



LEAGUE OF WOMEN VOTERS® OF CALIFORNIA

January 14, 2013

Mr. Phil Isenberg, Chair
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814
Attn: Cindy Messer, Delta Plan Program Manager

RE: Recirculated Draft Programmatic Environmental Impact Report on the Final Draft Delta Plan, released by the Delta Stewardship Council, November 30, 2012 for final review

Dear Chairman Isenberg:

The Delta Reform Act of 2009 created the Delta Stewardship Council and required it to adopt a legally enforceable Delta Plan to meet the coequal goals of water supply reliability and ecosystem restoration in the Delta while protecting the unique cultural, recreational, natural resource, and agricultural values of the Delta. Among the Council's tasks is determining the consistency of the Bay Delta Conservation Plan (BDCP) with the coequal goals. The BDCP, a habitat conservation plan undertaken by the state and federal water contractors, includes construction of controversial and costly Peripheral Tunnels under the Sacramento-San Joaquin Delta. BDCP has dominated Delta planning efforts, even as the Delta Plan has been under development.

The Final Draft Delta Plan attempts a major step forward in addressing statewide water management issues as they affect the Sacramento-San Joaquin Delta. The Delta Stewardship Council has a unique opportunity to be visionary and proactive in the face of California's prodigious water challenges. However, it is not clear that the Council has taken full advantage of that opportunity.

The League of Women Voters of California has concerns about the Plan and the associated Recirculated Draft Programmatic Environmental Impact Report. These concerns are detailed below.

1. The League has long supported measures that set limits on the amount of water to be exported through or around the Delta. The League also supports measures that discourage water contracting and marketing policies that build up demand and establish rigid patterns of distribution and use.

The Delta Plan continues the longstanding practice of the state to avoid making realistic estimates of available water supply and adjusting state and federal

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contracts accordingly. Your own April 2009 testimony to the Little Hoover Commission hearing on Water Governance made it clear that California's water system is oversubscribed. This situation encourages state and federal water contractors to expect and plan for increased exports under the BDCP.

The Delta Plan does call for incorporating updated Delta Flow Objectives. However, the State Water Resources Control Board is not scheduled to complete these objectives until 2014. Meanwhile, the Delta Plan has a completion goal of early 2013, and the Council appears to be prepared to incorporate into it the BDCP, which is aiming for completion by the end of 2013. It is premature and inappropriate for either the Delta Plan or the Bay Delta Conservation Plan to be approved without valid flow criteria approved by the SWRCB. We recommend that implementation of the Delta Plan be delayed until the SWRCB sets clear flow objectives.

2. The League supports measures that require strong, binding environmental safeguards as part of any cross Delta transfer system. We are concerned that the Delta Plan does not adequately consider options to protect the environment in areas of origin or to reserve stream flows for fish, wildlife habitat, and other in-stream uses.

The Delta Plan must provide strong environmental safeguards in order to meet the coequal goals of water supply reliability and ecosystem restoration. As recently as September 2012, BDCP planners at a public meeting were unable to adequately address "red flag" concerns by permitting fish agencies on how BDCP will meet the biological goals and objectives for species recovery. Nevertheless, the Delta Plan seems to assume that BDCP can be permitted and will be incorporated into the Delta Plan as the method of ensuring reliable water supply. Reliance on the BDCP to meet the goal of water supply reliability undermines the Delta Plan's obligation to provide for ecosystem restoration.

The State Water Resources Control Board has found that habitat supportive of native fish species in the Delta would require unimpaired Delta outflow of 75% from January through June; there are similar substantial Delta inflow requirements (SWRCB, "Development of Flow Criteria for the Sacramento-San Joaquin Delta," 8/3/2010). A recent USGS report linked declines in the health of the aquatic ecosystem in the San Francisco Bay estuary to increased Delta exports over the last three decades (Cloern and Jassby, "Drivers of Change in Estuarine-Coastal Ecosystems: Discoveries from Four Decades of Study in San Francisco Bay," 10/24/2012). Salinity intrusion is already a problem in the Delta and can be expected to worsen with predicted changes in precipitation and sea level. Numerous scientific findings support the assertion that the Bay-Delta Estuary will not recover without increased freshwater flows. See, for example, the April 2012 final report on Bay-Delta issues by the National Research Council, which endorsed flow standards that would strictly limit diversions in dry years and called on the SWRCB to develop flow standards limiting diversions to a fraction of unimpaired flows

in order to sustain the Delta ecosystem (“Sustainable Water and Environmental Management in the California Bay-Delta”).

