counties that will be most directly affected by the Plan, the County has a keen interest in this matter.

A copy of the County's comments is included with this letter. Sacramento County appreciates the Blue Ribbon Task Force's careful consideration of these comments. The County also looks forward to working with the Task Force to address the County's concerns and assist in the development of a final Plan the County can accept.

Should you have any questions about any of the issues raised in the County's comments, please do not hesitate to contact myself by phone at (916) 874-5889 or via email at [hahnp@saccounty.net](mailto:hahnp@saccounty.net).

Very truly yours,

A handwritten signature in black ink that reads "Paul J. Hahn". The signature is written in a cursive style with a large initial "P".

Paul J. Hahn, Agency Administrator  
PJH/sb/ds

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Attachments (2):

Sacramento County Comments on Delta Vision Strategic Plan – Third Staff Draft  
submitted September 3, 2008

August 26, 2008 letter to Mike Chrisman, Secretary for the California Resources Agency  
and Karen Scarborough, Chair of the Bay-Delta Conservation Plan Steering Committee in  
regards to The Position of the County of Sacramento on the BDCP

Cc: Sacramento County Board of Supervisors  
Terry Schutten, County Executive for Sacramento  
State and Federal Legislative Representatives  
Delta Vision Blue Ribbon Task Force  
Delta Task Force  
County Administrators for Alameda, Contra Costa, San Joaquin, Solano, and  
Yolo County  
City Manager of Sacramento  
City Managers for Elk Grove and Galt

## **Sacramento County Comments on Delta Vision Strategic Plan - Third Staff Draft**

Plan Draft dated: August 14, 2008

Comments submitted: September 3, 2008

At the outset, the County notes its concern that stakeholders such as the County have not been given adequate time to review and analyze the provisions of the third draft of the Strategic Plan. The Plan proposes wholesale revisions to existing social and legal institutions, including the constitutionally protected system of California's water rights, but the County has been allowed less than 3 weeks to review this document of more than 90 pages.

The County respectfully suggests that a Plan of this magnitude requires consensus-building and care. While we understand and support the need for action to address problems in the Delta, the County is concerned that these issues cannot be resolved with any "quick fix." In fact, a Plan developed in haste, without adequate public review and revision, may exacerbate existing Delta problems instead of resolving them.

At the last meeting of the Task Force, the Chair expressed a concern that there may not be time to consult with local governmental agencies about the Strategic Plan and its impacts on their communities. Sacramento County respectfully disagrees and urges the Task Force to take affirmative efforts to draw from the specialized knowledge and experience of the Delta counties, cities, and local jurisdictions in developing the Plan.

### **The First Ten Pages - An Introduction to the Future**

The County is concerned about the Strategic Plan's statement that California's system of water rights, "including reasonable use and public trust principles, provides a sound framework for implementing" the Strategic Plan's recommendations. This portion of the Plan seems to be implying that the public trust doctrine and what the Plan identifies as the "reasonable use doctrine" (presumably, this refers to the Constitutional prohibition against waste) are adequate to reallocate water for purposes that the Plan identifies as being in the public interest, without regard to existing rights to in water or the current beneficial uses being made of it. The Plan then indicates that legislation will be required, that water users should be prepared to accept change, and that legal claims should not be allowed to paralyze "effective, timely policy making."

We are not sure what the Task Force is intending to convey through these statements, but they give us pause. These statements raise two fundamental concerns for the County. First, is it the intent of the Plan to reallocate water from existing users? If so, does the Task Force contemplate paying just compensation to those who hold water rights.

Second, even if the Plan envisions adequate compensation for the water rights that it proposes to take, we are not certain what effect is being given to the Plan's stated goal of "providing special status to [no Californian]" if the Plan intends to have water rights reallocated, as it seems to be suggesting. The Plan seems to suggest that provisions protecting the water rights of areas and counties of origin grant "preferential treatment" to Northern Californians, and

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that the application of these laws must yield to the "statewide" interests in a reliable water supply for South-of-Delta water users.

If this is true, is it the intent of the Plan to restrict growth and development of water supplies in upstream communities, including Sacramento County, to ensure a more reliable water supply for the San Joaquin Valley and Southern Californians? How can the Plan legitimately claim that this proposal does not simply subordinate Northern Californians' interests to those of their neighbors to the south? Wouldn't this force the areas and counties of origin to bear all the social and economic hardship of fixing the Delta for the benefit of the San Joaquin Valley and Southern California? Isn't there a statewide interest in providing reliable water supplies for all Californians? Don't water users within the areas and counties of origin have just as much right to secure water supplies for their anticipated growth as Southern Californians do for theirs?

The County is also concerned that this position will create, not avoid, chaos. After the Central Valley and State Water Projects (Projects) were first proposed in the 1930s, they spawned decades of litigation over fundamental concepts of water rights. The area of origin and county of origin laws were part of the compromise that allowed the Projects to be built. The Plan appears to eliminate that compromise and the tenets upon which it was based because it would be more expedient not to honor these promised protections as articulated in these laws. The County respectfully suggests that these laws serve a fundamental policy purpose which cannot be so easily brushed aside.

The heart of the problem with the Plan is its limited definition of its two goals as providing a healthy Delta ecosystem and a reliable water supply for those who are reliant on Delta water exports. Insofar as direct Delta diversions are a primary cause of Delta degradation, these "co-equal" goals are inherently contradictory. Further, the Plan ignores the real and legitimate interests of those who do not derive their water supplies from Delta exports. As we have previously noted, recognizing a third equal goal, which recognizes the interests of the Delta counties, cities, and local jurisdictions, will help properly address this situation and avoid the conflicts that otherwise will overcome the Plan.

### **Four Key Themes - Page 11**

The County agrees that "top-down control by one 'super-agency'" will not provide an effective means of implementing any change in the Delta, much less the ambitious Strategic Plan. The County also agrees that local agencies, including the County, must continue to have a vital role in governing the Delta. However, the County does not understand how the Plan's proposed governance structure will ensure that local agencies' role in Delta governance will be respected and protected. There is no detail in the Plan to explain how the Council or any of the other boards and appointed bodies advocated by the Plan would interact with the Delta counties and cities. What criteria will be used to select the members of the governing body? Why is an appointed board considered to be better suited for this governance than a more popularly representative institution?

**Strategic Direction/Existing Governmental Shortcomings/A New Governance Structure - Pages 12-16**

A great deal is dealt with in this section and in the more specific provisions of the Plan, below, but there should be more care taken in not disenfranchising those who live and work in the affected areas. Also, it is not clear how the new governance structure will take account of the Delta communities' public health and safety concerns, community character, and other critically important local issues. The County is concerned that relying exclusively on a governance structure that is based on a limited focus may overlook or obscure other issues, to the detriment of the Delta communities and, possibly, the Delta as a whole. This concern is heightened by the proposal to have a "Public Advisory Group" to filter the communications from the public to the CDEW. The County is not convinced that an appointed board which creates a group specifically to shield itself from any public communication will be able to develop sound public policy. The County believes the principles of open government and debate of ideas that underpin our constitutional democracy are sound ones and will generally lead to better results than those developed in secret behind closed doors.

The Plan notes that "water required to revitalize the ecosystem will not be purchased, but will be provided within the state's water rights system by exercising the constitutional principles of reasonable use and public trust." This statement is probably incorrect as a matter of law, since the constitution prohibits the wholesale uncompensated taking of water rights. At any rate, attempting to reduce existing water rights in this unprecedented manner will undoubtedly lead to years of expensive litigation. The County respectfully suggests that expending resources in this manner would not be in the best interests of the state.