The RDPEIR predicts substantial adverse effects on a variety of species based on operation of upstream reservoirs and groundwater basins, as well as on size and timing of flows and water temperature. However, it is not clear that these impacts are unavoidable. That determination cannot be made until the Delta Plan considers alternatives to BDCP for water supply reliability.

3. The League advocates developing and maintaining a statewide inventory of ground and surface water supplies and a centralized database to evaluate current and potential needs, demands, and uses. We support measures that coordinate groundwater and surface water management, particularly measures that set and enforce standards for groundwater management tailored to the carrying capacity and characteristics of each basin.

A statewide inventory of ground and surface water supplies is an ambitious task, but the Delta Stewardship Council, which includes watersheds and users in much of the state in its planning area, should attempt this task with respect to the Delta. In fact, without a basic analysis of the availability of water flowing into the Delta, the Council cannot establish meaningful water management policies to protect the Delta ecosystem and ensure reliable supplies.

Management of groundwater is problematic in California. Groundwater is well-managed in a few areas by local agencies, for example by preventing overdraft through effective use of water budgets to ensure that discharge does not exceed recharge of aquifers, and/or by undertaking pollution prevention programs and, where necessary, remediation of contaminated groundwater. However, critical data for effective management of groundwater are unavailable in many parts of the state. We recommend that the Delta Plan be revised to strengthen policies for groundwater management as part of water supply reliability for the large portion of the state that uses water from the Delta or its watershed.

Regarding the areas upstream of the Project, the RDPEIR asserts that, “In most of this upstream area, groundwater supplies are not substantial, especially in the foothills and mountains that surround the Sacramento and San Joaquin valleys. In these areas, it is anticipated that projects to recycle wastewater and stormwater would predominate over groundwater projects.” The RDPEIR does not support either the claim that upstream groundwater supplies are not substantial or the claim that groundwater projects would be minor compared with wastewater and stormwater projects. In particular, it is a serious mistake to in effect minimize the importance of the Lower Tuscan Aquifer to the hydrology of the Sacramento River.

So essential is groundwater to the state's water supply that the RDPEIR itself (Appendix D) lists sixteen counties in the areas affected by the Delta Plan that have groundwater-related ordinances. Groundwater management merits a more central place in this Plan. This will require clearer information on upstream projects that may actually be covered or encouraged by the Plan.

4. The League supports measures that provide for assessment of economic, social, and environmental costs and benefits of water projects.

The Delta Plan itself is not a water project, but it is required by its enabling legislation to comment on planning efforts that will affect the Delta. This includes especially the BDCP. The Delta Stewardship Council should press for a meaningful financial analysis of the BDCP, which will have costs and economic impacts beyond those the beneficiaries will pay for.

The dual tunnel proposal currently being put forward by BDCP will be supported by the beneficiaries paying for it only if it exports water at levels that have led to the decline of fish and ecosystems in the Delta and the estuary. BDCP fails to meet the Delta Reform Act goal of reducing reliance on the Delta. The Delta Plan should, at a minimum, include alternatives to BDCP for ensuring water supply reliability, such as the proposal contained in the Delta Protection Commission's *Economic Sustainability Plan*, and the Reduced Exports Plan proposed by the Environmental Water Caucus, which warrants a fair evaluation.

5. The League supports measures that ensure enforcement authority for water quality control boards. Particularly with respect to the Delta, the League calls for federal and state entities to abide by high water quality standards.

Federal (CVP) and state (SWP) contracts must reflect available water supplies and realistic and reliable yields.

The Delta Plan does not ensure that existing water quality laws will be implemented. Current levels of export undermine water quality, impairing beneficial uses in the Delta. This is despite the fact that the Delta Reform Act requires that the Delta Plan call for performance measurements leading to improved water quality. The Delta Plan should include mechanisms to ensure that the state and regional water boards have the authority and the necessary funding to fully protect beneficial uses, including aquatic life in the Delta, and enforce water quality regulations.

6. The League strongly supports water conservation to minimize reliance on water exported through and around the Delta. Conservation should be a condition of delivery and use of agricultural water and of interbasin transfers.

The Delta Plan should make it clear that water supply reliability and restoration of the Delta ecosystem will necessitate a reduction of exports in the future, and thus will require stronger conservation measures and development of local water supplies.

7. The League supports measures that require that documents present clear, concise information, readily available to the public.

In this regard, we have concerns about use of a programmatic EIR that lacks detail that decision-makers and the public will rely on to analyze covered projects in the future. It should be made clear that the PEIR is not intended to be the sole environmental review document for future projects.

The League appreciates the opportunity to comment on this document that is so central to improving water management in California.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer A. Waggoner". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Jennifer A. Waggoner
President