The Plan's proposal to reallocate water from existing rights holders to others is also fundamentally inconsistent with the Plan's stated "goal" of providing a reliable water supply. When water users' existing rights are subject to reallocation, reassignment or reduction, they are not stable and, hence, not reliable.

The Plan also suggests that several new agencies be created. The County respectfully suggests that the addition of new regulatory agencies may create more problems than the new agencies will solve. For example, the various regulatory agencies may issue competing directives or take other actions that conflict with each other. Increasing the number of regulatory agencies involved also greatly increases the amount of funding required to resolve the problems.

It is difficult for the County to comment further on the proposed governance structure at this time because the governance structure hinges on the implementation of a "legally binding CDEW Plan." The Plan assumes the development of the CDEW Plan, but it is not clear how this will happen. Who will participate? How will the provisions of the CDEW Plan be drafted? How will conflict between or among stakeholders be resolved? All of this critical information must be provided before the County will be able to grasp the implications of, and comment meaningfully on, the proposed governance structure. While there may be a need to establish an overarching structure for governing the statewide water problem, it is not possible to comment on the ephemeral structure suggested by the Plan absent specific answers to these questions.

### **Managing Delta Water Flows in Statewide Context – Pages 16-17**

The County agrees that stress on the Delta can be reduced if regions become more self-sufficient in terms of their water supplies. This suggests that the State should encourage development in areas that have more access to water, such as the areas and counties of origin. Yet the Plan seems to take it as a given that the need to provide sufficient water to deal with growth in the San Joaquin Valley and Southern California growth must be accommodated and Delta water exports should be facilitated. Shouldn't the Plan consider a policy of encouraging growth where the resources to support it already exist?

### **Integrating Flood Control and Water Supply Planning – Pages 17-18**

The Plan must adequately address flood control issues. The County is subject to periodic flooding in wet years, which can lead to levee failures with the risk of widespread property damage and loss of life. More recently, Hurricane Katrina provided a very visible reminder of the extent of devastation that can accompany a widespread levee failure. These issues cannot be taken lightly; protecting public health and safety is of paramount importance.

The County does not understand how the Plan would ensure adequate flood control protection. The Plan states its intention to increase flood conveyance along major rivers by expanding the floodplains, while simultaneously changing the operating rules for reservoirs to free up space to increase water supply storage. How will this work? Does this mean that water supply storage will take precedence over flood control criteria in reservoir operation? The County has grave concerns that the Plan maintain flood protection at levels adequate to support public health and safety. Unfortunately, the concepts in the Plan are not sufficiently well-developed to permit the County to comment meaningfully on them at this time. We look forward to a more refined draft with further detail on these critically important issues.

### **Criteria for Decision Making – Pages 18-19**

This section cross-references the BDCP. The County has provided a comment letter to the BDCP Steering Committee, a copy of which is attached. To the extent this provision of the Plan intends to incorporate the BDCP, the County reiterates its concerns with the BDCP.

### **Restoring Physical Habitats – Pages 19-20**

The County agrees with the concept of restoring physical habitats, but the extent and type of programs envisioned are unclear. At a minimum, restoration of habitat must occur in a manner that is sensitive to local communities and their character. It should also be recognized that restoring habitat for aquatic species may reduce existing habitat for sensitive terrestrial species. For example, conversion of farmland to tidal marshes may result in a loss of foraging territory for Swainson's hawks. Mitigation for the loss of land needed for terrestrial species within the Delta will impact other habitat conservation plans outside the Delta. How will the Plan ensure that decision making takes into account these "big-picture" issues?

### **Reducing Stressors – Pages 20-21**

The County understands and supports the need to protect water quality in the Delta. However, the Strategic Plan appears to conclude that sufficient information is already available to conclude what factors may be causing impacts to Delta waters. Because insufficient information currently exists to reach such a conclusion, we recommend that the Strategic Plan be revised to recognize that before decisions can be made regarding the need to control certain contaminants, studies must be conducted to determine what contaminants may be of issue and identify the source of those contaminants.

The County joins in the comments of the Sacramento Regional County Sanitation District.

### **The Challenge of Land Use/Recognizing the Delta's Unique Character/Preparing for Emergencies – Pages 21-23**

The County agrees that over-urbanization of the Delta is not desirable. From the County's perspective, over-development would compromise the character of the Delta communities. The County's land use process takes pains to avoid such results.

The Plan indicates that "there are additional areas outside of the primary zone where state interests are at stake" and that "not all areas of the existing legal Delta are equally important to state interests." This implies that the current classification of the Delta into lands of primary and secondary importance is not correct and needs to be revisited. However, the Plan also indicates that the primary and secondary zone classifications would continue to be used to determine the entity with jurisdiction for land use approvals. If Delta-related land use oversight is not needed for some areas within the primary zone, why should the Delta Protection Commission continue to usurp the local governmental authority? How will the "Local Plan" process work? How will a "Local Plan" be used to either relax or strengthen land use oversight in a given area?

The Plan also expresses its intention to expand recreational use of the Delta and to increase tourism and recreation. These goals are laudable, but they may be inconsistent with the Plan's other aims. The expansion of recreational uses and tourism may compromise the Delta's fragile ecosystem. They may also make it more difficult to affect water quality.

### **Financing the Future – Page 23**

The Plan indicates its intention to charge "private beneficiaries" for projects that benefit them, while the public will pay for activities "of broader benefit." What criteria will be used to determine appropriate cost-share? How will it be decided if a project benefits "private" or "public" parties? What activities will be deemed ones of "broad" benefit? Presumably, these activities include more than just actions designed to secure water supplies for the San Joaquin Valley and Southern California. The Plan reaffirms the principle that beneficiaries should pay. However, those "beneficiaries" include special purpose public agencies, not simply "private beneficiaries."

The Plan states that state funding "for any purpose related to the implementation of the CDEW Plan" would be contingent on "full compliance with all aspects of California resources laws and policies." What does this mean?

Who will pay for the estimated \$10 billion in capital costs to construct the necessary infrastructure?

### **Reporting Progress - Pages 24-28**

It is curious to us that the Plan identifies the reporting process as a means of providing "accountability" when the control of Plan implementation rests in a non-elected body. How is the CDEW Commission to be held accountable if it fails to achieve the Plan's goals? It strikes us that the governance structure that has been proposed actually subverts accountability in that it allows elected officials such as the Governor to distance themselves from the Delta's problems and their thorny solutions.

### **Phasing - Pages 29-30**

The Plan places much faith in the "bold steps" discussed in this section. Some of these "bold steps" involve a high degree of risk and may not prove workable. For example, there is a risk that the new governing entities proposed by the Plan will duplicate rather than replace existing agencies and structures. Rather than streamlining Delta protection, this could cloud it with more bureaucracy and uncertainty over jurisdiction.

It is not clear how the Plan will be adapted if any of the "bold steps" fails.

### **The Eighteen Strategies**

#### **Strategy 1. Vastly improve the efficient use of water.**

This strategy calls for vague and unspecified changes in agricultural practices. The County cannot take a position on these because it is not clear what the Plan proposes. The Plan does seem to suggest that water prices for agricultural users should be raised significantly, and the Plan concludes that this will lead to increased local and regional use instead of international exporting. In fact, data suggest that the opposite may be true. The higher the cost of agricultural production, the more likely that the end product will be exported to high-priced markets outside of this country. Further, suggesting, at this time, that the cost of food production should be subject to additional pressure seems naïve.

The Plan recognizes that changes in agricultural practices will affect employment and agricultural communities but then states that this is not necessarily a negative result. With regard to the Delta communities, the County begs to differ. The rural character of the Delta is built around small family farms. Higher water prices in combination with other costs force smaller farming operations to consolidate or abandon their business. Both of these very foreseeable

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impacts will have devastating effects on the character of the Delta communities.<sup>1</sup> How does the Plan intend to mitigate or avoid these impacts?

The County is also concerned about the feasibility of the target level of reduction in urban per capita water use. We are concerned that achieving a 20% reduction in per capita water use, statewide, may not be attainable, particularly as many water agencies (including the County) have already implemented water conservation measures and thereby "hardened" their water demands. While the County supports the adoption of feasible water conservation measures many of them would require substantial planning and construction. Also, future gains in urban water conservation at a more aggressive level will require actions by homeowners, renters, business operators and others to implement individual conservation actions.

The most significant area for future conservation gains is likely to be landscaping. However, an integrated water reuse program for landscape irrigation using treated wastewater would require installation of separate pipelines and distributions system to convey water from the wastewater treatment plant to the places of use in the service areas. Such a system would need to be designed and constructed to operate in coordination with other utilities such as water and sewer infrastructure systems. What are the relative costs of this infrastructure and who would bear them? To the extent the State imposes these costs on the County and other water agencies, they would appear to be unfunded mandates.

While the potential for additional urban landscape water savings is not disputed, it is questionable to count on water savings from these additional proposed actions without broad public support and very broad actions and investments in urban landscapes by homeowners and others. The County is concerned that on this (and many other issues) the Strategic Plan is proposing a top-down policy mandate, and there has been little to no effort to develop the public support needed to make these policies effective. Furthermore, the Plan seems to lack any hint of incentives for desirable behaviors, such as state grants to facilitate conversions to xeriscape landscaping.

Oddly, the Strategic Plan indicates that there is a need to reduce the carbon footprint of agriculture by curtailing exports of agricultural products. The largest consumers of energy in the State of California are the water pumps for the Projects. Yet it is the stated purpose of the Plan to ensure the reliability of water to those pumps for delivery to Southern California to support the growth in the southern part of the State. If the Task Force is truly concerned about reducing California's carbon footprint, wouldn't the better policy direction be to promote growth in areas within the watersheds and counties of origin where water can be more readily diverted? Why then does the Strategic Plan promote Southern California growth, which will necessarily hinge on Delta pumping and vast energy expenditures with environmental consequences?

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<sup>1</sup> Another troubling aspect of the Plan is that it suggests a host of major state actions that will have significant impacts on the environment, but we have yet to see any mention of how the Plan will comply with CEQA. It is our sincere hope that the State does not intend to take all of these actions without conducting appropriate environmental review and analysis of their consequences.

The County is concerned that pricing that implicates Propositions 13 and 218 will require elections or protest procedures that may defeat any pricing increases. These constitutional limitations on the taxing and rate making power are not mere "challenges" that can be ignored at will. Similarly, the County suspects that the specific tiered provisions of the Central Valley Project Improvement Act preempt any effort by the State to impose additional or different tiered pricing on CVP contractors.

**Strategy 2. Optimize regional self-sufficiency by increasing the diversity of local and regional water supply portfolios.**

The County supports the notion of diversified water management portfolios, and the County has been at the forefront of IRWMP efforts. However, this strategy appears to be aimed more at Southern California water users than at Northern California entities like the County. Obviously, it does not make sense for an inland county like Sacramento to be desalinating seawater.

The Strategic Plan contains aggressive strategies for the reuse of treated effluent and urban storm water runoff. Sacramento County supports the idea and concept of reusing water, where feasible and practicable. However, the Plan does not quantify the potential costs associated with treating effluent and urban storm water to a level necessary for reuse purposes. Costs to build tertiary treatment facilities for both wastewater and storm water are considerable. Further, the practical implications of constructing tertiary treatment facilities, like the absence of rainfall for 6-month periods of time when the water would be needed and the requirement for large parcels of land, have been ignored. It is unlikely that state grant and loan programs would be sufficiently funded to assist local agencies like Sacramento County in meeting these goals. Again, as expressed previously, we are concerned that the Plan imposes significant mandates on local governments to protect a "statewide" resource. The public ratepayers and residences of Sacramento County should not be held solely responsible for an issue of statewide concern.

Further, efforts and goals related to the use of treated effluent and storm water should apply statewide in order to help conserve the need for freshwater supplies through all of California and not just local agencies in and near the Delta.

**Strategy 3. Integrate Central Valley flood management with water supply planning.**

As indicated above on page 5, the County is concerned that the Plan maintain levels of flood control that are sufficient to protect the public health and safety. As yet, this is a theoretical strategy that needs much more specificity before the County can provide meaningful comments.

**Strategy 4. Improve the reliability and predictability of water diverted from the Delta Watershed to support the co-equal value.**

The County incorporates by reference its comments above about the reliability of water supplies for upstream water users (see pages 1-2, above).

The recommendation for a new canal isolated from the Delta has at least six potential impacts unique to Sacramento County that need to be addressed. First, the impact on the Freeport Regional Water Plant and its intake needs to be studied and mitigated. Second, the impact on the Sacramento Regional County Sanitation Plant and its facilities needs to be studied and mitigated. Third, the impacts on long-term viability of levees downstream of the proposed new conveyance facilities need to be studied and mitigated. How will the change in flows affect the function and performance of levees within the County downstream of the proposed conveyance facilities? Fourth, how will the change in flows affect agricultural diverters in the County who take water downstream of the new conveyance? Will they experience detrimental changes in water quality? How will this affect their operations? Fifth, the routing of the canal through Sacramento County will have impacts on land use and terrestrial species and on the South County HCP. Sixth, the properties, livelihoods, and lives of County citizens will be disrupted by the taking or acquisition of the land necessary to construct the facilities. All of these impacts on the County need to be studied and mitigated.

As indicated above, the County has also made comments on the BDCP, which are incorporated by reference.

**Strategy 5. Improve water quality for drinking water, agriculture and the ecosystem.**

As noted above, the recommendation for a new canal isolated from the Delta has at least three potential impacts unique to Sacramento County that need to be addressed.

This strategy would require the State and Regional Water Boards to develop water quality objectives that are "fully" protective of beneficial uses. Sacramento County is concerned that the Strategic Plan intends to apply a legal standard that contradicts a body of legislative and judicial State water quality laws. The legal standard for the protection of beneficial uses is "reasonable" protection, not "full" protection. (*See United States v. State Water Resources Control Board* (1986) 182 Cal.App.3d 82, 121-122 ["The Board's paramount duty was to provide 'reasonable protection' to beneficial uses, considering all demands made upon the water."]) The County understands the need for the State and Regional Water Boards to evaluate and develop water quality objectives where necessary and appropriate. However, when doing so, the Water Boards must develop such objectives in a manner that is consistent with state law, which requires the "reasonable" protection of beneficial uses. We recommend that the Strategic Plan be revised to be consistent with the mandates of state law.

Further, this strategy would require the Central Valley Regional Water Quality Control Board to complete the source control elements of the Water Board's strategic plan and would

encourage the Legislature to increase funding for staff resources for the State and Regional Water Boards by adding 30 to 40 additional positions. (Plan at 44-45.) The need for such additional resources may be premature until the State and Regional Water Boards can clearly determine what are appropriate water quality objectives, and then determine what control actions may be necessary to achieve compliance with the objectives. As drafted, we are concerned that all actions would be conducted in parallel instead of sequentially. For the Strategic Plan to be effective and use limited resources judiciously, we recommend that the State and Regional Water Boards receive additional funding to adopt appropriate water quality objectives, and then determine what funding may be required to implement applicable implementation programs. Otherwise, we have the proverbial "cart before the horse."

This strategy also includes a call to greatly increase control of pollutant discharges to the Delta, but it fails to recognize the role of and need to control pollutants created by "in-Delta" processes. Under existing conditions, in-Delta processes are a significant, and likely a dominant, source of methyl mercury, and may also contribute significantly to other pollutant loads such as TOC. Other strategies of Delta Vision, such as those that would create additional wetlands or permanently flooded areas, or alter inundation frequencies, have significant potential to exacerbate conditions that create methyl mercury and other pollutant loads.

Upstream dischargers, such as urban storm water agencies and wastewater dischargers that are subject to NPDES permits, are acknowledged in the draft Delta mercury TMDL to be minor sources of mercury and methyl mercury. Control of these urban discharges has extremely limited potential for reducing methyl mercury levels in the Delta. Implementation of Delta Vision strategies that increase in-Delta mercury methylation rates have the potential to completely overwhelm any gains made by control of urban mercury sources.

Efforts to control discharges to the Delta to protect water quality must be balanced with the impact of water exports on water quality. Dischargers must not bear the entire burden of protecting water quality.

The County also incorporates the comments of Sacramento Regional County Sanitation District on this strategy.

**Strategy 6. Restore extensive interconnected habitats.**

The floodplain management options directly affect land use and governance issues that involve Sacramento County. The land use and related economic and social impacts of these proposals need to be fully evaluated and mitigated. As indicated in the comments on pages 3-4, above, the County needs to be involved in actions within Sacramento County.

The County also notes that many of the performance measures set forth in this strategy would, if met, have significant potential to increase mercury methylation rates in the Delta. This would be due to the large increase in the extent of environments (wetlands, flooded islands) that are generally thought to contribute to methylation. Other pollutants such as TOC might also be increased by some of these environments.

The "General Principles" for restoration stated in this strategy *must* include careful consideration of the potential to increase methyl mercury and TOC. Such consideration should include carefully designed studies to monitor and evaluate the impact of habitat restoration on pollutant loads and to inform project design and mitigation strategies. Since it is possible that such projects could greatly exacerbate methyl mercury loads, restoration efforts must proceed in a thoughtful, step-by-step fashion so that pollutant-loading issues are identified at an early stage and before vast areas of problematic environments are re-created.

Urban dischargers must not be subject to greater Clean Water Act liability for discharges of mercury or other pollutants whose loadings are increased by in-Delta processes caused by habitat restoration or other Delta Vision strategies. In addition, actions that lead to increased in-Delta methyl mercury loads must consider the environmental justice implications.

**Strategy 7. Restore Delta flows and channels to reflect California climate patterns and support a healthy Delta estuary.**

The County incorporates by reference its comments on Strategy 6.

Also, we are not clear on the scientific bases for the outflow recommendations. Please clarify what scientific sources you are relying on.

**Strategy 8. Reduce or eliminate ecosystem stressors to below critical thresholds.**

The County incorporates the comments of Sacramento Regional County Sanitation District on this strategy.

**Strategy 9. Establish an effective adaptive management framework to support ecosystem revitalization.**

The County supports the concept of adaptive management, but it is unclear how this concept, which requires inherent flexibility, will be reconciled with the Plan's goal of assuring reliable water supplies. Please explain.

**Strategy 10. Establish multi-purpose migratory corridors along selected Delta river channels.**

Restoring these habitats may affect land use in Sacramento County, thereby affecting tax revenues and related matters as land is converted for restoration purposes. Sacramento County should be involved in decision-making and adverse impacts on County resources should be mitigated.

**Strategy 11. Designate the Delta as a unique and valued place.**

The County agrees that the Delta is a unique and valued place. The County is not certain that establishing additional agencies to regulate the Delta will help protect either the unique features or the value of the Delta.

**Strategy 12. Achieve levels of emergency protection consistent with federal and state policies.**

The County agrees that federal, state, and local agencies must cooperate to ensure adequate levels of emergency protection. Consistent with state law, the County provides the first level of emergency response services. To achieve maximum effectiveness, this strategy should integrate local emergency response providers with their state and federal counterparts.

**Strategy 13. Adopt an overarching policy for levee design, investment, financing, priorities, and maintenance.**

The County agrees that focus on the design and prioritization of levees in the Delta is needed. However, the prioritization of levee design, based on land uses behind the levees, must include recognition that improving some levees for water conveyance may indirectly impact other levees that protect existing towns or communities in the Delta. Strengthening a weak point in the levees system for the sake of improved conveyance cannot come at the expense of shifting the weak spot to a levee protecting an existing community. While the Plan directs that public funding should be directed first to levees that support "State interests," State interests should be defined to include protecting existing communities. Improvements to levees in certain reaches cannot come at the expense of an increased flood risk to an existing community that may not be defined as being within State interests (within the Plan's narrow context). Such secondary levee impacts, and improvements to mitigate those impacts, must be identified and the costs of those secondary improvements must become part of the identified costs of the program of improvements.

The Plan implies that protection of existing Delta communities (unless related to ecosystem or water conveyance protection) does not necessarily further what the Plan's drafters consider to be "State interests" relative to ecosystem and water conveyance. This position was further reinforced by CALFED staff in the August 28, 2008 Technical Meeting on Levee Classifications. Yet the Plan stresses in Strategy 11 the need to strengthen the recreational, tourist and agricultural economies of the Delta. It is imperative that the Plan recognize the importance of protecting existing Delta communities (with levee improvements) and the associated recreation, tourist and agricultural economy benefits that are provided by these existing communities. The proposed creation of new tourist and recreation gateway centers to improve the Delta economy cannot succeed and makes no sense without also prioritizing improvements that will help keep the existing Delta communities and their economies alive and vibrant now and in the future, for it is these communities that provide the gateways to the Delta. And, since levee design necessarily implicates and affects local land use planning decisions and flood control protection, the interests of the County, the Sacramento Area Flood Control Agency,

and other affected local governments must be taken into consideration in the formulation of these types of far-reaching policies (as detailed above on pages 4-5).

**Strategy 14. Ensure appropriate land uses in the Delta region.**

As indicated above on pages 3-4, the County is concerned that the governance structure created by the Plan ensure an appropriate voice for local land use jurisdictions, including the County of Sacramento.

**Strategy 15. Create a new governance system to manage the co-equal values and other state interests in the Delta.**

The County addressed the issues raised by this strategy on pages 3-4, above. The County's prior comments also addressed these issues (see letter from Paul Hahn to Phil Isenberg dated August 13, 2008), and the County incorporates those comments by reference here.

**Strategy 16. Create a California Delta Ecosystem and Water Plan to ensure flexibility and consistency of action among state, federal and local entities.**

The Plan needs to consider local governance and the interests of areas upstream in the Sacramento Valley. The cross-references to the CZMA and other regulatory "consistency" examples need to be tempered.

**Strategy 17. Finance the activities called for in the CDEW Plan through user fees and other effective, transparent financing tools.**

The problems to be solved in the Delta were not caused by the areas of origin, but by the export of water from the Delta. Thus, the various Delta-related activities should not be financed by those in Sacramento County and upstream in the Sacramento Valley.

**Strategy 18. Improve the compliance of the diversions and use of water with all applicable laws, regulations and constitutional principles.**

In undertaking this strategy, regulatory agencies must adhere to the system of water rights priorities and honor and apply the various area, county and watershed of origin statutory protections. Water cannot be reallocated from these right holders and areas to benefit export water users.

**Conclusion**

In summary, the County recognizes that the Task Force is attempting important work. We believe, however, that because this work is so important, it is necessary to approach it with care and to dedicate to it the time necessary to elaborate on suggested approaches. The Plan

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itself acknowledges that it is not known how eco-system restoration will impact water supplies. This is simply a further indication that the two goals of the Plan are inherently contradictory.

We insist that there be a more collaborative approach to this task than has been evidenced to date. The absence of direct Delta governmental and other institutional representatives on the Task Force is not constructive.